

Proposed Declaration (instrument of ratification)¹

1. In accordance with Article 2, paragraph 1 of the Charter, the Russian Federation undertakes to apply the provisions of Part II to all the regional or minority languages spoken within its territory and which comply with the definition in Article 1.

2. In accordance with Article 2, paragraph 2, and Article 3, paragraph 1, of the Charter, the Russian Federation declares that the provisions set out below shall apply to the following languages in the specified territories:

Abaza (Republic of Karachay-Cherkessia), Adyghe (Republic of Adygea), Aghul (Republic of Dagestan), Altai (Republic of Altai), Avar (Republic of Dagestan), Azeri (Republic of Dagestan), Balkar (Republic of Kabardino-Balkaria), Bashkir (Republic of Bashkortostan), Buryat (Republic of Buryatia), Chechen (Republics of Chechnya and Dagestan), Cherkess (Republic of Karachay-Cherkessia), Chuvash (Republic of Chuvashia), Dargin (Republic of Dagestan), Ingush (Republic of Ingushetia), Kabardian (Republic of Kabardino-Balkaria), Kalmyk (Republic of Kalmykia), Karachay (Republic of Karachay-Cherkessia), Khakas (Republic of Khakasia), Komi (Republic of Komi), Kumyk (Republic of Dagestan), Lak (Republic of Dagestan), Lezgian (Republic of Dagestan), Mountain and Meadow Mari (Republic of Mari El), Moksha and Erzya Mordovian (Republic of Mordovia), Nogai (Republics of Dagestan and Karachay-Cherkessia), Ossetic (Republic of North Ossetia), Rutul (Republic of Dagestan), Sakha (Republic of Sakha), Tabasaran (Republic of Dagestan), Tat (Republic of Dagestan), Tatar (Republic of Tatarstan), Tsakhur (Republic of Dagestan), Tuvan (Republic of Tuva) and Udmurt (Republic of Udmurtia)

Article 8 – Education

Paragraph 1.a.i; b.ii; c.ii; d.ii; e.ii; f.i; g; h; i.

Article 9 – Judicial authorities

Paragraph 1.a.ii; a.iii; a.iv; b.ii; b.iii; c.ii; c.iii.

Paragraph 2.a.

Paragraph 3.

Article 10 – Administrative authorities and public services

Paragraph 1.a.ii; b; c.

Paragraph 2.a; b; c; d; e; f; g.

Paragraph 3.a.

Paragraph 4.c.

Paragraph 5.

Article 11 – Media

Paragraph 1.a.i; b.ii; c.ii; d; e.i; f.i; g.

Paragraph 2.

Paragraph 3.

Article 12 – Cultural activities and facilities

Paragraph 1.a; b; c; d; e; f; g; h.

Paragraph 3.

¹ See Alexey Kozhemyakov/Sergey Sokolovskiy (eds), The European Charter for Regional or Minority Languages in Russia: Analysis, Reports and Recommendations in the framework of the Joint Programme 'Minorities in Russia: Developing Languages, Culture, Media and Civil Society', Moscow 2012 [published in English and Russian]

Article 13 – Economic and social life

Paragraph 1.a; b; c; d.

Paragraph 2.b; c; e.

Article 14 – Transfrontier exchanges

Paragraph a.

Paragraph b.

3. In accordance with Article 2, paragraph 2, and Article 3, paragraph 1, of the Charter, the Russian Federation declares that the provisions set out below shall apply to the following languages in the specified territories:

Buryat (Agin-Buryat Okrug and Ust-Orda Buryat Okrug), German (National Rayons of Asowo and Halbstadt), Karelian (Karelia), Kazakh (Republic of Altai), Komi-Permyak (Komi-Permyak Okrug) and Korean (Korean National Micro Rayon ‘Su-Chan’)

Article 8 – Education

Paragraph 1.a.ii; b.ii; c.ii; d.ii; e.ii; f.ii; g; h; i.

Article 9 – Judicial authorities

Paragraph 1.a.ii; b.iii; c.iii.

Paragraph 2.b.

Article 10 – Administrative authorities and public services

Paragraph 1.a.iii; b; c.

Paragraph 2.a; b; c; d; e; f; g.

