

Implementation of Language Principle in Criminal Proceedings

В статье рассматриваются понятие, сущность, особенности и правовые аспекты реализации принципа языка уголовного судопроизводства, анализируются актуальные проблемы его функционирования в законодательной практике. Особое внимание уделяется формированию предложений по совершенствованию правовых норм применения принципа языка в условиях межнационального и международного общения, а также деятельности профессиональных переводчиков в рамках уголовно-процессуального законодательства.

Ключевые слова: язык для специальных целей, переводческая деятельность, юридический язык, принцип языка уголовного судопроизводства

The article considers the concept, essence, features, and legal aspects of implementing the language principle of criminal proceedings. It also addresses the current issues of its functioning in legislative practice. Particular attention is paid to formulating some proposals for improving legal norms in application of the language principle to both the interethnic and international communication, as well as the activities of professional interpreters within the criminal procedural legislation.

Keywords: language for specific purposes, translation activity, legal language, language principle of criminal proceedings

Introduction

The criminal procedure in the Russian Federation is governed by certain principles. The principles of criminal proceedings are legal prescriptions of the highest legal force enshrined in current legislation. They regulate the most important organizational and implementational aspects of criminal proceedings. One of these fundamental principles is the language principle. It involves conducting criminal proceedings not only in the Russian language but also in the official languages of the republics constituting the Russian Federation. The language principle of criminal proceedings is the *subject* of our research. We consider it through its legislative regulation and court practice.

The *relevance* is justified by the legitimate demand for ensuring equal rights of all Russian citizens before the law and the court regardless of their nationality and proficiency in the Russian language. The Constitution of the Russian Federation (Article 68) stipulates that the official language of the country is Russian, whereas any republic within the Russian Federation has the right to establish its own official language which will be used along with Russian. Thus, a citizen of the Russian Federation has the right to use the language of their nationality. They may request the involvement of an interpreter at all stages of legal proceedings. In addition, the number of foreign nationals annually entering our country is increasing, which results in the

rise of crimes committed by these individuals. Consequently, criminal proceedings require more qualified interpreters who speak different languages and can translate legal texts. However, neither their quantity nor the level of training correspond to the real legal practice involving the language principle. In our research, we try to address the challenge of solving these problems.

The *goal* is to analyze the legislation of the Russian Federation regulating the implementation of the language principle, as well as to formulate proposals for enhancing the implementation of the language principle in the judicial proceedings of the Russian Federation.

The following *objectives* are set to achieve this goal.

1. Consider and summarize the legal rules governing the language principle in the judicial proceedings of the Russian Federation.
2. Identify the problems related to application of the language principle.
3. Explain the legal language translator' role and functions in the judicial process, as well as the legal regulation of their activities.
4. Formulate proposals to improve the language principle in the legislation of the Russian Federation.

The *novelty* of this work is determined by the chosen perspective of studying the language principle which focuses on both identifying and addressing some challenges in the Russian legislation related to the implementation of this principle in law enforcement practice. Some criteria and proposals to improve the language principle are formulated.

The following *research methods* are used in this study: hypothetico-deductive method; data collection; literature review on the research topic; analysis of both legislation and judicial practice from accessible official sources; comparative method for examining the data obtained; interpretive method used to explain and formulate problems.

Legal Characteristics of the Language Principle

The official language of criminal proceedings in the Russian Federation is Russian (art. 18, par. 1 of the Code of Criminal Procedure). In this context, the terms «language» refers to «an articulated speech as a combination of forms and words used by a participant in a criminal trial to convey information and express thoughts» [3, p. 12]. The language principle comprises the following ideas.

1. Criminal proceedings must be conducted either in Russian or in any official regional language of the Russian Federation.
2. In case the participants' proficiency in an official language of the criminal proceedings is insufficient, they have the right to receive free assistance of a professional interpreter. They must be given the possibilities to exercise the following rights: make statements, file complaints, submit petitions, give explanations and testimony about the facts in the criminal case, learn all materials of the case, use their native language or any language they speak during the trial [4].

