

LEGISLATIVE REGULATION OF THE STATE LANGUAGE STATUS IN THE RUSSIAN FEDERATION

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The state status of the Russian language was for the first time confirmed by legislation of the Russian Federation in 1991 when Law No.1807-I “On Languages of the Peoples of the Russian Federation”¹ dated October 25, 1991 was passed. The basic principles of this law were further strengthened in 1993 by the norms of the Constitution of the Russian Federation and also later, on June 1, 2005, by Federal Law No.53-FZ “On the State Language of the Russian Federation”², which contributed to development of the legislation defining the status of the state language in the Russian Federation. Some provisions of the commented law provoke further reflections on the goals, limits and perspectives for legislative regulation of the state language status as well as on the possible outcomes of this regulation.

In the Soviet era, the very concept of legislative confirmation for the state status of the prevailing national language was criticised. The ideological ground for this was V.I. Lenin’s article “Is a State Language Obligatory?”³ (1914) published in his series of articles on inter-ethnic relations. In the article, V.I. Lenin gave a negative evaluation of any attempts to introduce legislative regulations on mandatory use of the state language and viewed such measures as limitation of civil rights which was likely to cause

¹ Vedomosti Soveta Narodnykh Deputatov i Verkhovnogo Soveta RSFSR. 1991. № 50. art. 1740.

² Sobraniye zakonodatelstva Rossiyskoy Federatsii. 2005. № 23. art. 2199.

³ Proletarskaya Pravda. 1914. January 18.

protest in response to “forcible”, “compulsory” imposition of the state language. As a result, the language-related legislation of the USSR and RSFSR was mostly dispositive and not very strict. In accordance with Lenin’s principles, citizens of the country had a right to use their native language in education, press, and mass media as well as in documents and legal procedures.

The state policy aimed to provide the most appropriate conditions for development of national languages (in the 1920–30s, during the so called “language formation” period, the writing systems of over 50 languages of the USSR were established). At the same time the Russian language was actively studied and developed and, in fact, remained the main language of the country, dominating in mass media and science as well as in culture and education.

Since the early 1990s, the legislative means have started to prevail among all other measures taken in support and for protection of the state language. Nowadays, as the Russian language is being much less actively studied and developed and, at the same time, has to face a threat (either real or imagined) of foreign (mainly Anglo-American) expansion, the government develops special legislation in order to compensate the lack of any other effective guarantees of stable development for the Russian language. It would be fair to mention that from

1996 and up to now there have been three federal target programmes “The Russian Language” worked out and approved, with a whole range of language-related measures and events scheduled. Two of these programmes are considered to have been completed as their duration periods have already expired. The programmes were annually financed from budgets of various levels, yet they also required legislative support for their successful accomplishment. The commented law was introduced to counteract the existing dangerous tendency of more and more limited use of the Russian language (due to expansion of foreign languages in advertisements, business and mass media) as well as the threats posed to the language proper: to its lexicon, stylistic structure and standard literary principles and rules.

The limits within which the state language should be used are still being discussed. The state language, undoubtedly, is a language of the state, i.e. a language of communication for public authorities and also a language of legal acts and legislation, of the state administration and court procedures. The commented law points out that all documents or speeches concerning either the internal relations within the system of governing bodies or the relations of these bodies with citizens or organizations ought to be in the state language.

Therefore no documents in foreign languages can be used in inter-

action with public authorities. Yet some arbitration courts still take controversial decisions on whether or not swift messages notifying of the income received from a foreign counteragent can be forwarded to tax authorities in a foreign language without translation. In accordance with the decision of the Federal Arbitration Court of the North-Western district, the tax legislation does not impose any obligations for translation of such documents on the taxpayer and, therefore, the tax authority should either require a translation from the taxpayer or hire a translator for it⁴. Meanwhile when a tax authority validates the propriety of value added tax deductions in the tax invoice, any items specified in foreign languages must be disregarded as invalid⁵.

All official documents in foreign languages are viewed by public authorities of the Russian Federation only after they have been translated into the state language. This concerns the documents to be consid-

ered by executive authorities as well as by judicial officials during legal proceedings in the courts of the Russian Federation.

Although the language of incoming documentation accepted by the public authorities in some exceptional cases may vary, all outgoing documents are always written in the state language of the Russian Federation. This relates to the letters sent in response to the citizen's claims and applications and also all official documents issued by public authorities (including passports, state registration certificates, etc.) as well as all statutory acts introduced by the governing bodies. The Supreme Court of the Russian Federation developed a reasonable initiative, in accordance with which a statutory act published not in the state language, but in any other language cannot be considered official even if it deals with some issues related to the authorities of republics of the Russian Federation which have state languages of their own⁶.

The state language of the Russian Federation is a working language of all governing bodies of Russia as well as a language of international communication, so all official documents and international agreements related to our country are always translated into Russian. A vivid example of dip-

⁴ Regulations of the Federal Arbitration Court of the North-Western District Regarding Case No.A56-48100/2005 dated November 09, 2006; Regarding Case No.A56-55041/2005 dated October 19, 2006; Regarding Case No.A56-7694/04 dated August 2, 2004, etc.

