THE LANGUAGE OF COURT PROCEEDINGS AND CLERICAL WORK AT LAW-ENFORCEMENT BODIES

M.Z. Shvarts,
Doctor of Law

The rights guaranteed by the procedural legislation for participants of the civil, criminal, administrative or constitutional court proceedings, can only be effective if the participants of the proceedings are given the opportunity to communicate with each other in the language they can speak. It seems obvious that adversarial nature of legal procedure, stated in article 123 of the Constitution of the Russian Federation, presumes that all litigants have the right to compete on the equal basis. Conditions for unimpeded communication provide inalienable guarantee for the equality of litigants. Therefore, language as the natural basis of communication needs special regulation as the language of court proceedings. It is universally recognised that the principle of the language of court proceedings is one of the most important constituents of the systemic principles of legal proceedings. The essence and actualization of this principle may be considered from several positions.

1. The judicial system of Russia has two levels and is represented by federal courts and courts of subjects of the Federation (justices of the peace and constitutional (charter) courts of subjects of the Federation). However, the use of the state language of a republic within Russia in legal proceedings is not related to the level of court. article 10 of the Federal Constitutional Law No 1-FKZ "On the Judicial System"[1], dated December 31, 1996, states that proceedings and clerical work of the RF Constitutional Court, the Supreme Court of the Russian Federation, the Superior

[1] Sobraniye zakonodatelstva Rossiyskoy Federatsii. 1997. №. 1. art. 1.

Court of Arbitration of the Russian Federation and other arbitration courts as well as military courts shall be conducted in Russian — the state language of the Russian Federation. Court proceedings and clerical work in other federal courts of general jurisdiction may be also held in official languages of the republics where the courts are located. Proceedings and documentation of justices of the peace and other courts of subjects of the Russian Federation shall be conducted in Russian or in the official language of the republic where the courts are located.

Thus, the opportunity to use the official language of the republic during proceedings is granted not only for the courts of subjects of the federation, but also for the general jurisdiction courts located in the territory of a republic within the Russian Federation. At the same time, the court proceedings in arbitration courts and military courts which have the federal status are to be conducted only in Russian, even if they are located on the territory of a republic. This "inequality" of the federal courts located on the territory of republics of Russia, is hard to explain.

It should also be noted that the Law of the Russian Federation "On the Status of Judges in the Russian Federation"[2] No. 3132-I, dated June 26, 1992, does not state that competence in the Russian language is a mandatory requirement to be appointed a judge. At the same time, the translator is granted, if necessary, for a litigant, but not for court officials. Therefore the legislation on jurors presumes that persons who do not speak the language of the proceedings are to be excluded from the panel of jurors (article 7 of the Federal Law "On Jurors in the Federal Courts of General Jurisdiction in the Russian Federation"[3] No. 113-FZ, dated August 20, 2004). Since all arbitration proceedings are conducted only in Russian, the Federal Law No. 70-FZ "On Arbitration Assessors in Arbitration Courts of the Subjects of the Russian Federation"[4] does not contain such a rule. The law-makers may have presumed that all citizens of Russia have an excellent command of the Russian language (only citizens of Russia can act as arbitration assessors). In this respect, we should pay attention to the fact that the guarantees granted by law for persons who do not speak the language of the proceedings, apply only to the participants in the proceedings who are not officials. Therefore, the judge, prosecutor and investigator are not granted with services of the translator. It is presumed that they speak the language of the proceedings.

[2] Vedomosti Soveta Narodnykh Deputatov i Verkhovnogo Soveta. 1992. № 30. art. 1792.

[3] Sobraniye zakonodatelstva Rossiyskoy Federatsii. 2004. № 34. art. 3528.

[4] Sobraniye zakonodatelstva Rossiyskoy Federatsii. 2001. № 23. art. 2288.

