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**THE RIGHTS OF THE NATIONAL MINORITIES  
IN THE RUSSIAN FEDERATION: CONSTITUTIONAL REGULATION  
AND JUDICIAL PROTECTION**

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## GENERAL OVERVIEW OF THE DISSERTATION

**Relevance of the research topic.** The Russian Federation, along with its characteristics as a federal, democratic and legal state, is also the largest multinational country, which is reflected in the Declaration on State Sovereignty of Russia of June 12, 1990 and the Constitution of the Russian Federation. The use of various concepts of ethnic communities in its text gives grounds to consider them as subjects of constitutional law. One of these are national minorities, the regulation and protection of whose rights are defined by the Constitution of the Russian Federation as the subject of federal competence (Article 71), and the protection of their rights is the subject of joint competence of the Russian Federation and its subjects (Article 72).

The legislation adopted in the development of constitutional provisions is devoid of specificity in relation to national minorities. Federal Law No. 74-FZ of June 17, 1996 "On National-Cultural Autonomy" (hereinafter referred to as the NCA Law), which is the main regulatory legal act on the rights of national minorities, practically does not establish special tools for their implementation and largely duplicates the provisions of others legislative sources. There are also no State and municipal program documents on the support of national minorities. On the contrary, the legal status of other ethnic communities similar to them, in particular, indigenous peoples, is regulated in sufficient detail and clearly. At present, domestic legislative and law enforcement practices rather indicate a mixture of national minorities with other ethnic communities, which can lead to discrimination, abuse, ignoring their opinions, interests and needs.

The amendment to the Constitution of the Russian Federation in 2020, which proclaimed, among other things, state guarantees for the protection of the cultural identity of peoples and ethnic communities (Part 2 of Article 69), confirmed the particular importance for the state of issues of interethnic relations. After the correction of the constitutional norms, the concept of national minorities was also preserved, which confirms their recognition by the state. However, these provisions have not yet been

developed in domestic legislation – the issues of defining national minorities, regulating and protecting their rights remain unresolved.

Generally recognized principles and norms of international law and international treaties are an integral part of the Russian legal system (Part 4 of Article 15 of the Constitution of the Russian Federation). At the same time, the amendment to the Constitution of the Russian Federation in 2020 changed the attitude of the state to its international obligations (Article 79). At the same time, Russia continues to participate in the UN human rights treaties, which provide for norms on the protection of national minorities. The practice of its participation in such agreements of regional international organizations – the Council of Europe and the Commonwealth of Independent States (hereinafter – the CIS) - has developed in a different way. In particular, in December 2021, Russia announced its intention not to become a party to the CIS Convention on Ensuring the Rights of Persons Belonging to National Minorities (hereinafter referred to as the CIS Convention on the Rights of National Minorities). However, it is not limited in its ability to proactively rely on it in the implementation of national policy. On March 16, 2022, the Russian Federation terminated its membership in the Council of Europe, which adopted the Framework Convention for the Protection of National Minorities (hereinafter referred to as the FCNM) in 1995. Nevertheless, Russia remains a party to it, which is allowed by the norms of this international treaty (preamble, articles 27-30) and is confirmed by the statement of the Russian Foreign Ministry.

In the context of ambiguous legal regulation of relations related to national minorities, a special role in this case should be played by the judicial authorities as a universal guarantor of the protection of human rights and freedoms. The courts can restore justice, stop violations, eliminate the existing shortcomings of legal regulation as well. Of greatest importance is the practice of the highest courts, including international justice bodies. Although the Russian Federation has withdrawn from the jurisdiction of the European Court of Human Rights (hereinafter – the ECHR, the European Court), nevertheless its decisions are still of legal interest. This is explained by the fact that when

considering issues of protection of rights under the Convention for the Protection of Human Rights and Fundamental Freedoms (hereinafter referred to as the ECHR) in relation to representatives of national minorities, this Court takes into account, among other things, the provisions of the FCNM. The legal positions developed by him can be taken into account by Russia. Similarly, nothing prevents the State from using the practice of the Inter-American Court of Human Rights (hereinafter referred to as the IACHR), which has repeatedly considered the issues of protecting ethnic communities, and focusing on examples of the protection of the rights of national minorities of constitutional justice bodies of individual countries with a similar legal system. The research and generalization of the legal positions of the judicial authorities is important for a better understanding of the constitutional and legal status and content of the rights of national minorities.

