

Murman Gorgoshadze - Professor of the Faculty of Law and social sciences, Batumi Shota Rustaveli State University;

Tamar Gvarishvili – Student of the Faculty of Law and social sciences; BA educational program in Law, Batumi Shota Rustaveli State University,

Gvantsa Lomadze – Student of the Faculty of Law and social sciences; BA educational program in Law, Batumi Shota Rustaveli State University,

**Comparative Analysis of the Laws of Georgia and the Republic of Kazakhstan on the
State Language
(Some Aspects)**

Annotation

The article uses a comparative-legal method to conduct an analysis of the Law on Languages of the Republic of Kazakhstan and the Organic Law on the State Language of Georgia. The structure of these laws, their preambles, the constitutional status of the state languages, types of languages, the scope of use of the state languages, issues of their protection and development, responsibility for breaking the law and the issues of compulsory knowledge of the state language are compared in this article. By a comparative analysis of the aforementioned aspects not only the importance of languages, as of social mechanisms associated with the means of communication and the identity of people but also the threats that they encounter over time are indicated. The difficulties faced by state languages of both countries, how legislation solves challenges and how Georgia and Kazakhstan can share each other's experiences in this field were studied.

The article discusses language, as a live and sensitive organism that easily gets under the influence of environmental factors and needs special care in conditions of increasing globalization. In authors' opinion, with this point of view, both languages (Georgian and Kazakh) are under threat, in response to what, related states arrange legal relations with legislative acts, reinforce the constitutional status of the language, and determine legal bases of its protection and use. The paper concentrates on similarities and differences between Georgian and Kazakh laws connected with languages, which exist despite their common aim. It has been determined that the importance of language is more emphasized by Georgian

normative act and status of law is also higher. Georgian law is more focused on state language, it discusses the use of Georgian and Abkhazian languages in more fields, while in Kazakhstan, the obligation of subjects of legal relations in the field of language protection and development are further detailed and the forms of control of the implementation of law, as well as the legal aspects of onomastic activity are also envisaged.

Keywords: state language, protection of state language, types of language, fields of use of state language, status of state language.

Introduction

The language is a living and very sensitive organism. The current events in the world easily effects on it. If we look at the general linguistic picture, we will see that the languages disappear for a number of reasons and they are replaced by new ones. The number of such dead languages belongs even to the great civilizations; such are Elamite language, Coptic language, Phoenician language and others. Consequently, nowadays any language is facing such a threat.

According to one of the UNESCO classifications, there are three symptoms of language death. They are: Reduced number of speakers, reduced realization of language in all fields of life and structural simplification of language [6].

Georgian and Kazakh languages are also facing similar threats. In the case of the Georgian language, reduced number of speakers is issue and in the case of the Kazakh language, the part of the population does not know the Kazakh language at all. In the laws of the modern world countries, the law of language has a special place. The reason is simple; it is an inseparable attribute of the country, especially for its statehood.

The laws of Georgia and Kazakhstan about languages are not so old because of the post-soviet past of the countries. Georgian and Kazakh languages are facing some challenges, and they try to regulate, settle and defend their languages by the laws, but in different ways. That's why I think, that identification of similarities and differences between the two legal documents, their status and structures, the comparative analysis, its areas of use and other aspects are significant.

Title of the Law, Status, Date of adoption and Structure

The first and most striking difference that is found in the normative acts of Georgia and Kazakhstan is their titles. The Law of Kazakhstan is called "Law on languages in the Republic

of Kazakhstan” [5] while in Georgia we have the “Law on State Language.” Status of Georgian law is the best proof of language’s meaning for country, as well as organic law is after Constitution and Constitutional law and has superior character in respect of other laws [3]. While the Kazakh Law on Languages has only the status of Kazakh law. There were many obstacles to the adoption of the law on state language in Georgia. But four years ago, the mechanism of the security, development, encouragement - law of language was finally adopted on 22th of July, in 2015. Whereas republic of Kazakhstan decided to adopt a similar legal document in 1997, from several years after collapse of USSR.

In both cases the structure of the laws is the same. The Organic Law of Georgia on State Language consists of the Preamble, 12 chapters and 41 articles, and Kazakh Law also consists of the Preamble, 6 Chapters and 27 articles. In contrast to the Kazakh law, the Georgian Law on State Language ends with transitional and final provisions, which determine the implementation of the law and enforcement measures. Both documents are signed by the country's president.

Preamble

Many documents begin with preamble. It’s true that the preamble does not have a regulatory nature, but it has a special significance, since it is a kind of political declaration about the meaning and purpose of the law. It aims to define the purpose of the act, the goals, objectives and motives of the document [7]. Therefore, in the text of the preamble, emotional elements may be used. The first part of preamble of Georgian law on state language concerns the historical significance of the Georgian language and thesis, that our country respects other languages and is tolerant in respect of them. As soon as we read the preamble, we find out two main messages - about the crucial role of Georgian language in the country and about type of the document we are dealing with.