The current legislation does not stipulate how the judicial system shall operate in a situation when the courts of different levels have to hear cases in different languages (for example, the Court of the subject of the Federation considers a case in the language of the republic, but the cassational appeal has been submitted to the Supreme Court of the Russian Federation). The law does not fix the order of how the case materials should be translated into Russian. In addition, a case which at first instance court is heard in the language of a republic of Russia, at the second instance is supposed to be heard in Russian in the Supreme Court of the Russian Federation, since the rules determine the language of proceedings only with regard to the type of a court. Thus, the RF Supreme Court hears cases only in the Russian language irrespective of the fact what the language of court proceedings was at the court of first instance. Therefore, it may happen that at the court of first instance the translator is granted for one participants of the proceedings, whereas at the second instance court — for the others. As a result, the final judicial act may be adopted in Russian, despite the "national" specifics of the case (from the linguistic point of view). Whether the RF Supreme Court's judgment is subject to translation in a republic state language is not stated by the procedural legislation either. In this respect, the solution of the question concerning the language of court proceedings in the military and arbitration courts is more logical and consistent — in such courts only the Russian language is used, regardless of the territory of the court's location.

To conclude consideration of the language principle of the court proceedings, it is necessary to point out that according to article 10 of the Federal Constitutional Law "On the Judicial System" and article 18 of the Law of the RF № 1807-I "On Languages of Peoples of the Russian Federation"[5], dated October 25, 1991, if to take these articles literally, using of a republic language in the court proceedings of the federal courts of general jurisdiction is possible only together with the Russian language, but not instead of it. This is indicated by the word "also" used in the following context: "court proceedings and clerical work at other federal courts of general jurisdiction may *also* be conducted in the official language of the republic, where the court is located." At the same time with relation to legislation in the courts of the federal subjects of the RF, the conjunction "or" is used: "court proceedings and clerical work of justices of the peace and other courts of the subjects of the Russian Federation are conducted in Russian *or* in the official language of the republic, where the court is located."

[5] Vedomosti Soveta Narodnykh Deputatov i Verkhovnogo Soveta RSFSR. 1991. № 50. art. 1740.

This may give the impression that at the federal courts of general jurisdiction, located in the republics of Russia, court proceedings are conducted in two languages — in Russian and the official language of the republic, while justices of the peace and the constitutional (charter) courts of the subjects of the Russian Federation may use one of these two languages. However, it is clear that a particular case cannot be heard simultaneously in two languages, nor is it possible to keep all the procedural documents in two languages: this would make court proceedings ineffective and cumbersome. Therefore, the court proceedings are always conducted in one language — Russian or an official language of the republic in accordance with the laws of the Republic of Russia (Part 2 of Article 68 of the Constitution of the Russian Federation).

2. In accordance with part 3, article 10 of the Federal Constitutional Law "On the Judicial System of the Russian Federation", people involved in the case who cannot speak the language of court proceedings have the right to speak and give explanations in their native language or in any language they want; they can also use the services of an interpreter. Article 18 of the RF Criminal Procedural Code specifies that the right to speak in court, to give explanations, etc. in the native language or any other language is granted not only to people who do not speak the language of the court proceedings, but also to people *who do not have an adequate command of this language*.

A person is considered to have no competence in the language the court proceedings are conducted if he or she does not understand the oral or written speech of the court proceedings. A person is considered to be having insufficient command of the language if he or she cannot easily understand oral and (or) written speech in this language and cannot speak fluently. The assessment of these skills should be based on the possibility of their application to the proceedings of a particular case, taking into account peculiarity of the terminology used in the proceedings. The requirement stating that the litigants who have no command or a poor command of the language in which the criminal court proceedings are conducted should be granted with the services of an interpreter shall be considered violated in case they understand the language to a certain degree, but cannot speak it fluently.

The right to make statements, give explanations and testimony, lodge petitions and complaints, get acquainted with the materials of a criminal or a civil case, take the floor at court in the native language or any other language, as well as to use services of an interpreter free of charge in the order stated by the procedural law should be explained and granted to such participants of the proceedings. They also have the right to use the services of an interpreter free of charge in the order stated in

the procedural law. A participant of a criminal court proceeding is a person who takes part in the criminal case including a witness and prima facie the parties: the suspect, the accused, their counsel for the defence, the victim, civil claimant, civil defendant and their representatives. In accordance with article 9 of the Civil Procedural Code and article 12 of the RF Arbitration Procedural Code of the Russian Federation, the following individuals can be involved in proceedings: a plaintiff, a defendant, third persons and representatives of government agencies and local self-government bodies, various organizations and also individuals who have been granted the right to participate in the case for protection of interests of other individuals or public interest (article 46 of the Civil Procedural Code and article 53 of the Arbitration Procedural Code).

