

LEGAL ASPECTS OF INTERPRETER'S ENGAGEMENT IN CRIMINAL PROCEEDINGS IN RUSSIA

Valentina V. Stepanova

PhD, Associate Professor, 6 Mikluho-Maklaya str. Department of foreign languages, Law Institute
Peoples' Friendship University of Russia (RUDN University), Moscow 117198 Russia
E-mail: valentina0222@mail.ru

Abstract

The paper is aimed at investigating the basic legal principles of interpreter's participation in the criminal proceedings in the Russian Federation. The topic under consideration is relevant due to the massive migration processes sweeping most European countries and Russia. Statistics show that in 2017 about 41,147 crimes were committed by foreign citizens in the territory of the Russian Federation. More recent survey shows that resident aliens committed approximately 10,415 criminal offenses, from January to March 2018. Very often offenders do not speak Russian, and therefore, the statistics of criminal offenses involving stateless persons and foreign citizens is only growing. Most of the above-mentioned individuals do not understand the language of legal proceedings and cannot participate in it on their own. The legislation of the Russian Federation provides for an interpreter who can supply them with qualified and professional assistance. Similar provision is envisaged in regulations of most of the Western and Asian countries, and though all of them are guided by the international rules, the national laws vary in many ways. Russian laws regulate this sphere in terms of rights, obligations and proceedings that are to be observed at different stages of investigating, court hearing and post-trial stages of criminal cases demanding professional assistance of interpreter and/or translator. The research methods involve theoretical and practical approaches, comparative analysis of relative rules in western countries and classification, description and other methods of reasoning allowing to reach objective results and conclusion. The practical relevance of the work rests in outlining pitfalls in laws concerning engagement of an interpreter into criminal proceedings in Russia. The output of the research can also be of certain value to professionals involved in court interpreting and government policies in this sphere and scholars interested in the topic.

Keywords: court interpreter; language of court proceedings; definition, rights and obligations of a court interpreter; professional competence a court interpreter; principles of criminal proceedings in Russia

1 INTRODUCTION

There is a vast academic literature concerning the role of interpreter in criminal proceedings, however, there are a number of issues that are not clearly understood; among them are the questions of legal education of interpreters, level of language proficiency, rights and obligations of interpreters, their qualification, certification and others. This research focuses on legal aspects of engagement of an interpreter in criminal proceedings in Russia and is the first approach in exploring the broad topic. The issues under consideration are principles of criminal proceedings with the emphasis on the language of justice in Russia, basic rights and obligations of an interpreter, their functions and role before, during and after a court hearing.

2 OBJECTIVES AND METHODOLOGY

The research aims are to investigate the legal specifics of interpreter's engagement in criminal proceedings and to study rights, obligations and functions throughout the whole cycle of investigating the criminal case

that need professional assistance of an interpreter/translator.

The theoretical basis of the work is represented by the works of Russian and foreign scholars who investigate the specifics of engagement of judicial interpreters in criminal proceedings. Relevant information elicited from documents, regulations, acts and rules of European Union, USA, Canada, Australia and Russia has also been studied.

The research methods fall into: *theoretical and analytical* realized in search, investigation, analysis and processing of information on the research topic; *empirical and evaluation approach*, including data comparative analysis, and summary of the research findings. The work is the result of the analysis of academic literature, domestic and foreign legislations, as well as *comparative analysis* of relative regulations in a number of countries. The methodology also includes *generalization, classification and description, comparative and contrastive methods* of analysis, and *the methods of synthesis and logical syllogism*.

The practical relevance of the work rests in the implementation of the research findings, results and conclusion into the master's course of court interpreting. The output of the research can also be of certain value to professionals involved in court interpreting, government policies in this sphere and scholars interested in the topic.

3 RUSSIAN CRIMINAL PROCEEDINGS AND THE ROLE OF INTERPRETER

3.1 Key Aspects of Criminal Proceeding

Criminal justice is a very comprehensive concept that connects many branches of law, for example, at the stage of preliminary investigation it is obtaining evidence, detaining suspects, charging detainees, providing protection up to the judicial process itself, and finally forming a sentence and enforcing it. Criminal proceedings are an integral component of the legal system of both the state and international law.