In Russian legal science, the issues of the legal status of national minorities have previously become the subject of dissertation research. However, there are currently no works that take into account the latest international legal, constitutional and legislative changes, the Russian practice of state reports on the fulfillment of international obligations, up-to-date statistical data, as well as judicial practice on the protection of national minorities. This situation justifies the importance of a new study, concerning the constitutional and legal aspects of these communities.

**The degree of scientific development of the topic.** In the field of jurisprudence, the influence of the norms of international legal regulation on the rights of national minorities has studied of A.H. Abashidze, F.R. Ananidze, A.N. Mochalov, R.A. Tuzmukhamedov. A number of scientists, in particular, M.O. Abramova, A.T. Doktorova, M.B. Napso, A.G. Osipov, I.S. Tarbastaeva, V.Ya. Boytsov, N.V. Vitruk, L.D. Voevodin analyze the legal status of national minorities, including issues of their definition, the legal nature of rights, special rights and instruments for their implementation. Ethnocultural and other rights of ethnic communities were also studied by S.A. Avakyan, N.A. Filippova, R.S. Garipov, P.V. Gogolev, T.Ya. Khabrieva, V.A. Kryazhkov, Y.V. Popkov, A.K. Soboleva, M.Y. Zadorin and T.V. Zametina. The issues of the correlation of national

minorities with other communities, as well as their legal status, were discussed in the works of L.V. Andrichenko, T.A. Vasilyeva, A.B. Dosakaev, R.A. Tuzmukhamedov. The historical and legal aspects of national minorities were studied by L.V. Boltenkova, O.K. Kaikova, O.G. Rummyantsev, S.V. Sokolovsky and V.A. Tishkov.

The works of W. Barten, J. Duchene, P. Hilpold, G. Kalba, F. Kapotorti, R. Karalova, U. Kimlicka, L.I. Landsem, G. McDougall, A.P. Pap, V. Sadursky, R.H. Thompson, F. de Varennes, F. Hirsch are highlighted among foreign scientists who have dealt with the problems of national minorities.

**The purpose** of the dissertation research is a comprehensive study of the concept of national minorities in the Russian Federation, the constitutional and legal status of these ethnic communities, the practice of implementing and judicial protection of their rights.

To achieve this goal, the following range of **tasks** was defined to:

investigate approaches to the definition of the concept of national minorities in international law;

identify the features of the definition of national minorities in Russian law in the dynamics of state development;

assess the relationship and influence of international practice on domestic interpretations of the concept of national minorities;

consider the doctrinal positions of domestic and foreign researchers regarding the understanding of national minorities with the establishment of their unity and differences;

propose a conceptual definition of national minorities taking into account the norms of Russian legislation and law enforcement practice;

show the specifics of national minorities in relation to other ethnic communities;

reveal the legal nature of the rights of national minorities;

analyze modern Russian legislation in the field of securing the position of national minorities and their rights;

identify the problems of legal regulation of the rights of national minorities and formulate proposals for their solution;

study judicial practice and its impact on the realization of the rights of national minorities.

**The object** of the dissertation is social relations that arise in the process of securing the rights of national minorities and their protection.

**The subject** of the study is the content of the legal status of national minorities in the Russian Federation, the definition of the legal nature of their rights, the specifics of the regulation and protection of these rights, including by the judiciary, international legal and constitutional legal norms establishing the status of national minorities, court decisions in the field of protection of their rights, scientific research on the problems of legislative support and practice of realizing the rights of these ethnic communities.

**The research methodology** consists of general scientific methods and techniques of cognition (systemic, functional, methods of analysis and synthesis, induction and deduction, interpretation, statistical). Along with them, special-legal methods were used in the dissertation research: formal-legal, historical-legal and comparative.

In particular, the method of formal legal analysis and comparative methods were used to characterize, study the relationship, common and distinct features of international legal acts, regulatory legal acts of the Russian Federation and foreign states, and legal positions of the judiciary.

The historical and legal method was used to study the prerequisites for the formation and development of the constitutional and legal status of national minorities.

This methodology made it possible to study the domestic constitutional and legal regulation of the status of national minorities in the Russian Federation, to identify the correlation of domestic regulatory requirements with international legal standards in this area, and to establish the need to improve the legal regulation of ensuring and protecting the rights of national minorities.

