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Scientific article

The language of civil proceedings and interpretation as procedural guarantees for foreign persons

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Abstract. The article examines pressing issues related to safeguarding the linguistic rights of foreign persons in civil proceedings of the Republic of Kazakhstan. The purpose of the study is to conceptualize the language of judicial proceedings and the institution of interpretation as fundamental structural guarantees of the right to judicial protection in the context of the internationalization of private-law disputes. The object of the research comprises civil procedural relations involving foreign persons, while the subject encompasses the legal mechanisms for the implementation of the principle of the language of proceedings and the provision of high-quality interpretation.

The study has yielded the following significant findings: it is substantiated that the language of judicial proceedings constitutes an autonomous element of procedural form, ensuring legal certainty and equality of the parties. It is revealed that the existing regional asymmetry in the use of the state and official languages in Kazakhstan, along with regulatory lacunae in Article 14 of the Civil Procedure Code of the Republic of Kazakhstan concerning criteria for the quality of interpretation, generates risks of a formalistic approach to the realization of the rights of foreign nationals. The authors argue that inadequate interpretation should be classified as a substantial procedural violation distorting the adversarial balance and the principle of “equality of arms.”

The theoretical significance lies in shifting from the perception of interpretation as a technical service to its understanding as a legally significant procedural act directly affecting the lawfulness of judicial decisions. The practical value of the study consists of proposing measures aimed at the professionalization of court interpretation, including the establishment of national registers of certified specialists and the development of standards for assessing the quality of linguistic assistance in the context of the digitalization of justice.

Keywords: language of judicial proceedings, court interpretation, foreign persons, procedural guarantee, access to justice, equality of the parties, civil procedure of the Republic of Kazakhstan.

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Introduction

In the context of the intensification of cross-border civil law relations, national legal systems are increasingly confronted with the adjudication of private-law disputes complicated by a foreign element, the presence of which predetermines not only heightened procedural complexity but also the emergence of linguistic barriers that directly affect the effectiveness of the realization of procedural rights and obligations [1]. The globalization of economic processes, labour mobility, the expansion of international investment flows, as well as the development of transnational family and inheritance relations, objectively contribute to the quantitative and qualitative growth of disputes involving foreign natural and legal persons [2]. Given the growing involvement of foreign persons in domestic jurisdictions, the proceduralization of linguistic accessibility acquires the character of an institutional necessity, since insufficient safeguarding of communication within proceedings undermines the effective exercise of the right to judicial protection and impedes compliance with fair trial standards [3].

The participation of foreign persons in civil circulation inevitably entails their inclusion in national judicial proceedings, where disputes arising from contractual, family, and inheritance relations are examined within the framework of the competent jurisdiction, taking into account the linguistic diversity of participants and the statutory obligation to provide language assistance as established in civil procedural legislation [4]. In this context, multilingualism does not constitute a merely factual circumstance of the case; rather, it forms the backbone of procedural fairness, as it determines the degree of actual access to justice and the effectiveness of adversarial participation. The institutionalization of interpretation mechanisms thereby constitutes a systemic safeguard designed to prevent de facto inequality between the parties and to ensure the substantive implementation of the principle of equality of arms.

Linguistic heterogeneity directly affects the perception, comprehension, and evaluation of procedural actions and judicial acts by participants in the proceedings, and the quality of interpretation is increasingly conceptualized as an element of due process and a structural component of procedural guarantees [5]. Particular attention is paid to the correlation between linguistic accessibility and the safeguarding of adversarial equality: deficient interpretation generates risks of distortion of legal positions, restriction of effective participation, and impairment of judicial discretion exercised on the basis of incomplete communicative interaction. In this regard, the procedural form requires a balanced regulatory approach oriented toward the consolidation of guarantees ensuring the use of a language comprehensible to the participant, the provision of qualified interpretation, and the standard-setting of quality criteria for linguistic assistance. Such regulation corresponds to international fair trial standards and aims at the full realization of the right to judicial protection in civil cases involving foreign persons.

The development of civil proceedings in the Republic of Kazakhstan is implemented within the constitutional paradigm of strengthening access to justice and safeguarding fundamental rights and freedoms [6]. Articles 13 and 14 of the Constitution of the Republic of Kazakhstan enshrine the universal right to judicial protection and the principle of equality before the law and the court, thereby establishing a normative foundation for the extension of procedural guarantees to all persons subject to the jurisdiction of the state, including foreign citizens and stateless persons. In this constitutional architecture, linguistic rights are to be interpreted not as auxiliary elements of procedure, but as integral components of the enforcement of equality and non-discrimination.

Constitutional guarantees are further specified through civil procedural legislation aimed at the institutionalization of the principles of equality of arms and adversarial proceedings [7]. Pursuant to Art. 15 of the Civil Procedure Code of the Republic of Kazakhstan (CPC RK), equal procedural opportunities are accorded to the parties, while the court is entrusted with the obligation to create conditions for their effective realization. In doctrinal terms, such provisions reflect the implementation of procedural guarantees through judicial discretion exercised within the limits of due process and oriented toward safeguarding linguistic accessibility as a precondition for genuine participation.

The increasing participation of foreign natural and legal persons in civil circulation is functionally connected with the integration of the national economy into international processes, the expansion of investment activity, labour migration, and cross-border property and family relations (targeted until 2026) [8]. Their procedural status is determined by Art. 18 of the Law of the Republic of Kazakhstan “On the Legal Status of Foreigners in the Republic of Kazakhstan,” which establishes that foreigners enjoy in court the same rights as citizens of the Republic of Kazakhstan, unless otherwise provided by international treaties [9]. This normative construction reflects the institutionalization of non-discrimination and underscores that linguistic accessibility and interpretation are not ancillary technical measures, but constitute structural guarantees of equality, access to justice, and the realization of fair trial standards in cross-border litigation.