This right ensures that the services of an interpreter are granted free of charge in the order stated by law. In particular, studying the criminal case materials with assistance of an interpreter means that not only interpreting, but also written translation need to be granted. During investigation and court actions it is necessary to find out whether the participant speaks the language of criminal court proceedings and record this in the proceedings documents verifying the record with the participant's signature. The materials of the criminal case should contain the evidence that the litigant was made familiar with the proceedings documents translated into the language he or she speaks.

It should be noted that in compliance with the legal position of the Constitutional Court of Russia, as it is expressed in Rulings № 219-O[6] and № 243-O[7] dated June 20, 2006, the necessity to provide the defendant with the right to use his native language when the proceedings are held in Russian, does not exclude that the legislator, considering the provisions of article 17 part 3 of the Constitution of the Russian Federation, under which the exercise of the rights and freedoms of man and citizen shall one individual should not violate the rights and freedoms of other people, may establish terms and procedures for the exercise of this right so that it does not interfere with the examination of case and allows to solve the justice tasks in the reasonable timeframe as well as to protect the rights and freedoms of other participants of the criminal proceedings. In their turn, the bodies of preliminary investigation, the prosecutor and the court can reject the application on provision of interpreting services to a court proceedings participant if the case materials give evidence that such appeal resulted from the abuse of the right.

In the judicial practice of the RF Supreme Court there have been

[6] The document was not published. Accessible in RLS "Consultant Plus".

[7] The document was not published. Accessible in RLS "Consultant Plus".

multiple examples of the abuse of the right to choose the language of communication in the course of criminal proceedings. Thus, the Ruling of the Judicial Division for criminal cases of the Supreme Court of the Russian Federation[8] № 38-O07-7, dated March 15, 2007 indicated that the defendants D. and Z. were born in Georgia during the Soviet time, when the study and knowledge of the Russian language was obligatory, along with the Georgian language; they studied Russian at school starting from the first and third grades correspondingly, they can communicate in Russian fluently, can read and write Russian. D. after school served in the Navy of the USSR, which also required knowledge of Russian. Since 2002 D. lived in the territory of Tula Oblast, and was a taxi driver. Z. lived in Tula since 1996. D. and Z. took part in more than 60 investigative actions, during which they refused the services of the translator. Only when familiarising with materials of the case, D. and Z. applied for translation services with the purpose to cause a delay in the preliminary investigation, therefore their application was rejected. In such circumstances, the RF Supreme Court considered that the application had been rejected on the lawful basis and stated there was no violation of the right of the accused to familiarize with the case files.

At the same time, the fact per se that the litigant resides on the territory of Russia and is a citizen of the Russian Federation should not automatically entail rejection of the application for the translation services. Thus, the supervisory Ruling of the Judicial Division for Civil Cases of the RF Supreme Court[9] states: "The Construction and Mounting Trust sued K. for eviction from a one-room apartment without providing her with another residential area. In accordance with the case documents, K. is an Adygei by nationality. Therefore, the court had to determine whether she could speak Russian and needed a translator. These issues were not covered by the court; the records of the judicial proceedings do not specify which rights were explained to the defendant. As stated by K., though she understands and speaks Russian, she formulates her thoughts in her native language, in the court she felt nervous and could not fully protect her interests. The cassational court did not pay attention to the violation of the rights of the defendant to give explanations in her native language and to use services of the translator and had not taken any steps to eliminate violations of the law. As indicated in the decision of the Presidium of the Krasnodar Regional Court, which dismissed the protest, speaking in the court, K. gave logical

[8] Bulletin of the RF Supreme Court. 2008. № 6.

[9] Bulletin of the RSFSR Supreme Court. 1987. № 10.

explanations and in the complaint she confirmed that she understood and spoke Russian. However, the Presidium did not take into consideration that the right to choose the language which an individual speaks in court belongs only to the individual. In such circumstances the judicial acts of the case were repealed and the case was sent for retrial.

According to article 33 of the Federal Constitutional Law № 1-FKZ "On the Constitutional Court of the Russian Federation[10], dated July 21, 1994, the right to use services of an interpreter is granted to litigants who do not speak Russian.