**The normative-legal and empirical basis of the study** was the norms of international law and international treaties, the federal and regional legislation of the Russian Federation, the legislation and law enforcement practice of foreign countries, the

decisions of domestic justice authorities, the ECHR, IACHR. In addition, during the study, various reports, reports and documents of Russian state authorities and international organizations (agencies and organizations under the UN and the Council of Europe) were analyzed. The study also used materials (analytical reports, reports, appeals, project results, etc.) of various public associations and international non-governmental organizations, statutory and program documents of these associations.

**The scientific novelty of the dissertation** research lies in the fact that on the basis of international and domestic sources, law enforcement practice, the author proposes his own definition of the concept of national minorities of the Russian Federation and forms an approximate list of them. An understanding of international legal and domestic experience allows to establish that the regulation and protection of the rights of national minorities strengthen the system of human rights proclaimed by universal international treaties and norms of the Constitution of the Russian Federation, guarantee them, along with individual and collective rights, which predetermine the need for special legal regulation of their situation. The novelty is also determined by the study of the experience of regulating and protecting the rights of national minorities in foreign federal states of the Romano-Germanic legal system (the Republic of Austria and the Federal Republic of Germany) with a view to its possible implementation in Russian practice.

**Provisions submitted for protection:**

1. It is proved that in international legal regulation, national minorities as a concept first appeared in international treaties concluded under the auspices of the League of Nations. In turn, the conclusion is reasoned that the main foundation for the interpretation of this concept was laid by the Permanent Court of International Justice, which identified the key characteristics of persons belonging to national minorities, namely: the presence of a person's historical connection with the state of residence; the free determination of a person's belonging to a national minority; the presence of distinctive ethno-cultural features and the desire to preserve them. At the same time, it is shown that this judicial body has revealed a narrow and broad approach to understanding national minorities,



depending on whether their representatives have citizenship of the state of residence, and the principle of equality in relation to national minorities implies not only a formal declaration of their position with the rest of the population, but also in the actual implementation of guarantees of their rights ("equality in the case").

The continuity of the approaches of the League of Nations to the use and interpretation of the concept of national minorities in international legal acts after 1946 adopted by the UN and regional international organizations (Council of Europe and CIS) is proved. At the same time, the absence of a unified definition of the concept of national minorities in international law is explained by various ethnic, cultural, geographical and administrative-territorial features of countries.

2. The author's definition of the concept of national minorities is proposed. Under them, it seems possible to consider persons who do not belong to the Russian people, who are directly named or "implied" as national minorities in Russia's treaties with other states, as well as having an ethnic association registered in the prescribed manner and a) living outside their national-state formations in part of the Russian Federation, or b) living on the territory of Russia and having their own statehood outside it, or c) not having their own national-state formations on the territory of Russia and not having their own statehood outside of it.

3. It is considered necessary to form a list of national minorities, which is considered as a condition for their targeted protection. Its formation makes it possible to concretize ethnic communities that identify themselves as national minorities, as well as to determine the necessary directions for further improvement of the Russian constitutional and legal regulation of their legal status. It is proved that 99 ethnic communities, named as such in bilateral international treaties of the Russian Federation or registered an ethnic public association (national cultural autonomy, national cultural center, national society or community) in accordance with the legislation of the Russian Federation, can be considered national minorities. The number of their representatives, taking into account the data of the All-Russian Population Census in 2020, can reach 9.1 million people.

4. Based on the analysis of the content of the norms of the Constitution of the Russian Federation and Russian legislation, the conclusion is formulated that national minorities are an independent subject of constitutional law. Their representatives are distinguished from other categories similar to them and the constitutional and legal concepts used by their representatives by a combination of the following features: possession of Russian citizenship, "non-Russian" origin, ethnic self-identification, long-term residence in the Russian Federation, living in a foreign environment in "isolation" from their ancestral homeland, ethnic identity and the desire to preserve and develop it. At the same time, the content of the constitutional provisions presupposes the division of all ethnic communities into peoples and ethnic communities, depending on the presence of their own national-state education within the Russian Federation. National minorities, as having no such education, are ethnic communities, which implies granting them special rights and the obligation of the State to take measures to protect them. It is precisely this construction of relations that is implied by the Constitution of the Russian Federation (Part 2 of Article 69, paragraph "b" of Article 71 and part 1 of paragraph "b" of Article 72).

