Linguistic Rights in a Former Empire: Minority Languages and the Russian Higher Courts

No other country in Europe matches Russia's ethnic and linguistic diversity. According to the 2010 census, 277 languages were used in Russia,\(^1\) of which 39 were languages of instruction in schools and 50 were taught as subjects.\(^2\) Russia's history also resembles that of no other country in Europe, including in its diversity management through 'ethnic federalism'. This article considers the jurisprudence on minority languages in the Russian higher courts, highlighting the links between these judgements and Russia's specificities in majority–minorities relations. First, the article provides an overview of the historical circumstances surrounding minorities and minority languages in Russia, particularly with regard to ethnic federalism. Second, it outlines cases relating to language rights considered by the Russian Constitutional Court and the Russian Supreme Court.\(^3\) It is shown that these rulings reveal two fundamental concerns: centre-regions relations in Russian federalism and a perception of equality as akin to homogeneity. These cases are analysed with reference to relevant international standards for the protection of linguistic rights, particularly the jurisprudence of the European Court of Human Rights (ECtHR), to reveal that such standards have only a tenu-

---

* Federica Prina is a Senior Research Associate at the European Centre for Minority Issues, where she heads the cluster ‘Culture and Diversity’.

1 Census results can be found at http://www.perepis-2010.ru/results_of_the_census/results-inform.php. See *Naselenie Rossiiskoi Federatsii po Vladeniyu Yazykami* [The Population of the Russian Federation by Language Knowledge]. The figure of 277 includes the languages spoken by immigrants, in addition to the languages spoken by peoples with a traditional presence in Russia.


3 The third of the higher courts of Russia is the High Arbitration (Commercial) Court. Its jurisprudence is outside the scope of this article.
ous correlation to the principles developed in Russian jurisprudence. While it has been rightly argued that linguistic rights are part of basic human rights, and as such do not only concern national minorities,⁴ in this article I consider the jurisprudence primarily within the context of promotion of minority languages and of majority–minorities relations.

Russia has acceded to a number of international treaties on human rights containing provisions which, directly or indirectly, protect minorities. In 1969, the Soviet Union ratified the United Nations’ (UN) International Convention on the Elimination of All Forms of Racial Discrimination⁵ and in 1973 the UN’s International Covenant on Civil and Political Rights (ICCPR)⁶—generating international obligations inherited by Russia as its successor state. In 1996, the Russian Federation became a member of the Council of Europe and acceded to its treaties: the Framework Convention for the Protection of National Minorities (FCNM)⁷ and the European Convention on Human Rights (ECHR),⁸ both ratified in 1998. Upon accession to the Council of Europe, Russia also made a commitment to become a state party to the European Charter for Regional or Minority Languages (EChRML),⁹ although in 2012 it still had to ratify, after signing in 2001. Since ratification, the ECHR and its case law have been increasingly referred to in Russian courts¹⁰ because they form part of Russian law by virtue of Article 15(4) of the Russian Constitution.¹¹ As the jurisprudence of the Russian higher courts in relation to linguistic rights has touched on issues of federal arrangements and diversity management, one must outline Russia’s approach to nationalities policy, along with its Soviet legacies.

¹¹ It states: “The universally-recognized norms of international law and international treaties and agreements of the Russian Federation shall be a component part of its legal system.”