The basis of criminal proceedings is the resolution of criminal law relations, which are usually expressed and aimed at achieving public interest by preventing and deterring crimes. Thus, the imperative method prevails. In addition, criminal justice is closely intertwined with the judicial system, namely the branch of legislation that establishes the competence, structure and organization of the judicial system. By and large, these are two different sides of the same coin: if the judicial process regulates the functional and procedural aspects of the judicial system, the judicial authority regulates its structural and organizational aspects.

Both from the procedural and formal perspectives, criminal proceedings are a specific tool provided by the state for the resolution of any criminal behaviour through the public specialized bodies aimed to establish law and order. Thus, filing a claim for protection or recognition of the violated right is a universal way of protecting the legitimate interests of the injured party.

The principles of criminal proceedings are very important because they determine the basis of the decisive legal norms that describe the nature of proceedings, the content of their areas and institutions. They also reflect the fundamental principles for resolution of criminal proceedings in order to ensure legal and fair trial, which gives the injured party the right to protect their interests, rights and freedoms from unlawful actions.

The key principles of criminal proceedings are as follows: adversarial (or adversary) process of debating and arguing the case; freedom of assessment of evidence; the administration of justice only by court; confidentiality of correspondence, telephone and other negotiations, postal, telegraphic and other modes of communication; personal privacy; principle of legal compliance; presumption of innocence; providing the suspect and the accused with the right to defence; respect for individual's dignity; language of criminal proceedings.

3.2 Language of Criminal Proceedings

The language principle in criminal proceedings allows all participants, without exception, access the judicial process on the principle of equality. Each person, regardless of his or her ability to speak any language, can enjoy the rights and bear responsibilities when participating in criminal proceedings; such rules provide a positive effect on the judicial system as a whole.

The right to determine the language that the suspect speaks is established by the Constitution of the Russian Federation (Articles 26, 68) and the Criminal-Procedural Code of the Russian Federation (Article 18). They envisage that the Russian language is the state language throughout Russia. However, the constituent entities of the Russian Federation may establish their own state languages, within the framework defined by law.

If the participants in the criminal process do not fully or partially understand and cannot express themselves in the language of criminal proceedings, they have the right to choose the language that they consider appropriate for their participation in the court. The following rights should be ensured to such participants in criminal proceedings:

- To make petitions;
- To make complaints;
- To communicate through an interpreter;
- To get acquainted with the materials of the criminal case;
- To make statements;
- To give testimony and explanations;
- To speak in their native language, or in another language they speak.

In case the suspect or the accused or other participants in the trial need to be familiar with certain judicial or investigative documents, such materials must be translated on sight or in writing into the language they understand.

The principle of language assistance in criminal proceedings is one of the most important (see, for example, the ECHR case-law on the right to language assistance in criminal proceedings and the EU response). This principle is very broad, and together with the principle of independence of judges, equal access to justice and the adversary principle, forms a single institution.

As stated by the Committee of Ministers of the Council of Europe, if one of the parties does not have access to the language of justice, the court should provide for such party the right to complete and correct translation in order to be able to understand the course of the judicial process and the right to make statements that it deems necessary (Recommendation No. R (81) 7 of 14 May 1981 On Measures Facilitating Access to Justice).

The International Covenant on Civil and Political Rights 1966, and the European Convention for the Protection of Human Rights and Fundamental Freedoms 1950, proclaim the inalienable right of any person subject to criminal prosecution to receive timely and quality assistance of a professional translator, including if the person is not aware of the reason for detention or arrest.

In the case when any of the parties to the judicial process is not able to receive translation or interpretation services due to its unfavorable financial situation, the court has to assist in providing translation services of the proper quality (Statement of the committee of ministers of the Council of Europe Recommendation no. R (81) 7 of 14 May 1981 On Measures Facilitating Access to Justice).