Paragraph 3.b.

Paragraph 4.c.

Paragraph 5.

Article 11 – Media

Paragraph 1.a.ii; b.ii; c.ii; d; e.i; f.i; g.

Paragraph 2.

Paragraph 3.

Article 12 – Cultural activities and facilities

Paragraph 1.a; b; c; d; e; f; g.

Article 13 – Economic and social life

Paragraph 1.a; d.

Paragraph 2.b; c.

Article 14 – Transfrontier exchanges

Paragraph a.

Paragraph b.

4. In accordance with Article 2, paragraph 2, and Article 3, paragraph 1, of the Charter, the Russian Federation declares that the provisions set out below shall apply to the following languages:

Abaza, Adyghe, Aghul, Altai, Armenian, Avar, Azeri, Balkar, Bashkir, Belorussian, Buryat, Chechen, Cherkess, Chuvash, Dargin, Georgian, German, Greek, Ingush, Kabardian, Kalmyk, Karachay, Karelian, Kazakh, Khakas, Komi, Komi-Permyak, Korean, Kumyk, Lak, Lezgian, Mari (Mountain and Meadow), Moldovan, Mordovian (Moksha and Erzya), Nogai, Ossetic, Polish, Rutul, Sakha, Tabasaran, Tajik, Tat, Tatar, Tsakhur, Turkish, Tuvan, Udmurt, Ukrainian and Uzbek

Article 8 – Education

Paragraph 1.a.iii; b.iv; c.iv; d.iv; f.ii; g; h.

Paragraph 2.

Article 9 – Judicial authorities

Paragraph 1.a.ii.

Article 10 – Administrative authorities and public services

Paragraph 1.a.iv; b; c.

Paragraph 2.a; b; c; d; g.

Paragraph 3.c.

Paragraph 4.c.

Paragraph 5.

Article 11 – Media

Paragraph 1.a.iii; b.ii; c.ii; d; e.ii; f.ii; g.

Paragraph 2.

Paragraph 3.

Article 12 – Cultural activities and facilities

Paragraph 1.a; b; c; d; e; f.

Article 13 – Economic and social life

Paragraph 1.a.

Article 14 – Transfrontier exchanges

Paragraph a.

Paragraph b.

The aforementioned provisions shall apply in the territories in which these regional or minority languages are used. Pursuant to paragraphs 2 and 3 above, the territory of republics and/or national administrative-territorial entities where a regional or minority language is a State language or used by the titular people shall be excluded from the scope of application.

Explanatory note on the main features of the proposed instrument of ratification

1. The proposal grants Part III status to those 49 regional or minority languages in the Russian Federation that are either a State language of a republic or used by a people (national minority) to which at least 50 000 persons in the Russian Federation belong.

As far as the criterion of “State language” is concerned, Article 68.2 of the Russian Constitution gives republics the right to establish State languages (*gosudarstvennye yaziki*) other than Russian within the republics’ territories.² Although some such languages have only relatively few speakers (for example, 65 534 speakers of the Altai language in the Russian Federation; see 2002 census³) or are used by a relatively modest share of the population in the republic concerned (for example, Nogai in Karachay-Cherkessia: 3.4%; Khakas in Khakasia: 12%; 2002 census), they should be considered under Part III for political and legal reasons. In fact, granting Part III protection to State languages⁴ would take into account the Russian Federation’s decision to grant republics the right to establish their own State languages and constitutions.

The minimum threshold of 50 000 is derived from Article 1.1 of the Federal Law “On the Guarantees of the Rights of the Small-in-number Indigenous People of the Russian Federation” which defines ‘small-in-number’ peoples as those with fewer than 50 000 representatives.⁵ While the figure of 50 000 is used in Russian legislation in the specific context of indigenous people and not in relation to regional or minority languages as such, it nonetheless provides a threshold differentiating between small-in-number and other peoples. The ECRML contains such a differentiation as well: Part III is conceived to be applied to “big” languages while “small” languages are covered by Part II only. Thus, applying Part III to a language used by a people (national minority) to which at least 50 000 persons belong would reflect the differentiation between “small” and “big” peoples/languages existing in both Russian legislation and the ECRML.

