



*In May 2018, Indigenous people use traditional means to travel in the north of Yakutia, Russia. Source: Mikhail Cheremkin / Shutterstock.com.*

# Legal Considerations Regarding Indigenous Peoples of the Russian Arctic

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## INTRODUCTION

Recent years have marked the development of new and innovative Russian legislation regarding the Arctic region and its Indigenous Peoples. Most notable of these were the "Strategy of Development of the Arctic Zone of the Russian Federation and the Provision of National Security for the Period to 2035," as well as the federal law "On State Support for Entrepreneurial Activity in the Arctic Zone of the Russian Federation (2020)." By building upon

pre-existing laws and regulations that determine the legal personality of Indigenous Peoples of the Russian Arctic, these documents are relevant to their economic development and legal rights.

When making a general overview of both the current legislation of Russia and regional law enforcement, it can be concluded that these peoples (referred to formally in federal law as "Indigenous small-numbered peoples of the North, Siberia and the Far East of the Russian Federation")<sup>1</sup> possess both group and individual rights. At times, imperfections

in subordinate legislation and insufficient regulation of the natural resource industry have led to a wide range of problems in the implementation of the rights of small-numbered groups of Indigenous Peoples. However, with proper support from the state, the traditional economy of Indigenous Small-numbered Peoples can serve as an effective element of the Arctic economic agenda.

## LEGAL STATUS REGARDING INDIGENOUS SMALL-NUMBERED PEOPLES OF THE NORTH, SIBERIA AND THE FAR EAST OF THE RUSSIAN FEDERATION

The Russian Federation is one of the largest multiethnic states in the world. According to the

2010 All-Russian Population Census, formed on the basis of citizens' self-identification, more than 190 ethnic groups live in the Russian Federation. The material and spiritual cultures of these groups each have unique characteristics. The overwhelming majority of the Russian Federation's peoples developed as distinctive ethnic communities in the Russian territory over many centuries. In this sense, these groups are considered Indigenous Peoples who played a historical role in the formation of the modern Russian state.

Among the ethnic groups living in Russia, Indigenous Small-numbered Peoples maintain a special legal status based upon provisions found in the Russian Constitution. According to Article 69 of the Constitution, Russia guarantees the rights of the Indigenous Small-numbered Peoples



Nenets youth in national clothes on their national holiday, "Day of the Reindeer Herders," in the Yamal Peninsula. Source: Vladimir Kovalchuk / Shutterstock.com.

through universally recognized principles, norms of international law, and international treaties to which the Russian Federation is a party. In accordance with Article 72 of the Constitution of the Russian Federation, the protection of traditional living habitats and ways of life of small ethnic communities are under the joint jurisdiction of the Russian Federation and their subjects.<sup>2</sup>

Indigenous Small-numbered Peoples of the North, Siberia, and the Far East lead unique, distinct ways of life and livelihoods based on traditional economic activities such as crafts, reindeer husbandry, fishing, hunting, gathering, and harvesting marine mammals, among other traditions. Issues affecting the status of the Indigenous Small-numbered Peoples of the North, Siberia, and the Far East include, but are not limited to, harsh climatic conditions, geographic isolation from crucial infrastructure and healthcare facilities, and challenges to adapting elements of a modern, market-driven economy to traditional economic activities.

Three special federal laws cover issues relevant to Indigenous Peoples' rights: "On Indigenous Communities,"<sup>3</sup> "On Territories of Traditional Nature Use,"<sup>4</sup> and "On Guarantees of the Rights of Indigenous Small-Numbered Peoples."<sup>5</sup> The Federal Law of 2000 defines the characterization of "Indigenous Small-numbered Peoples of the North, Siberia, and the Far East" as:

- peoples living in the North, Siberia, and the Far East of Russia (specifically in traditional settlements of their ancestors),
- preserving the traditional way of life (such as economic activity and crafts),
- numbering less than 50,000 people, and
- realizing themselves as independent ethnic communities.