The principle of language assistance is firmly established in the criminal justice system and has been tested both by law enforcement practice and time. It also strengthens the correlation of the components of the criminal legal system, which positively affects its self-sufficiency and integrity, and as a result makes a significant contribution to the observance of constitutional rights and freedoms of participants in criminal proceedings.

Following the language principle, criminal proceedings in the Russian Federation are conducted in the state languages, which is Russian and the languages of the constituent entities of the Russian Federation. This ensures the implementation of the principles of criminal justice and human rights throughout the Russian Federation.

According to Part 1 of Article 11 and Part 3 of the Russian Criminal-Procedural Code, the court, the investigator and/or the prosecutor are obliged to explain to the accused/suspect his/her rights, duties and responsibilities, as well as to ensure the possibility of exercising these rights during the trial, including assistance of a professional interpreter. The court is also obliged to explain each party their procedural rights and obligations and ensure the necessary conditions provided by law for exercising these rights.

In criminal proceedings, the court must properly verify with the parties if they speak and understand the language of the trial well enough in order to properly enjoy all their legal rights and fulfill obligations concerning the language they consider suitable for the trial. In addition to this, the court must properly verify some other points, namely, the native language of the suspect, his/her permanent place of residence, the date and place of his/her birth, educational background, place of work and which language he/she uses for

daily communication with relatives and friends.

The ECHR heard cases violating these rules. One of them is the case of *Cuscani v. the United Kingdom* (September 24, 2002). Mr. Cuscani could not properly evaluate and understand the essence of the trial, due to poor understanding of the language of the trial. The Court ruled that the case was lost due to defendant's insufficient language skills and that the decision could be appealed. The Court also indicated that the judge who was considering the case should have ascertained that Mr. Cuscani sufficiently understood the trial language and was quite fluent in the language of the proceedings. Otherwise, it was a gross procedural violation. The right to free assistance of the interpreter is important not only in terms of written documents and oral statements during the court hearing itself, but also at the stage of preliminary investigation.

The right to use the inborn language in criminal proceedings by a suspect should not in any way violate the rights and freedoms of others and should not impede consideration of the case and reaching justice within a reasonable time. Thus, the preliminary investigation bodies through the relevant petition and the court, by issuing a relevant decision, can reject the petition of a party to the criminal proceedings to involve an interpreter, if the court considers the fact of law abuse. Participation of a defence counsel in criminal proceedings is mandatory if the suspect or the accused does not speak the language in which the trial is being conducted (Clause 4 of Part 1 of Article 51 of the Criminal-Procedural Code of the Russian Federation). In the event when the accused does not speak the language of the trial, the case may require additional time to translate all necessary procedural documents.

If any of the parties to the criminal justice process does not have sufficient skills in speaking and understanding the language of the process, and cannot fully understand the essence of what is happening, the court explains the right to engage an interpreter/translator for free if they do not have the opportunity to involve a personal interpreter. This opportunity is provided as it is established by the Russian Criminal-Procedural Code. It clearly states that the suspect/defendant is exempt from the cost of translation or interpretation. According to Part 3 of Article 132 of the Code, procedural expenses that are associated with participation of an interpreter in the criminal process are reimbursed from the federal budget.

In fact, this legal regulation meets the standards of the European Court of Human Rights (ECHR), where it was repeatedly explained that Article 6 of the Convention for the Protection of Human Rights guarantees the right of the suspect/accused to use gratuitous interpreter, if he does not speak and understand the language used in court. The meaning of "free of charge" is clearly defined as "free of charge as a gift, of no fixed price and worthless, implementation or provision without payment." These provisions do not indicate either temporary payment benefits or exemption from payment under certain conditions, but they indicate a full and general exemption from payment obligations. In the event when the right to the interpreter's/translator's free assistance was conditional on temporary exemption from payments and would not deter state courts from imposing costs of translation services on the accused/defendants, this would have a negative effect on the right to a fair and impartial trial that is protected by the European Convention on ensuring human rights and fundamental freedoms.