3. Investigative and judicial documents must be translated either into the participants' native languages or the languages that they know and can speak.

4. The interpreter must synchronously translate the judge' decision on the case into the language that the defendant speaks [3].

The law guarantees both protection and observance of the language principle in criminal proceedings. These include the legal status of the interpreter (art. 59 of the Code of Criminal Procedure), the rendition of the verdict in the language in which the court proceedings are conducted (art. 303 of the Code of Criminal Procedure) and mandatory participation of the defence counsel when either the suspect or accused does not speak the language in which criminal proceedings must be conducted and/or the language in which the suspect or accused understands (p. 1, art. 51, par. 4 of the Code of Criminal Procedure). The interpreter must provide simultaneous translation of the verdict into the language understood by the defendant, either at the time of the announcement or afterwards [3].

Problems of Implementing the Language Principle

The decision to use an interpreter during the proceedings is made if a defendant either does not speak the language of the legal proceedings or lacks sufficient proficiency in it. The problem arises of how to determine their language proficiency level that allows them to demand a professional interpreter for assisting them in the legal proceedings if there are no clear legal criteria to do it.

According to the Code of Criminal Procedure of the Russian Federation, the language proficiency level is determined by the court, an investigator or prosecutor. The main criterion is the participants' understanding of both the written and oral language used in the criminal proceedings, as well as their own assessment of the ability to use the official language during the trial. According to the law of the Russian Federation, individuals who do not possess the language proficiency are those who cannot understand the official language of the criminal proceedings at all. In particular, they can be deaf, mute, and deaf-mute individuals [2]. The criteria for the insufficient language proficiency also include some difficulties in carrying out oral and/or written communication, as well as understanding written texts and legal terminology in the official language.

Based on the analyzed literature, we have formulated the following criteria for determining the (in)sufficient language proficiency level:

- 1) availability of the official document from any educational institutions that confirms learning languages of the criminal proceedings;
- 2) regular practice of oral communication in these languages;
- 3) temporary or permanent residence and engagement in the labor activities on the territory of the Russian Federation for at least three years;
- 4) experience in preparing official documents for some government institutions in the language of the criminal proceedings.

The second problem of implementing the language principle consists in the insufficient number of highly qualified specialists in the field of legal translation, particularly those who possess legal Russian, foreign languages and other national languages of the Russian Federation, including the rare ones. The possibility of inviting an interpreter to the criminal proceedings is justified by the interpreter's ability both to communicate orally and do legal written translation in the official languages. According to the Russian legislation, the defendant, accused, suspect, victim, and witness should be informed about and provided with the right to interpreter services free of charge. The interpreter facilitates effective interaction between participants in the legal proceedings without intervening in the process or giving subjective comments or evaluations. They must respect the principles of neutrality and impartiality. Otherwise, this could lead to incorrect understanding and interpretation of information [3]. It is obvious that there exists a high demand for such specialists.

The Legal Language Translator' Role and Functions in the Judicial Process

In accordance with the provisions of criminal procedural legislation, individuals are informed and provided with the right to give testimony, explanations, lodge complaints, make statements, review materials of the criminal case, and submit petitions either in their native language or in a language they understand during the stages of initiating a criminal case and preliminary investigation. Article 189 of the Code of Criminal Procedure of the Russian Federation states that before commencing interrogation, if there are doubts, the investigator must ascertain from the person being questioned which language they prefer to use for giving testimony. This person must use the chosen language throughout the entire course of the criminal process, except in situations where the investigator (or interrogator, etc.) deems that the participant clearly does not understand the chosen language but understands another. In this case, a language switch will occur.

The state guarantees individuals the right to use their native language within the framework of legal proceedings through the provision and assurance of the right to free access to interpreter services. An interpreter is a person who proficiently speaks the necessary languages for translation and the language of legal proceedings. They are engaged to participate in criminal proceedings in cases where a participant lacks proficiency or does not speak the language of legal proceedings sufficiently.