5. It is proved that the rights of persons belonging to national minorities are an integral part of human rights and, in fact, strengthen them from the position of guarantees of the existence and preservation of the identity of these ethnic communities. In relation to universal human rights, the rights of national minorities have the character of special ones aimed at eradicating inequality and discrimination.

It is substantiated that in addition to individual rights, national minorities are endowed with collective rights. The legal structure of collective rights is such that they should be regarded as a kind of "common good" of members of an ethnic community, the existence of which is ensured by the collective aspirations of individuals to preserve it. The recognition of these rights of national minorities predetermines the realization of individual rights and measures of state support for such communities.

The conclusion is argued that the existence, preservation and development of the identity of national minorities is ensured mainly due to such fundamental rights as: the

right to ethnic self-identification, the right to ethnic association, ethno-cultural rights and the right to participation of national minorities in making decisions affecting their interests, which in their totality form the right of these communities to national-cultural autonomy in its classical sense.

6. It is determined that the right to ethnic self-identification consists in the free determination or change of a person's nationality. At the same time, based on the legal positions of the judicial authorities, the need to take into account when establishing the nationality of a person, along with his subjective self-perception, also objective factors, such as knowledge of his native language, the presence of a real connection of a person with an ethnic community, confirmed by the nationality of the parents, the environment habitation, upbringing and way of life. It is shown that the right to ethnic self-identification is expressed in the realization of the right of citizens or their group to create an ethnic association and in specific actions of individuals, indicating their belonging to the corresponding national minority.

7. It is stated that the rights of national minorities can be realized through an ethnic public association – national cultural autonomy, national cultural centers, national societies and communities. At the same time, the domestic legislation on these associations practically does not establish specific measures of their state support and, consequently, national minorities as such.

Based on the legal positions of the Constitutional Court of the Russian Federation (hereinafter referred to as the CCRF) and the ECHR, the author proposes to revise the concept of national cultural autonomy and use it as a form of self-determination of national minorities (and not just as an ethnic public association), with the help of which all representatives of the ethnic community are consolidated to jointly address issues of ethno-cultural development. It is also proposed to actively use the practice of concluding contracts and agreements between associations of national minorities and public authorities in order to identify specific support mechanisms, including establishing contacts and financial assistance from "related" states.

8. It is proved that ethno-cultural rights determine the status of national minorities and act as the main basis for the use of special tools for their protection. At the same time, it is concluded that the legal regulation of these rights is largely characterized by declarative and inaccurate formulations regarding the procedure for their implementation by representatives of national minorities.

It is revealed that domestic judicial practice in the issue of ethno-cultural rights only defends the priority of federal regulation in determining the status of languages and the implementation of language rights, as well as the prevalence of the principle of secularism of the state in the implementation of cultural (religious) rights. Foreign judicial experience generally correlates with the Russian approach. It testifies to the inadmissibility of establishing any barriers in the use of native languages by national minorities, and the legal positions of the courts in the field of culture and religion demonstrate a desire to maintain a balance of interests between society and representatives of national minorities.

9. It is proved that the right to participation of national minorities of the Russian Federation in making decisions affecting their interests is implemented mainly through advisory councils whose activities are insufficiently open and transparent. The author proposes to increase the efficiency of the functioning of these institutions through the normative consolidation of the order of their work, the expansion of their composition at the expense of representatives of all national minorities with both federal and regional and local ethnic public associations. In the context of the issue under consideration, the need to clarify the legislative regulation of the right to national administrative-territorial entities is justified in order to establish real opportunities for the participation of national minorities in solving issues affecting their rights and interests, the realization of ethno-cultural rights in the area of their compact residence; attention is focused on the expediency of improving the federal institution of assemblies by creating a unified Assembly of Peoples and Ethnic Communities of the Russian Federation with the allocation of issues of developing measures for the protection and support of national minorities among its areas of activity; it is proposed to consider the Commissioner for the Rights of National Minorities as an additional tool for the protection of rights. The expediency of banning the creation of

political parties of national minorities in the conditions of the multinational nature of the Russian state is recognized, which, as evidenced by the German experience, are not institutions that provide a primary solution to the issues of preserving and developing the identity of ethnic communities, but are capable of politicizing interethnic relations.