⁵ Regulations of the Federal Arbitration Court of the North-Western District Regarding Case No.A56-26549/02 dated April 21, 2003; of the Federal Arbitration Court of the East-Siberian District Regarding Case No.A19-3970/02-43-F02-159/03-C1 dated February 1, 2003; etc.

⁶ Ruling No.92-G02-24 of the Supreme Court of the Russian Federation, dated December 10, 2002. The document was not published. It is accessible in Reference Legal System "Consultant Plus".

lomatic misunderstanding was the situation in September 2008 when Russian and French diplomats could not reach agreement concerning the peaceful settlement plan which had been worked out to eliminate the conflict in South Ossetia. In the Russian version of the peaceful settlement plan, its goal was formulated as “the safety for South Ossetia and Abkhazia”. While in the French and English versions it was rendered as “the safety in South Ossetia and Abkhazia”. Thus the Russian version proved the necessity to create “buffer zones” in Georgia, while the English and French versions failed to give any ground for that. Since Russia is a permanent member of the UN Security Council, the Russian language has a status of a mandatory working language of the UNO, alongside with English, French, Spanish, Arabic, and Chinese.

By asserting the necessity for the public authorities to use the state language in their proceedings, the law basically aims to promote mutual understanding, so that all citizens could understand the requirements of public authorities and, vice versa, the officials could understand the claims and complaints of the citizens. That is why Federal Law No.79-FZ “On the State Civil Service”⁷ dated July 27, 2004 sets a requirement, in accordance with which all state employees ought to

speak the Russian language fluently. Considering the above-mentioned demands for the work of public authorities, this requirement seems to be quite reasonable and legitimate: it ensures the efficient usage of the state language by representatives of public authorities of the Russian Federation. Though there are still some disputable questions concerning this which remain to be issues of legal discussions.

First of all, it is not clear whether or not the same requirements for the Russian language competence need to be posed to the persons filling in public offices of the Russian Federation and the subjects of the Russian Federation: the President of the Russian Federation, the top officials of the subjects of the Russian Federation as well as deputies, judges, government members and top executive officials of the subjects of the Russian Federation. There are no such requirements in the current legislation as the requirements may seem to a certain extent to threaten the legal equality of citizens and therefore be viewed as a form of a language-based discrimination. Yet, in fact, it is not a matter of discrimination because what is required is to be a competent speaker of Russian and not necessarily a native speaker. The native language is a part of a person’s cultural and national identity, while the language competence is just a skill of using a language as a means of communication. The native language of a person always re-

⁷ Sobraniye zakonodatelstva Rossiyskoy Federatsii. 2004. № 31. art. 3215.

mains the same, while the language competence can be acquired. The requirement for the Russian language competence is dictated by the necessity of using the state language in all official proceedings and, therefore, cannot be viewed as an unreasonable restriction of civil rights. This interpretation of the issue was accepted by the Constitutional Court of the Russian Federation⁸.

Secondly, unlike the civil servants, the military and law enforcement servants are not necessarily required to know the Russian language. The only exception is sanctioned by Federal Law No.53-FZ "On Military Duty and Military Service"⁹ dated March 28, 1998, in accordance with which the contract military servants ought to know the Russian language. In fact, it is quite difficult to imagine a person who is drafted to the army or recruited for service in the prosecution authorities, militia or customs bodies and who has to perform all the appropriate duties without any knowledge of Russian. In such case even the knowledge of its literary norm is definitely not enough.

Thirdly, it is still not clear whether or not a requirement for language competence should also be posed to

officials in public authorities of all republics. Although it is not explicated in the federal law, the very notion of the state language of a subject of the Russian Federation implies that such a requirement can be introduced. In fact, the language competence of state officials in Bashkortostan started to be checked in 2007 after the corresponding law was approved.

It is also not at all easy to divide the spheres of influence between the federal state language and state languages of republics of the Russian Federation. This is actually one of the most difficult problems to be solved by the language-related legislation of Russia.

The norms of the Constitution of the Russian Federation (article 68) as well as the Law of the Russian Federation "On Languages of the Peoples of the Russian Federation" and the commented law define that it is possible for republics of the Russian Federation to institute their own state languages and introduce the requirements for using these languages alongside with the federal state language. As a result, bilingualism is officially recognised, which means that during all official proceedings both oral and written speech should always sound and be recorded in two state languages without any translation discrepancies. And it is not at all that easy.

The current federal legislation does not have any regulations concerning bilingualism, yet it hardly allows for the situation when on

⁸ Regulation No.12-P of the Constitutional Court of the Russian Federation, dated April 27, 1998. Sobraniye zakonodatelstva Rossiyskoy Federatsii. 1998. № 18. art. 2063.

⁹ Sobraniye zakonodatelstva Rossiyskoy Federatsii. 1998. № 13. art. 1475.

the territory of the republics federal authorities (and their territorial units) speak the state language of the Russian Federation and republican authorities speak state languages of republics. The local federal executive bodies use only the federal state language because all of them (without any exceptions) are supposed to be subject not to the laws of subjects of the Russian Federation, but to the federal laws, including the language-related legislation.