The right to use services of the translator during the court proceedings at constitutional (charter) courts of a subject of the Russian Federation is granted by the relevant federal law, determining the examination procedure of the case at this court.

3. To act as a court interpreter, a person must have a perfect command both of the language in which court proceedings are conducted and the language spoken by the trial participant for whom he or she translates and be able not only to speak those languages, but also read and write. However, the law does not require special philological education and translator's skills: the only requirement is that he or she must have skills necessary to properly address the tasks faced by criminal court proceedings participants. If the translator is not adequately qualified for the job, he or she is subject to rejection.

Having knowledge of the language that is used by a person involved in a trial and unable to speak the language in which the court proceedings are conducted does not make the judge, prosecutor, investigator or inquirer competent to perform the functions of an interpreter. Combining the duties of interpreter and investigator, inquirer, prosecutor or judge constitutes a violation of the right to use an interpreter's services and is a sufficient cause for invalidation of the investigative or other procedural actions taken in such conditions. Under part 2 of article 57 of the Arbitration Procedural Code, none of the participants in an arbitration proceeding shall act as an interpreter even if such a participant has a sufficient knowledge of the necessary languages.

The Civil Procedural Code does not have an article concerning the legal status of an interpreter. However, there are such articles in the Criminal Procedural Code (article 59) and the Arbitration Procedural Code (article 57) as well as the Code of Administrative Violations (Article 25.10).

One of the requirements for acting as an interpreter is that he or she must have no interest in the case. This requirement is explicitly referred to in article 25.10 of the

[10] Sobraniye zakonodatelstva Rossiyskoy Federatsii. 1994. № 13. art. 1447.

Code of Administrative Violations; as for other procedure codes, it is implied by the rejection provisions contained therein. An interpreter is subject to rejection if he or she is a close relative or a relative of any of the participants in a criminal court proceeding, as well as if there are any other circumstances making one to believe that he or she is personally, directly or indirectly interested in the outcome of the criminal case (articles 61 and 69 of the Criminal Procedural Code). There are similar provisions in article 18 of the Civil Procedural Code, article 23 of the Arbitration Procedural Code and article 25.12 of the Code of Administrative Violations.

For some categories of cases, the requirement for an interpreter to have no interest in the case is of special importance. Decree of the Plenary Meeting of the Supreme Court of the Russian Federation (№ 8 "On the Application of Laws by Courts in Hearing Child Adoption Cases"[11], dated April 20, 2006) states: "When deciding on whether an interpreter is allowed to take part in a case, the court must get information about the place of his or her employment and residence, find out whether he or she is acquainted with the applicants, as well as whether he or she is a former or acting employee of a guardianship or trusteeship bodies or any of the institutions in which the children to be adopted are educated or brought up. All this information is required to be collected in order to prevent illegal intermediary activities by any persons within the adoption procedure (article 126.1 of the Family Code of the Russian Federation). In case any of such facts are reported or there are sufficient reasons for rejection, the court may, on its own motion, decide to reject the translator (articles 16, 18 and 19 of the Civil Procedural Code of the Russian Federation).

An interpreter is endued with a range of rights and obligations. The obligations include the obligation to appear before an inquirer, investigator, court, agency or official involved in an administrative offence case and be prepared to provide full, correct and timely translation. He or she shall be duly warned about the criminal responsibility for deliberately incorrect translation (article 307 of the Criminal Code of the Russian Federation), or about the administrative liability, if the case is an administrative offense case (part 4 article 25.10 and article 17.9 of the Code of Administrative Violations). An interpreter hired to provide translation during pre-trial investigation is obliged to prevent divulgence of any preliminary investigation data he or she has become known in connection with participation in a criminal case. And such an interpreter must be warned to this effect in advance by the investigator or inquirer.

[11] Bulletin of the RF Supreme Court. 2006. № 6.

An interpreter has the right to ask questions to the participants of the proceedings or investigative actions in order to provide accurate translation, as well as to familiarize himself or herself with court records and comment upon the correctness of recorded translation.

