

SOME PROCEDURAL ISSUES RELATED TO THE PARTICIPATION OF AN INTERPRETER AS A PERSON ASSISTING IN THE ADMINISTRATION OF JUSTICE IN CIVIL PROCEEDINGS

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Abstract

This article presents a scientific and theoretical analysis of the issues of improving the procedural norms related to the participation of the interpreter as a person assisting in the administration of justice in civil proceedings. Also, the procedural rights and obligations of the interpreter in the civil process, the expenses paid to him, and the civil procedural laws of foreign countries were compared with the national civil procedural laws. Scientific-theoretical conclusions, proposals and recommendations aimed at improving the norms related to the participation of an interpreter in civil proceedings have been put forward.

Keywords: civil proceedings, justice, interpreter, persons contributing to the administration of justice, court on civil cases, the principle of the language in which court cases are conducted.

Introduction

According to Article 139 of the Constitution of the Republic of Uzbekistan, court proceedings in the Republic of Uzbekistan shall be conducted in the Uzbek language, the Karakalpak language, or the language spoken by the majority of the population in a certain place, or in another language in accordance with the law. Persons participating in the court who do not know the language in which court proceedings are being conducted shall have the right to fully familiarize themselves with the case materials and participate in court proceedings through an interpreter, as well as the right to speak in their native language in court. This means that court proceedings in the Republic of Uzbekistan are conducted in Uzbek, Karakalpak language or in the language spoken by the majority of the population of a certain place, the persons participating in the court who do not know the language in which the court proceedings are being conducted are fully acquainted with the case materials through an interpreter and the court shows the development and implementation of the constitutional norm on the provision of the right to participate in court proceedings and the right to speak in the native language in the field of civil court proceedings.

Also, the principle of the language of court proceedings is established in Article 13 of the Law "On Courts" of the Republic of Uzbekistan. In addition, according to Article 11 of the newly



revised Law of the Republic of Uzbekistan "On the State Language", court proceedings are conducted in the state language or in the language of the majority of the population in that place. know the language of the court proceedings shall be provided with the right to familiarize themselves with the materials related to the case through an interpreter, to participate in the court proceedings, and the right to speak in their native language in court.

As correctly noted in the legal literature, in a broad sense the language of court proceedings is one of the important bases for organizing the activities of not only the civil court system, but also the constitutional, economic, administrative and criminal court system that exists throughout the country [1]. In addition, it is important to strengthen such rules of communication by law in order for the parties and other persons participating in the case not only to understand each other better, but also to have equal opportunities to realize their rights and legal interests in this process [2].

To persons who do not know the language of court proceedings, to fully familiarize themselves with the materials related to the case in their native language, to give instructions and explanations in their native language, to speak in court, to submit complaints and petitions, and the right to use the services of an interpreter is ensured in accordance with the law.

Court documents are translated to the parties involved in the case into their native language or another language they know.

Article 11 of the newly adopted Civil Procedure Code establishes the principle of the language of court proceedings, according to which, civil proceedings in Uzbekistan shall be conducted in Uzbek, Karakalpak, or the language of the majority population in the area.

To persons who do not know the language of court proceedings, to fully familiarize themselves with the materials related to the case in their native language, to speak in the court in their native language or in another language they know, to give testimony and explanations, to file complaints, to submit motions , as well as the right to use the services of an interpreter in accordance with the procedure established by this Code.

If a person who participates in a case and does not know the language in which court proceedings are conducted, submits a written application requesting the issuance of court documents in the case, the court documents will be translated into his native language or another language that he knows.

As well as other principles of civil procedural law, it is required to strictly follow the rules regarding the language of court proceedings.

If the rules regarding the language used in the proceedings are violated during the trial, the decision, ruling or decisions issued by the court shall be annulled in the procedure of appeal, cassation (Clause 3 of Article 399³ of the Civil Procedural Code).

In legal literature, legal scholars have expressed their opinions about the importance of the Interpreter's participation in civil proceedings. For example, in the opinion of Professor Sh.Sh.Shorakhmetov, one of the important bases for the administration of justice is that the persons participating in the case should be thoroughly familiar with the case materials and fully understand the statements of those who participated in the proceedings. For this purpose, any citizen of another nationality participating in the proceedings has the right to request an interpreter, and the court is obliged to satisfy such a request.



The participation of the interpreter in the hearing of the civil case and his impartiality in the case will help the participants of the process to fully understand the procedural rights, to explain that the evidence has been proven and given the correct assessment [3].

Thanks to the translation, the parties have the opportunity to perform a number of procedural actions specified by law in the process of dealing with the case.

In the process of considering the content of the case, if the Interpreter makes an incorrect translation for the benefit of a person, etc. the issue of bringing him to justice, exclusion (refusal) from hearing the case should be decided by the court hearing the case.