The list of these peoples was approved by the government and includes forty groups.<sup>6</sup> According to the 2010 All-Russian Population Census, the number of Indigenous people in the country is about 250,000.<sup>7</sup> Hereinafter, in this article, Indigenous Small-numbered Peoples of the North, Siberia, and the Far East will be called "Indigenous Peoples."

The "Concept of Sustainable Development of the Indigenous Peoples"<sup>8</sup> is aimed at bringing together the efforts of state authorities and local self-government bodies with civil society institutions, including associations of the Indigenous Peoples, to address issues of Indigenous sustainable development. The Concept includes general guidelines regarding objects and subjects under state protection. The Concept reflects the state's direction toward recognizing certain development priorities of the Indigenous Peoples. The action plan includes tactical objectives necessary to implement the Concept. The execution of the Concept is divided into three stages, with the third stage planned for 2016 - 2025.<sup>9</sup>

Sectoral legislation on hunting, fishing, protected natural areas, land legislation, and tax and pension legislation provide several special rights and preferences for Indigenous Peoples.

## EXISTING PRACTICES OF LAND RIGHTS AND LAND LEGAL RELATIONS

The regulation of land use in the Yamal-Nenets Autonomous Okrug can serve as an example of the successful implementation of group rights. The approximately 18,000 reindeer herders in Yamal (Nenets, Khanty, Selkups) graze private reindeer herds on vast pastures without legal registration. Reindeer herding is a complex source of livelihood. According to various estimates, the number of reindeer grazing in the region is about 800,000.





A herd of reindeer near a Nenets camp on a sunny winter day in Yamal. Source: Shchipkova Elena / Shutterstock.com.

More than half of the total livestock is privately owned by individual reindeer herders, and only 47% of the heads are owned by agricultural enterprises.

Despite the previous complex historical processes in the Soviet era and the 1990s, as well as the active industrial development of territories, reindeer herding in Russia has survived as a way of life and a unique nomadic culture. At the same time, nomadic peoples are greatly influenced by climate change and further intensive industrial development of the Arctic.

Designating territories of traditional nature use for Indigenous Peoples may protect the interests

of some people or peoples. Successful examples of territories of traditional nature use are in the Khanty-Mansi Autonomous Okrug.<sup>10</sup> Within this region, there are 477 territories of traditional nature use of regional significance. These were formed in the interests of 4,500 people, and are subject to nominal registration, which is 133,000 sq. kilometers, or 25% of the total area of the region. In accordance with the legal regime on the territories of traditional nature use, a differentiated regime of protection and use is established, which considers their natural, historical, cultural, and other characteristic significance.

There are about 700 territories of traditional nature

use in 16 regions of Russia. We observe various law enforcement practices in the implementation of the "On Territories of Traditional Nature Management,"<sup>11</sup> which are more successful in some regions than in others. The absence of a traditional nature use territory at the federal level in Russia cannot serve as a basis for statements about the diminution of the rights of the Indigenous Peoples. The substance and effectiveness of the legal regime of traditional nature use territories, whether at the regional or local level, is of far greater importance than the level of the state authority which created the given territory.

Federal legislation defines the all-Russian minimum standards for the protection of the rights of Indigenous Peoples, as well as the regions of their original residence, as being able to normatively regulate most of the issues of everyday life, including issues not directly regulated by federal laws. Such an approach follows the interests of Indigenous Peoples by taking into consideration the regional specifics associated with the peculiarities of their life, as well as the principles of federal relations. The approach is flexible enough to ensure that specific regional circumstances are considered. However, the diversity and regional specificity of certain law enforcement practices bears certain



*Young Arctic sea hunters roll walrus skin in Akkani, Chukotka Peninsula, Russian Federation, demonstrating the life and daily work of Arctic Indigenous peoples. Source: Andrei Stepanov / Shutterstock.com.*



difficulties in their implementation.