The completeness and correctness of translation are of exceptional importance for court proceedings participants to be able to properly exercise their rights. The Ruling of the Judicial Division for Criminal Cases of the Supreme Court № 75-O07-27[12] comments: "As can be seen from the criminal case materials, in the course of preliminary investigation in a criminal case interpreters were appointed upon the request of the accused and their defenders... During the court session, it was ascertained that the translations of the resolutions under which the accused had been brought to trial in the capacity of the accused and the indictment were incomplete and contained errors. The list of omissions and errors established during the court session is given in the court's decision to send the case back to the prosecutor." Under such circumstances, the judge's decision to return the case back to the prosecutor in order to remove the obstacles for hearing the case was found lawful.

4. Under article 18 of the Criminal Procedural Code, if investigation reports and court documents are required to be handed to a suspect, accused and other participants of a criminal court proceedings in accordance with this Code, such documents must be translated into the native language of a criminal court proceedings participant they are handed to into a language that can be understood by such a participant. Investigation and court decisions (conclusion of guilt, sentence, etc.), as well as other documents (search reports, recognizance not to leave, etc.) that are required to be handed to a suspect, accused, victim and other trial participants, must be produced not only in the language of the criminal court proceedings, but also in the language spoken by a trial participant to whom they are handed. The translation of a document must be produced, executed and handed to a concerned person within the shortest possible time so as to give the person a practical opportunity to defend his or her rights.

Any other documents drawn up within a criminal case are presented to trial participants for review in the language of the trial and are read by an interpreter.

If a sentence is rendered in a language of which the defendant has no command, it must be simultaneously

[12] A Review of the Legislation and Court Practice of the Supreme Court of the Russian Federation for the 1st Quarter 2008 (as approved by the Decree of the Presidium of the Supreme Court of the Russian Federation of 28 May 2008) // Garant Reference Legal System.

translated in a language of which the defendant has a good command as it is pronounced or after it has been pronounced (part 2 of article 310 of the Criminal Procedural Code).

In court practice, special attention is paid to the observance of the rules requiring mandatory translation of proceeding documents into the language of the participant of criminal court proceedings. This can be illustrated by the Cassation Ruling of the Judicial Division for Criminal Cases of the Supreme Court of the Russian Federation[13] (№ 9-O06-28, dated May 11, 2006). It was shown in a preliminary investigation that V., an Armenian, did not have an adequate knowledge of Russian. In order to ensure his right to adequate defense, it was found necessary to get the translator for V. for the purpose of the criminal case. As a result, the translator was invited to participate in all the main investigative actions, including arraignment and familiarization with the criminal case materials. The translator was permitted to participate in the hearing of the criminal case in court. However, the sentence was vacated by the RF Supreme Court, because "the criminal case materials show that only Russian version of the conclusion of guilt was handed to V., which was a serious infringement of his right to defense. Considering that the sentence to V. was passed with an infringement of the applicable criminal procedural laws by the investigative agencies during the preliminary investigation, it cannot be deemed legitimate and well-reasoned and is subject to reversal...»[14]

Under par. 4 of article 51 of the Criminal Procedural Code, participation of the counsel for the defense shall be obligatory if the suspect or accused does not have command of the language in which the proceedings on the criminal case are conducted. In the event a counsel takes part in the preliminary investigation or court proceedings on the request of the inquirer, investigator, prosecutor or court, the cost of hiring him or her is compensated from the federal budget (part 5, article 50 of the Criminal Procedural Code).

Materials on an administrative offence case, including, in the first place, the administrative offence protocol, are also subject to translation: "... a failure to provide a natural person or his or her legal representative, as well as a legal entity's representative, with a translation of the administrative offence case is an infringement of their right to familiarize themselves with the protocol and case materials and makes it impossible for them to give proper explanations and comments with re-

[13] A Review of the Legislation and Court Practice of the Supreme Court of the Russian Federation for the 1st Quarter 2008 (as approved by the Decree of the Presidium of the Supreme Court of the Russian Federation of 28 May 2008) // Garant Reference Legal System.