In strategic policy documents concerning the development and modernization of the judicial system, priority is accorded to the enhancement of the quality of justice, the strengthening of the rule of law, and the consolidation of public trust in courts, which presupposes the institutionalization of conditions ensuring the genuine realization of procedural rights and the safeguarding of fair trial standards. In this context, Art. 19 of the Constitution of the Republic of Kazakhstan, guaranteeing the right to use one’s native language and to freely choose the language of communication, acquires particular doctrinal significance, since it constitutes a constitutional foundation for the proceduralization of linguistic rights in civil proceedings, including in cases involving foreign persons.

The linguistic dimension of civil proceedings in the Republic of Kazakhstan demonstrates a pronounced regional differentiation that directly affects the implementation and enforcement of constitutional guarantees concerning the use of the state language. Despite the formal constitutional status of Kazakh, judicial documentation at the national level remains predominantly Russian, particularly within metropolitan jurisdictions, including courts in Astana, Almaty, and Shymkent. In contrast, in regions such as Kyzylorda and Mangystau, a substantial proportion of cases is conducted and documented directly in Kazakh [10].

This regional divergence indicates that the proceduralization of the language of proceedings is determined not exclusively by the normative framework of Art. 14 of the CPC RK, but also by the sociolinguistic composition of the population and by entrenched administrative practice operating at the institutional level. In major urban centers, documentation is frequently drafted in Russian and subsequently translated into Kazakh, a practice that generates terminological inconsistency, affects legal precision, and complicates the safeguarding of linguistic rights within the framework of due process [10]. It is emphasized that the absence of uniform state-wide statistical consistency further impedes the objective assessment of linguistic equality across jurisdictions and undermines standard-setting in the sphere of judicial documentation.

Digitalization, despite its potential to enhance linguistic accessibility and institutional coherence, has not eliminated these disparities. Although platforms such as e-Sot and Sot

kabineti provide formal bilingual functionality, inconsistencies in templates, automated notifications, and interface standardization may, in practice, reinforce the predominance of the Russian language [10]. In this context, digital implementation operates at a formative stage and requires a balanced regulatory approach aimed at ensuring uniformity of procedural communication and the institutionalization of linguistic accessibility as a systemic safeguard.

Accordingly, the distribution of language use in civil proceedings reflects a hybrid model of constitutional bilingualism combined with de facto regional asymmetry. Given the growing involvement of foreign persons and the expansion of cross-border litigation, such asymmetry acquires additional significance within the framework of fair trial standards and equality of arms. The analysis demonstrates that linguistic accessibility must be evaluated not solely through the prism of normative guarantees, but through measurable regional practice, which constitutes an empirical indicator of the realization and enforcement of procedural equality before the law and the court.

Given the growing involvement of foreign persons in civil litigation, the conduct of proceedings is characterized by increased regulatory complexity, affecting the language of the trial, the comprehension of procedural norms, the observance of procedural time limits, and the implementation of evidentiary rights (see also Art. 14 of the CPC RK on the language of proceedings). Participation within a different linguistic and legal environment objectively intensifies the risks of incomplete understanding of procedural acts and of the legal consequences of judicial decisions, thereby influencing the effectiveness of judicial protection guaranteed by Art. 13 of the Constitution of the Republic of Kazakhstan. It is argued that, under such circumstances, linguistic accessibility forms the backbone of procedural fairness and constitutes a systemic safeguard against de facto inequality.

Under these conditions, the language of proceedings acquires the status of an institutional element within the mechanism of civil procedural regulation. Art. 14 of the CPC RK, establishing the language of the trial and providing for the right of persons who do not speak it to use their native or another language with the free provision of interpretation, is directed at the elimination of factual inequality between the parties and reflects the constitutional standard enshrined in Art. 19 of the Constitution of the Republic of Kazakhstan. In this regard, the regulation of language is not limited to formal designation; rather, it ensures the implementation and enforcement of linguistic rights through procedural guarantees embedded in the structure of due process.

The procedural significance of language is inseparably linked with the principles of equality and adversarial proceedings (Art. 14 of the Constitution of the Republic of Kazakhstan; Art. 15 of the CPC RK). Particular attention is paid to the fact that the absence of adequate linguistic support effectively deprives a foreign person of the capacity to participate fully in the examination of evidence, to submit motions, and to challenge the arguments of the opposing party, thereby disrupting the balance of procedural opportunities and undermining equality of arms. This doctrinal position corresponds to international fair trial standards articulated in Art. 14 of the International Covenant on Civil and Political Rights [11], where the safeguarding of procedural rights is interpreted as an essential component of access to justice.

Interpretation should be regarded as a mandatory structural guarantee for the realization of procedural rights and the informed exercise of party autonomy. The powers conferred upon the parties under Articles 47 and 48 of the CPC RK (amendment of the claim, withdrawal thereof, acknowledgment of claims, conclusion of a settlement agreement) presuppose awareness, voluntariness, and legal certainty in procedural decision-making. It is emphasized that, in the

absence of high-quality interpretation, the exercise of such rights risks being reduced to formal compliance devoid of substantive realization. The right to free assistance of an interpreter has likewise been confirmed in the jurisprudence of the European Court of Human Rights in its interpretation of Art. 6 of the Convention for the Protection of Human Rights and Fundamental Freedoms, where linguistic accessibility is treated as an inherent element of due process guarantees.

Insufficient linguistic support generates the risk of external conformity with procedural requirements while simultaneously restricting the effective exercise of rights by foreign persons. However, formal adherence to statutory provisions does not ensure the attainment of fair trial objectives, particularly in light of procedural time limits (Chapter 9 of the CPC RK), which require timely and informed procedural participation. The language of proceedings determines the structural conditions of participation, as communication between the court and the parties, the examination of evidence, and the pronouncement of judicial acts are mediated through it (Art. 14 of the CPC RK).

Effective judicial protection is achievable only where participation is conscious and based on a comprehensive understanding of the content and consequences of procedural actions. The absence of linguistic accessibility precludes full comprehension of arguments advanced by the parties and of the reasoning contained in judicial acts. In this context, the procedural mechanisms for filing motions, presenting objections, and appealing judicial decisions (Section 5 of the CPC RK) acquire practical and enforceable significance exclusively where interpretation is duly ensured and institutionalized as an integral component of the procedural framework.