Although the state has declared its support of policy for Indigenous Peoples, and successful regional law enforcement practices and a legislative framework already exist, the implementation of the rights of Indigenous Peoples remain problematic. This is due to many factors, such as the imperfect nature of subordinate legislation and the lack of regulation of certain norms in natural resource industry-specific laws.

## INDIGENOUS PEOPLES OF THE ARCTIC ZONE

The Arctic zone of Russia includes the territories of nine regions in which, apart from the Arkhangelsk region, Indigenous Peoples traditionally reside and partake in traditional economic activity. According to the 2010 population census, the number of Indigenous Peoples in the constituent entities of Russia whose territories are fully included in the Arctic zone is as follows:

- 1,599 Sami people live in the territory of the Murmansk region (0.2% of the total population of the region);
- 7,504 Nenets people live in the territory of the Nenets Autonomous Okrug (17.83% of the total population of the region);
- 12,722 Chukchi people, 1,529 Inuit people, 1,392 Even (Lamut) people, 897 Chuvans people, 198 Yukaghir people, 69 Koryak people, and one Kerek person live in the territory of the Chukotka Autonomous Okrug;
- 29,772 Nenets people, 9,489 Khanty people, and 1,988 Selkup people live in the territory of the Yamalo-Nenets Autonomous Okrug.

According to the 2010 population census, the number of Indigenous Peoples in the constituent entities of Russia whose territories are partly included in the Arctic zone is as follows:

- 503 Nenets people live in the Arctic territory of the Komi Republic;
- 8,916 Evenk people, 8,363 Even (Lamut) people, 1,532 Dolgan people, 955 Yukaghir people, and 560 Chukchi people live in the Arctic territory of the Republic of Sakha (Yakutia);
- 5,393 Dolgan people, 2,878 Evenk people, 3,508 Nenets people, 607 Ket people, 747 Nganasan people, 228 Selkup people, and 204 Enets people live in the Arctic territory of the Krasnoyarsk region.

According to the 2010 population census, 67,210 Indigenous people live in the constituent entities of Russia whose territories are fully included in the Arctic zone. Taking into account the data on the Taimyr and Turukhansk districts of the Krasnoyarsk Territory (11,102 people), the territories of the Evenk municipal district of the Krasnoyarsk Territory which were included in 2020 (2,463 people), and 13 districts of the Republic of Sakha (Yakutia) (20,326 people), as well as data from the Komi Republic (503 people), the total number of Indigenous Peoples in the Arctic zone of Russia is 101,604. At the same time, the total population of the Arctic zone is more than 2.5 million people. The land area of the Russian Arctic is about 5 million square kilometers.