[14] Reference Legal System "Garant".

gard to the contents of the protocol, exercise their right to make statements and give clarifications, enter petitions and file recusations, that is, makes it impossible for them to exercise their right to defense." Hence, lack of a translation of the protocol on an administrative offence case commenced against a person who does not have command of the language in which the proceedings on the case are conducted is the main reason for the court decision to return the protocol and case materials in accordance with par. 4, part 1, article 29.4 of the Code of Administrative Violations of the Russian Federation, regardless of whether there has been a motion for translation or not".[15]

A violation of the rules for provision of the translation services entails, if this is appropriate, an acknowledgment that the evidence was obtained wrongfully and, for that reason, it is subject to removal from the case materials. In its Ruling № 5-G06-36, dated April 11, 2006, on a case concerning the adoption of a child being a Russian citizen by foreigners, which rejected the cassational appeal of the applicant against the decision of a trial court which did not allow them to adopt the child, the Judicial Division for Civil Cases of the RF Supreme Court stated, among other things, the following: "The documents translated into Russian do not have the signature of the translator."[16]

5. Any violation of the language-related rules is viewed as a major violation of requirements posed by the procedural law, which results in unconditional reversal of the legal judgment or sentence (par. 5, part 2, article 381 of the Criminal Procedural Code; par. 3, part 2, article 364 of the Civil Procedural Code; par. 3,pPart 4, article 270 of the Arbitration Procedural Code).

Any violation of the right of the defendant to use the language of which he or she has a good command and the services of an interpreter is a violation of the criminal procedural law which results in cancellation or alteration of the judicial decision by the court of appeal or cassation instance (par. 2, part 1, article 369 and par. 5, part 2, article 381 of the Criminal Procedural Code), and also in the exercise of supervisory powers (part 1, article 409 of the Criminal Procedural Code).

Under par. 5, part 2, article 381 of the Criminal Procedural Code, a judicial decision can be cancelled or altered in case only one participant of the criminal court proceedings — the defendant — has been debarred from using the language of

[15] See A Review of the Legislation and Court Practice of the Supreme Court of the Russian Federation for the 3rd Quarter 2005 (as approved by the Decree of the Presidium of the Supreme Court of the Russian Federation of November 23, 2005) // RF Supreme Court Bulletin, 2006, №. 3.

[16] Ibid., № 11.

which has a good command and the services of an interpreter. Yet in part 1 of article 381 it is specified that the grounds for the cancellation or for an alteration of the judicial decision by the court of cassation, appeals (par. 2, part 1, art. 369 of the Criminal Procedural Code) and supervision (part 2, art. 409 of the Criminal Procedural Code) instances, shall be such violations of the criminal procedural law which by depriving of or by restricting the rights of the participants in the criminal proceedings, guaranteed by the Criminal Procedural Code, have influenced or could have influenced the passing of a lawful sentence. Hence it is possible to consider that violation of the rights of the participant in the criminal proceedings both on the side of the defense and on the side of the prosecution as well as other participants to use the language of which they have a good command and the grounds for the cancellation or an alteration of the judicial decision.

Such an extended interpretation of the reasons for cancellation of a sentence can be supported by the argument concerning the most important role of an interpreter in adequate consideration of all the evidence produced. For example, if a witness has been debarred from using the native language and the services an interpreter, this is sufficient for a cancellation or alteration of the judicial decision since, as a result of the violation, the witness testimony could have been distorted, which could influence the imposition of a lawful, substantiated, and fair sentence.

6. It is worth to dwell on the procedure of compensation of expenses for the interpreter's services granted in civil or criminal proceedings and in a trial concerning administrative violations.

In accordance with article 25.14 of the Code Administrative Violations of the Russian Federation, all expenses for the interpreter's services granted in a trial concerning an administrative violations are compensated from the federal budget in accordance with the regulations of the government of the Russian Federation.

All expenses for the interpreter's services connected with criminal court proceedings are regarded as legal costs and are recompensed from the funds of the federal budget (part 3, article 131 of the Criminal Procedural Code).

The civil procedural law also sanctions remuneration of the interpreter's services at the expense of the funds from the corresponding budget (article 97 of the Civil Procedural Code). Yet if foreign citizens or stateless persons incurred outlays on the remuneration of the interpreter's services (e.g. for having translated some documents to be presented in court), such expenses are also viewed as legal costs and distributed between the parties depending on the outcome of the case (article 94 and article 98 of the Civil Procedural Code), unless otherwise stipulated in

granted by the international treaty of the Russian Federation.

The question about remuneration of expenses for the services of a representative is solved in a similar way in accordance with article 109 of the Arbitration Procedural Code of the Russian Federation.