In light of the 2002 census, 49 regional or minority languages qualify for Part III coverage in accordance with at least one of the aforementioned criteria. Considering the size of the Russian Federation in terms of territory and population, this number is reasonable and, in comparison with some States Parties to the ECRML (Poland: 15 Part III languages; Serbia: 10; Slovak Republic: 9), it is not excessively high.

2. The proposal divides the 49 Part III languages into three groups: 1) State languages, 2) languages benefiting from local autonomy and 3) languages used by citizens living outside the borders of their republics or national administrative-territorial entities.

The 49 Part III languages could be divided into three groups in the instrument of ratification:

Group 1: State languages

This group concerns languages recognised as ‘State languages’ in the constitutions and language laws of the republics⁶ which would constitute the geographical scope of application for the ECRML provisions to be applied to this group (see under 3. below).

² This is reiterated in Article 3.2 of the 1991 Law “On the Languages of the Peoples of the Russian Federation”, N1807-I.

³ The results of the 2010 census are not yet available.

⁴ State languages comply with the definition of a regional or minority language (Article 1.a of the ECRML) as their official status is limited to a part of the State.

⁵ See FZ-N 82, 1999. It defines indigenous peoples as those “living on the territories traditionally inhabited by their ancestors, preserving their traditional way of life, traditional management and trade, counting fewer than 50 000 and realising themselves as a separate ethnic community”.

⁶ Group 1 does not comprise the Karelian language as Karelia is the only republic not to have a State language in addition to Russian. The Karelian Constitution establishes that the only official language is Russian. However, there exists the Law of the Republic of Karelia for the

Group 2: languages benefiting from local autonomy (languages of peoples having “national administrative-territorial entities” and/or benefiting from local autonomy in “areas of compact settlement”; these entities/areas would constitute the geographical scope of application for the ECRML provisions to be applied to this group)

(Non-Russian) citizens living outside the borders of their republics (*natsional’no-gosudarstvennoe obrazovanie*), or having no such entities, can establish “national administrative-territorial entities” (national rayons, national settlements and national village councils). These entities have the features of a local autonomous entity⁷ and shall satisfy ethno-cultural and linguistic needs: they guarantee the use of the mother tongue (namely the minority language), the creation of national (namely minority) groups in pre-school facilities, national classes and schools, the development of national culture, tradition and lifestyle, and information/media in the mother tongue. Furthermore, the views of national administrative-territorial entities regarding draft laws concerning the use of the mother tongue shall be considered.⁸ National administrative-territorial entities have been established for the Karelian,⁹ German and Korean national minorities.¹⁰

The notion of ‘areas of compact settlement’ used in Russian language legislation is also relevant in this context. As regards federal laws, Article 3.4 of the 1991 Law ‘On the Languages of the Peoples of the Russian Federation’ States: “In densely populated localities, communities which do not have their own ethno-national and ethno-territorial entities, or which reside outside their borders, may use the language of the community of the locality in question alongside Russian and the State languages of the republic in official spheres of communication. (...)” Similarly, the 1992 Law “On Fundamentals of the Russian Federation Legislation” stipulates in Article 21 that ethnic communities living in a compact settlement outside their ‘own’ entities, or having no entity of their own, are guaranteed the right to cultural and national autonomy.¹¹

In addition, some republics’ laws on languages establish the possibility to use minority languages for official purposes in “areas of compact settlement”. The Law on Languages of the Republic of Altai provides that Kazakh can be used for official purposes alongside the State languages (Altai and Russian) in regions where Kazakhs live compactly (Article 4). Similar provisions are contained in the language laws of Bashkortostan, Sakha¹² and Udmurtia.

Support of the Karelian, Vepps and Finnish languages in the Republic of Karelia, No. 759-3PK, 19 March 2004, and the Karevsky, Pryazsky and Olonetsk Karelian National Rayons. Consequently, Karelian is included in Group 2. Furthermore, the German language is not yet included in Group 1 pending the implementation of the “Protocol about the Co-operation of the Government of the Russian Federation and the Government of the Federal Republic of Germany concerning the Gradual Restoration of the Statehood of the Russian Germans” of 10 July 1992 (in force since 23 March 1993, see Bjulleten’ mezhdunarodnykh dogovorov 1993 No. 3, pp. 67-70). As regards Dagestan, there is no legal clarity about the number of official languages. Article 11 of Dagestan’s Constitution states that the State languages are “Russian and the languages of the peoples of Dagestan.” The languages that are commonly considered to be ‘official’ in Dagestan are the ones that are written languages. These languages have been considered in the present proposal.

