

The importance of an interpreter's participation in a trial: theory and practice

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Annotation

This article defines the role of the translator in the judicial process and the measures of his responsibility, and also analyzes the issues of court translators in Uzbekistan and compares them with the experience of foreign countries. It is concluded that competence, knowledge of legal vocabulary, knowledge of rights and obligations, as well as a high level of responsibility are the most important qualities that are required of such participants in legal proceedings.

Key words: translator, trial, competence, communication, specialists.

The profession of translator arose from the beginning of the emergence of ancient civilizations, as the need for communications between different states arose. Almost at the same time, the profession of a court translator appeared. We know that ancient states already had judicial practice, which means there was a need, a direct need for translations¹.

In historical terms, the most high-profile case involving translators can easily be called the Nuremberg trials of 1946. It was a large hearing, which was held in several languages (English, German, French, Russian) and specialist simultaneous interpreters were invited from each country. For example, three specialists were involved in translation into Russian, separately for each language. Simultaneous translation at that time was just developing as a specialty in Soviet times, and the lack of specialists created considerable problems in finding such specialists². At the moment, in court hearings, either consecutive interpretation (when the interpreter pronounces the text in pauses) or simultaneous interpretation in a low tone, whispering, but without special equipment, is mainly used.

In Uzbekistan, translators belong to the group of persons contributing to the administration of justice (Article 51 of the Economic Procedure Code). But I would like to note that the work of a translator is multifaceted - he is a communicator between other participants in legal proceedings, his role is enormous. Especially in cases where major issues are being resolved, when it comes to foreign citizens, foreign companies or representative offices. The court must make a fair decision, but this is only possible with an absolutely accurate information base - evidence, testimony, evidence and others³. At the same time, the translator himself cannot be emotionally on anyone's side, or make wrong decisions, intentionally or not. The responsibility in a court hearing is great, but the interpreter is well aware of his role and importance.

In our country, economic proceedings can be conducted in Uzbek, Karakalpak or Russian. For participants who do not speak the language of legal proceedings, they have the opportunity to use the services of an interpreter (Article 10 of the Economic Procedural Code of the Republic of Uzbekistan). At the moment, our country is open to cooperation and every day more and more joint contracts and agreements are concluded, investors are attracted, representative offices of foreign companies are opened⁴. As in any areas, including economic ones, legal proceedings may arise, in the work of which it may be necessary to turn to translators.

¹ Ларин А. А., Обидина Л. Б. Участие переводчика в суде и на досудебных стадиях процесса: проблемы и пути их решения // Вестник Нижегородского университета им. Н.И. Лобачевского. – 2016. – №. 3. – С. 143-147.

² Архипова Е. А. Участие переводчиков в Нюрнбергском процессе как гарантия справедливого правосудия над главными военными преступниками // Роль СССР в Нюрнбергском процессе и последующем развитии международного права. – 2017. – С. 66-71.

³ Ибратова Ф. Правовые вопросы медиация как альтернативный способ урегулирования споров // Слияние экономических и правовых идей: перспективы для инновационного роста. – 2023. – С. 5-14.

⁴ Feruza I., Madina A., Asal R. LEGAL ISSUES OF JUDICIAL PROTECTION IN THE ECONOMIC COURT IN UZBEKISTAN // International journal of professional science. – 2022. – №. 4. – С. 5-10.

Article 59 of the Economic Procedural Code of the Republic of Uzbekistan defines a translator. This is a person who speaks languages whose knowledge is necessary for translation. The translator is appointed directly by the court, and other participants in the proceedings do not have the right to translate, even if they speak the required language⁵. Also, the translator cannot be a person who is a relative of the participants in the case, or has a direct or indirect interest in the results of the hearing, or raises doubts in the court's impartiality. In such cases, the translator either challenges himself or the court makes this decision.

The Economic Procedural Code of the Republic of Uzbekistan also establishes the rights and obligations of a translator. He can ask clarifying questions, get acquainted with the protocol in order to clarify and convince the correctness of the records⁶. And also, if he recognizes that his knowledge is insufficient for translation, he may refuse to participate in this capacity in court. This decision can be made by a person who takes this issue seriously, because at the beginning of the hearing he is warned that he is liable and can be prosecuted under the Criminal Code of the Republic of Uzbekistan (Article 280. Perjury).

For work at the trial, the translator receives payment in accordance with Resolution of the Cabinet of Ministers of October 28, 2023 No. 570 "On approval of the Regulations on the procedure for calculating and paying funds to be paid to victims, witnesses, experts, specialists, translators and jurors"⁷. He is also reimbursed for expenses incurred on transportation costs, if any. The translator receives payment after the trial, and the amount for accrual is paid by the person who submits the petition.