The language of civil proceedings is to be conceptualized not merely as a communicative instrument, but as a structural element of proceduralization which ensures the normative-institutional linkage between the constitutional enshrinement of the right to judicial protection and its effective realization within the adjudicative framework. In this context, the regulation of the language of proceedings constitutes a systemic safeguard forming the backbone of procedural fairness, as it directly conditions linguistic accessibility, evidentiary participation, and the implementation of fair trial standards. Given the growing involvement of foreign persons in cross-border litigation, the linguistic dimension acquires heightened significance as a determinant of equality of arms and adversarial balance.

Interpretation in civil proceedings constitutes a legally significant procedural act embedded in the architecture of due process (Articles 14, 15 of the CPC RK; Art. 19 of the Constitution of the Republic of Kazakhstan). It is emphasized that deficiencies in interpretation are capable of distorting factual narratives, procedural explanations, and the semantic content of evidence, thereby undermining the equilibrium of procedural opportunities and contradicting the requirements of Art. 14 of the ICCPR. The jurisprudence of international judicial bodies further demonstrates that the absence of adequate linguistic support calls into question the fairness of proceedings and the effectiveness of judicial protection (Art. 6 of the European Convention). In contrast to a purely formal recognition of the right to interpretation, international standards presuppose qualitative sufficiency, professional qualification, and functional completeness as integral components of procedural guarantees.

At the same time, domestic legislative regulation remains at a formative stage in terms of standard-setting. Although Art. 14 of the CPC RK institutionalizes the right to an interpreter, it does not provide detailed criteria concerning the quality, completeness, and professional adequacy of interpretation. Such regulatory lacunae increase the risks of formalization and

symbolic compliance, thereby weakening enforcement and safeguarding mechanisms. Academic discourse consistently underscores that the institutionalization of court interpretation standards constitutes a prerequisite for genuine access to justice and for the effective realization of linguistic rights within civil adjudication.

Despite the normative consolidation of the language of proceedings and the institutional establishment of the interpreter, their doctrinal treatment as autonomous procedural guarantees remains insufficiently elaborated. In studies addressing disputes involving a foreign element, analytical priority is predominantly assigned to issues of jurisdiction, applicable law, recognition, and enforcement of decisions (see, e.g., the 2019 Hague Convention). Nevertheless, the linguistic dimension, although structurally embedded in the procedural framework, is examined only fragmentarily. International research on access to justice, however, identifies language barriers as an independent factor of procedural inequality, capable of generating systemic asymmetries in participation and representation.

The absence of an integrated regulatory and doctrinal approach to the assessment of the language of proceedings and interpretation as guarantees of the rights of foreign persons necessitates their comprehensive academic conceptualization. The analysis demonstrates that linguistic guarantees require a balanced regulatory approach combining normative precision, institutional accountability, and effective enforcement mechanisms. Particular attention is paid to the identification of risks associated with inadequate interpretation, the evaluation of existing regulatory models, and the formulation of proposals aimed at strengthening procedural safeguards in civil proceedings involving foreign persons. It may be concluded that the procedural institutionalization of linguistic accessibility constitutes not an auxiliary element of adjudication, but a foundational guarantee ensuring the realization of equality of arms and access to justice in conditions of transnational mobility.

Research methods

The study is based on a comprehensive methodological approach combining theoretical-legal analysis and empirical examination of law enforcement practice to assess the language of judicial proceedings and the institution of interpretation as structural guarantees of the rights of foreign persons in civil procedure. The research draws upon the Constitution of the Republic of Kazakhstan, the Civil Procedure Code of the Republic of Kazakhstan, the Law “On the Legal Status of Foreigners,” relevant international instruments (ICCPR, ECHR, and the Convention on the Recognition and Enforcement of Foreign Judgments), regional judicial practice, digital court systems (“e-Sot” and “Judicial Cabinet”), and strategic policy documents. The methods employed include formal-legal, comparative-legal, judicial practice analysis, and sociolinguistic analysis. The novelty lies in the institutional reconceptualization of interpretation as an autonomous element of procedural form and in the assessment of the impact of the digital divide and regional linguistic asymmetry on the effective realization of foreign persons’ right to judicial protection.

Findings/Discussion

In civil procedural law, the language of judicial proceedings constitutes an autonomous structural element of procedural form through which the proceduralization of judicial activity and the institutionalization of legally significant interaction between the court and the parties

are effected. Its function cannot be reduced to the mere transmission of information, since it is through linguistic expression that procedural norms acquire external manifestation and procedural acts obtain their legally binding configuration. In this context, the language of judicial proceedings is to be regarded as a normatively conditioned instrument of organizing procedural interaction, ensuring legal certainty, enforceability, and the safeguarding of the constitutional guarantee of judicial protection enshrined in Art. 13 of the Constitution of the Republic of Kazakhstan.

The procedural form of civil proceedings encompasses the legally established sequence of procedural actions, the modalities of their formalization, and the legal consequences arising therefrom (Section 1 of the CPC RK). The language of judicial proceedings is structurally embedded within this form, as it determines the official mode of articulating the procedural will of the court and the participants in the proceedings (Art. 14 of the CPC RK). The use of a legally designated language ensures the uniformity of procedural documentation, the institutionalization of record-keeping, and the subsequent verification of judicial acts within the framework of appellate and cassation review (Section 5 of the CPC RK). In the absence of such linguistic standardization, the procedural form would be deprived of systemic coherence, and the stability of procedural acts would be undermined.

To disclose the procedural nature of the language of judicial proceedings, it is methodologically necessary to distinguish it from the language of substantive legal relations and from the language of evidence. The language of substantive legal relations characterizes the sphere of private-law interaction preceding judicial recourse and is governed by substantive norms. The language of evidence reflects the form of presentation of factual data and evidentiary sources and may be expressed in any language; however, its examination and evaluation are subject to procedural regulation (chapter on evidence and proof). In contrast, the language of judicial proceedings possesses a normatively *закреплённым статусом* (Art. 14 of the CPC RK) and is applied exclusively for the performance and formalization of procedural actions. Such exclusivity confers upon it independent procedural significance and qualifies it as a systemic safeguard forming the backbone of procedural fairness.