As for the volume of documentation of the case that needs to be translated, the European Court of Human Rights states that interpreter is to render all the statements and materials of the case against the defendant/accused, so that he/she could understand the essence of the charges. At the same time, the Court clarifies that "all statements or documents ... *which may be necessary* for the suspect/accused to observe his/her rights and ensure understanding of what is happening" are not equivalent to all the materials of the criminal case. Based on the position of the court, the European Convention on Human Rights and Fundamental Freedoms indicates that there is no need to translate official documents from the case or translate any documentary evidence. The main task of the court transfer is that the suspect/accused can understand what he/she is accused of and be able to defend themselves, including by giving evidence of their version of the events to the court.

In addition, the European Court of Human Rights in its later statements noted that "the guarantee referred to in Article 6 (3) (e) of the European Convention for the Protection of Human Rights and Fundamental Freedoms does not cover the requirement to provide any translation or documentary evidence in a broad sense "for the suspects/accused of any official documents, in addition to the materials of the criminal case. The provision of linguistic services orally to the suspect/accused may be in compliance with the requirements of the convention.

Comparison of these legal provisions with Part 3 of Art. 18 of the Criminal-Procedural Code testifies that the Russian legislation provides a greater volume of guarantees to participants in the proceedings than envisaged by the European Convention for the Protection of Human Rights and Fundamental Freedoms

(Вилкова 2014).

First, the Code of Criminal Procedure provides for not only oral, but also written translation of documents subject to mandatory presentation to participants in criminal proceedings (Part 3, Article 18 of the Criminal-Procedural Code).

Secondly, the Russian legislation directly indicates which procedural documents are subject to mandatory written translation. Establishing a list of such documents instead of introducing a criterion for their selection by an official or a state body conducting criminal proceedings seems preferable. Granting to the investigator, inquirer, and/or court the authority to determine which materials of the criminal case meet the criteria established by the European Court of Human Rights (*i.e.*, which materials allow the accused to know what he/she is accused of and defend against this charge), could entail numerous mistakes and violation of the defendant's right to defence. It is no accident that after the preliminary investigation, the accused and his/her lawyer get acquainted with the materials of the criminal case in full, regardless of the number of the accused in the case, or whether the particular offender is accused of several crimes (paragraph 12.4 Article 47, part 1 of Article 217 of the Criminal-Procedural Code). Such legal regulation most effectively ensures the rights of the accused.

3.3 Definition, Rights and Obligations of Judicial Interpreter

Protection of the rights of a person and citizen is disrupted in the event when at least one participant in criminal proceedings cannot understand, respond and/or testify in the language of the judicial process. The significance of judicial interpreter is strengthened by non-compliance with the norms of language assistance in the proceedings, when interpreter's involvement is legally required and entails cancellation of judicial order.

Within the European Union, the right to interpretation and translation in criminal proceedings is established by the Directive 2010/64/EU developed and adopted in 2010. The Directive determines:

- 1 The right to "interpretation during criminal proceedings before investigative and judicial authorities, including during police questioning, all court hearings and any necessary interim hearings (Article 2);
- 2 The right to translation of essential documents (Article 3)

According to Article 59 of the Criminal-Procedural Code of the Russian Federation, an interpreter is a person who can be brought to criminal responsibility in cases provided for by law and the Code. Such an interpreter must be fluent in the language to provide interpretation or translation services. However, such definition is not complete and should be specified (Швец 2014). Obviously, fluency cannot be the main criterion for appointing a person as a court interpreter. This dubious category does not define the volume of language knowledge, professional competency in the language required for clear and accurate interpretation. It says nothing about the level and scope of knowledge concerning legal proceedings. It is important to mention that the Russian language has only one term for both translation and interpreting (*перевод, переводчик*) which also makes things more difficult in the international perspective.

Directive 2010/64/EU on the Right to interpretation and translation draws a clear distinction between these two terms, which is also a subject to debates. Some researchers in Roadmap Practitioner Tools: Interpretation and Translation Directive suggest using the generic term *language assistance* that refers to both interpretation and translation as assistance provided to someone who does not understand or speak the language of proceedings (Fair Trials Europe, 2015).