10. The necessity of developing a conceptually new Federal Law "On National-cultural Autonomy" is substantiated, which presupposes, under national-cultural autonomy, the realization by national minorities of the right to self-determination in a national-cultural form and guarantees them a set of rights aimed at preserving their ethnic identity. In particular, it proposes to consolidate the definition of national minorities, to fix their right to create a national society (by analogy with similar associations in the Russian Empire), to regulate the ways of exercising the rights of national minorities, their interaction with "kin-states" and participation in decisions affecting their interests, as well as to establish forms of support for these ethnic communities.

**Theoretical significance of the study.** The conducted research contributes to the increment of general theoretical knowledge and ideas related to the constitutional and legal regulation and protection of human and civil rights, as well as ethnic communities. The conclusions formulated in this work allow us to establish who exactly in Russia can be recognized as national minorities and what basic rights they could have. The dissertation proposed definitions, provisions and conclusions that can be used for further scientific research in the field of regulation and protection of the rights of national minorities.

**The practical significance of the study** lies in the fact that it substantiates the need to adopt a conceptually different Federal Law "On National-Cultural Autonomy", based on a broad classical understanding of the named institution, and also formulates proposals for improving legislation affecting the rights of national minorities.

The scientific generalizations and conclusions reflected in the dissertation research can be used for the development of existing and the formation of new special tools for the protection of the rights of national minorities, as well as in training courses and special training programs.

**Approbation of the research results.** The main provisions and conclusions contained in the study are presented by the author in the publications recommended for defense in the Dissertation Council of the Faculty of Law of the Higher School of Economics. The results of the study were also presented in the reports at the international scientific and practical conference "Evolution of Law – 2021" (Lomonosov Moscow State University, Moscow, 2021) and the All-Russian Scientific and Practical Conference of Masters, postgraduates and applicants "Actual problems of modern law in the research of young legal scientists" (Russian State University of Justice, Moscow, 2022).

In addition, as part of the state final certification held in 2022 at the Graduate School of Law of the Higher School of Economics, the author prepared a draft program of the discipline "Regulation and protection of the rights of national minorities in the Russian Federation" for teaching 1st-year master's degree students in the program "Public Law and Public Finance".

The dissertation was prepared and discussed in the Department of Public Law of the Faculty of Law of the Higher School of Economics.

**The structure** of the dissertation is determined by the purpose and objectives of the research. The dissertation consists of an introduction, two chapters combining nine paragraphs, a conclusion, a bibliography and five appendices.

## **THE CONTENTS OF THE DISSERTATION**

The **introduction** substantiates the relevance and degree of scientific development of the chosen topic, defines the purpose, objectives, object and subject of the study, characterizes the methodological, theoretical and empirical bases of the study, formulates the scientific novelty and the main provisions submitted for defense, demonstrates the theoretical and practical significance of the study, discloses information about the approbation of the results obtained and the structure of the dissertation.

**The first chapter "The concept of national minorities and the legal nature of their rights"** forms the theoretical part of this study. It consists of five paragraphs and is

devoted to international legal, constitutional and legal interpretations and the author's understanding of the concept of national minorities and their rights.

*The first paragraph "The concept of "national minorities" in international law"* examines the development of ideas about national minorities, the normative consolidation of their international legal status: in the period before the formation of the international system of human rights protection (until 1919), during the period of the League of Nations (1919-1946) and during the period of post-war international legal regulation (from 1946 to the present). It is noted that national minorities as a concept initially appear in the documents of the first international organization – the League of Nations. Then it is adopted by the UN and international organizations at the regional level (the Council of Europe and the CIS) created after the Second World War. At the same time, it is shown that the lack of a unified definition of the concept of national minorities is due to the different ethnic composition of the States parties to the international treaties of these organizations, the peculiarities of their historical and national cultural development. In this regard, the international legal level of regulation of the rights of national minorities orients national jurisdictions to independently resolve issues of determining these ethnic communities.

*The second paragraph "Interpretations and identification of national minorities in Russian law"* examines domestic approaches to determining and regulating the status of national minorities in various historical and legal periods of the development of Russian statehood. The article characterizes the situation of ethnic communities in Tsarist Russia with the status of quasi-national minorities – outlanders ("inorodtsy"), Finnish inhabitants and colonists-settlers. It is concluded that the territorial enlargement of the Russian state necessitated the settlement of the status of the non-Russian population. Subsequently, ethnic communities, with the growth of their national identity and in order to preserve and develop their own identity, began to establish ethnic public associations (national societies), which it is quite permissible to consider as a prototype of national cultural autonomies.

