INTERPRETER PARTICIPATION IN TRUTH-FINDING PROCESSES IN COURT: PROBLEMS AND SOLUTIONS

Suyunboyev Ilxom Oybek o‘g‘li
Toshkent davlat yuridik universiteti mustaqil izlanuvchisi
ORCID ID: 0009-0002-3084-264X
Telefon: +998993457612
E-mail: suyunboyevilhom994@gmail.com

Tolibjonov Hayotjon Murodovich
Toshkent davlat yuridik universiteti tyutori
Telefon: +9989901554740
E-mail: hayotjontolibjonov@gmail.com
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Annotation

The participation of interpreters in civil and economic court proceedings is a crucial factor in ensuring the full protection of the rights and interests of the parties involved. However, in practice, issues such as the insufficient involvement of interpreters and the engagement of court clerks or other court staff as interpreters are observed. This article analyzes the role of interpreters in civil and economic court proceedings, identifies existing challenges, examines international experience, and proposes potential solutions.

Introduction

From a historical perspective, considering Uzbekistan's geographical location in Central Asia, it is well known that a significant number of representatives of other nationalities have migrated to our country from neighboring states. According to statistical data, as cited in *Gazeta.uz*, despite the fact that Uzbeks constitute approximately 80% of the population, the remaining portion consists of 4.5% Tajiks, 2.5% Kazakhs, 2% Karakalpaks, 1% Kyrgyz, Turkmens, and other ethnic groups. Additionally, 10% of the population comprises ethnic Russians and Slavs[1].

It is therefore important to emphasize that Uzbekistan is not only an independent and peaceful country but also one that is hospitable and tolerant. More than 132 different ethnic groups reside across the territory of Uzbekistan. In order to ensure equal rights and opportunities for all, Article 8 of the Constitution, adopted in the very year of independence, states: *"The people of Uzbekistan shall consist of the citizens of the Republic of Uzbekistan, regardless of their nationality."*

Furthermore, every individual, regardless of nationality, is granted equal opportunities to participate in judicial proceedings in their native language. Article 139 of the Constitution of the Republic of Uzbekistan provides that: *"Judicial proceedings in the Republic of Uzbekistan shall be conducted in the Uzbek language, the Karakalpak language, or in the language spoken by the majority of the population in a given area, or in another language in accordance with the law. Individuals who do not understand the language of the proceedings shall have the right to be fully acquainted with case materials through an interpreter and to participate in the court proceedings, as well as to express themselves in their native language."*

[1] https://www.gazeta.uz/oz/2021/08/19/population/

Main body

Currently, there are several issues in judicial practice, including:

First, the absence of clear requirements for interpreters.

Article 63 of the Civil Procedure Code of the Republic of Uzbekistan defines an interpreter as *"a person appointed by the court who possesses the necessary language skills for translation."* However, the legislation does not specify the interpreter's professional qualifications, level of legal knowledge, or any special requirements for participation in court proceedings.

One of the most significant issues is the lack of a legal definition of the term *"sufficient knowledge of the case."* As a result, in judicial proceedings, any person with knowledge of the language may be engaged, and in many cases, court proceedings take place without the participation of an interpreter at all.

This issue is particularly crucial in Uzbekistan, a country with a diverse population. According to Article 11 of the Civil Procedure Code of the Republic of Uzbekistan, *"Civil court proceedings in the Republic of Uzbekistan shall be conducted in Uzbek, Karakalpak, or the language spoken by the majority of the population in a particular area. Persons who do not understand the language of the proceedings shall have the right to fully familiarize themselves with case materials in their native language, speak, testify, and provide explanations in their native or another language they know, submit petitions and motions, and use the services of an interpreter in accordance with the procedure established by this Code."*

However, it is evident that legal proceedings involve the use of specialized legal terminology. How can an individual without legal training or knowledge of legal concepts serve as an interpreter in court?

This issue has been effectively addressed in the legislation of developed foreign countries. For instance, in European Union member states, minimum qualification requirements for interpreters in judicial proceedings are established, and these requirements must comply with EU standards. Furthermore, Article 6 of the *European Convention on Human Rights* stipulates, *"any person who does not understand the language of the proceedings is entitled to free interpreter services."*[2]

For reference, under the legislation of the Republic of Uzbekistan, interpreter services are included in court expenses and are recovered from the parties upon the conclusion of the case[3].

Interpreter Qualification Requirements in European Union Member States

Although the requirements for interpreters vary depending on the specific characteristics of each European Union (EU) member state, they must not fall below the minimum standards established by the EU. Therefore, professional, qualification, and oversight requirements have been introduced for court interpreters.

Regarding **qualification requirements**, an interpreter must:

- Hold a higher education degree in Translation Studies, Philology, or Law, or complete a specialized course in Court Interpretation (minimum 120 hours).
- Undergo specialized training in legal terminology.
- Have a proficient command of their native language.
- Be fluent in the language of interpretation used in court proceedings (at a **C1 level**).