Among other relative characteristics, scholars name the age requirements, impartiality to the outcome of the case, appointment by the inquiry body, investigator, and/or prosecutor, and some others.

In criminal proceedings, a person who is fluent in the languages necessary for the transfer can enter criminal proceedings in the procedural status of a specialist or an interpreter. Such participation determines two forms of activity: general and special.

The *general form* of interpreter's activity is participation in investigative and other procedural actions and sight translation of procedural documents into the native language of the party to criminal proceedings in the context of Article 18 of the Code of Criminal Procedure.

The *special form* (of specialist participation) includes an involvement of a specialist in linguistics in order to establish the offender's level of fluency of the language in which the criminal case is being conducted. It suggests:

- Involvement of a specialist in linguistics for the "linguistic reconstruction" of the language;
- Involvement of a specialist in the field of linguistics to evaluate the translation and verify the competence of the interpreter;
- Involvement of a specialist (ethno linguist) to clarify the issues falling within his/her competence;
- Use of the interpreter 's special knowledge as a defence counsel;
- Involvement of a specialist in the field of linguistics for translation of procedural documents in the absence of grounds provided for in Article 18 of the Code of Criminal Procedure of the Russian Federation (for example, at the stage of initiating a criminal case, at the stage of verifying complaints, appeals in the appellate, cassation and supervisory proceedings) (Имамутдинова 2011).

It is necessary to distinguish the following situations related to the appointment of an interpreter in a criminal case:

1 a defendant (or any other person involved in criminal proceedings) submits a petition to use birth language or language he/she can speak during the criminal proceedings;

2 a defendant (or any other person involved in criminal proceedings) submits an application for language assistance as his/her right to use the native language or the language he/she speaks was violated.

In this case, the grounds for the interpreter's assistance are singled out as follows.

I. The main (constitutional): the citizen's right to use language that he/she speaks is envisaged in the Constitution of the Russian Federation.

II. Optional (criminal procedure):

1. A party to criminal proceedings does not know the language in which the process is conducted;
2. A party to criminal proceedings does not have sufficient understanding of the language in which the process is conducted;
3. There is a need in translating/interpreting in the criminal proceedings outside the meaning of Article 18 of the Criminal-Procedural Code of the Russian Federation.

Taking into account the proposed classification of the grounds for interpreter's participation in criminal proceedings, it can be concluded that constitutional incentives for attracting the interpreter into criminal justice form a legal basis and entail satisfaction of the application. Therewith, information obtained earlier in the process of investigative and other procedural actions without the participation of an interpreter will be taken as admissible evidence. Adversary, the criminal procedural grounds for interpreter's assistance shall entail satisfaction of such petition and adoption of measures to eliminate violations of the criminal procedural law. At the same time, information obtained earlier in the process of investigative and other procedural actions without participation of an interpreter will be taken as inadmissible evidence. In this case, depending on the stage of criminal proceedings, one of the subsequent decisions must be taken: to remove inadmissible evidence from the case, to return the criminal case back to the prosecutor under Article 237 of the Criminal-Procedural Code, and/or to cancel the court order.

The abovementioned Code of the Russian Federation establishes the following rights of an interpreter (Paragraphs 1 and 2 of Part 3 of Article 59):

- The right to ask questions to participants in criminal proceedings in order to specify translation;
- The right to examine the documents of investigative actions, in which he/she participates, including the trial protocol, and make comments on the accuracy of the record of interpreting to be included into the protocol;
- The right to file complaints on action/inaction as well as decisions of the inquirer, investigator, prosecutor and court, limiting his/her rights (Paragraph 3, Part 2, Article 59). This right is guaranteed to interpreter not only as a party to the criminal process but also as a person having constitutional rights and freedoms. Besides, appealing against such actions and decisions can serve as a means of detecting and eliminating procedural violations occurred during criminal proceedings, which is quite important within a specific criminal case (Аскепова 2015).