During enforcement actions, persons who do not know the language of the enforcement action are provided with the right to use the services of an interpreter.

Any adult, able-bodied individual who knows the languages required for translation can be a interpreter. The interpreter is appointed by the decision of the state executive.

The translator has the right to receive a fee for his work, and this fee is included in the costs of administration of enforcement actions.

As we can see, the principle of the language of court proceedings is of great importance in making a legal and reasonable decision on a civil case. At this point, the interpreter has a special role as a person assisting justice in the full implementation of this principle in civil proceedings. It should be noted that not even a single scientific article and not even a single scientific work has been published on the participation of the translator in the civil process and its procedural legal status, which requires in-depth study and research of this topic.

Article 63 of the Civil Procedural Code of the Republic of Uzbekistan is called "Interpreter" and it states that a interpreter is a person who knows the languages necessary for the translation appointed by the court in the cases provided for in this Code. Other participants in court proceedings do not have the right to assume the duties of an interpreter.

Based on this definition, if we define an interpreter in civil proceedings, a interpreter is a person who knows the necessary languages, has the necessary knowledge for translation, and is appointed by the court in the cases stipulated by the CPC.

The analysis shows that the previous Civil procedural code, which was adopted on August 30, 1997 and came into force on January 1, 1998, did not specify a separate article related to the interpreter and his procedural legal status. In a word, in the civil procedural legislation of our country the norms on the issue of interpreters were not regulated in detail. However, the new Civil procedural code, which came into force on April 1, 2018, established a special article on the interpreter and his procedural legal status. However, the question of when an interpreter should be called in civil proceedings has not been clearly expressed. Only Article 60 of the Civil procedural code limits the appointment of an interpreter by the court in the cases provided for in this Code. In this regard, the analysis of other procedural legislation shows that, for example, Article 71 of the Criminal Procedure Code of the Republic of Uzbekistan specifies the cases in which an interpreter is called in criminal proceedings. Interpreter may be summoned to court in case:

1) the suspect, the accused, the defendant or the victim, the plaintiff, the defendant or representatives thereof, the witness, the expert or the specialist possesses no or insufficient knowledge of the language of legal proceedings or is a deaf or mute;



2) written translation must be performed from a different language;

All rules with respect to translators shall be applied to the person interpreting signs of the deaf or mute summoned to the proceedings.

In this regard, if we pay attention to the civil procedural legislation of other countries, for example, Article 102 of the Civil procedural code of the Republic of Belarus and Article 65 of the Civil procedural code of the Republic of Azerbaijan.

Based on the above, it is proposed to add the second part to Article 63 of the Civil procedural code of the Republic of Uzbekistan entitled " Interpreter" and to state it in the following version:

Interpreter may be summoned to court in case:

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2) written translation must be performed from a different language;

All rules with respect to translators shall be applied to the person interpreting signs of the deaf or mute summoned to the proceedings.

Civil procedural law also applies in cases where the case is considered closed at the court session, it was determined that the persons participating in the case, their representatives, the representatives of public organizations allowed to participate in the hearing of the case, and in necessary cases, witnesses, experts, specialists and interpreters will also be allowed to participate in the court hearing.

Interpreters, like other persons assisting in the administration of justice, differ from other persons participating in the trial in that they may not always be present in the case, they are not interested in the end of the case and may be involved in the process at the request of the parties - the plaintiff, the defendant, third parties, the prosecutor, state administration agencies.

The new Civil procedural code, which entered into force on April 1, 2018, defines a special article on the interpreter and his procedural legal status.

The interpreter's procedural actions begin as soon as the court proceedings begin, because the parties and other persons who do not know the language must be aware of all the procedural actions being carried out.

The chairman explains to the interpreter his procedural rights and obligations.

According to Article 64 of the Civil procedural code, the interpreter has the following rights:

- asking questions to the participants of the court session in order to clarify the translation;
- refusal to participate in court proceedings if one does not have the necessary knowledge to translate;
- getting acquainted with the minutes of the court session;
- submitting objections regarding the correctness of the translation included in the minutes of the court session.

This article of the Civil procedural code also defines the obligations of the interpreter. According to it, the interpreter is obliged to:

- the interpreter must perform the translation completely and correctly, observe the order during the court session;



- for unreasonably refusing to translate, as well as for failing to appear at the summons of the court for reasons deemed by the court to be inexcusable, the during shall be fined in accordance with Article 146 of the Civil procedural code;
- the imposition of a fine does not release the translator from the obligation to appear in court and translate;
- the interpreter is criminally liable for knowingly making a wrong translation in accordance with Article 238 of the Criminal Code of the Republic of Uzbekistan.