The functional purpose of the language of judicial proceedings is manifested, first and foremost, in the recording and reproducibility of procedural activity. Judicial acts, minutes of court hearings, procedural documents, and other forms of procedural expression are drafted in the language of proceedings (chapter on judicial acts and the minutes of the court hearing), thereby ensuring their official character, legal certainty, and the possibility of verification through judicial control mechanisms. Through linguistic formalization, the stability of procedural legal relations and the enforceability of judicial acts are secured, in accordance with the principle of legality and the binding nature of judicial decisions (Art. 4 of the CPC RK).

At the same time, the language of judicial proceedings performs the function of implementing and safeguarding the procedural rights and obligations of participants in civil litigation. Through linguistic expression, motions are submitted, objections articulated, explanations provided, participation in the examination of evidence ensured, and judicial acts challenged (Articles 47 and 48 of the CPC RK). The realization of these procedural guarantees presupposes not only formal access to the courtroom but also conscious comprehension of the procedural content, which correlates with the constitutional right to use one's native language and to freely choose the language of communication (Art. 19 of the Constitution of the Republic of Kazakhstan). In this context, the language of judicial proceedings constitutes the legal space within which

equality of arms and access to justice are operationalized as elements of due process and fair trial standards.

Given the growing involvement of foreign persons in civil litigation and the intensification of cross-border litigation associated with transnational mobility, the normative regulation of the language of proceedings acquires heightened significance. The regulation of the language of civil proceedings involving foreign persons in the Republic of Kazakhstan is based on a combination of constitutional guarantees and specific procedural norms aimed at ensuring genuine linguistic accessibility irrespective of proficiency in the language of the court (Constitution of the Republic of Kazakhstan of 30 August 1995). Particular attention is paid to Art. 14 of the CPC RK, which establishes both the general rules for determining the language of proceedings and special procedural guarantees, including the provision of interpretation, thereby constituting a systemic safeguard for the realization of linguistic rights within the framework of due process. The analysis demonstrates that the institutionalization of the language of judicial proceedings and the proceduralization of interpretation mechanisms require a balanced regulatory approach, ensuring the effective implementation and enforcement of fair trial standards in cases involving foreign persons.

The determination of the language of civil proceedings is effected by the court on the basis of the language in which the statement of claim has been submitted (Art. 14 CPC RK), which confers upon the linguistic regime of the process a formally objective and proceduralized character and contributes to the institutionalization of procedural certainty. In this context, the legislative model reflects the standard-setting orientation of regulation, whereby the initial linguistic framework of adjudication is linked to a verifiable procedural act. However, the legislator simultaneously provides for the possibility of modifying the language of proceedings at the preparatory stage upon a written motion of the parties or at the initiative of the claimant where it is established that the latter does not command the language in which the claim was filed by a representative. Such regulatory construction demonstrates an attempt to reconcile formal proceduralization with the safeguarding of substantive access to justice and to prevent situations in which rigid adherence to procedural formality results in the restriction of the right to judicial protection guaranteed by Art. 13 of the Constitution of the Republic of Kazakhstan.

Particular attention is paid to the normative consolidation of the linguistic rights of persons who do not know or insufficiently know the language of proceedings. The legislator guarantees to such participants the possibility of providing explanations, submitting motions, lodging complaints, examining case-file materials, and addressing the court in their native language or in another language they command (Arts. 14, 47, 48 CPC RK). These provisions are structured as procedural guarantees of a compensatory nature and are oriented toward the elimination of de facto inequality arising from linguistic barriers, which is consistent with the constitutional principle of equality before the law and the courts (Art. 14 of the Constitution of the RK). It is emphasized that linguistic accessibility in this configuration constitutes a systemic safeguard and forms the backbone of procedural fairness, as it ensures the effective realization of due process and fair trial standards.

An essential component of the regulatory framework is the establishment of the gratuitous character of interpretation and translation in civil proceedings. The court is under an obligation to ensure the translation of necessary case materials for persons who do not command the language of proceedings, as well as the translation into the language of proceedings of that part of judicial discourse conducted in another language (Art. 14 CPC RK). Moreover, upon a

written application by a person participating in the case, judicial documents are to be served in translation into a language comprehensible to that person. The imperative nature of these provisions excludes the imposition of translation-related expenses on a foreign participant in the proceedings and thereby reinforces the implementation and enforcement of linguistic guarantees as an integral element of access to justice in light of international fair trial standards (Art. 14 ICCPR). Given the growing involvement of foreign persons in cross-border litigation and transnational mobility, such institutionalization of free interpretation acquires particular significance for the practical realization of equality of arms and access to justice.

At the same time, the analysis of Art. 14 of the CPC RK reveals the existence of a sphere of judicial discretion in matters of linguistic regulation. The court is vested with authority to: 1) assess the substantiation of motions to change the language of proceedings; 2) determine the scope of materials subject to translation; 3) evaluate the necessity of translating particular procedural acts. In the absence of detailed statutory criteria, such discretion may assume heterogeneous practical manifestations, which, in certain instances, generates the risk of a formalistic approach to the implementation of linguistic guarantees and to the enforcement of procedural rights. It is argued that the possession by a foreign person of diplomas, certificates, or other educational documents in the language of the proceedings often bears merely evidentiary or informative value and does not necessarily ensure comprehension of the legal complexities and conceptual density of procedural discourse [12]. From the perspective of appellate and cassation review, compliance with the proceduralization of linguistic guarantees remains subject to verification within the framework of higher-instance control (Section 5 CPC RK), which strengthens their enforceability.

In general, the normative regulation of the language of judicial proceedings involving foreign persons is characterized by a pronounced guarantee-oriented orientation and is aimed at ensuring genuine participation in civil adjudication. Nevertheless, the preservation of a considerable scope of judicial discretion necessitates doctrinal interpretation and systematic analysis of law-enforcement practice from the standpoint of achieving a balanced regulatory approach between procedural economy and the full realization of the procedural rights of foreign persons. The analysis demonstrates that the effectiveness of linguistic regulation depends not only on formal statutory consolidation but also on consistent implementation and institutionalization within judicial practice, which corresponds to the strategic priorities of strengthening the rule of law.