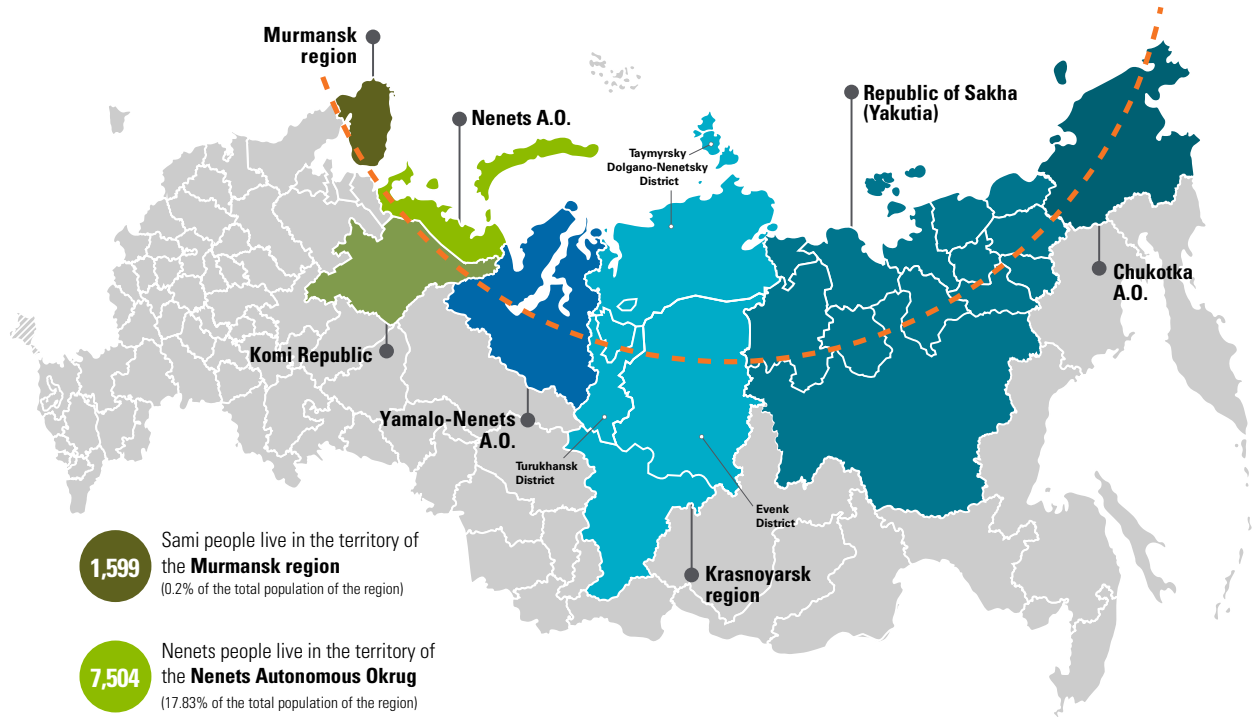
Based on the analysis of regulatory legal acts and data from the 2010 All-Russian Population Census, it can be concluded that the following sixteen groups living in the Arctic zone of the Russian Federation are small-numbered Indigenous Peoples of the Russian Federation: Dolgans, Kereks, Kets, Koryaks, Nganasans, Nenets, Sami, Selkups, Khanty,

FIGURE 1. INDIGENOUS PEOPLES IN THE CONSISTENT ENTITIES OF RUSSIA WHOSE TERRITORIES ARE FULLY OR PARTIALLY INCLUDED IN THE ARCTIC ZONE

**101,604**

**Total number of Indigenous People in the Arctic zone of Russia**

According to the 2010 census, 67,210 Indigenous people live in the constituent entities of Russia whose territories are fully included in the Arctic zone. Including data on the Evenk, Taimyr and Turukhansk districts of the Krasnoyarsk Territory, 13 districts of the Republic of Sakha (Yakutia), and the Komi Republic (503 people), the total number of Indigenous people in the Arctic zone of Russia is 101,604.

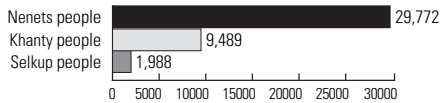


**1,599** Sami people live in the territory of the **Murmansk region** (0.2% of the total population of the region)

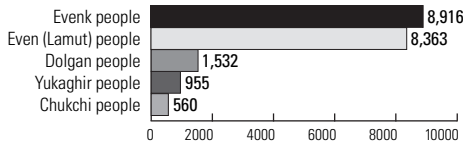
**7,504** Nenets people live in the territory of the **Nenets Autonomous Okrug** (17.83% of the total population of the region)

**503** Nenets people live in the Arctic territory of the **Komi Republic**

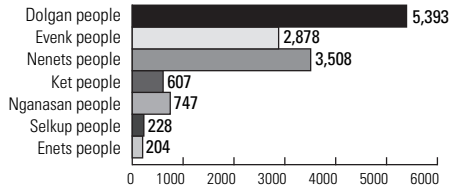
Indigenous people living in territory of the **Yamalo-Nenets Autonomous Okrug**



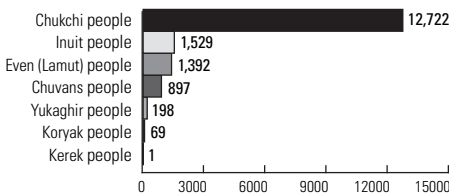
Indigenous people living in the Arctic territory of the **Republic of Sakha (Yakutia)**



Indigenous people living in the Arctic territory of the **Krasnoyarsk region**



Indigenous people living in the Arctic territory of the **Chukotka Autonomous Okrug**



Map courtesy of Kerrin Cuison / Woodrow Wilson Center for International Scholars

Chuvans, Chukchi, Evenki, Evens (Lamuts), Enets, Inuit, and Yukaghirs.