The interpreter is obliged to translate each issue clearly and correctly, to fully translate the testimony of a person who does not know the language, the orders of the presiding judge of the case to the person who does not know the language. It is prohibited to abbreviate broadcasts in translation. That is why, according to Article 238 of the Criminal Code of the Republic of Uzbekistan, the issue of bringing the interpreter to criminal responsibility has been expressed.

Failure to pay attention to the interpreter translation during the hearing of civil cases in court also causes cases to be invalidated, for example, the legally binding decisions, rulings and decisions are determined by the legally binding judgment of the court for reconsideration in the newly opened cases and caused the issuance of an illegal, unreasonable or unfair decision due to knowingly false testimony of a witness, knowingly false opinion of an expert, deliberately wrong translation, forged documents or physical evidence [4].

In addition to the provisions established in Article 64 of the Code of Civil Procedure, other procedural rights and obligations of the translator are also defined. For example, Article 134 of the Civil procedural Code stipulates the issue of payment of sums that also belong to interpreters and maintenance of their average salary. According to it, the sums due to the interpreter will be paid by the court after they have completed their duties.

In connection with the attendance of interpreters in court, during their absence from work, the average salary at the workplace is kept in accordance with the procedure established by law.

The procedure for payment of the amounts to be paid and their amounts are determined by legal documents.

Experts, specialists and interpreters are paid according to the court's decision. The amount of this fee is determined by the agency that called the expert, specialist or interpreter, taking into account their qualifications and the complexity of the work, as well as the time spent on the work performed. Also, the Labor Code of the Republic of Uzbekistan protects the rights of witnesses, victims, experts, experts, interpreters, and impartially summoned employees. In particular, according to Article 282 of the Labor Code, while the employee is performing state or public duties, the employer must release him from work while keeping his workplace (position). During the performance of these tasks, the average salary of the employee is kept [5].

The money to be paid to the witnesses, experts, specialists, interpreters or the money needed for the costs of going to the place to inspect the place shall be paid in advance by the party who applied for the relevant request. If this request is made by both parties, or if the summoning of witnesses, experts, experts, interpreters, and inspection is carried out at the initiative of the court, the necessary amount shall be paid by the parties. After witnesses, victims, experts, specialists, interpreters and impartial persons have completed their duties by the body that summoned them, the relevant money must be paid immediately, regardless of whether it is



received from outside and recovered in the form of costs incurred in connection with the case or court costs from the convicted

It should be noted that the current Code of Civil Procedure does not contain a clear norm about the sums to be paid to witnesses, experts, specialists, interpreters. However, the current Criminal Procedure Code of our country has a clear norm on the sums to be paid to witnesses, experts, specialists, and interpreters. For example, in the first part of Article 318 of the Criminal Procedure Code, the sums to be paid to witnesses, experts, experts, interpreters, as well as to impartial parties are clearly specified as follows:

- 1) amounts paid to victims and representatives thereof, witnesses, experts, specialists, translators, attesting witnesses to cover their expenses to provide for the appearance at the place of proceedings and return, an accommodation and per diems;
- 2) amounts paid to victims and representatives thereof, witnesses, attesting witnesses who do not have regular earnings for distracting them from their normal engagement;
- 3) honoraria paid to experts, translators, specialists for the execution of responsibilities at the stage of inquiry, preliminary investigation or trial, except the instances whereby these responsibilities were fulfilled within their regular work load;
- 4) honoraria paid to the defense lawyer for legal service if the defendant is exempt from payment thereof pursuant to article 50 of this Code;
- 5) amounts spent for storage and shipment of exhibits;
- 6) amounts spent for the examination in the expert institutions;
- 7) expenses incurred by arrest, compelled appearance and retrieval of persons;
- 8) other expenses incurred during the criminal proceeding.

Amounts mentioned in items 1, 2, 3, and 4 of this article shall be paid pursuant to the resolution of the inquiry officer, investigator, procurator or the court ruling from the state budget [6].

Establishing a clear norm in the Civil Procedure Code about the sums to be paid to witnesses, experts, specialists, and interpreters, in turn, serves to protect the rights of persons assisting in the administration of justice, and to ensure the full implementation of justice.

Based on this, it is proposed to add the following additions as the second part to Article 134 of the Civil Procedure Code of the Republic of Uzbekistan:

"The sums to be paid to witnesses, experts, specialists, interpreters, as well as impartial ones are as follows:

- the amount given for their arrival at the place of procedural actions;
- the amount given to cover the costs of renting accommodation;
- amount given as daily allowance;
- the amount paid to witnesses and impartial witnesses who do not receive a regular salary for distracting them from their usual work;
- from the amount paid to experts, translators, specialists for performing their tasks in an inquiry, preliminary investigation or court, except for the cases where these tasks are performed in the order of a service assignment."



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