⁷ See Valery Tishkov: Status of and Support for Linguistic Diversity in the Russian Federation, 2009 (paper submitted to the “Joint Working Group on the Drafting of an Instrument of Ratification” established as part of the Joint Programme “Minorities in Russia” of the Council of Europe, the European Union and the Russian Federation), p. 10.

⁸ See Articles 7, 10 and 11 of the Law of 26 April 1990 “On the free national development of citizens of the USSR living outside the borders of their national-administrative entities, or having no such entities in the territory of the USSR”. This law is still in force, see Carmen Schmidt: Minderheitenschutz im östlichen Europa – Russland, research project co-ordinated by Angelika Nußberger, Köln 2004, p. 31, http://www.uni-koeln.de/jur-fak/ostrecht/minderheitenschutz/Vortraege/Russland/Russland_Schmidt.pdf. See also Mahulena Hořková (now Hofmann): Die rechtliche Stellung der Minderheiten in Russland. In: Jochen Abraham Frowein/Rainer Hofmann/Stefan Oeter (eds.): Das Minderheitenrecht europäischer Staaten, Teil 2, Berlin 1994, pp. 246-285.

⁹ See Law “On the Legal Status of the National Rayon, the National Settlements and Village Soviets in the Republic of Karelia” of 24 October 1991.

¹⁰ The Report submitted by the Russian Federation pursuant to Article 25, paragraph 1 of the Framework Convention for the Protection of National Minorities (ACFC/SR(1999)015) includes a list of existing national-administrative territorial entities (p. 12, 29).

¹¹ There are other examples: Pursuant to Article 3 of the Law “On Denomination of Geographical Objects” and Article 23 of the Law “On the Languages of the Peoples of the Russian Federation”, geographical names and signs can be displayed in a minority language in an area of compact settlement.

¹² Unlike the language laws of Bashkortostan and Udmurtia, the Law on Languages of the Republic of Sakha specifies the local official languages: Evenk, Even, Yukaghir, Dolgan and Chukchi. These languages, however, do not fulfil either of the two proposed criteria for Part III status (unlike Buryat and Komi-Permyak).

The languages of the peoples giving their names to autonomous okrugi are also at times recognised as official, or have de facto official status. The *Ustav* (charter) of the former Komi-Permyak Autonomous Okrug¹³ states that Komi-Permyak (which, unlike Komi, is not a State language) can be used as the language of official communication alongside Russian (Article 11). The *ustavi* of the former Ust-Ord Buryat Autonomous Okrug¹⁴ and the former Agin-Buryat Autonomous Okrug¹⁵ refer to the Buryat language.

Group 3: languages used by citizens living outside the borders of their republics or national administrative-territorial entities (for example, national rayons), or having no republics/entities in the territory of the Russian Federation (languages benefiting mainly from national-cultural autonomy).

This group concerns languages used by (non-Russian) citizens living outside the borders of their republics or national administrative-territorial entities, or having no such entities. While comprising mostly languages that are also included in Groups 1 or 2, the ECRML provisions to be applied to Group 3 (see under 3. below) concern different territories (namely excluding the “ethnic” entities which are relevant for Groups 1 and 2). The need for Group 3 arises from the fact that only 35% of the non-Russian population of the Russian Federation live inside their ‘own’ ethnic territory.¹⁶ Relying only on the principle of territoriality, therefore, would not satisfy the needs of these peoples. Group 3 further reflects the adoption of the federal Law “On National-Cultural Autonomy” in 1996.

These three groups reflect the three already existing models of minority protection in the Russian Federation: 1) regional autonomy/federalism, 2) local autonomy, and 3) cultural autonomy for non-titular minorities, or diaspora titular minorities (for example, Tatars residing outside the Republic of Tatarstan).