At the same time, the strategic documents of the Arctic zone contain information that 19 Indigenous Peoples historically live in Russia's Arctic zone. This difference is apparently due to peoples living in regions of Russia that are not fully included in the Arctic zone. Of course, more relevant data on the number of Indigenous Peoples in the Arctic, as well as other disaggregated data, is needed. However, the All-Russian Population Census scheduled for 2020 has been postponed to 2021 due to COVID-19.

## NOVELTIES OF ARCTIC LEGISLATION IN THE INTERESTS OF THE INDIGENOUS PEOPLES OF RUSSIA

A package of laws aimed at the development of

entrepreneurial activity in the Arctic zone of Russia was adopted in 2020. Three novelties in relation to the Indigenous Peoples of the Arctic were established by Federal Law.<sup>12</sup>

The first is the Public Council of the Arctic Zone, the competencies of which include:

- monitoring interactions between non-Indigenous and Indigenous residents living in the Arctic zone;<sup>13</sup>
- participating in the development of environmental measures in the Arctic zone;
- preparing proposals to the authorized federal body, as well as management companies, on increasing the efficiency of their activities in managing the Arctic zone.

Grigoriy Ledkov, President of the Russian Association of Indigenous Peoples of the North (RAIPON), headed the Public Council of the Arctic



*In Chukotka, Russian Federation, Inuit sea hunters are photographed using a motor boat and harpoons during a traditional whale hunt. Source: Andrei Stepanov / Shutterstock.com.*





RAIPON representatives participate in the 11th Ministerial Meeting of the Arctic Council in Rovaniemi, Finland. Source: Jouni Porsanger / Ministry for Foreign Affairs of Finland (CC BY-NC-ND 2.0).

Zone. His election was not accidental. Civil society institutions play a significant role in forming state national policy in Russia. RAIPON is one of the oldest non-governmental organizations in Russia, with 34 regional associations of Indigenous Peoples in its structure. It also represents the Russian Arctic Indigenous Peoples in the Arctic Council as one of the six Permanent Participants. RAIPON takes an active role in forming the legislative agenda of the state, as well as in developing legislative initiatives. Thus, over the past few years, representatives of RAIPON, because of their membership in the Presidential Council for Interethnic Relations, have placed Indigenous issues onto the President of Russia's list of assignments. These issues include compensation for losses to Indigenous Peoples, ethnological expertise, preservation of languages and additional measures of state support for Indigenous students, and the formation of a federal register of Indigenous Peoples.

The second novelty is a program of state support for the traditional economic activities of Indigenous

Peoples performed in the Arctic zone.<sup>14</sup> The program creates provisions aimed at developing infrastructure for traditional economic activities, selling goods and services to domestic and international markets, developing ecotourism and ethno-tourism, training qualified personnel, modernizing local energy production facilities, the increased use of renewable energy sources, and the popularization of entrepreneurial activity among Indigenous Peoples. The program also envisages improving legal regulations for the traditional economic activities of Indigenous Peoples.

The third novelty is the Responsibility Standard of the Arctic Zone Residents of the Russian Federation in Relations with the Indigenous Small-numbered Peoples of the Russian Federation.<sup>15</sup> The Responsibility Standard is understood as a list of principles recommended for use by residents of the Arctic Zone when organizing interaction with Indigenous Peoples in places of their traditional residence and/or carrying out traditional economic activities.

