

Principle of National Language in Citizen Legal Procedure

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Abstract: In modern period in condition of strong sharpening of feelings due to the national dignity cause occurring on it different sized conflicts and other unpleasant events, special actuality in citizen legal procedure get the realization Principle of national language. Strict following the rules of right regulations actions of distinguishing Principle and delicate relation to participating bodies in affair mastering the language in which legal procedure runs in significant way to our mind can influence notices of dissatisfaction, liquidation reasons are deepening conflict situations. The distinguishing Principle of national language in citizen legal procedure is based by multinational content of RK.

Key words:

INTRODUCTION

This Principle fixed in whole type in Constitution which runs that “In the Republic of Kazakhstan a state language is Kazakh language. In state organizations and bodies of local self-regulating equally with Kazakh language used officially Russian language” (sp.1 and 2 C. 7). From the content of the following constitutional rules comes that legal procedure RK can be run only in state language (Kazakh) or in Russian languages and on equal measure.

Clause 13 Law about languages foreseen: “legal procedure in Republic of Kazakh runs in state language and in necessary case legal procedure Equally with state language also used Russian language or other languages”. These rules by their content contradict to constitutional rules.

This also consists of the rules of other character which differs from rules of Constitution and these rules alike the rules of Law about languages. In parts 1 and 2 Clause 14 fixed: “legal procedure in citizen affairs runs in state language and in necessary case legal procedure Equally with state language also used Russian language or other languages”. The language of legal procedure is set by judge’s determination depending on language in which an application was given”.

According to regulation in given legislative acts about languages of legal procedure two circumstances should be noticed. First of all if Russian or other languages are used in legal procedure case of necessity then consequently an opportunity of using Russian languages equally with state language is excepted. Secondly, application can be done and passed to judge in any language of the world and judge obligates to find out determination about running legal procedure in this languages on this affair.

So despite constitutional rules branch legislation widens the list of languages are used in sending right judgment in citizen affairs. Given rules of procession right contradict to not only the rules of Constitution having high legal power but also absurd by their content. That is why necessary the rules of law about languages in accordance with the rules of Constitution regulations languages of legal procedure.

Beside, it is necessary to change the title of Clause 14 which called “legal procedure language” changes into “The national language of legal procedure”. Suggested term “The national language of legal procedure” should be understood in its social-political meaning as it underlines national independence in sphere of right judgment of nationality and folks created their government. That is why the term “The national language

of legal procedure” doesn’t mean that procedure in citizen affairs must be realized only in state language (Kazakh language, i.e. the word combination “The national language” and “state language” are not used as equal meaningful and we can not put a sign of equality between them.

Procedure in the same citizen affairs is realized in primarily set legal procedure language (p.2 C.14, i.e. in exact citizen legal procedure a language determined on the moment of beginning affair cannot be changed.

Another aspect of Principle of legal procedure is finding out through the position of subparagraph 2 Clause 19 of Constitution runs about that “anyone has right for usage of native language”. This constitutional position accepted detailed reglamentation in parts 3-5 of Clause 14.

Bodies participating in affair and other participators of process have right:

- To report in native language;
- Participate in all judge affairs (examination of place, combining proof, investigating written proof and etc.) through the translator.

For participators who don’t master the languages in which runs legal procedure it is explained and provided right to make an application, to give explanation and testimony, report solicitation, declare complains, to be introduced with material of affair, to act in judge in native language or in another language what they master and use for free translator’s service.

Participators of process provided by free translation of affair material in case of necessity. Also participators of process have opportunity to get translation of any part of affair which is not clear for them and runs in another language.

During the realizing Principle of national language in citizen legal procedure in many cases used translator’s help. There are following requests to the work of translator: In oral and written translation should be fullness, exactness, justness and objectness. In process of legal procedure in choosing translator for direct and turning over translation during the asking interested bodies, witnesses, experts, specialists the main attention should be paid to professional translator’s experience.

Nowadays the main challenge for our government is absence of specialized translators. That is why during the running legal procedure in translating are meet often many mistakes, answers in affairs translated not literally. All these lead to in correct solution. During the running

citizen legal procedure in order to translate so fast and literally translator should be specialized and have many years experience and to have lots experience he should translate from Russian into Kazakh and have internship abroad. Beside government must create necessary conditions and increase salary and we suggest to give social help for translators from the side of government.

Judicial documents are given to bodies - participators of process translated into their language or other languages.

Analysis of acting citizen-procession legislation witnesses about that positions are related to realization Principle of national language of legal procedure Formed to beginning of citizen affair and the following periods of legal procedure. Word for word discussion of law doesn’t allow spread the action of distinguishing Principle to primarly period. Also in this period can be held significant circle of procession and nonprocession actions (giving decree about stopping distinguishing application, rejection in distinguishing application, requirement of necessary documents, sending notices and etc.) The same time because of language barer required side and responder not always can translate and value accepted documents, the meaning and legislation of took measures.

So according to the application of Marzyeva I. S. passed in Chechens’ language accepted by mail decree about leaving application without distinguishing due to the un payment of tax. The decree was written in Kazakh language and addressing to acquaintance to help her she thought that now for judge service she should pay like commercial organization and didn’t address the judge any more.

The same situation happened with Syn U.M. who addressed the judge with application in Chinese language in brief and thinking that there might be translator in judge. After that Syn U.M. accepted decree about necessity of documental agreement done work about which run in application for continuing of distinguishing application in Russian language he addressed to known prosecutor. The assistant of judge answered to prosecutor about not corresponding the application language that according to part 2 Clause 14 legal procedure language is set by determination of judge depend on language in which was given application. As the process has not begun yet and distinguishing only application such determination is absent. According to the Clause 168 of PK judge should make separate determination about preparation of affair to judicial distinguishing and language as well.

A serious challenge to our mind is an absence in rules of RK due to the any answer to applicant about actions in relation to his application must be done in language which is used by him. It will cause strengthening guarantee rights and legal interests personality in criminal legal procedure and respectful relation to the feelings of citizen's dignity.

Learning of judicial practice showed that often allowed groundless tightening sphere of using state language in legal procedure. Not so often the choice of language of legal procedure in regions where majority of population use only one language comes to against with procession legislation Constitution of RK. Fnd they use the language known by judicial-investigating workers and comfortable language for them. And not always clarify the fact weather the participators of process need the service of translator or not. Sometimes bodies don't master the language of legal procedure are not provided by documents given in their native language.

Despite the fact separate affairs are investigated with rough mistakes of law about legal procedure language judges make solutions. Controlling instances do not liquidate such mistakes in time.

It's necessary to notice combination stuff of judge with experts, secretaries with functions of translators is impossible and should be valued as rough disturbing legislation of legal procedure language. Also impossible to use people as translators who involved to criminal and administrative disturbing to responsibility and fulfilling punishment.

The same time judges are taking part in controlling instance adistinguishing affairs and who do not know the legal procedure language should be provided by translation of documents and participation of translator. Due to it that the beginning citizen affair and legal procedure language are tightly interrelated then they can be solved simultaneously by the same translator and formed by the same judicial act.

The meaning of given Principe can not be re value because defending own interests in judge in native language easy to reach both sided understanding. The following of Principe of national language causes to correct distinguishing affairs. The given Principe causes also to find out objective truth and its disturbing distinguished as disturbing of procession rules.

Without a realization free usage in legal procedure Principe of national language and selection of language it is impossible to realize such basic principles of right judgment like providing right to defense, transparency orality of judicial affair and competition and etc.

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