The governing bodies of republics should use two languages, which in practice brings about inconsistency in arrangement of bilingual proceedings. There are some cases when legislators in republics (e.g. in Bashkiria) are ready to introduce the norms which do not give any support for the state language of the republic, but this happens quite seldom. In accordance with Article 10 of the Law "On Languages of the Peoples of the Republic of Bashkortostan"¹⁰, the state and local authorities of the republic ought to use the Russian language; it is also possible to use the Bashkir language in parallel with the Russian language. In fact, for Bashkiria it was a compromise solution because of the active resistance of the Tatar population of the republic to any legislative privileges for the Bashkir language. The

ethnolinguistic situation in Bashkiria is quite complicated: 30% of the population are Tatars (in the west of the republic they constitute the ethnic majority) and even Bashkirs often use the Tatar language in their everyday communication. There is also a similar situation in Chuvashia, where the Law "On Languages of the Chuvash Republic"¹¹ allows using any of the two state languages: either Russian or Chuvash. Yet in most republics the legislation prescribes obligatory usage of the state language of the republic alongside with the federal state language.

As for legal acts, it is not difficult to prepare and publish them as bilingual documents (i.e. with parallel texts in two languages). Thus, for example, in the Republic of Tatarstan the law can be signed by the President of the Republic only after correspondence of its Russian and Tatar texts has been checked by the special commission of the State Council. During elections and referendums all ballot papers also contain parallel texts in two languages.

It is also not a problem to provide equality of languages during the government sessions: all speakers should be given an opportunity to speak any language, and simultaneous interpreting will help all participants of the session to understand each other.

¹⁰ Law No.216-z of the Republic of Bashkortostan, dated February 15, 1999. *Vedomosti gosudarstvennogo sobraniya, presidenta i kabineta ministrov respublik Bashkortostan*. 1999. № 8(92). Art. 472.

¹¹ Law of the Chuvash Republic, dated October 27, 1990. № b/n// *Zakony I postanovleniya Verkhovnogo Soveta ChR I ego Presidiuma*: Collection. 1993.

Yet it is much more difficult to secure the rights of common citizens to use any language in their communication with representatives of public authorities. Considering the international experience in this sphere as well as Article 15 of the Law of the Russian Federation “On Languages of the Peoples of the Russian Federation”, the legislation of some subjects of the Russian Federation prescribes state officials to give response to the claims of citizens in the same language which they are made in. As for the citizens, they may address the authorities in any language they want (not only the state languages). Such norms are guaranteed by the Law “On Languages of the Peoples of the Republic of Tatarstan”¹² (par. 5, Article 14) and also by the Law “On Languages of the Peoples of the Republic of Bashkortostan” (par. 5, Article 13) and the Law “On Languages in the Chechen Republic”¹³ (par. 5, Article 11). Within this scheme, however, it is now clear, in which language the officials should initiate their communication with citizens when it is necessary. The Law “On State Languages of the Komi Republic”¹⁴

(Article 14) gives the following regulations for such a situation: the representatives of public authorities and governing bodies can address natural persons either in the Komi language or in the Russian language, depending on the preference of the natural person.

In some republics of the Russian Federation the language-related regulations are not defined (e.g. in the Republic of Adygeya), which means that the rights of citizens to use their state language are not at all secured by legislation of the republic. Considering the fact that, according to the data of the All-Russia population census of 2002 over 2.5 million citizens of Russia cannot speak Russian, it is very important for the state to guarantee their right to use the state language of a republic in communication with public authorities.

The guarantee which used to be provided by Article 16 of the Law of the Russian Federation “On Languages of the Russian Federation” is no longer secured at any level: neither the federal legislation (i.e. the commented law), nor the legislation of republics of the Russian Federation now guarantee the right of citizens living in the subjects of the Russian Federation to use their own language in addition to the federal state language in official communication and documents. This, however, might be necessary to ensure the equality of rights for some ethnic group living in a particular region and speaking a language which

¹² Law No.1560-XII of the Republic of Tatarstan, dated July 8, 1992. № 1560-XII, dated July 28, 2004// Republic of Tatarstan. 2004. August 3.

¹³ Law No.16-rz of the Chechen Republic, dated April 25, 2007. № 16-pz // Vesti Respubliki. 2007. May 8.

¹⁴ Law of the Komi Republic, dated May 28, 1992.№ b/n // Krasnoye Znamya. 1992. June 11.

does not have a state status. There are some regulations concerning this in the Law “On Languages of the Peoples of the Republic of Bashkortostan” (par. 2, Article 3), yet they are mostly omitted in most republican laws and no longer provided by the current legislation (to say nothing of the fact that such guarantees are not even mentioned in the text of the commented federal law).