The principles of equality of arms and adversarial proceedings occupy a system-forming position within civil procedural law and determine the model of judicial adjudication oriented toward the active participation and procedural autonomy of the parties [13; 14]. The implementation of these principles presupposes not merely the formal allocation of procedural rights, but their effective realization under conditions of substantive equality, in accordance with the doctrine of “equality of arms” elaborated in the jurisprudence of the European Court of Human Rights. In this context, the language of judicial proceedings functions as an infrastructural component of procedural fairness, since it ensures access to the content of procedural acts, the comprehension of evidentiary material, and awareness of the legal consequences of judicial decisions [3].

A language barrier objectively distorts the balance of procedural opportunities and is capable of transforming formally equal procedural positions into de facto inequality. A person lacking sufficient proficiency in the language of proceedings is constrained in the comprehension of

the arguments of the opposing party, in participation in the examination of evidence, and in the articulation of legal positions, which directly affects the realization of equality of arms. Scholarly discourse underscores that insufficient linguistic support entails a diminution of the quality of judicial protection and a factual restriction of procedural autonomy, thereby undermining the safeguarding function of civil procedure.

The adversarial model of civil proceedings presupposes that the parties independently determine litigation strategy, formulate legal arguments, and present evidence, while the court is obliged to ensure conditions conducive to the exercise of these rights. In contrast to a purely formal understanding of adversariality, contemporary fair trial standards require the establishment of effective opportunities to present one's case under conditions that do not place a party at a substantial disadvantage. In the absence of linguistic accessibility, participation of a foreign person in adversarial proceedings risks becoming nominal, as the degree of procedural activity is directly dependent upon the level of comprehension of the procedural environment.

The role of the court is therefore not limited to the formal clarification of procedural rights; rather, it encompasses the adoption of measures aimed at neutralizing factual inequality generated by linguistic factors. The obligation to create conditions for the realization of procedural rights is enshrined in national legislation (CPC RK, Arts. 14, 15) and correlates with international fair trial standards (International Covenant on Civil and Political Rights, Art. 14). Judicial discretion in matters of language and interpretation must be exercised in a manner directed toward the safeguarding of procedural balance, the prevention of de facto inequality, and the consistent implementation of the State's positive obligations to ensure effective participation in proceedings, as reflected in the legal positions of the ECtHR. The findings underscore that linguistic regulation, when properly proceduralized and enforced, constitutes a systemic safeguard of due process and an indispensable component of equality of arms in contemporary civil justice.

The interrelation between the language of judicial proceedings and the principles of equality of arms and adversariality permits the qualification of linguistic accessibility as a structural component of fair trial standards within civil adjudication. In this context, linguistic regulation constitutes a systemic safeguard forming the backbone of procedural fairness, as the absence of adequate interpretative support transforms the principle of equality into a declarative construct devoid of practical implementation within procedural dynamics. Given the growing involvement of foreign persons in cross-border litigation and conditions of transnational mobility, the language of proceedings must be conceptualized not merely as a communicative medium, but as an institutionalized mechanism of proceduralization ensuring the realization of due process and effective judicial protection.

It is emphasized that the interpreter in civil proceedings acts as an independent participant in procedural legal relations, whose involvement is обусловлено the necessity of safeguarding linguistic rights and guaranteeing meaningful access to justice for persons lacking proficiency in the language of the proceedings. The procedural status of the interpreter cannot be reduced to an auxiliary or technical function, since interpretation enables both the performance and comprehension of procedurally significant acts. Through such participation, the interpreter becomes integrated into the structure of civil procedural regulation and directly influences the realization, implementation, and enforcement of the rights and obligations of the parties.

Particular attention is paid to the doctrinal differentiation between the interpreter and the specialist. A specialist is engaged to assist the court in clarifying factual circumstances requiring

special knowledge and does not participate in ensuring communicative interaction between the court and the parties. In contrast, the interpreter conveys the content of procedural acts and statements without introducing evaluative judgments or substituting the will of the participants. The interpreter's activity is not aimed at evidentiary clarification but at securing the procedural perception of legally significant information, which confers upon interpretation the character of a legally significant procedural act. In this sense, interpretation constitutes an element of procedural guarantees ensuring the institutionalization of linguistic accessibility within civil proceedings.

The significance of the interpreter's participation is manifested in the admissibility, validity, and procedural integrity of acts performed with the involvement of a person who does not understand the language of the proceedings. It is argued that procedural explanations, statements, and motions provided without proper interpretation may amount to a violation of fair trial guarantees under Art. 14 of the International Covenant on Civil and Political Rights. In this respect, the interpreter functions as a structural link between formal procedural regulation and the effective participation of foreign persons in judicial proceedings, thereby ensuring the practical realization of equality of arms.

The quality and completeness of court interpretation constitute key conditions for the safeguarding and realization of procedural rights in civil litigation involving foreign persons. Interpretation must ensure not merely the literal transmission of verbal content, but the adequate reproduction of legal meaning and normative constructions [15]. Completeness implies coverage of the entire body of procedurally significant information, including claims, objections, explanations, judicial clarifications, and procedural rulings.

Accuracy in rendering legal terminology and complex legal constructions acquires particular importance. Incorrect reproduction of normative categories may distort the legal position of a party and affect the formation of judicial discretion. Even minor semantic deviations in the formulation of claims or objections may entail significant procedural consequences, especially at a formative stage of evidentiary presentation and argumentation.

Timeliness constitutes an integral element of proper interpretation. Delayed interpretation deprives a participant of the opportunity to react to procedural actions, to exercise the right to be heard, and to engage in adversarial interaction. In this regard, timeliness is inseparably linked to the principles of equality of arms and adversariality, and its absence undermines the effectiveness of procedural participation.

However, despite the formal establishment of the court's obligation to ensure interpretation, civil procedural legislation does not provide detailed criteria for assessing the quality of interpretation or mechanisms of standard-setting in this sphere. In contrast to the growing international emphasis on professionalization and institutionalization of court interpretation, domestic regulation remains limited to general provisions, while comparative studies indicate the absence of uniform evaluative standards.