As for Kazakhstan's Law on Languages, there is a preamble, which also defines the purpose of the act, the objectives of making it a legal basis for language funding in Republic of Kazakhstan, the state obliges equal respect for all languages used in the country without exception. However, the preamble does not mention anything about Kazakh language, its role, historical significance, etc. That is what distinguishes it from the preamble of the Georgian law.

Constitutional Status of Language

Article 2 of the new edition of the Constitution of Georgia on State Symbols says that "Georgian state language is Georgian, in Abkhazian autonomous republic - as well as Abkhazian. **State language is protected by organic law**" [1]. Unlike the old edition, where there was not mentioned that the state language is protected by the organic law, new edition offers statement about it. Due to the importance of the state language, it is protected by the constitution. The Constitution of Republic of Kazakhstan is not an exception in this regard, as defined by Article 7 (1) [2] of the constitution. Although the constitution does not grant Russian language the status of state language, the second paragraph determines that the Russian language should be used equally with the Kazakh language in state administrative bodies. Consequently, it can be said that granting state language status in Kazakhstan is partially formal, because the Russian language is taken at the level of Kazakh and is protected and used as a state language.

Mandatory knowledge of state language

As noted above, one of the reasons of the extinction of languages is reduce number of spheres where it is used, and therefore, the mechanism that can give back life to the language can be requirement its essential knowledge by central government. There are two main directions in which Georgian and Kazakh laws require mandatory knowledge and use of state language, such as education and public awareness.

Article 4 of the Kazakh Law, which defines the status of the state language, states that the obligation of all citizens of the Republic of Kazakhstan is to learn the Kazakh language, which is the most important aspect of the consolidation of Kazakh people, while the government and other state or local executive bodies should support the Kazakh language and create all the necessary organizational, material and technical conditions for all citizens of Kazakhstan, to be able to learn the Kazakh language. In addition, state agencies should support the Kazakh diaspora for the maintenance and development of native language. There are no such records in the organic law of Georgia because we do not have a problem with knowledge of Georgian language. In addition, according to the law on language, republic of Kazakhstan is obliged to offer education at all levels (except for preschool institutions, orphanages and its equivalent organizations) in the state and in Russian languages and in case of necessity in other languages as well.

Under Georgian legislation the state is obliged to ensure that all levels of education are in the state language and on Abkhazian territory as well as Abkhazian. In Kazakhstan state and Russian languages are mandatory in educational institutions and must be in the list of disciplines determined by learning agreement. The Organic Law of Georgia imposes similar liabilities in the state language of the non-Georgian language (in Abkhazian autonomous republic non-Abkhazian institutions) general and educational institutions operating in the territory of Georgia. In such general educational institutions - Georgian (Abkhazian) language as a subject is mandatory. However, a non-state higher education institution is obliged to offer relevant persons a special course in Georgian (Abkhazian-Abkhazian) language.

Along with education, comparison of norms regulating public information and public awareness is also important. Public server in Georgia is obligated to speak state language, and subsequently citizens have right to demand public information in Georgian or Abkhazian in Abkhazia. In the Republic of Kazakhstan answering on citizen's questions is allowed on state language and on the language of request itself. Language of visual information is also regulated by both laws. Visual information can be considered as texts of statements, notifications, titles, posters, signboards, placards, advertisements, reference materials, advertisements ... intended to inform the public and which in Georgia is obligatory to be provided on state language. However, in order to take into account rights of minorities, if necessary, appropriate information may be indicated in a non-official language, and in those municipalities where representatives of national minorities are settled in communities, appropriate information may be indicated in the language of those national minorities as well. Also, Reference materials issued in the non-official language shall be accompanied by the translation in the official language, except for the case, when these materials are intended for the non-official language speaking consumers only. In Kazakhstan, publishing visual information is equally obligatory both in Kazakh and Russian, and in other languages, if necessary depending on the auditory.

Both laws determine order of all texts of visual information on state and other languages almost the same. Information on state language must be written on the left or on the top. The only difference is in what may be written on the right or on the bottom. In Kazakhstan it must be Russian specifically and shall be written in a same size letters. Also, as

may be necessary the texts of visual information may be additionally translated into other languages. Whereas, in Georgia no other particular language is determined.

Types of the languages in law

Types of languages can be outlined according their functions. These are: Official, provincial, wider communication, international, capital, group, educational, school subject, literary, religious languages.