The fee paid to the interpreter for participation in the enforcement proceedings is included in the expenses for execution of enforcement procedures (article 57 of the Federal Law № 229-FZ"On Enforcement Proceedings"[17], dated October 2, 2007).

7. A language/languages to be used in arbitration proceedings is/are determined in accordance with article 21 of Federal Law № 102-FZ "On Arbitration Courts in the Russian Federation"[18], dated July 24, 2002:

- unless otherwise agreed by the parties, the arbitration proceeding is held in Russian (par. 1);

- the party presenting documents or other materials in any language/languages other than the language in which the arbitration proceeding is held shall provide the translation (par. 2);

- the arbitration court may require from the parties translation of documents or other materials into the language/languages, in which the arbitration proceeding is held (par. 3).

8. Article 18 of the Law "On Languages of the Peoples of the Russian Federation" also regulates the use of language in clerical work of the law enforcement bodies:

- in accordance with par. 1 of the article, clerical work in the law enforcement bodies of Russia is carried out in the state language of Russia;

- in par. 2 it is specified that clerical work in the law enforcement bodies of the subjects of the Russian Federation is carried out either in the state language of Russia or in the state language of the republic in which the given law enforcement agency is located.

The federal law enforcement bodies of Russia include, first of all, prosecution authorities of Russia and also agencies carrying out operational investigations. There was a special instruction for clerical work in the prosecution authorities of the Russian Federation and their institutions introduced by Order № 107[19] of the Office of the Prosecutor General of the Russian Federation, dated June 5, 2008.

The following types of agencies carrying out operational investigations are listed in article 13 of Federal Law № 144-FZ "On Operational Investigation"[20], dated August 12, 1995: operational subdivisions of home affairs agencies and also of fed-

[17] Sobraniye zakonodatelstva Rossiyskoy Federatsi. 2007. №. 41. art. 4849.

[18] Sobraniye zakonodatelstva Rossiyskoy Federatsi. 2002. № 30. art. 3019.

[19] The document was not published. Accessible in RLS "Consultant Plus".

[20] Sobraniye zakonodatelstva Rossiyskoy Federatsi. 1995. № 33. art. 3349.

eral security service, federal bodies of security guards service, customs bodies, the Foreign Intelligence Service of the Russian Federation, the Federal Penal Service and bodies for control over turnover of narcotic means and psychotropic substances.

The participation of an interpreter or the translator in tax control procedures is sanctioned by article 97 of the Tax Code of the Russian Federation.

Article 58 of the Federal Law "On Penal Proceedings" authorises the interpreter to participate in execution activities. In accordance with the article, the parties of execution proceeding or the court bailiff can invite the translator for participation in the trial. The translator is a legally capable citizen aged eighteen and older having command of the languages necessary for the translation. An interpreter gets appointed by a special ruling of the court bailiff. If the debtor or the recoverer needs translation services, the court bailiff defines a term during which the translator needs to be found. Should the debtor or the recoverer fail to find an interpreter within the specified term, the court bailiff is free to appoint an interpreter at his or her own discretion. The bailiff warns the interpreter about the responsibility for knowingly incorrect translation that he or she bears in accordance with laws of the Russian Federation.

9. In accordance with article 19 of the Law "On the Languages of the Peoples of the Russian Federation", the language-related rules established for court proceedings are also relevant for the notarial proceedings. In compliance with article 10 of the Fundamentals of Legislation of the Russian Federation on the Notariat № 4462-1[21], dated February 11, 1993, the notarial proceedings are held in the language specified in the legislation of the Russian Federation, or of its republics, or of autonomous oblasts and okrugs.

Therefore, in republics of the Russian Federation, where the court proceedings are held in their own state languages, the same languages are also used in the notarial proceedings. Otherwise, the Russian language is used.

If notarial service is granted to a person who does not have a command of the language of the notarial proceedings, the attested documents need to be translated for this person by the notary officer or by the translator. The interpreter can be invited either on the initiative of the notary officer or of a person who does not have a command of the language of the notarial proceedings. The person who applied for notarial services and does not have a command of the language of the notarial proceedings shall pay for translation services.

Translated by A. Yakovenko

---

[21] Vedomosti Sovetov Narodnykh Deputatov i Verkhovnogo Soveta rossiyskoy Federatsii. 1993. №10. art. 357.