Thus the inequality of the subjects of the Russian Federation sanctioned by Article 68 of the Constitution is still increased by this law, although it might be a bit compensated by allowing other subjects (not only republics) to have their own official languages. So, the main function of the Law of the Russian Federation “On Languages of the Peoples of the Russian Federation” was to reduce inequality of the subjects of the Russian Federation in their right of having their own state languages by securing a range of other possibilities and spheres where they could use their languages. In contrast, now, even such ethnic-based subjects of the Russian Federation as autonomous oblasts and autonomous okrugs, which have no lesser rights than republics to be allowed, using their own languages in official proceedings, are deprived of this right. It might seem unnecessary to designate official languages for geographically defined (not ethnic-based) subjects of the country (like territories, oblasts, federal cities, etc.). Yet in this

case it may also turn out that the rights of ethnic minorities living in certain parts of such subjects are ignored. Actually, the share of ethnic minorities and their communities in some subjects is quite significant (e.g. there are over 12% of Tatars in Ulyanovsk Oblast) and may be even higher than the share of titular ethnic groups in ethnic-based subjects (there are only 1.1% of Khanty and 0.7% Mansi living in the Khanty-Mansi Autonomous Okrug).

The independence of republics is incomplete without their own state languages, but, in this concern, it is really important to establish a common graphical base for languages of all peoples living in Russia. In accordance with the Law of the Russian Federation “On Languages of the Peoples of the Russian Federation”, the Cyrillic alphabet is the only writing system used by all official languages of the country. Thus, all state languages remain similar in their graphics with the federal state language. In Regulation No.16-P¹⁵ dated November 16, 2004 of the Constitutional Court it is said that this solution has very important historical and cultural grounds (what is meant there is most likely the language formation policy of the 1930s and its further development in the 1940s); it also provides the unity of the state and contributes to the maintenance of cultural tradi-

¹⁵ Sobraniye zakonodatelstva Rossiyskoy Federatsii. 2004. № 47. art. 4691.

tions and values. Yet such arguments can hardly be considered very convincing, particularly due to the fact that some languages (e.g. Karelian or Finnish) do not use the Cyrillic alphabet and, therefore, require another graphical base to start being used as state languages.

Being a vital element of a national culture, the language becomes mandatory not only in official proceedings, but also in many other spheres. It is a real symbol of the state, an important factor of the national and cultural unity of people in each country.

The state secures the equality of rights of its citizens, regardless of their language nativity, and also guarantees the right for using, studying and developing all languages which are spoken by its citizens. These rights are provided by the Constitution of the Russian Federation (Article 26; Part 3 Article 68) and the Law of the Russian Federation "On Languages of the Peoples of the Russian Federation". In the sphere of non-official communication each person and the nation as a whole are free to use any languages they want in order to preserve these languages as elements of national cultures. The state languages cannot monopolize the sphere of non-official communication since the law should also protect other languages from extinction.

Languages, dialects and patois of the peoples of Russia are cultural values secured by the Fundamentals of Legislation of the Russian Feder-

ation on Culture No.3612-I¹⁶ dated October 9, 1992. Many republics in the Russian Federation have special laws aiming to protect their titular languages as a cultural value. The Law "On Languages of the Peoples of the Republic of Kalmykia"¹⁷, for instance, underlines that the governing bodies of the republic bear a duty of maintaining, reviving and developing the Kalmyk language. In the Chechen Republic starting from 2006 the Day of the Native Language is celebrated annually on April 23. The government of the republic encourages publishers to print more books (both original and translated ones) for adults and children in the Chechen language. The protection of languages as well as the guarantee of the rights of citizens to speak other languages (not only Russian) should be provided by law. As for the mandatory status of the state language, it cannot by any means threaten the multi-cultural and multi-language diversity of Russia.

In this respect, different legislative acts constitute two directions of the language-related legislation: the Law of the Russian Federation "On Languages of the Peoples of the Russian Federation" protects languages having no state status, while the commented law regulates the

¹⁶ *Vedomosti Soveta Narodnykh Deputatov i Verkhovnogo Soveta Rossiyskoy Federatsii*. 1992. № 46. art. 2615.

¹⁷ Law No.30-II-Z of the Republic of Kalmykia, dated October 27, 1999. *Izvestiya Kalmykii*. 1999. November 18.

status of the state language of the Russian Federation.

In each state there is a dominating ethno-lingual culture, the integrity of which is supported by the government as it provides the unity and integrity of the state. The language often becomes a symbol of the state and, therefore, the language corruption or abandonment can be viewed as an attempt on fundamentals of the statehood. From this point of view, the state status is necessary for a prevailing language to be most effectively protected, maintained, developed and studied.

Having recognised a state language as a mandatory one, the government should provide the necessary conditions for its functioning in this status. First of all, the official standard of such language needs to be established (we are going to dwell on this issue a bit later) and constantly updated and developed, with more and more neologisms being introduced as a result of various scientific and technological innovations. The state language ought to be studied in comprehensive schools not only by native speakers, but also by representatives of other nationalities. Also, the effective usage of the language in the official sphere needs to be guaranteed, for instance, by providing translation services if required (e.g. when people who do not speak the state language have to participate in court sessions, etc.). Unfortunately, the commented law is based on the coercion principle: citizens of Russia are obliged to

know and use the Russian language. At the same time the law does not at all specify the language-related obligations of the state (except for an abstract description of measures for protection and maintenance of the state language given in Article 4 of the Law).