[2] https://fra.europa.eu/en/law-reference/european-convention-human-rights-article-6

[3] https://lex.uz/docs/-3517337

- Possess a comprehensive understanding of legal terminology in both their native language and the language of interpretation[4].

These requirements are essential to ensure the protection of the rights of participants in judicial proceedings and to contribute to the fair administration of justice[5].

Additionally, an interpreter must have at least three years of experience in interpretation and a minimum of one year of experience in court interpreting[6]. These criteria serve to uphold the principles of fair trial, safeguard the rights and obligations of parties who do not understand the language of the proceedings, and enhance the effectiveness of judicial participation.

Second, the lack of a certification system and a registry for certified interpreters:

In the Republic of Uzbekistan, there is no established certification system for court interpreters. As previously analyzed, Article 63 of the Civil Procedure Code and Article 59 of the Economic Procedure Code of the Republic of Uzbekistan define an interpreter as "a person who possesses the necessary language skills for translation." However, these legal provisions do not set specific requirements for interpreters, nor do they regulate the issuance of interpreter certifications.

In contrast, in foreign jurisdictions, including the United States, interpreters who wish to participate in federal courts must pass federal examinations[7]. These examinations consist of both written and oral components, and individuals who pass them are granted an interpreter certificate, which is maintained in a government registry[8].

Additionally, several European Union (EU) member states have implemented certification systems for court interpreters. For example:

In Germany, court interpreters are required to obtain a state-issued certificate and undergo recertification every five years[9].

In France, there is a special registry for court interpreters who hold the status of court experts.

In the Netherlands, a national registry for interpreters has been established, incorporating modern oversight mechanisms, including online monitoring[10].

Thirdly, failure to involve professional interpreters in Court Proceedings

Due to legislative gaps, the absence of mandatory interpreter involvement in court proceedings is a common issue in judicial practice. In many cases, parties to a trial or even court clerks assume the role of interpreters, despite their lack of professional qualifications. Practicing lawyers and legal professionals are well aware that, in numerous instances, court clerks perform interpretation duties during hearings.

The Civil Procedure Code of Uzbekistan explicitly states that an individual performing a specific function within a court proceeding cannot act as an interpreter. Violating this provision may result in the annulment of a court decision. However, such practices persist in judicial proceedings, often leading to misinterpretations of court rulings, an increase in the number of appeals, and challenges to judicial decisions.

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[4]https://eur-lex.europa.eu/eli/dir/2010/64/oj/eng

[5]https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52016IP0442

[6]https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52016IP0442

[7]https://www.uscourts.gov/court-programs/federal-court-interpreters/federal-court-interpreter-certification-examination

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[9]https://www.justiz-dolmetscher.de/Recherche/en/Zulassungsvoraussetzungen#:~:text=The%20German%20Court%20Interpreters'%20Act,term%20of%205%20years%20each.

[10]https://www.transferendi.nl/branches/juridisch-vertaalbureau?gad_source=1&gclid=EAIaIQobChMIxYeezLi4iwMVbIKDBx1_sSuVEAAYASAAEgKXefD_BwE

On an international scale, the presence of professional interpreters in court proceedings is of paramount importance. The necessity of this principle is evidenced by U.S. case law, such as United States v. Chen (2019), where the failure to provide a professional interpreter resulted in the annulment of a court decision[11].

Recommendations for Strengthening the Role of Court Interpreters in Uzbekistan.

As demonstrated by the above analysis, establishing clear and stringent requirements for interpreters in Uzbekistan would enhance the fairness of judicial decisions and reduce the number of appeals. To address the current shortcomings, the following measures are recommended:

- ***Establish clear qualification requirements for Court Interpreters.*** Uzbekistan should implement strict, well-defined requirements for court interpreters, similar to those in European countries and the United States. These requirements should be used as the basis for selecting interpreters for court proceedings.

- ***Introduce a National Registry for Certified Court Interpreters***. A centralized interpreter registry should be established to ensure the availability of qualified professionals and monitor interpreter competence.

- ***Implement specialized training programs for Court Interpreters.*** Fundamental legal knowledge is essential for accurate court interpretation._Therefore, it is advisable to introduce specialized training courses for court interpreters to improve their expertise in legal terminology and courtroom procedures.

The role of interpreters in modern judicial systems is becoming increasingly significant. Globalization, international cooperation, and migration trends are leading to a growing demand for interpreters in court proceedings.

In recent years, Uzbekistan has witnessed a rise in foreign investments and an expansion of international trade and economic relations. As a result, there has been a notable increase in the participation of foreign nationals and legal entities in Uzbek courts. This trend highlights the urgent need to ensure the presence of qualified interpreters in judicial proceedings.

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