Granting of rights to an interpreter is supported by assigning the duties. The duty is understood as the manner of due or required behavior accepted and appropriate in certain professional settings. Provided that,

the interpreter does not have the right:

- To carry out wrong translation/interpreting deliberately (Paragraph 1 Part 4 Article 59 of the Criminal-Procedural Code);
- To disclose the preliminary investigation data that became known to him/her because of his/her participation in criminal proceedings as an interpreter, including in the manner prescribed by Article 161 of the Criminal-Procedural Code;
- To avoid appearing by the summons of the inquirer, investigator or the court (Paragraph 3 Part 4 Article 59).

Interpreter's liability subject to the above violations is confirmed by Articles 307 and 310 of the Russian Criminal Code. However, interpreter's liability for avoiding court appearance by the official summons is not directly established (Бунова 2011). In fact, the law provides coercive measures such as obligation to appear, forcible bringing to court (Article 111) and/or a monetary penalty (Article 117).

Special attention is paid to disclosing confidential information. The current legislation envisages an extensive list of confidential information. Confidentiality provision establishes that the data of the preliminary investigation are not subject to disclosure. Such data can only be made public with the permission of the investigator, and only to the extent that they will be deemed admissible if the disclosure does not contradict the interests of the preliminary investigation and is not related to violation of rights and legitimate interests of participants in criminal proceedings.

Thus, in addition to confidentiality of the preliminary investigation, the interpreter will also have to consider the private lives of participants in criminal proceedings, as he/she may be aware of the personal and family secrets of the parties involved. However, the interpreter may also be aware of other kinds of confidential information, such as commercial, notarial, audit, etc., during the criminal proceedings (Темкина et. al. 2012). Disclosure of such information may entail significant harm or directly and significantly interfere with the rights and interests of participants in criminal proceedings, both physical and legal persons.

An interpreter involved in criminal proceedings is entitled to the legal status of a party to the criminal proceedings in accordance with Article 59 of the Criminal-Procedural Code. They acquire not only rights, but also duties, and bear responsibility provided for by Articles 307 and 310 of the Criminal Code of the Russian Federation.

Another collision arises from Paragraph 2 Article 59 of the Criminal-Procedural Code concerning disclosure of the preliminary investigation data or information gained at the closed hearing. The interpreter who violates this provision being officially warned against it in the manner established by Article 161 of the Criminal-Procedural Code may still not be found liable (Бунова 2013).

Playing a central role in criminal proceedings, the interpreter is expected not only to have a good command of the trial language, but also to demonstrate excellent knowledge of legal language with its style, variety of terminology, semantic subtleties and other peculiarities.

The procedural activity of an interpreter at various stages of criminal justice serves not only to respect the rights and interests of the parties, but also to correctly ensure evidence. Therefore, the outcome of the criminal case depends on how conscientiously the evidence is included into the materials of the criminal case with direct participation of the interpreter.

The presence of an interpreter is simply necessary at the stage of instituting a criminal case, when detaining a person, and at the preliminary hearing. This is not directly regulated by law, although in the implementation of such procedural actions a person especially experiences infringement of his/her constitutional rights and freedoms.

3.4 Professional Competence of Judicial Interpreter

Based on the comments to the Criminal-Procedural Code of the Russian Federation, an interpreter must be competent in the target language, both verbally and in writing. The requirement for *fluency in the language* is included into the Criminal-Procedural Code of Russia; it is inherently associated with two main objectives, which are reflected both in the activities of the interpreter and in the legislation itself. The first one defines the tasks and goals that the interpreter may encounter during the trial. The second one aims at realising the principle of the language of legal proceedings, i.e. to embody the right of the parties to defend their rights and interests, if they cannot speak the language of the judicial process.

In specialized literature there are various opinions concerning *fluency* and *interpreting*. Many scholars make a formally discursive error when they equate them. Language fluency can describe any person who can speak and communicate in a foreign language, can write on it, and accurately express their thoughts in this language. However, there may be certain specifics and nuances of phraseology used by foreign speakers or a particular area of knowledge a person is not aware of.