Yet the governing bodies of some subjects have already tried to take certain measures in order to support and protect the state language (i.e. the federal state language) and contribute to its development. A vivid example of this is the Law "On Protection of the Russian Language in Kaliningrad Oblast"¹⁸ which prescribed the government to provide its citizens with education given in the state language of the Russian Federation and a wide range of other measures. However, if truth be told, it is necessary to mention that the law mostly consisted of legal recommendations on strengthening the mandatory status of the state language: the sphere of obligatory usage of the Russian language was illegitimately extended (e.g. the obligation to use the state language was applied to the sphere of civil-law transactions). There were some other regional laws introduced to support the mandatory status of the state language (sometimes even with penalties and fine sanctions defined). In the 1990s, the laws on obligatory usage of the state lan-

¹⁸ Law No.36 of Kaliningrad Oblast, dated February 22, 1996. // Yantarny krai. 1996. March 14.

guage of the Russian Federation in written names of profit-making and nonprofit-making organisations were enacted in Vologda and Pskov oblasts. In 2003–2004, however, these laws were repealed. To a certain extent, the commented law performs a similar function as it requires giving names to organisations of any form of ownership in the state language of the Russian Federation.

Some provisions of the commented law extend the mandatory status of the Russian language to the sphere of non-official communication, thus violating the right of citizens to speak other languages and creating conditions for cultural dominance of the Russian language, which cannot be justified by the necessity to secure the rights of the country's citizens to take part in official proceedings.

The commented law prescribes keeping all records and naming all organisations (regardless of their form of ownership) in the state language. The question of whether, in accordance with this law, all civil-law contracts of companies having business in Russia should be written only in the Russian language has been for a long time discussed in the special literature¹⁹. This obligation primarily concerns representative offices of both foreign and Russian companies which carry on foreign-

economic activity and is really hard for them to comply with. Unfortunately, there have been yet no judicial precedents concerning the issue. As for the norms of the commented law, they remain vague and ambiguous. And the regional statutory acts (like the Law “On Protection of the Russian Language in Kaliningrad Oblast”) often go beyond the limits of jurisdiction of the subjects of the Russian Federation. Since the citizens have a right to use any language in non-official communication, they may also insist on their right to write contracts and agreements in any language they like. Although if such documents need to be presented at court sessions to protect rights of any of their parties, for legal proceedings they definitely need to be translated into Russian as in this case they get into the sphere of official communication and ought to comply with the legal requirements.

As for the usage of the state language in record keeping, it remains unclear which official language should be used by organisations located in republics of the Russian Federation: the federal state language or the state language of a republic. Paragraph 6 of the Rules for Maintenance and Storage of Work Record Books, Preparation of Blank Work Record Books and Supplying Employers with Them²⁰ is quite

¹⁹ *Semyonov M.I.* Pismennaya forma sdelok// *Pravo i ekonomika*, 2002, Issue No.8; *Belopolsky E.* Yazyk nichtozhnoy sdelki// *Biznes-advokat*, 1997, Issue No.22.

²⁰ **Regulation No. 225 of the RF Government**, dated April 16, 2003. // *Sobranie zakonodatelstva Rossiyskoy Federatsii.* 2003. № 16. art. 1539.

ambiguous: according to it, in the subjects of the Russian Federation having their own state languages it is possible for employers to maintain labour books of their employees simultaneously in the state language of the Russian Federation and in the state language of the given republic. The procedure for entering records in state languages of republics is non-defined, so the maintenance of labour books in each company is different and mostly depends on the legal consciousness and common sense of employers, although, if necessary, one can also try and ask representatives of public authorities in the sphere of labour regulations for explanations and advice.

The commented law adheres to quite different principles when it confirms the mandatory status of the Russian language as a means of consumer protection. In this respect the state language is a language understandable for all (or for most of) citizens. It is viewed not only as an official symbol of the state, but as a condition ensuring effective protection of interests of Russia's population. Concerning this, the commented law is supported by a number of other laws regulating relations in the corresponding spheres. Firstly, for example, in accordance with Article 8 of "Consumer Protection Law"²¹ No.2300-I of the Russian Federation dated February 7,

1992, information about goods ought to be given to consumers in the Russian language. Secondly, par. 5 of Article 5 of Federal Law No.38-FZ "On Advertising"²² dated March 13, 2006 prohibits using foreign words and expressions, which may misinform consumers.

When discussing the cases in concern with the "Consumer Protection Law" of the Russian Federation, the judges mostly adhere to the following guidelines: if some information about goods is given in a foreign language but still helps to understand the general purpose of the goods and its characteristics, it is not viewed as misinformation and does not violate legislative norms²³.