The document approves and discloses five principles:

- Promoting the sustainable development of Indigenous Peoples, improving their quality of life, and preserving the original habitat.
- Participation of Indigenous representatives in decision-making on the development of natural resources in places of traditional habitat and traditional economic activity.
- Cooperation in improving the socio-economic situation in places of traditional residency and in territories of traditional resource use of Indigenous Peoples in situations where residents of the Arctic zone carry out their activities.
- Openness on behalf of those partaking in economic activities in the Arctic zone toward

organizations, state authorities, and local self-government on all environmental and socio-economic issues affecting the interests of Indigenous Peoples.

- Minimizing the negative impact of economic activity in the Arctic zone, as well as taking into consideration the social, environmental, and natural vulnerability of Indigenous Peoples and the Arctic zone of Russia.

On the one hand, the adopted Arctic legislative novelties reflect the state's general approach to formulating policy related to Indigenous Peoples. On the other hand, they are largely innovative: special attention is paid to traditional economic activities and to Arctic Indigenous Peoples as a whole.

In addition, The Union of Indigenous Peoples, known as "SOYUZ," developed an initiative



*Chukchi reindeer herders amidst a herd in the Amguema tundra, Chukotka, Russia. Source: Andrei Stepanov / Shutterstock.com.*

to amend the law<sup>16</sup> so that communities of Indigenous Peoples could receive the status of “Arctic zone resident.” This status gives several significant benefits and preferences advantageous to conducting business. According to the current legislation, the status of “Arctic zone resident” can be obtained by either an individual entrepreneur or a legal entity that is a commercial organization. At present, communities of Indigenous Peoples are non-profit organizations in terms of their organizational and legal form, which does not allow them to obtain the status of “Arctic zone resident.” However, according to current legislation, non-profit organizations can also partake in income-generating activities that do not contradict their statutory goals. Community members also have the right to distribute surplus among themselves. With proper support from the state, the traditional economy of Indigenous Peoples can serve as an effective element of the Arctic economic agenda by creating new jobs and ensuring local food security.

## ANALYSIS OF THE STRATEGY FOR DEVELOPING THE RUSSIAN ARCTIC ZONE AND ENSURING NATIONAL SECURITY THROUGH 2035

2020 was defined by the adoption of the Strategy for the Development of the Arctic Zone of the Russian Federation and Ensuring National Security for the Period Up to 2035. The Strategy is primarily focused on ensuring Russian national security through defining measures aimed at fulfilling Arctic zone development, as well as outlining stages and expected results from the implementation of these measures.

Assessing the importance of the Arctic zone in the socio-economic development and security of Russia, the Strategy indicates that there are 19

Indigenous Peoples living in the Arctic zone with historical and cultural heritage occupying immense global significance.

The analysis of the Strategy shows that the state, by determining the mechanisms for social development in the field of the Arctic zone, pays special attention to Indigenous Peoples.

The strategy provides for the implementation of the following specific measures:

- Development of mobile forms of medical care, including on the routes of nomadic Indigenous Peoples.
- Greater access to education for Indigenous Peoples.
- Ensuring the preservation and popularization of cultural heritage, the development of traditional culture, and the preservation and development of Indigenous languages.
- State support for housing construction, including wooden housing, engineering, and social infrastructure in places of traditional residence of Indigenous Peoples.
- Stimulating the participation of state corporations, companies with partial state participation, and private investors in the creation and modernization of social, housing, communal, and transport infrastructure, as well as in the development of infrastructure in places of traditional residence of Indigenous Peoples and their traditional economic activities.
- Development and implementation of a program of state support for traditional economic activities of Indigenous Peoples.
- Provision of Indigenous Peoples with mobile



sources of energy supply and communication means in places of their traditional habitat and traditional economic activity.