Unfortunately, the institute of court interpreters is not developed in Uzbekistan. But they are needed in all areas of jurisprudence and their help may be needed in courts and other authorities. Not only economic, but also administrative, criminal and civil courts⁸. At the moment, due to a shortage of personnel, students who have not yet received higher education and do not have sufficient experience for serious and responsible work can act as translators in court. This may negatively affect the quality of the translation, and may ultimately affect the correct understanding of testimony during the trial⁹. I believe that such an open issue as the school of court interpreters will rise to a higher level over time, this is explained by a growing need.

If we look at the experience of foreign countries, for example, Europe and the USA, then the concept of a "sworn translator" has long existed there. These are specialists who pass additional exams on knowledge of language and the specifics of linguistics in legal proceedings, and also have permitting licenses to work as translators in courts¹⁰. This person not only is a participant during court hearings, but also translates all necessary documentation, written acts, and so on before the hearings begin. In Germany, such an interpreter is the only one who is required to take an oath before starting work on the case. In Germany, Spain, Poland, the translator has a special seal with which he certifies the translated documents and court records¹¹. This seal is equivalent to a notary seal. Of course, this makes it easier and saves time for those involved in the process. There is no need to separately contact a translator and then a notary for certification. Depending on the country, there are additional requirements for "sworn translators". For example, completed education, citizenship of the country, lack of criminal record, professional practice and others. And this is all in addition to the fact that the translator passes the state exam to obtain a license, after which everyone is entered into the unified register of court translators.

The institute of court interpreters in Australia is also well developed, where it is also necessary to obtain certification. It has established a Judicial Diversity and Inclusion Council, which works closely with

⁵ Ибратова Ф., Миркамилова М., Каршиева Ф. Значение, роль и сущность медиации в экономических спорах //International journal of professional science. – 2022. – №. 4. – С. 11-17.

⁶ Обидина Л. Б. Кому служит переводчик в суде? //Юридическая техника. – 2017. – №. 11. – С. 517-521.

⁷ Обидина Л. Б. Культура судебного перевода: проблемы практики //Юридическая техника. – 2016. – №. 10. – С. 557-563.

⁸ Yul'chibaevich X. D. et al. AQSH VA ROSSIYA HUQUQLARIDA YURIDIK SHAXSLARNING ISHCHANLIK OBRO'SINI HIMOYA QILISH //SCIENTIFIC ASPECTS AND TRENDS IN THE FIELD OF SCIENTIFIC RESEARCH. – 2023. – Т. 1. – №. 10. – С. 249-257.

⁹ Кузнецов О. Ю. Правосубъектность переводчика в гражданском судопроизводстве и порядок ее приобретения //Современное право. – 2007. – №. 10. – С. 40-50.

¹⁰ Ведяшкина А. В., Шикина Т. С. Сравнительная характеристика деятельности судебных переводчиков в зарубежных странах //Огарёв-Online. – 2021. – №. 9 (162). – С. 8.

¹¹ Богданова Н. В., Чуракова Е. Н. О НЕКОТОРЫХ ВОПРОСАХ УЧАСТИЯ ПЕРЕВОДЧИКА В АРБИТРАЖНОМ ПРОЦЕССЕ //Правовое регулирование деятельности хозяйствующего субъекта. – 2020. – С. 30-33.

the Australian Institute of Translators¹². This makes it possible to develop special training programs, as well as implement and systematize uniform standards.

Considering modern technologies, their capabilities and rapid development, one cannot fail to mention new directions in the use of artificial intelligence¹³. As a result of the Decree of the President of the Republic of Uzbekistan dated September 3, 2020 No. 4818 “On measures to digitalize the activities of the judiciary”, it is now being actively implemented in all areas of jurisprudence, and is also already involved in the work of courts¹⁴. This makes it possible to avoid corruption and premeditation. It is quite possible that in the future we will consider using artificial intelligence as a translator. But, I believe, there is a need to consider both the positive aspects (cost-effectiveness, speed, impartiality) and the negative aspects of this option (lack of confidentiality guarantee)¹⁵. In any case, I believe that the best solution to this issue is to build a base with good specialists who have the necessary knowledge and also understand the legal requirements.

Uzbekistan is a multinational country, therefore, in legal proceedings, it is important to respect the right of a participant in the process to choose a language and to have a reliable and accurate translation of case materials. From this perspective, the role of the translator as a specialist becomes even more significant. Competence, knowledge of legal vocabulary, knowledge of rights and obligations, as well as a high level of responsibility are the most important qualities that are required of such participants in legal proceedings.

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¹² Вербицкая В. А. Участие переводчика в арбитражном процессе //Международный журнал гуманитарных и естественных наук. – 2020. – №. 12-3. – С. 65-67.

¹² Yul'chibaevich X. D., Boboqulovna I. F., Qobiljon o'g'li A. N. KORPORATIV NIZOLARNI HAL QILISHNING O'ZIGA XOS XUSUSIYATLARI: NAZARIYA VA AMALIYOT //SCIENTIFIC ASPECTS AND TRENDS IN THE FIELD OF SCIENTIFIC RESEARCH. – 2023. – Т. 1. – №. 10. – С. 263-271.

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