The anti-monopoly authorities usually give a stricter interpretation of the RF law "On advertising". For example, in Dagestan and in Rostov oblast anti-monopoly authorities once required replacing all sign-boards and advertising bills with inscriptions in foreign languages by those in the Russian language. In some cases there were even fines imposed on entrepreneurs, and in every third case the ground for this were the most popular signs with the understandable word "SALE". The Federal Law "On Advertising" which prescribes duplication of

²² Sobraniye zakonodatelstva Rossiyskoy Federatsii. 2006. № 12. art. 1232.

²³ See, for example, Regulation of the Federal Arbitration Court of the Central District Regarding Case No.A36-39/11-04, dated November 10, 2004.

²¹ Vedomosti Soveta Narodnykh Deputatov i Verkhovnogo Soveta Rossiyskoy Federatsii. 1992. № 15. art. 766.

any foreign words by their Russian equivalents and aims to protect the customer's right for understanding an advertisement is often misinterpreted and applied in such a way that no foreign words at all are allowed in advertisements (except for registered trademarks and, in some cases, official company names which are not subject to advertising). This requirement does not only prevent from penetration of loanwords into the speech of common Russians, but also limits access of foreign companies and their goods to the Russian market. Therefore it should be regarded not as a means of customer protection, but as a safeguard for the ethno-cultural environment and a way of granting preference to domestic manufacturers.

The ethno-cultural and linguistic environment is also protected by the obligation for all mass media ought to use the Russian literary language (with the exception of some deviations justified by peculiarities of particular creative projects).

The very fact that the law gives a possibility to justify deviations from the standard language by artistic design vividly proves that this law does not distinguish the state functions of the Russian language from its official and social functions. Its regulations lack soundness and integrity as it sanctions the usage of the state status of the Russian language for the purpose of establishing its cultural dominance. The official and formal style prevailing in the official sphere

does not typically have anything to do with artistic design. And the artistic projects should hardly be required to comply with any standards or language norms approved by the government.

Incredible as it may seem, the commented law ignores one of the major spheres where the state language is to be used — the sphere of education. In fact, it is education that forms the real junction between the state and official sphere on the one hand (since education institutions are public and form a state education system, they carry out a common educational policy, including the language-related policy) and the social sphere on the other hand. It is through the education system that the government can implement its concept of the state language protection, use and development as well as promulgation of its standard literary norm.

Unification of the language norm is another problem which is only to some extent connected with the state status of a language. Actually, legislative regulation of linguistic norms has to face numerous challenges.

When introducing any standards concerning the lexis, one should bear in mind that the language is a means of everyday communication. It is constantly changing and can hardly fit the Procrustean bed of linguistic standards which try to preserve it as it is, to make it comply with the formal norm and turn into

a set of boring clichés desperately lacking creativity and imagination.

Unification of grammar norms causes problems of an opposite nature. The grammar standard determines the language structure and, in some sense, even influences the methods of thinking. The norms of spelling and punctuation are studied at school and therefore most of literate adults are unlikely to be pleased with any changes in this sphere and can even openly oppose the attempts of the government to implement, for example, a spelling reform. Such reforms are successful only in the epochs of revolutions and global upheavals which overturn the social order. The most crucial spelling reforms in Russia were introduced by Peter I and also in 1917–1918, in normative acts issued by the government. Much less drastic changes in the language proposed by the authorities in the early 2000s provoked open protest of the public.

The commented law does not specify any difference between the lexical and the spelling standard of the language. Thus it gives *carte blanche* to the authorities and academic institutions in their work on the Russian spelling reform which has been underway since the late 1990s.

The orthographic standard is nowadays determined by “the Rules of the Russian Orthography and Punctuation” which have been worked out by the Academy of Sciences of the USSR and approved by the Ministry of Higher Educa-

tion of the USSR. They were put into effect by Order No.94²⁴ dated March 23, 1956 of the Minister of Education. At present, many people say that the standard has already become outdated and needs to be revised. This opinion is proved by the fact that some deviations from this standard are already described even in the dictionaries published by the Institute of the Russian Language of the Russian Academy of Sciences, which is considered to be the most authoritative academic institution in the country.

The Law insists on the necessity to formalise the language norm in order to eliminate all sorts of ambiguities in grammar of the contemporary Russian language. The most vivid example of this is the problem with the letter “ë”, the seventh letter of the Russian alphabet, and its use in official documents. In surnames, for instance, this letter can be replaced by “e”, thus hampering the correct identification or authentication of a person.

In the Rules of the Russian Orthography and Punctuation of 1956 there are some regulations concerning the letter “ë”, but they are mostly quite vague and non-strict: “ë” ought to be written instead of “e” when it helps to prevent from incorrect reading or understanding of a word, when it shows the correct pronunciation of a rare word and

²⁴ *Pravila* russkoy orfografii i opunktatsii. M., 1956.

also in special texts and dictionaries to mark the stress in some words and to demonstrate their correct pronunciation. In 2008 several information agencies drew the public attention to problems caused by this ambiguity: some people in Perm, Barnaul, Archangelsk, Murmansk and the Republic of Chuvashia had serious problems with their documents which prevented them from making passports and other documents related to citizenship as well as receiving inheritance, leaving abroad with under-age children, etc. Nor is this problem solved in the judicial practice: in trademarks the letters “e” and “ë” are not distinguished (e.g. “Бочкарёв”)²⁵, but these letters ought to be distinguished in the court verdict when they influence its meaning²⁶. Different public authorities develop special regulations concerning the official documentation management where they often give very different recommendations on how to use these letters.