The interpreter's activity consists of orally translating the speech of participants during absolutely all investigative actions involving an individual who does not speak or insufficiently speaks the language of legal proceedings. It is a violation of the language principle in legal proceedings to fail to engage an interpreter in any investigative action or to refuse to provide an interpreter to an individual. As a result, any evidence obtained from such an action will be inadmissible. Secondly, the interpreter is responsible for translating written documents that are to be handed over to the aforementioned individual (paragraph 10 of the Resolution of the Plenum of the Supreme

Court of the Russian Federation dated 29 June 2010, No. 17) [6]. Documents must be translated literally while maintaining their existing structure, and abbreviations are not permitted. Copies of the translations are appended to the materials of the criminal case to provide evidence of the translation and to enable verification of the quality and authenticity of the translation. The interpreter is liable to criminal responsibility for violating existing rules and duties, for knowingly incorrect translation (art. 59, par. 5 of the Code of Criminal Procedure of the Russian Federation) [3].

The language principle is being implemented at the pre-trial stages and will continue to be enforced during the stages of legal proceedings. Participants who do not speak or have insufficient command of the language of criminal proceedings retain the previously granted right to give testimony, explanations, lodge complaints, make statements, submit petitions, including the right to free assistance of an interpreter. However, a new right emerges to speak in court in one's native language or in a language the individual understands [3].

The continuation of the interpreter's activities at the stages under consideration is a natural progression of criminal proceedings. It is logical for one interpreter to be assigned to a participant throughout the entire process. However, unforeseen situations may arise that necessitate the involvement of another interpreter. The interpreter's activity at these stages involves providing oral translation during court hearings to facilitate communication among all participants in criminal proceedings in court. Similarly, sign language interpretation is provided, with the costs covered by federal funds [5].

Suggestions for Improving the Language Principle

The results of the study could be described as follows.

1. There is a need for developing more practically applicable criteria to determine the (in)sufficient language proficiency in the criminal proceedings. It will contribute to simplifying the decision-making process regarding the interpreter services.

2. Resolving the issue of the required number of qualified interpreters will result in establishing the truth and ensuring fair legal proceedings. It also guarantees accurate translation, prevents legal errors, ensures that all participants understand the litigation of their cases, as well as it reduces the time spent for inviting a competent legal interpreter.

3. Implementation of the second suggestion could be facilitated by establishing the necessary number of government institutions whose activities include recruitment and training of legal interpreters in the field of criminal proceedings dealing with a wide range of languages. In order to achieve this, we recommend that the government should significantly increase the funding for the legal interpreters' education, certification, and remuneration for their work.

Conclusion

In conclusion, the criminal procedure principles play a pivotal role as fundamental legal rules for enforcing the whole legal system. The language principle of

criminal proceedings enables all perpetrators to be equally engaged in the administration of justice while defending themselves by all possible means including their language and the assistance of an interpreter if necessary. This principle fosters fairness and objectivity while enhancing the effectiveness of criminal proceedings.

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Массовая коммуникация в современном мире

В статье внимание авторов сосредоточено на понятии «массовая коммуникация». Рассматриваются ее виды, функции, а также присущие ей особенности. Отмечается значимость массовой коммуникации в современном обществе.

Ключевые слова: процесс коммуникации, средства массовой информации, функции, современное общество

В настоящее время понятие «коммуникация» широко применяется во многих дисциплинах, а также используется в повседневной человеческой жизни. Существует мнение, что «одной из образовательных задач является развитие у обучающихся навыков социального общения, которые будут использованы ими в практической деятельности» [2]. На данный момент в гуманитарных науках существует огромное количество определений этого термина. Это связано с тем, что его используют для описания почти каждого вида человеческого взаимодействия. Важность изучения коммуникации, ее видов и условий не вы-