The procedural duties of an interpreter encompass accurate, complete, and impartial transmission of information, as well as the maintenance of confidentiality. It is established in international professional standards of court interpretation that distortion, supplementation, or evaluative commentary are incompatible with the functional purpose of interpretation. These duties reflect the requirement of neutrality and contribute to safeguarding procedural fairness.

The right of the parties to challenge an interpreter in the presence of doubts as to competence or impartiality is enshrined in national procedural legislation and constitutes a mechanism of procedural control. The availability of such a challenge ensures responsiveness to defects

in interpretation and corresponds to the international requirement of effective protection of rights within the framework of due process.

Liability for improper interpretation forms an essential element of the guarantee system of a fair civil process. Distorted or incomplete interpretation may result in the infringement of linguistic rights and the denial of effective judicial protection. In conditions of linguistic heterogeneity of participants in civil proceedings, effective safeguarding of the rights of foreign persons requires active judicial oversight, the institutionalization of quality standards, and the implementation of remedial mechanisms aimed at eliminating procedural violations arising from defective interpretation.

The analysis demonstrates that the language of judicial proceedings and the institution of interpretation must be regarded not as peripheral technical instruments, but as integral components of the procedural architecture of civil justice, ensuring the realization of equality of arms, access to justice, and due process within contemporary cross-border litigation.

The quality of judicial interpretation is to be regarded as a constitutive element in the formation and implementation of the procedural position of a foreign person. It is emphasized that the procedural position of a party is determined by the aggregate of articulated claims and objections, the evidentiary framework presented, as well as the structured response to the opponent's arguments and to the court's procedural explanations. Any incompleteness, semantic inaccuracy, or terminological distortion in interpretation disrupts the integrity of this communicative matrix, since it affects the reliability of procedural communication and impedes the informed adoption of procedural decisions. In this context, interpretation constitutes a systemic safeguard embedded in the architecture of proceduralization and enforcement of civil procedural rights.

The interrelation between interpretation and access to justice is manifested through the category of linguistic accessibility, which operates as a necessary precondition for the effective realization of the right to judicial protection and meaningful participation in the adjudication of a case. Given the growing involvement of foreign persons in cross-border litigation and transnational mobility, the institutionalization of linguistic guarantees acquires enhanced regulatory significance. The formal recognition of the right to apply to a court, in the absence of adequate interpretative support, does not secure the practical implementation of that right. A foreign participant deprived of the possibility to comprehend the course of judicial proceedings and the legal consequences of procedural acts is placed in a structurally passive position, which contradicts the very essence of judicial protection as an active mechanism for the restoration of violated rights [16].

The right to effective participation in proceedings presupposes the cognitive and procedural capacity to perceive and evaluate procedural information, to react in a timely manner to judicial actions and adversarial submissions, and to independently determine a defence strategy. Proper interpretation ensures the inclusion of the foreign participant in procedural communication and enables the exercise of procedural rights on equal terms within the framework of equality of arms [17]. In the absence of high-quality interpretation, participation in civil proceedings loses its substantive dimension, while judicial protection acquires merely declarative characteristics, undermining fair trial standards and due process requirements [18].

The absence of interpretation or its improper provision entails significant procedural consequences affecting the legality, substantiation, and enforceability of judicial acts. Procedural actions carried out with the participation of a person who does not command the language

of the proceedings and who has not been provided with adequate interpretation cannot be regarded as fully implementing the right to judicial protection. In such situations, the balance of procedural opportunities is distorted, judicial discretion is exercised within asymmetrical informational conditions, and the fairness of the proceedings is placed in question.

Improper interpretation may lead to violations of fundamental fair trial standards, including equality of arms and adversarial procedure. Distortion of explanations, incomplete reproduction of arguments, or the absence of interpretation of judicial clarifications deprive a foreign person of the possibility of conscious and autonomous participation in the process and of effective safeguarding of legitimate interests [19]. Under such circumstances, the judicial decision is formed on the basis of procedural information perceived in an unequal manner by the parties, which undermines confidence in the outcome of the proceedings and weakens the institutional legitimacy of adjudication [20].

Particular attention is paid to the impact of interpretative deficiencies on compliance with procedural time limits. Failure to understand the content of procedural acts and judicial explanations may result in the omission of deadlines for filing applications, motions, and appeals, thereby imposing additional constraints on procedural rights and narrowing the scope of access to justice. The cumulative effect of these circumstances allows the absence or substantial defects of interpretation to be classified as significant procedural violations capable of constituting grounds for the annulment of judicial acts in appellate or cassation review proceedings [21]. Interpretation, in this regard, forms the backbone of procedural fairness and requires a balanced regulatory approach at both the legislative and law-enforcement levels.

An analysis of judicial practice in cases involving foreign persons reveals the persistence of typical errors in the provision of interpretation. Among the most frequent are: 1) the formal appointment of an interpreter without substantive assessment of competence and quality; 2) the restriction of interpretation to isolated procedural actions; 3) the failure to ensure interpretation of written procedural documents essential for the realization of the right to defence. Such approaches demonstrate an underestimation of the institutional role of interpretation as a structural procedural guarantee and reflect insufficient standard-setting in the sphere of linguistic rights.

When appellate and cassation courts assess arguments concerning violations of procedural rights caused by defects in interpretation, it is generally required that the actual impact of such violations on the party's ability to participate effectively in the proceedings be established. However, divergent approaches are observed. In certain instances, emphasis is placed on formal compliance with procedural requirements; in others, priority is given to substantive consequences for the outcome of the case. The absence of a uniform doctrinal and jurisprudential approach complicates the development of stable standards for evaluating the quality of interpretation in civil proceedings and hinders the consolidation of coherent enforcement practice.

The correlation between formal and substantive violations remains a contested issue within doctrinal discourse. The mere formal presence of an interpreter does not automatically ensure compliance with procedural guarantees if interpretation fails to secure full comprehension of the proceedings by the foreign participant. At the same time, the qualification of interpretative defects as significant procedural violations necessitates the demonstration of their influence on the realization of the right to defence and on the fairness of adjudication. The analysis demonstrates that further doctrinal reflection and normative clarification are required for the institutionalization of unified criteria for assessing the consequences of improper interpretation in civil cases involving foreign persons.