As for the composition of the Cyrillic alphabet as the graphical base of the Russian language, it is also not defined by any laws. The previous spelling reforms and rules were introduced in response to particular problematic issues (e.g. the

Decree of the People’s Commissariat for Education “On Introduction of New Spelling”²⁷ dated December 23, 1917; Order No.1825 of the People’s Commissariat for Education “On Using the Letter “ë” in the Russian Spelling”²⁸ dated December 24, 1942; “Rules of the Russian Orthography and Punctuation” of 1956, etc.). Some of them suggested certain regulations on how these or those letters of the Russian alphabet should be used, yet none of them provided a comprehensive and unified list of the Russian letters. Therefore the administrative fines imposed by courts for writing Russian words with the use of Latin letters can be hardly viewed as legitimate²⁹. Since there are no explicitly formulated rules for using the Russian alphabet, it remains unclear whether the letter “i” that is used, for example, in the name of a company is a Latin letter or a letter of the Old Russian alphabet, (the revival of which is strongly supported by the Russian Orthodox Church). Some subjects of the Russian Federation use their own variants of the Cyrillic alphabet (e.g. the Tatar variant is approved by a special law of the Republic of Tatarstan in 1997). In the Khakas variant of the Cyrillic

²⁵ Regulation No.A56-39406/03 of the Federal Arbitration Court of the North-Western District, dated December 14, 2004.

²⁶ *Ruling* of Nagatinskiy intermunicipal (district) court of Moscow, dated August 30, 2005 // *Byulleten notarialnoy praktiki* (Notarial Practice Report) 2006, Issue No.1.

²⁷ *Sbornik Ukazov RSFSR*. 1917. № 12. art. 176.

²⁸ Accessible in Reference Legal System “Consultant Plus”.

²⁹ Regulation No.F04-1738/2007 of the Federal Arbitration Court of the West-Siberian District, dated May 3, 2007.

alphabet the letter “i” is preserved. Still more controversy is caused by the fact that the Decree of 1917 introduced the new language rules and made them obligatory for state organisations only, Law No.1807-I “On Languages of the Peoples of the Russian Federation” dated October 25, 1991 prescribed the use of the Cyrillic alphabet but did not specify its composition and Federal Law No.38-FZ “On Advertising” dated March 13, 2006 required using the Russian language without defining its graphical base.

It is quite evident that rules for using letters of the Russian alphabet should be defined in the new official normative standard of the Russian language approved by the government as the “Rules of the Russian Orthography and Punctuation”, 1956 can no longer perform their regulatory function. The commented law authorises the government of the Russian Federation to define the order for determination of the norms of the Russian language, and the government in its Resolution No.714 dated November 23, 2006 entrusted the responsibility of the language standard creation to the Ministry of Education and Science. The Ministry is supposed to compile and officially confirm a list of grammar books and dictionaries where the norm of the official Russian language is described. This list has not been confirmed yet.

When introducing a new orthographic standard, one should bear

in mind that the spelling reform is most likely to provoke protest in the society. In the late 1990s and the early 2000s the similar reforms of the German and French languages failed to be carried out because of their universal non-acceptance.

Another problem concerns the lexical standard of the language. Surely, every language has a lot of verbal styles and variants of linguistic norms, such as different local dialects, or special terminology, or taboo words. The RF Constitution proclaims the state status of the Russian language, which actually means that this language in all its variants, including substandard ones, can be used in the official sphere. The very possibility of such interpretation of the Constitution made law-makers add to the commented law several norms which elaborate debatable provisions of the Constitution. The law specifies the conditions for using Russian as a state language in the sphere of official communication: the state language is a contemporary literary variant of the language complying with the norms which have been approved in accordance with the procedure worked out by the government of the country. No substandard variants of the language with deviations from its literary norm can be used in the official sphere.

The law also sanctions a restriction on the usage of foreign words and expressions (in case they have Russian equivalents) in the official Russian language. When the law was

discussed in the State Duma, this measure provoked heated debates, yet it was approved as a measure necessary to protect the state language from special terms borrowed from other languages and unknown to most of citizens.

Nowadays it is almost impossible to say which loanwords have popular Russian equivalents and which of them have not. In fact, it is not easy to find pairs of words with identical

meanings (i.e. with identical semantic fields) in two languages, except for the words denoting the most common things (*like вода — water, дерево — tree, стул — chair or собака — dog*, of course in their direct meaning only). Words are never borrowed without any reason. The compilers of a unified standard dictionary regulating the usage or non-usage of loanwords are likely to face numerous unsolvable difficulties³⁰.