Language competence is defined as the process of forming ideas and thoughts using language. *Interpretation* and *translation* are procedures of the clear and identical transfer of ideas and thoughts that are reproduced in one language with the help of another. Since oral/written interpreting/translation and *language competence* constitute heterogeneous groups of language functions, when defining the concept of *court interpreter*, it is necessary to emphasize not the fluent and unconstrained mastering of one or another language, but the proper quality of fluent interpreting and/or translation.

It should be noted that translation theory is a separate area of linguistics, with a methodological and theoretical basis of its own. Preparation and training for oral and written skills is a rather complicated and lengthy process. From this point of view, judicial translation seems to be the most time-consuming, because it obliges the interpreter to own a multiple range of specific lexical units, which stem from different areas of public life. A court interpreter often works under emotional stress and constant lack of time. All these indicate that a court interpreter is not just a fluent language speaker, but a selected well-trained specialist prepared to such work. The institute of sworn interpreters in many countries is an excellent example that this is a separate, unique sphere of activities in a dedicated and highly professional job.

Many authors believe that interpreter is an expert in linguistic industry and interpreting and translation (I&T) can only be performed by a specially trained professional. Interpreters working in other public settings may be fluent in a foreign language, however, court interpreting demands knowledge and skills that are relevant to judicial practice.

Thus, definition of an interpreter who speaks the language fluently and whose language knowledge is enough for correct translation, given in Part 1 of Article 59, cannot be the criteria for assessing the competence of the person involved in criminal proceedings as an interpreter.

The main task of judicial interpreter is to pass information to any participant in criminal proceedings in the most accurate and correct way, saving the integral form in which it was first declared, without losing identity, stylistic features and diction. In the light of the above mentioned, it is appropriate to raise the question of an ambiguous concept of *language fluency*. It seems very fragmentary and does not reflect the exhaustive requirements for the profession of a court interpreter.

4 RESEARCH FINDINGS

Russian laws on courtroom interpreting form a vast basis for regulating this sphere and ensure rights and interests of the parties involved. However, there are certain pitfalls that are to be removed.

1 The law establishes the duty of the investigator to ascertain the competence of the interpreter; however, the current legislation does not disclose how this can be done. The investigator does not have sufficient competence to independently assess the level of proficiency in a foreign language, as well as the skills of performing a written or oral translation/interpreting. In this case, the authorities often rely on the education certificates as valid evidentiary prove of the needed professional skills.

2 Another problem is the lack of a single source of information on people who have translation skills in the required language combination and who are willing to provide appropriate services. As a result, the search is performed through personal or professional contacts of law enforcement officers or internet offers. Of course, such source of information cannot be called exhaustive.

3 Criminal procedure theory and practice does not regulate the criteria of competence (incompetence) of the court interpreter; neither it further develops the criteria of the person involved in the process as an interpreter. When comparing the procedural status of interpreter and specialist, one can find a number of similarities and differences, but this does not mean that these participants are interchangeable; their activities in the process can be considered as complementary, and both specialist and interpreter are independent subjects of criminal procedure relations.

4 The legal status of interpreter partially limits the performance of his/her effective procedural duties due to incompleteness of powers provided for by law.

5 There are still practical and legal problems associated with the involvement of an interpreter in criminal proceedings. For example, such important procedural guarantees of an interpreter as security, as well as

rights and legal interests in the sphere of compensation for harm and procedural costs are not implemented (Шевелев 2008).

6 The Criminal Procedure Law establishes two forms of interpreter's participation in criminal proceedings. However, the concepts of translation and interpreting, as procedural acts, are not formalised in Russian legislation.

7 Considering the above criticism, it is natural and reasonable to conclude that there is an urgent need to further develop the legislative principles regulating interpreter's participation in the judicial process (including their procedural status) and the language of legal proceedings. Likewise, it is necessary to fine-tune the regulation and legislative norms governing the practice of engaging interpreter in the criminal process.

ACKNOWLEDGEMENT

The publication has been prepared within the RUDN University 5-100 project.