For the first time, the concept of national minorities received its normative consolidation in the constitutional and declarative acts of the Soviet government, but without the specifics of its definition. The understanding of who belongs to these ethnic communities was based on the ideas of the country's top leadership, which quickly came down to interpreting them as diasporic nationalities, as well as "unreliable" and "potential enemies" of the Soviet system. Therefore, since the 1930s. in the Soviet constitutional and legal regulation, the concept of national minorities was not used. Only in the last years of the existence of the Soviet Union was a law adopted that proclaimed the special rights of citizens living outside their national-state formations or not having them on the territory of the USSR. However, the collapse of the Soviet Union in 1991 made it difficult to implement and develop the provisions of this law.

The analysis of modern domestic constitutional and legal regulation has shown that when defining national minorities, it is necessary to proceed from the provisions of international treaties of the Russian Federation, its reports on the fulfillment of international obligations to protect these ethnic communities and the provisions of the legislation of the Russian Federation on ethnic associations and, mainly, on national cultural autonomy.

*The third paragraph "Foreign and domestic doctrinal approaches to understanding national minorities"* examines various theoretical interpretations of the concept under study, including the approaches of the expert community, which is part of working groups at international organizations. It is noted that the Russian doctrine variably proposes to establish criteria for determining national minorities, their list, or to designate the status of a state-forming people, in which all other ethnic communities will be treated as national minorities.

From the position of the author, the formation of a list of national minorities, in the presence of the definition proposed by him, is quite acceptable and allows specifying the object of special state protection. At the same time, the constitutional consolidation of the status of one state-forming people seems to detract from the importance of other peoples in



the formation of the Russian Federation, and their automatic inclusion in national minorities without taking into account the peculiarities of the national-state structure of the Russian Federation is unacceptable.

*In the fourth paragraph "The Correlation of National Minorities with Other Ethnic Communities"* compares national minorities and ethnic communities similar to them. The constitutional and legal consolidation of various concepts of ethnic categories is investigated. It is summarized that the conceptual apparatus used in Russian legislation does not correlate with each other and blurs the differences between ethnic communities. In addition, it runs counter to the provisions of the Constitution of the Russian Federation, which allows to distinguish two key groups of ethnic communities – peoples and ethnic communities, based on the sign of having its own state education within Russia.

Taking into account the lack of clear definitions in the conceptual apparatus, the work further compares, based on the definition of the concept of national minorities proposed by the author, with the concepts: "nation", "people", "indigenous peoples", "indigenous small peoples", "nationality", "linguistic, religious, ethnic minorities", "diaspora", etc. The comparison made it possible to identify common and special features of the concepts, as well as to conclude that national minorities are actually existing ethnic communities characterized by the following characteristics: the presence of Russian citizenship among their representatives; "non-Russian" origin; ethnic self-identification; long-term residence on the territory of Russia; living in a foreign environment in "isolation" from their ancestral homeland; ethnic identity that distinguishes national minorities from other populations, and the desire to preserve and develop such.

*The fifth paragraph "The legal nature and system of the rights of national minorities"* examines the experience of international and domestic legal consolidation of the rights of national minorities. It is noted that special legal regulation is designed to strengthen universal human rights in relation to representatives of national minorities, which characterizes the latter as a subject of law and an object of special state protection.

It is concluded that national minorities, along with individual minorities, also have collective rights designed to protect the existence of both the ethnic community itself and its individual representatives. Such rights include: the right to existence and identity, the right to protection from genocide, the right to development, the right of peoples to self-determination, the right to ethnic association. The author supposes, they have an abstract character, since their implementation is achieved through the cumulative realization of individual rights of representatives of national minorities.

It is noted that the rights of national minorities can be systemized. At the same time, the conclusion is formulated that the rights of national minorities proclaimed in international treaties and domestic normative legal acts are reduced to the main four rights that determine the special legal regulation of issues of their existence, preservation and development of identity, with the help of which the right to national cultural autonomy is ultimately realized. These include: the right to ethnic self-identification, the right to association, ethno-cultural rights in the form of a set of linguistic and cultural rights, as well as the right to participate in decisions affecting national minorities.

**The second chapter "Fundamental rights of National Minorities in Russian legislation and judicial practice"** forms the practical part of this study and is devoted to the constitutional, legal and legislative consolidation of the above-mentioned four fundamental rights of national minorities, taking into account judicial practice of their implementation.