An action plan on implementation of the Russian Arctic development strategy was approved in April 2021.<sup>17</sup>

An essential point is that the whole range of tasks, tools, and mechanisms aimed at the social development of the Arctic, even without a personified focus in relation to Indigenous Peoples,

will improve their well-being. The development of healthcare, education, social infrastructure, transport accessibility, environmental safety, and high-tech science in the North will affect the lives of the Indigenous Peoples of the Russian Arctic. Importantly, the active participation of Indigenous Peoples plays a crucial role not only in the development, but also in the implementation of relevant legislative novelties. Their impact and effectiveness depend both on the state and on Indigenous Peoples themselves.



*Young girl stroking her deer at a nomadic camp of Nenets on Yamal Peninsula. Source: evgenii mitroshin / Shutterstock.com.*

## ENDNOTES





1. Federal Law "On the General Principles of Organization of Communities of Indigenous Small-numbered Peoples of the North, Siberia and the Far East of the Russian Federation" of July 20, 2000 No. 104-FZ
2. The amendments made to the Constitution of Russia, approved during the all-Russian vote on July 1, 2020, did not affect the current provisions regarding Indigenous Small-Numbered Peoples.
3. Federal Law "On the General Principles of Organization of Communities of Indigenous Small-numbered Peoples of the North, Siberia and the Far East of the Russian Federation" of July 20, 2000 No. 104-FZ
4. Federal Law "On the Territories of Traditional Nature Use of the Indigenous Small-Numbered Peoples of the North, Siberia and the Far East of the Russian Federation" of May 7, 2001 No. 49- FZ
5. Federal Law "On Guarantees of the Rights of the Indigenous Small-numbered Peoples of the Russian Federation" of April 30, 1999 No. 82-FZ
6. Order of the Government of the Russian Federation of April 17, 2006 No. 536-r
7. Territories of traditional residence are located in 28 out of 85 regions in Russia.
8. Order of the Government of the Russian Federation of February 4, 2009 No. 132-r
9. The action plan for the implementation of the Concept in 2016 - 2025 was approved by the Order of the Government of the Russian Federation of August 25, 2016 No. 1792-r.
10. Decree of the Government of the Khanty-Mansi Autonomous Okrug "On Territories of Traditional Nature Use" of April 10, 2002 No. 192-p
11. Federal Law "On the Territories of Traditional Nature Use of the Indigenous Small-Numbered Peoples of the North, Siberia and the Far East of the Russian Federation" of May 7, 2001 No. 49- FZ
12. Federal Law "On State Support for Entrepreneurial Activity in the Arctic Zone of the Russian Federation" of July 13, 2020 No.193-FZ
13. Status of a resident can be given to individual entrepreneurs and to legal entities registered and acting in the Arctic zone irrespective of their ethnic background.
14. Order of the Government of the Russian Federation "On Approval of the Program of State Support for the Traditional Economic Activities of Indigenous Small-numbered Peoples of the Russian Federation, carried out in the Arctic zone of the Russian Federation" of April 15, 2021 No. 978-r
15. Order of the Ministry for the Development of the Russian Far East and Arctic of November 23, 2020 No. 181
16. Federal Law "On State Support for Entrepreneurial Activity in the Arctic Zone of the Russian Federation" of July 13, 2020 No. 193-FZ
17. The governmental Order "On the Unified Action Plan for the Implementation of the Foundations of the Russian Federation State Policy in the Arctic and Strategy for Development the Arctic Zone of the Russian Federation and Ensuring National Security until 2035" of April 15, 2021 No 996-r



**Antonina Gorbunova** was born and grew up in the Arctic, on the Kanin Peninsula (Russia). Her nationality is Nenets, a small-numbered Indigenous People living in northwest Russia. Antonina works as a lawyer in the sphere of human rights protection, is an active participant in the UN Expert Mechanism on the Rights of Indigenous Peoples and UN Permanent Forum on Indigenous Issues, and is currently a member and executive director of the interregional public organization “The Union of Indigenous Peoples ‘SOYUZ’ (KMNSOYUZ).” For personal and professional purposes, Antonina travels often to different Russian regions and meets representatives from many Indigenous communities.


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