3. The proposal contains three ‘menus’ for the three language groups containing 58, 48 and 38 provisions respectively.

According to Article 2.2 of the ECRML, a State which prepares ratification of Part III needs to select at least 35 of the 68 options contained therein, including at least three from the fields of education and culture, and one from judicial authorities, administrative authorities, media and economic and social life.

In respect of the proposed three language groups (see under 2. above), three different (graduated) ‘menus’ of provisions from the ECRML could be applied. The provisions contained in the three menus differ not only in *number* from each other, but also regarding the *level of commitment*. The latter is the case for undertakings that have been selected from ECRML provisions containing alternative (stronger and weaker) options. Hence, the menu of provisions applied to Group 1 contains more and – as regards alternative (“or”) options – stronger provisions than the Group 2 menu. Similarly, the Group 2 menu contains more and stronger provisions than the Group 3 menu.

As regards the number of provisions, it is proposed to apply 58 provisions to the languages in Group 1, 48 provisions to Group 2 and 38 provisions to Group 3 respectively. This would be a modest and reasonable choice. By way of comparison, the United Kingdom has chosen 39 undertakings for Scottish Gaelic, Romania 48 undertakings for Serbian and 58 for German, and Spain all 68 undertakings for the languages of its Autonomous Communities. Thus, the number of provisions to

¹³ Although some of the autonomous okrugi no longer exist following mergers with other regions, their *ustavi* are still in force in their territories as long as they do not contradict the Constitution.

¹⁴ See *Ustav* of the Ust-Ord Buryat Autonomous Okrug, 13 June 1995, No. 8-O3, with later amendments.

¹⁵ See *Ustav* of the Agin-Buryat Autonomous Okrug, 23 November 1994, with later amendments.

¹⁶ See Ulrike Köhler: *Sprachengesetzgebung in Russland*, Wien 2005, p. 53.

be applied to the State languages in Group 1 (58) would be significantly lower than the number of provisions that Spain applies, for example, to Catalan (68).

Furthermore, the three menus are interrelated with the FCNM which contains language-related provisions that are fully or partially congruent with 38 ECRML provisions. 37 of these 38 provisions¹⁷ form the basis of the menus for Groups 1 and 2. Whereas the Group 3 menu comprises all 38 congruent provisions, it does not contain any other but them and hence mirrors only the level of protection granted by the FCNM.

Given that the Russian Federation complies in respect of certain languages with more ECRML provisions than the aforementioned 38, the menus for Groups 1 and 2 also contain provisions additionally based on national legislation. On the basis of the existing legal situation in the Russian Federation, the proposed instrument of ratification therefore includes 58 ECRML provisions for Group 1 (37 provisions interrelated with the FCNM plus 21¹⁸ additionally ensuing from national legislation) and 48 (37 plus 11) provisions for Group 2 while, as stated above, the Group 3 menu contains only the 38 provisions that are congruent with the FCNM.

The number of provisions concerning education (Article 8 of the ECRML) would be almost the same for all three groups (nine for Groups 1 and 2, eight for Group 3). For the languages in Groups 1 and 2, however, a “substantial part” of education would be made available *in* those languages, whereas the languages in Group 3 could also be taught only as a *subject*. This is reflected in Russian practice, with the availability of teaching in and/or of the languages of ‘minorities within minorities’ (nationalities residing in other titular nationalities’ republics).

The differentiation of the three menus would be significantly greater with regard to judicial authorities (Article 9), where nine provisions would be applied to Group 1, but only four to Group 2 and only the minimum number of one (as required by Article 2.2) to Group 3. In doing so, the menus would take account of the different legal statuses of the languages.

With regard to the field of administrative authorities and public services (Article 10), 13 provisions would be applied to Groups 1 and 2 respectively and eleven to Group 3. A further graduated differentiation between the three groups would be made regarding the use of minority languages by the State (federal) administration (Article 10.1.a: options ii [Group 1], iii [Group 2] and iv [Group 3]) and by public services (Article 10.3: options a [Group 1], b [Group 2] and c [Group 3]).