*The first paragraph "The right of national minorities to ethnic self-identification"* examines the features of the constitutional and legal consolidation of the right to ethnic self-identification. The analysis of international legal and constitutional legal norms demonstrates that this right consists in a person's awareness of his belonging to a particular ethnic community, supported by a stable spiritual, linguistic and cultural connection with it. The domestic constitutional and legal regulation of this right is conditioned not only by the perception and adherence to the Constitution of the Russian Federation to international legal guidelines. It is also dictated by the Soviet totalitarian past, when nationality was a

mandatory characteristic of the passport of a Soviet citizen and often became the basis for the use of repression against an individual, a group or entire nations. The current wording of the constitutional norm removes the concept of nationality from the constitutional and legal relations in the field of citizenship, allowing its indication exclusively at the choice of a person in cases established by legislation on acts of civil status and during the All-Russian Population Census.

The study allowed us to establish that, in relation to national minorities, the right to ethnic self-identification also consists in their self-determination as a consolidated group characterized by a common language, culture, traditions, etc., which is expressed in the creation of an ethnic public association by members of such a group. In this regard, the State should provide the most favorable conditions for the realization of this right at the personal and group levels by improving legislative regulation.

Based on the results of the analysis of judicial practice, the legal positions of the judicial authorities are highlighted, which determine: the inadmissibility of restricting the rights and freedoms of a person and a citizen on a national basis; the absence of a legal significance of nationality for the status of a person as a citizen; the need to take into account objective evidence of nationality when determining the nationality of a person along with his personal self-identification. The author concludes that certain approaches of the CCRF coincide with the approaches of the ECHR regarding the inadmissibility of restricting human and civil rights and freedoms on a national basis and facts objectively confirming the nationality of a person. At the same time, the issues of fixing information about nationality and the procedure for changing it are left to the domestic body of constitutional justice to the law enforcer and the legislator. This can be explained by the delicacy of the issue of nationality as an area directly related to and largely dependent on the self-identification of a particular individual.

*The second paragraph "Right of national minorities to association"* analyzes the constitutional and legal basis of the right of national minorities to association and judicial practice of its implementation.

The author explores the specifics of the consolidation of this right in domestic legislation, taking into account international legal regulation. It is noted that Russian law provides for special types of public associations for national minorities, the key of which at the moment is national cultural autonomy. At the same time, a comparative analysis of the provisions of the Federal Law of May 19, 1995 No. 82-FZ "On Public Associations" with the NCA Law demonstrated the lack of clarity of special legislative regulation of aspects of the creation and functioning of national cultural autonomy. Many provisions affecting these issues coincide with the general provisions of the legislation on public associations.

At the same time, according to the key differences, namely, the support of national cultural autonomies by public authorities and the possibility of establishing and maintaining international contacts and ties with kin-ethnic groups and states, the NCA Law is limited to declarative formulations. Moreover, it is noted that the recent amendments to the NCA Law allowed the unjustified involvement of representatives of federal executive authorities in the procedure for creating national-cultural autonomies.

Taking into account the study of the domestic federal and regional practice of regulating the right to association, the author comes to the conclusion that there is a need for further legislative improvement of the institute of national cultural autonomy. In addition, based on the experience of some Russian regions and foreign states, it is proposed to clarify the forms of support and interaction of the state with associations of national minorities by introducing the practice of concluding public law contracts and agreements between them. Also, taking into account the legal positions of the judicial authorities, it is concluded that national cultural autonomy should be considered in its broad, classical sense as a form of self-determination of national minorities, and not just as another type of public association.

*The third paragraph "Ethno-cultural rights of national minorities"* examines the theoretical and practical issues of securing and realizing the rights of national minorities, mainly in the linguistic and cultural spheres. Language is one of the key elements of the identity of national minorities, characterizing the belonging of persons to a particular

ethnic community. In this regard, the attention of international legal and domestic regulation is primarily focused on the linguistic rights of national minorities, respectively, the need to ensure the study of minority languages and their use in the educational environment, in public and private life, in places of compact residence is emphasized. At the same time, the analysis of the Russian legislation revealed in many respects the declarative nature of the norms, the lack of clear provisions on their implementation, the lack of incentives to study the languages of national minorities in the educational sphere and, in general, the limited cases of their use. In order to overcome these shortcomings, the author suggests improving the institute of national administrative-territorial entities, which makes it possible to fully take into account the linguistic interests and needs of persons belonging to national minorities.