³⁰ The necessity to protect the Russian language from foreign borrowings is not a new issue in the history of culture, as it has been discussed since the middle of the 18th century. This problem got especially acute in the beginning of the 19th century during the period of the debates “on the new and old manner of speech”. The hint at this polemics can be found, for example, in the novel “Eugene Onegin” by A. Pushkin: in Chapter 1 (XXIV) the author dwells on the problem of borrowings as follows:

*«...Всех этих слов на русском нет;
А вижу я, винюсь пред вами,
Что уж и так мой бедный слог
Пестреть гораздо меньше б мог
Иноплеменными словами, —
Хоть и заглядывал я встарь
В Академический словарь».*

(...these words are not of Russian stock:
I know (and seek your exculpation)
that even so my wretched style
already tends too much to smile
on words of foreign derivation,
though years ago I used to look
at the Academic Diction-book
(tr. by Ch. Johnston)).

Here Pushkin writes about the Dictionary of the Russian Academy which was published in the end of the 18th century — it was the first academic defining dictionary of the Russian language which established the foundation for the Russian normative lexicography. In Chapter 8 (XIV) of the same novel Pushkin mentions the name of A.S. Shishkov, the President of the Russian Academy, the Minister of Education and the Head of the Censoring Department, who was an ardent protector of the pure Russian language. Yet at that time it was already clear that the language “protection” is a challenging task which needs to be performed without going to the extremes. The purist ideas were later mocked in many popular jokes where in some phrases the most common borrowings were replaced by their long-forgotten and odd-sounding Russian equivalents, like “мокроступы” instead of «галюши» or «хорошилище грядет по гульбищу из ристалища» instead of «франт идет по тротуару из театра» which sounded really very funny.

At the same time, such regulations concerning allowed and disallowed usage of particular foreign terms are really necessary in most fields of science and technology (in the 1990s there were similar rules introduced in France).

From this perspective, it seems quite strange that the restrictions do not concern rare words used in special jargons, local dialects and other language variants functioning within a limited sphere or area. If the law-makers aimed to establish a state language understandable for all citizens of the country, they should have introduced a lot of other restrictions except for those concerning foreign loanwords.

Actually, the restriction on the usage of foreign words is a means of protection of the Russian ethno-cultural environment from the influence of the West-European and American culture. The state language is a symbol of unity and independence of the state. They say that the Russian language needs to be protected from globalisation as this guarantees protection for the cultural identity of Russia and manifests its uniqueness. Yet, in this respect, given the specifics of the contemporary information-oriented society, some norms of the law seem to be not only ineffective, but even absurd. Obviously, the Russian culture does not currently face any real danger of extinction, and in these conditions such measures can be viewed as anti-global reaction aimed at cultural isolation and purism.

Another problem of lexical standardisation of the state language concerns the specifics of professional terminology used by representatives of governing bodies ruling over particular professional spheres. For common people, the standard professional language of the military or medical personnel, or economists, or other specialists is quite difficult to understand, and the problem can hardly be solved by any new dictionaries of the standard Russian language.

Even in the texts of laws and other normative legal acts there is a lot of specific lexis, such as various legal terms and notions inherited by the modern legislative system from the Roman law long time ago. As a rule, these terms have exact definitions and cannot be omitted, yet one can hardly say that such words, for example, as “оферта” (Russian equivalent for “offer” as an expression of willingness made to another party to form a binding legal contract) or “акцепт” (Russian for “acceptance” as a response to “offer” — “оферта”) are frequently used in the standard Russian language.

Standardisation of other state languages in the country is yet another challenge to face. In this case, the difficulties concerning this issue arise from uncertainty of whether or not this or that language really exists as a separate language. When the Law “On Languages in the Republic of

Mari-El”³¹ was discussed, the most evident obstacle for its approval was uncertainty in the status of languages spoken by the Mountain Mari people and the Meadow Mari people: the linguists failed to define whether these are two different languages or two dialects of one language. Since the contemporary linguistics failed to suggest any certain criteria, the debates mostly did not concern any language-related rights. Instead their participants just stood up for the cultural identity of ethnic groups they belonged to.

On the whole, the language-related legislation in Russia lacks clearly formulated principles. Yet such principles are really necessary to define the goals for legislative regulation of the state language status and to determine the areas of obligatory use

of this language. Concerning this, it is worth to remember the idea suggested in 1953 by experts in language issues of the UNESCO. They offered to distinguish the notions of the national language (which is inseparable from a particular culture and which symbolises national unity of a country and may traditionally prevail in various spheres of communication) and the official language (which ought to be used primarily in official proceedings by representatives of governing bodies). It is the official language that needs to be regulated by linguistic norms and have a certain style corresponding to the goals of official communication. As for the national language, the state does not need to impose it as obligatory. Instead, it needs to be protected by the state through well-balanced policy related to a variety of language and cultural issues.

³¹ Law of the Republic of Mari-El No. 290-III “On Languages in the Republic of Mari-El”, dated October 26, 1995 // *Mariyskaya Pravda*. 1995. November 14.

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