Law-enforcement practice indicates the existence of systemic difficulties in ensuring proper interpretation in civil proceedings. One of the principal challenges lies in the shortage of qualified court interpreters possessing not only linguistic competence but also knowledge of legal terminology, procedural regulation, and the institutional specifics of judicial proceedings. The absence of specialized training and certification mechanisms leads to the engagement of individuals lacking sufficient professional experience in the legal sphere, which increases the risk of semantic, terminological, and conceptual distortions. These deficiencies at a formative stage of procedural communication jeopardize the safeguarding and effective realization of linguistic rights and call for enhanced standard-setting, institutionalization, and regulatory supervision in this domain.

A systemic deficiency of the existing regulatory framework consists in the absence of unified and normatively articulated quality standards governing court interpretation. While the obligation to provide interpretation is formally established, the regulatory design does not specify criteria of completeness, accuracy, terminological consistency, and contextual adequacy, which are indispensable for the effective proceduralization of linguistic assistance. In this context, interpretation cannot be reduced to a formal procedural attribute; rather, it constitutes a systemic safeguard forming the backbone of procedural fairness and due process. International supervisory bodies consistently emphasize the requirement of “effective participation” and the substantive accessibility of proceedings for persons lacking proficiency in the language of the court. A similar doctrinal position is reflected in the jurisprudence of the European Court of Human Rights, where the quality of interpretation is assessed through the prism of the real and practical possibility of meaningful participation in the proceedings. The absence of clearly defined evaluative benchmarks generates heterogeneity in law enforcement practice and undermines the institutionalization of fair trial standards in cross-border litigation.

Financial and organizational constraints exert a direct influence on the implementation and enforcement of linguistic rights. Although the principle of free assistance of an interpreter for persons who do not understand the language of the proceedings is закрепed in Art. 14 of the ICCPR, the safeguarding of this guarantee presupposes stable budgetary allocations, transparent remuneration mechanisms, and coherent administrative coordination. It is emphasized in studies conducted by the Council of Europe that insufficient funding correlates with a deterioration in interpretation quality and, consequently, with a reduced level of access to justice. Given the growing involvement of foreign persons in domestic judicial proceedings and the intensification of transnational mobility, the effective institutionalization of interpretation services requires a balanced regulatory approach integrating financial sustainability with procedural guarantees.

Particular attention is paid to the digital divide and its impact on the realization of procedural rights. The ongoing digitalization of justice systems and the expansion of e-justice platforms are accompanied by risks of structural exclusion of vulnerable groups from full participation in proceedings. CEPEJ reports underscore that digital transformation must be accompanied by the preservation and reinforcement of procedural safeguards, as well as by the prevention of discrimination on linguistic or technological grounds. However, in contrast to the declared objectives of enhancing efficiency and accessibility, insufficient consideration of technological disparities may generate new asymmetries in equality of arms and undermine the principle of effective access to justice.

The improvement of regulation concerning the language of proceedings and interpretation presupposes the specification and standard-setting of quality requirements, including

professional competence, ethical standards, and mechanisms of quality assessment. Academic literature substantiates the necessity of developing institutionalized procedures for certification, monitoring, and evaluation of court interpretation services [22]. In this regard, the activities of the International Association of Court Interpreters contribute to the formation of professional standards aimed at safeguarding the fairness of proceedings through the enhancement of linguistic accessibility.

An important direction of regulatory development lies in the establishment of national registries and certification mechanisms for court interpreters, ensuring transparency, accountability, and judicial discretion grounded in objective qualification criteria. Comparable models have been implemented in a number of EU Member States within the framework of interpretation quality standard implementation [23], where the requirement is закрепен to ensure a level of quality “sufficient to safeguard the fairness of the proceedings.” Such mechanisms facilitate the institutionalization of interpretation as an integral component of due process rather than as an ancillary procedural service.

The expansion of remote interpretation and digital technologies broadens the possibilities for engaging qualified specialists, including those competent in rare language combinations, thereby enhancing the capacity of judicial systems to respond to transnational mobility. Nevertheless, international recommendations emphasize the necessity of ensuring confidentiality, stable connectivity, data protection, and technical reliability when videoconferencing technologies are employed. At a formative stage of technological integration, the proceduralization of digital interpretation requires the articulation of additional safeguards preventing the erosion of fair trial standards.

The analysis demonstrates that the prospects for digitalization of court interpretation are inseparable from the strengthening of institutional mechanisms aimed at safeguarding equality of arms, due process, and effective participation. It may be concluded that language regulation and interpretation, when conceptualized as structural procedural guarantees, require comprehensive standard-setting, sustainable financing, and technologically balanced implementation in order to constitute a coherent and effective element of the procedural mechanism of justice.

Conclusion

The conducted research confirms that, within the framework of intensified cross-border litigation and expanding transnational mobility, the language of judicial proceedings should be doctrinally conceptualized not as a merely technical communicative medium but as an integral element of the procedural mechanism of safeguarding rights. In this context, interpretation is to be regarded as a structural procedural guarantee ensuring the realization and enforcement of equality of arms and access to justice in accordance with fair trial standards and due process requirements. Linguistic accessibility, therefore, constitutes a systemic safeguard and forms the backbone of procedural fairness within the architecture of civil adjudication.

The analysis demonstrates that the language of judicial proceedings performs a constitutive function in the proceduralization and regulation of civil justice, ensuring legal certainty, predictability of adjudicative outcomes, and stability of judicial acts. Its institutionalization contributes to the standard-setting of procedural communication, the coherence of evidentiary

formation, and the delimitation of judicial discretion. In this regard, linguistic regulation operates as an instrument of implementation and enforcement of procedural guarantees embedded in the civil procedural order.

Given the growing involvement of foreign persons in domestic civil proceedings, particular attention is paid to the regional asymmetry of language use within the Republic of Kazakhstan. The coexistence of predominant Russian-language documentation in major metropolitan jurisdictions and the dominance of the Kazakh language in a number of regions generates risks of terminological inconsistency, uneven enforcement practices, and fragmentation of interpretative approaches. Such asymmetry may adversely affect the realization of linguistic rights and complicate the implementation of constitutional guarantees in cross-border litigation.