Law of Georgia on state language, particularly article 3 describes 4 out of abovementioned types: official, non-official, language of the national minority (group) and literary language. In the law of Georgia on state language we don't encounter with provincial and religious languages and all the other functions are completed by Georgian and Abkhazian. Kazakh law does not define types of languages in separate article, however, mentions state language, "other languages" and literary language. In article 2 of the law of the republic of Kazakhstan on languages, which determines subject of the law, it is written that republic of Kazakhstan does not regulate languages of interpersonal communications and religious associations; provincial language is also not mentioned. Other functions are taken by Georgian. It is interesting to determine status of Russian language in the republic of Kazakhstan in accordance with its legislation. In this regards, it should be made clear, that language is official, if it legally operates on state level for political, cultural and representative aims. Often such status is determined by the constitution [9]. We can divide it into three, normative (government officially declared it as such), working (government uses it in everyday activities) and symbolic (government uses it for symbolic purposes, i.e. as a state symbol), parts. A language can be official in one or all this three senses [8]. As a constitution of Kazakhstan and the law on languages makes Russian equal to Kazakh on state level and allows using it for political, scientific and cultural aims, which is not only theoretical, but also happens in practice, we should infer that Russian is an official normative-working language of the republic of Kazakhstan. However, it is not symbolic, as does not connect with national identity of the native people.

Spheres of use of state language

Fields of use of a state language can be interpreted as social relations, in which people interact in one or other, sometimes legally imperatively determined, language.

According to the law under discussion, fields of use of state language in Georgia are: activities of public authorities and local self-government bodies, official case management and legal proceedings, foreign relations, elections, referenda, plebiscites, competitions, attestation and official events (distinctively from the law of the Republic of Kazakhstan, contains the language of reference materials and advertisements as separate articles), proper names, public information and mass media, science, education, consumer sphere, informatics and culture.

Fields of use of the state language in Kazakhstan are: activities of governmental and non-governmental organizations and local government authorities, education (differently from Georgia, the law takes into account the language of response to the citizens' applications, also separately regulates languages of administrative case management and investigation), education (distinctively from the law of Georgia outlines levels of education in a more detailed way and manages the language of education and upbringing in the orphanages and institutions equated to them, also technical education) and science, culture and mass media, names of inhabited localities, proper names, visual information, communication, relations with foreign countries and international organizations.

Protection and development of state language and responsibility for breaking the law

Yet preambles of both laws emphasize importance of development and protection of state language. According to the preamble of law of Georgia on state languages "The State of Georgia ... protects it and determines the policy for the development and functioning of this language as of the official language of the State. ... at the same time, protects and strengthens the centuries-old tradition of coexistence and harmonious development of languages and cultures in the country." (Organ Law of Georgia on State Language, 2015: preamble). In the preamble of the Kazakh law, it is written that "this Law establishes obligations of the state for creation of conditions for study and development thereof, ensure equally respectful attitude to all languages used in the Republic of Kazakhstan without any exceptions" (the Law of the republic of Kazakhstan on Languages, 1997 :preamble)

Protection of state language in Georgia is guaranteed by its constitution, Organ Law on State Languages and other legal acts. In Kazakhstan this process is managed through documents of state planning, which is unity of connected elements, containing principles,

documents, processes and participants that provide development of the country in the long (more than 5 years) or average (1-5) run [10].

Organic law of Georgia announces state as the main guarantor of protection, development, and functioning of the language. Control over the process is conducted by parliament of Georgia, state governmental bodies, local self-government and department of state language, in the scope of their authority. On the other hand, the law on languages of the republic of Kazakhstan, describes functions of the government, onomastic commission, authorized body, and local executive body on two different levels: firstly on the level of an oblast, city of republican significance, capital and secondly, on the level of a district (city of regional significance).

Main subjects of this process in both countries have similar competences. Obligation of Georgian government is to provide functioning of state language in every sphere of state and public life, ensure establishment of organizational, material and technical resources in order to maintain the purity of the official language. Law of Kazakhstan not only sets obligations of official bodies to take measures for protection and development of state and other languages in the scope of law, taking into account interests of local citizens and give recommendations on elimination of violations of requirements established by the legislation on languages but huge attention is paid on creation, functioning and control of onomastic and terminological commissions too. Law outlines authority and criteria of onomastic work. It is worth noting, that separate organ with such functions is not provided by organic law of Georgia on state languages.

In contrast with Georgian, law of the Republic of Kazakhstan On languages, arranges process of observation of protection and development of languages in a very detailed way. Control is provided by state, authorized body and local executive body of oblast, cities of republican significance and capital. State may use inspection and other legal measures. Authorized body controls if officials of state, local government, cities of republican significance and the capital obey law, determines forms of compulsory reports, controlling lists and criteria for assessment the risk, semi-annual auditing plans, also may apply disciplinary measures. Local executive bodies of oblast, cities of republican significance and capital approve an annual audit plans, exercise control over compliance with the legislation of the Republic of

Kazakhstan on languages by territorial branches of central executive bodies and regional executive bodies. In case of violations may apply measures of administrative influence.