Concerning the media (Article 11), the number of provisions would be the same for all three groups. Some differentiation would nonetheless be made with regard to public radio and television broadcasting (Article 11.1.a: options i [Group 1], ii [Group 2] and iii [Group 3]).

The number of provisions regarding the three groups would differ in the fields of cultural activities and facilities (Article 12: nine [Group 1], seven [Group 2] and six [Group 3] provisions respectively) and economic and social life (Article 13: seven [Group 1], four [Group 2] and one [Group 3] provisions respectively).

To all groups, both provisions in the field of transfrontier exchanges (Article 14) would be applied.

¹⁷ One of the 38 congruent provisions, namely Article 8.2, has been omitted. This provision deals with territories of the country where minority languages have no traditional presence and therefore by definition does not concern Groups 1 and 2, which comprise languages used inside republics or national administrative-territorial entities (namely traditional settlement areas). It is, however, contained in the menu for Group 3.

¹⁸ See Articles 8.1.e.ii, 8.1.i, 9.1.a.iii, a.iv, b.ii, b.iii, c.ii, c.iii, 9.2.a, 9.3, 10.2.e, f, 12.1.g, h, 12.3, 13.1.b, c, d, 13.2.b, c and e of the FCNM.

4. The proposal mirrors the existing status of the minority languages and is cost-neutral.

Article 4.2 of the ECRML, and also the treaty's spirit and purpose, requires that each minority language receives at least the level of protection under the ECRML that it already enjoys at the time of ratification.¹⁹ Therefore, the provisions to be included in the instrument of ratification in respect of these languages need to at least mirror the already existing level of protection provided in accordance with national legislation as well as bilateral or multilateral international agreements such as the FCNM.

The proposed instrument of ratification does not go beyond this minimum requirement and includes only ECRML provisions with which the Russian Federation de facto already complies when applying similar provisions of national legislation and the FCNM.

This "mirror approach" would have several advantages taking account of the "ethnopolitical, administrative, organisational and financial consequences of the Charter ratification" referred to in the Duma resolution (see the introduction to 18.3 above).

As regards the "ethno-political" dimension, the instrument of ratification would not change the existing status of the minority languages, thereby avoiding inter-ethnic tensions and contributing to a politically smooth ratification process. In addition, the synchronised application of related provisions of ECRML, FCNM and national legislation would contribute to a coherent minority policy. As far as financial, administrative and organisational advantages are concerned, the instrument of ratification would make it possible that the application of the ECRML remains by and large cost-neutral.²⁰ It would also enable considerable synergies in periodic reporting to the Council of Europe as the language-related parts of the State report on the application of the FCNM would represent the basis of the State report on the ECRML.

5. The proposal covers all regional or minority languages in the Russian Federation, but avoids establishing a definitive "language list".

Languages present in the territory of the Russian Federation that comply with the definition of "regional or minority languages" contained in Article 1.a of the ECRML, but not with the two criteria above (see under 1. above), would be covered by Part II (Article 7) of the ECRML *only*, namely either Articles 7.1–7.4 or Article 7.5 (with regard to Romani and Yiddish, see Article 1.c of the ECRML). Part II would also apply to the 49 languages which receive additional promotion under Part III.

While the State must designate in the instrument of ratification the languages that will receive protection under Part III (pursuant to Article 3.1), the ECRML does not oblige the State to list the languages that will be covered by Part II only. In fact, Article 2.1 obliges the State only to apply Part II to all the regional or minority languages spoken within its territory, but not to list them. The possibility not to enumerate all languages used by small or tiny peoples offers the Russian authorities considerable flexibility and avoids controversies about the completeness of a language list, including controversies relating to dialects or the degree of autochthony of a language.

¹⁹ The Committee of Experts and the Committee of Ministers have confirmed that, pursuant to Article 4.2, a State Party cannot validly opt for a level of protection under the ECRML which confers fewer rights. See in this regard Jean-Marie Woehrling: *The European Charter for Regional or Minority Languages – A critical commentary*, Council of Europe Publishing, Strasbourg 2005, p. 99.

²⁰ See Snežana Trifunovska: *The case of the Baltic states*, in: Council of Europe (ed.): *Minority language protection in Europe: into a new decade*, Strasbourg 2010, p. 75.