REFERENCE LIST

Constitution of the Russian Federation. URL: <http://www.constitution.ru/en/10003000-01.htm>

Criminal-Procedural Code of the Russian Federation. URL:
https://www.imolin.org/doc/amlid/Russian_Federation_Criminal_Procedure_Code.pdf

Dino D. Demand in the US for Legal and Healthcare Interpreters Gets Increasing Media Attention. January 17, 2018. URL: <https://slator.com/demand-drivers/demand-in-the-us-for-legal-and-healthcare-interpreters-gets-increasing-media-attention/>

Directive 2010/64/EU of the European Parliament and of the Council of 20 October 2010 on the Right to Interpretation and Translation in Criminal Proceedings. Official Journal of the European Union 26.10.2010. URL: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2010:280:0001:0007:en:PDF>

ECHR Case-Law on the Right to Language Assistance in Criminal Proceedings and the EU Response. URL: file:///C:/Users/User/Downloads/4_BrannanECHRcaselaw_EU_en.pdf

Fair Trials Europe. Roadmap Practitioner Tools: Interpretation and Translation Directive. March 2015. URL: <https://www.fairtrials.org/wp-content/uploads/Language-Rights-Toolkit-FINAL.pdf>

Luccarelli L. AIIC Backs UK Legal Interpreters. December 2, 2015. URL: <https://aiic.net/page/6337/aiic-backs-uk-legal-interpreters/lang/1>

Matthew G. (2014). Court Interpreting in the United States Revisited. URL: <https://aiic.net/page/6595/court-interpreting-in-the-united-states-revisited/lang/>

Portal of Criminal Statistics in the Russian Federation. URL: http://crimestat.ru/offenses_map

The Committee of Ministers of the Council of Europe Recommendation No. R (81) 7 of 14 May 1981 On Measures Facilitating Access to Justice. URL: <https://rm.coe.int/168050e7e4>

The European Convention for the Protection of Human Rights and Fundamental Freedoms 1950. URL: <https://www.eurofound.europa.eu/observatories/eurwork/industrial-relations-dictionary/european-convention-for-the-protection-of-human-rights-and-fundamental-freedoms>

European Court of Human Rights. Case of Cuscani v. the United Kingdom. Judgment. Strasbourg. September 24, 2002. URL: <https://hudoc.echr.coe.int/eng#%7B%22itemid%22:%5B%22001-60643%22%5D%7D>

The European Convention on Human Rights as amended by Protocols Nos. 11 and 14, supplemented by Protocols Nos. 1, 4, 6, 7, 12, 13 and 16. URL: https://www.echr.coe.int/Documents/Convention_ENG.pdf

The International Covenant on Civil and Political Rights 1966. URL: <https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>

Аскерова Ф.Ф. (2015). Отдельные вопросы участия переводчика в уголовном процессе по УПК Российской Федерации и УПК Азербайджанской Республики (сравнительная характеристика).

Вестник Удмуртского университета. Серия «Экономика и право». №3.

Бунова И.И. (2011). Возникновение и развитие института переводчика в уголовном судопроизводстве России. Криминологический журнал Байкальского государственного университета экономики и права. № 4.

Бунова И.И. (2013). Участие переводчика в уголовном судопроизводстве: дис. канд. юрид. наук. Москва.

Вилкова Т.Ю. (2014). Принцип языка уголовного судопроизводства: содержание и гарантии. Журнал российского права. №10.

Имамудинова Г.Я. (2011). Актуальные вопросы участия переводчика в уголовном процессе России: дис. кандидата юридических наук. Челябинск.

Темкина В. Л., Антонова А. В., Волосова Н. Ю., Волосова М.В. (2012). Участие переводчика в уголовном судопроизводстве: лингвистические, правовые и организационные вопросы. Пробелы в российском законодательстве. №2.

Швец С.В. (2014). Содержание понятия «Переводчик» в российском уголовном судопроизводстве. Теория и практика общественного развития. №7.

Шевелёв И.А. (2008). Язык судопроизводства и участие переводчика в уголовном процессе России: дисс.канд. юрид. наук. Санкт-Петербург.