Similar defects were found in relation to the legislative regulation of other cultural rights of national minorities. State programs for the national and cultural development of national minorities could be one of the tools for improving the situation in this area.

Regarding religious rights, which are considered as a manifestation of cultural rights, it is noted that the domestic legislation on national minorities does not contain special norms due to the independent nature of the legal regulation of the status of religious associations. These legal relations are regulated by the Federal Law of September 26, 1997 No. 125-FZ "On Freedom of Conscience and Religious Associations". Nevertheless, international bodies evaluating the fulfillment of the Russian Federation's obligations to protect national minorities notes a deterioration in the situation of persons professing "non-traditional" religions.

The study of judicial legal positions allowed us to conclude that ethno-cultural rights ensure the sustainable existence of national minorities. Judicial protection of language rights in the vast majority of cases is aimed at the possibility of using native languages without any restrictions by representatives of national minorities in public and private life. Judicial approaches to the protection of rights in the sphere of culture and

religion demonstrate a desire to maintain a balance between the interests of the whole society and national minorities.

*The fourth paragraph "The right of national minorities to participate in decisions concerning them"* examines the forms of participation of national minorities in decisions affecting their rights and interests. It is noted that international legal regulation in this regard does not fix specific forms of participation. These, as a rule, include consultation institutions, representation of national minorities in public authorities, political parties and autonomous territorial units.

In domestic law enforcement practice, the main instrument for attracting national minorities into public life and decision-making are advisory bodies – the Advisory Council for National and Cultural Autonomies under the Federal Agency for Ethnic Affairs and the Presidential Council for Interethnic Relations, as well as similar advisory institutions in regions and municipalities. Judicial practice shows that the presence of advisory institutions is a prerequisite for the authorities to make decisions affecting the rights of ethnic communities. At the same time, the analysis of the legal regulation of the creation and functioning of advisory bodies revealed problems of representativeness of their composition, openness and accessibility of information about their activities in the public space.

The Assembly of Peoples of Russia has been defined as another form of participation and interaction of national minorities. Currently, the Assembly of the Peoples of Russia, originally established in 1996, and the Public-State Organization "Assembly of the Peoples of Russia", established on the basis of the Decree of the President of the Russian Federation of November 13, 2020 No. 701. In this regard, the necessity of forming a unified Assembly with the normative consolidation of its functionality, including the development and adoption of measures aimed at protecting the rights of national minorities, is argued.

Taking into account the interests of compactly living national minorities can be implemented through national administrative-territorial entities. The relevant right is

legislatively proclaimed and specified in certain cases in relation to indigenous small-numbered peoples, which could be extended to national minorities. The institution of the Commissioner for the Rights of National Minorities can be used as an additional tool for protecting the rights of national minorities. This institution allows informing the authorities through appeals about the needs and requests of the ethnic community.

Relying on judicial practice and foreign experience, the expediency of preserving the ban on the creation of political parties of national minorities in Russian law is substantiated, which confirms the need for further improvement of the institutions of consultations, the "federal" assembly, the national administrative-territorial entity and the Commissioner for the Rights of national minorities.

Based on the results of the work carried out, in **the conclusion**, the author's conceptual proposals for the further development of Russian legislation on the rights of national minorities are summarized and formulated, and promising areas of scientific research on the subject of the dissertation are identified.

## **MAIN PUBLICATIONS ON THE RESEARCH TOPIC**

### ***Publications in journals recommended by HSE University:***

1. Sukhanov K.A. Austrian National Minorities: Evolution of the Legal Regulation and Protection Their Rights in the Constitutional Court. *Journal of Foreign Legislation and Comparative Law*, 2021, vol. 17, no. 4, pp. 139–153.

2. Sukhanov K.A. National Administrative Territorial Units — Atavism or Potential for Self-Organization of National Minorities? *Proceedings of the Institute of State and Law of the RAS*, 2021, vol. 16 no. 5, pp. 164–187.

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4. Sukhanov K.A. National Minorities of the Russian Federation – Who Are They? *Proceedings of the Institute of State and Law of the RAS*, 2022, vol. 17 no. 4, pp. 205–227.

*Publications in other journals:*

5. Sukhanov K.A. Peculiarities of Constitutional and Legal Regulation and Realization of the Right on Ethnic Self-Identification in the Russian Federation // Education and Law, 2022, No. 3, pp. 83-88.



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