The State Language Department may be considered as Georgian analogy of the authorized body envisaged by the Kazakh legislation. With other authorities, in case of detecting violations of the legislation on languages of Georgia and literary norms, it may address relevant state organ demanding to take measures established by the law to eliminate these breaches. Also, Law of Georgia on State Language determines status and rule of creation of this department, while in case of authorized body, law of the republic of Kazakhstan concentrates only on its functions and doesn't determine how it is formed.

Both legislative acts sets out subjects responsible for violations. Common ones are bodies of state and local self-government and heads of institutions and organizations. In Kazakhstan additionally - officials designated by the president, individuals and legal entities, In Georgia also - Institutions and organizations acting in the service sector that "shall compensate for damages incurred by the State or natural persons for the violation of this Law by officers or employees of respective sectors" [4].

Conclusion

Language, as live and sensitive organism that easily gets under the influence of environmental factors, requires care especially in conditions of increasing globalization. Depending on the information discussed in the paper, it can be concluded that both languages (Georgian and Kazakh) are under threat. Georgian may become extinct because of relatively small amount of people speaking on it. On the other hand, main challenge for Kazakh legislation is influence of Russian language. In response to these problems, related states arrange legal relations with legislative acts, reinforce the constitutional status of the language, and determine legal bases of its protection and use. We observed the Law of Georgia on State language and the Law of the republic of Kazakhstan on Languages; compared some aspects of them and as an inference, we can say that despite their common aim, along with similarities, significant differences exist between Georgian and Kazakh laws connected with languages. First of all, the organ law of Georgia is more focused on state language; it is obvious even from the distinction in titles, while in Kazakhstan, the law was passed 18 years earlier. Differences are not only technical but in concept too. Georgian law discusses the use of Georgian and Abkhazian languages in more fields, while in Kazakhstan,

the obligation of subjects of legal relations in the field of language protection and development are further detailed and the forms of control of the implementation of law (state inspection, annual and semi-annual audits), the legal aspects of onomastic activity are also envisaged. We also discussed fields of education, public awareness and public information as main spheres where use of state language can be mandatory. Interestingly, Kazakhstan and Georgia put opposite emphasizes on the state languages in these fields. Kazakhstan concentrates on teaching state language. However, in the spheres of public awareness and public information is more loyal to Russian that stands on the level of state language. It is natural and reflects the main problem of the country connected with state language. Significant part of citizens do not speak Kazakh, so they need to be taught but understand public information is still important, so it has to be released in Russian too. We have opposite situation in Georgian law. It is stricter with the language of public information and determines that public awareness is done on state language. However, takes obligation to teach Georgian (Abkhazian) to ensure participation of minorities in processes occurring in the state.

Bibliography:

1. Constitution of Georgia. Last seen 28 April, 2018.
<https://matsne.gov.ge/ka/document/view/30346?publication=35>
2. The Constitution of the Republic of Kazakhstan. Last seen 28 April, 2018
<http://adilet.zan.kz/eng/docs/K950001000>
3. Law of Georgia on Normative Acts. Last seen 28 April, 2018
<https://matsne.gov.ge/ka/document/view/90052?publication=25>
4. Law of Georgia on State Language. Last seen 28 April, 2018
<https://matsne.gov.ge/ka/document/view/2931198?publication=3>
5. Law of the Republic of Kazakhstan On languages in the Republic of Kazakhstan. Last seen 28 April, 2018
<http://adilet.zan.kz/eng/docs/Z970000151>
6. Ketevan Gigashvili, Language processes – change of language, death of language // Linguistic Researches, (in Georgian) 2011, #32, page 79-80
7. Murman Gorgoshadze, The Essence and the Place of the Preamble in the Structure of the Normative-legal Act, “Часопис Київського університету права”, 2018/2, page 346
http://kul.kiev.ua/doc/CHAS18_2.pdf
8. Robert L. Cooper Language Planning and Social Change..Cambridge University Press, 1996. Page 100, last seen 19 April, 2018
<https://books.google.co.ls/books?id=cOBzspgFNcC&printsec=copyright#v=onepage&q&f=false>
9. Stewart, William A. "Sociolinguistic Typology of Multilingualism," in Readings in the Sociology of Language. Ed. Joshua Fishman. The Hague: Mouton Publishers, 1968.
https://www.academia.edu/2396266/Language_Planning_Theory_and_Applications_Linguistic_Genocide
10. Decree of the Government of the Republic of Kazakhstan of November 29, 2017 No. 790 on Approving the System of State Planning in the Republic of Kazakhstan. Last seen 28 April 2018.

https://tengrinews.kz/zakon/pravitelstvo_respubliki_kazahstan_premier_ministr_rk/hozyaystvennaya_deyatelnost/id-P1700000790/