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THE LIMITS OF RUSSIAN MINORITY RIGHTS IN THE LATVIAN EDUCATION SYSTEM

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In September 2023, the European Court of Human Rights (the Court) delivered the judgment [Valiullina and Others v. Latvia](#) in which it analysed the compatibility of the ongoing Latvian education reform with the Convention. The judgment raises many questions because it approves measures that restrict the rights of the Russian minority in Latvia to benefit primarily from education in their own language. The judgment stands in stark contrast to evolving international human rights standards, which recognise the right of minorities to benefit from education primarily in their own language. The Latvian language, upheld as a fundamental constitutional value, prevailed over the right of minorities to education. The national context played a crucial role in the ruling. This blog post looks at the most problematic aspects of the judgment.

Background of the case

It is no secret that the Latvian government is not very enthusiastic about the Russian minority living in Latvia. Latvia has a history of such restrictive measures against Russian ethnics. First, they introduced strict citizenship requirements that made it very difficult for Russian ethnics to obtain citizenship, rendering most of them stateless. Second, a separate pension system was introduced for non-citizens. The scheme affected negatively

mostly Russian ethnics who didn't have Latvian citizenship. The pension system was declared compatible with Article 14 of the Convention in the case of [Savickis And Others V. Latvia](#) (see this comment by [Panzeri](#)). This time, the right to education of the Russian minority comes under fire.

In 2018, the Latvian government decided to abolish the educational programmes for minorities, which allowed Russian ethnics to study a larger part of the curriculum in Russian. A new legislative reform introduced a percentage requirement for mandatory classes to be taught in Latvian. For grades 1 to 6, at least 50% of lessons must be taught in Latvian, for grades 7 to 9 at least 80%, and for upper secondary schools 100%.

According to the Latvian government, the reform is dictated by the need to reverse the Russification policy implemented during the Soviet occupation. The suppression of the Latvian language and the promotion of Russian by the Soviet regime resulted in a linguistically segregated education system. The government argued that the reform aimed to remedy the effects of segregation in the education system and to restore the use of Latvian, the only national language recognised by the Latvian Constitution.

The reform was challenged in Strasbourg by permanent residents and citizens of Latvia who identify as ethnic Russians. The applicants, parents of children studying in Latvian state schools, argued against the reform. They objected to the new quotas because they restricted their existing minority right to be educated primarily in their mother tongue.

Constitutional values and identity versus minority rights

The Latvian Constitutional Court played an important role in this case. In 2019, the Constitutional Court issued a [judgment](#) that fully approved the reform. The reform was analysed against the right to education under Article 112, minority rights under Article 114 and the principle of non-discrimination under Article 91 of the Latvian Constitution.

When asked whether the reform restricted the right to education of Russian ethnic groups, the Constitutional Court ruled that the right only covers access to education, not the right to choose the language of instruction (§46). If the choice of language is contrary to the aims of the

education system to develop mental and physical potential and to become a member of Latvian democratic society. The Constitutional Court implied that studying a larger part of the curriculum specifically in Russian prevents students from achieving the objectives of the education system. On minority rights, the Constitutional Court ruled that the rights of minorities can be restricted if they don't participate in public life and don't respect constitutional values. It added that even international standards on minority rights, which are binding on Latvia, must take into account the national constitutional system and the privileged status of the Latvian language (§ 52). The Constitutional Court ruled that the reform does not discriminate against students of Russian ethnicity because they are not in a comparable situation to Latvian students who study in the language protected by the Constitution. Nor can Russian ethnic students be compared with Latvian students studying in an EU language, since the promotion of EU languages follows from the preamble to the Constitution. (§ 50).

In short, the Constitutional Court has shown that minority rights have no chance against the constitutionally protected Latvian language. The Russian language cannot be compared to other EU languages, as the constitution accepts the promotion of official EU languages. The Constitutional Court's ruling has little regard for minority rights and places great emphasis on the Latvian context and the constitutional status of the national language.

No room to protect Russian ethnics under the European Convention of Human Rights

The Court's reasoning was similar to that of the Constitutional Court, at least for the parts concerning the right to education and minority rights.

The Court rejected claims that its jurisprudence had evolved to cover the right to education in a language of choice. In doing so, the Court did not take into account the specificities of the case and the core issue concerning minority language rights. The Court reaffirmed the general rule that Article 2 of Protocol 1 to the Convention protects the right to education only in the official state language. This interpretation of Article 2 of Protocol 1 was given more than 50 years ago in the [Belgian Linguistic](#)

[Case](#), and the Court refused to make an exception for minorities (§125). The Court ruled that there was no reason to extend the scope of the article because neither the case-law nor the law had developed to cover access to education in a particular language (§134). On the basis of its case-law, the Court rejected claims that the cases of [Catan and Others v. Moldova and Russia](#) and [Russia and Cyprus v. Turkey](#) had extended the scope of the right to education (§132).

The applicants referred to the development of the right to education of minorities and presented the [Framework Convention for the Protection of National Minorities](#), adopted in 2005 by the majority of the members of the Council of Europe, including Latvia. The Framework Convention sets uniform standards for the protection of minorities, including the right of minorities to benefit primarily from education in their language (Art.14). The Court considered that the Framework Convention gives states a wide margin of discretion in determining the extent of linguistic rights of minorities in the field of education (§134). The Court also implied that the right to education for minorities has not evolved, but when confronted with the provisions of the Framework Convention, has chosen to deny their applicability.

The Court referred to the [opinion](#) of the Venice Commission, which broadly accepted the legislative amendments. However, the Venice Commission stated that the reform did not strike a fair balance between protecting the language rights of minorities and promoting the state language (p.120). The Venice Commission also stressed that minorities should have access to higher education in their own language. The Court ignored these arguments.

Contrary to the Constitutional Court, the Court concludes that Latvian and ethnic Russian students are in a similar situation (§194). However, the legitimate aim of promoting the national language justifies the difference in treatment (§201). A difference in treatment alone does not amount to discrimination. The wide margin of appreciation, and the lack of consensus concerning minority rights to education, allows for any measures as long as they are not arbitrary (§208). The Court argued that the measures introduced are not arbitrary and were proportionate

because they didn't completely remove the possibility of studying Russian. The Court then claimed that the applicants had failed to prove that the reform would prevent them from learning Russian or preserving their national identity (§180). This reasoning sets a very low threshold for the protection of minority language rights under the Convention. The judgment of the Court does not fit the current state and evolution of minority rights.

Conclusion

Countries that gained their independence after the dissolution of the Soviet Union, continued to have Russian ethnics as citizens or residents, and Russian continued to be used on a regular basis. The trend is reversing, in many post soviet countries the use of Russian, amongst both Russian and non-Russian ethnics, is constantly declining, including in Eastern Europe and in [central Asia](#). The Latvian government wants to accelerate this process, by limiting the possibility of Russian ethnics to study in Russian.

Constitutional values and principles are the main tools used to justify the limitation of rights of minorities. On the other end, the Court blessed the restrictions and refused to intervene, hiding behind the margin of appreciation rule. The judgment and the whole case have very little regard for minority rights. This low threshold for the protection of minority language rights under the Convention, does not fit the current evolving understanding of minority rights.