It is emphasized that Article 14 of the Civil Procedure Code of the Republic of Kazakhstan, while formally enshrining the right to an interpreter, retains a significant sphere of judicial discretion and reveals regulatory lacunae concerning quality criteria, professional adequacy, completeness of interpretation, and mechanisms of procedural accountability. However, the absence of detailed normative standard-setting in this sphere may lead to formalistic enforcement and insufficient safeguarding of due process. At the same time, the preservation of broad discretionary powers without structured regulatory guidance increases the probability of inconsistent application and undermines the uniformity of procedural guarantees.

Improper interpretation should be qualified as a substantial procedural violation affecting the integrity of evidentiary formation, the procedural positioning of the parties, and the effective realization of equality of arms. In contrast to its traditional perception as a technical deficiency, inadequate interpretation constitutes a distortion of the procedural framework and may compromise the legality and reasonableness of judicial decisions, thereby restricting access to justice.

The findings underscore the doctrinal transformation from perceiving interpretation as a subsidiary service to recognizing it as a legally significant procedural act directly influencing the implementation of adversarial principles and the enforcement of fair trial standards. Such reconceptualization reflects the institutionalization of linguistic rights within civil procedure and reinforces the understanding that linguistic accessibility requires a balanced regulatory approach grounded in coherent standard-setting and effective enforcement mechanisms.

Further development of this sphere should be oriented toward:

1) normative standardization and professionalization, including the elaboration of binding criteria for quality assessment, codification of ethical obligations, and institutionalization of certification and accountability mechanisms;

2) institutional consolidation through the establishment of national registries of certified court interpreters possessing both linguistic and legal competence, accompanied by structured systems of training and continuing professional development;

3) technological modernization, involving the calibrated implementation of remote interpretation and digital judicial platforms (e-Sot), particularly at a formative stage of digital justice, with reinforced safeguards addressing risks associated with the digital divide, confidentiality, and procedural imbalance.

It may be concluded that the effectiveness of safeguarding linguistic rights within civil proceedings depends on the coherence of regulation, the institutionalization of procedural guarantees, and the consistent enforcement of fair trial standards. The integration of technological solutions and the prospective use of artificial intelligence in judicial activity necessitate further

doctrinal analysis in order to ensure that ongoing proceduralization strengthens, rather than diminishes, equality of arms and access to justice within the evolving digital justice environment.

Contribution of the authors.

Muidenova A.K. developed the research concept and design, conducted the collection and analysis of materials, and prepared the initial draft of the manuscript; **Issayeva A.Zh.** contributed to the theoretical framework, interpretation of the results, and critical revision of the text; **Zhumadilova M.A.** participated in the analytical processing of data and substantive editing of the article. All authors approved the final version of the manuscript and agreed to be responsible for all aspects of the work, including the accuracy and integrity of the research.

References

1. Ontanu, E.A. and Pannebakker, E. (2014) «Tackling language obstacles in cross-border litigation: The European Order for Payment and the European Small Claims Procedure approach», *Erasmus Law Review*, 5(3), стр. 1–18. Доступно по адресу: https://repub.eur.nl/pub/51390/Volume05Issue03-Ontanu_and_Pannebakker.pdf (дата обращения: 19 августа 2025 г.).
2. Halimi Mallem, I.S. (2023) «Translation in pre-trial phases of the judicial process: developing a norm-based framework to train translators working into Arabic», *International Journal of Legal Discourse*, 8(1), стр. 1–23. doi: <https://doi.org/10.1515/ijld-2023-2004>
3. McEvoy, G. (2023) «Language proficiency and the right to an interpreter when accessing a fair trial», *Translation & Interpreting: The International Journal for Translation & Interpreting Research*, 15(2), стр. 142–156. doi: <https://doi.org/10.12807/ti.115202.2023.a09>
4. Даниярова, Ш.Т. (2016) «Язык судопроизводства в гражданском процессе». Доступно по адресу: <https://prg.kz/m/amp/document/36495107/> (дата обращения: 21 июля 2025 г.).
5. Niwagaba, T. (2025) «The Role of Translation in Legal Proceedings», *Eurasian Experiment Journal of Humanities and Social Sciences (EEJHSS)*, 7(3), стр. 115–120. Доступно по адресу: https://www.researchgate.net/publication/395346242_The_Role_of_Translation_in_Legal_Proceedings (дата обращения: 07 октября 2025 г.).
6. Constitution of the Republic of Kazakhstan (1995) adopted on 30 August 1995. Доступно по адресу: https://adilet.zan.kz/eng/docs/K950001000_ (дата обращения: 10 августа 2025 г.).
7. Civil Procedural Code of the Republic of Kazakhstan (2015) dated 31 October 2015 № 377-V LRK. Доступно по адресу: <https://adilet.zan.kz/eng/docs/K1500000377> (дата обращения: 10 августа 2025 г.).
8. Правительство Республики Казахстан (2022) «Об утверждении Концепции инвестиционной политики Республики Казахстан до 2026 года», Постановление от 15 июля 2022 года № 482. Доступно по адресу: <https://adilet.zan.kz/rus/docs/P2200000482> (дата обращения: 27 июля 2025 г.).
9. Law of the Republic of Kazakhstan «On the Legal Status of Foreigners» (1995) dated 19 June 1995 № 2337. Доступно по адресу: https://adilet.zan.kz/eng/docs/U950002337_ (дата обращения: 10 июня 2025 г.).
10. Рахымжанова, Н.А. (2025) «Судебная документация на казахском языке: практика и перспективы». Доступно по адресу: <https://infozakon.kz/sud/26626-sudebnaya-dokumentaciya-na-kazahskom-yazyke-praktika-i-perspektivy.html> (дата обращения: 02 августа 2025 г.).
11. International Covenant on Civil and Political Rights (1966) adopted by UN General Assembly Resolution 2200A (XXI), 16 December 1966, entry into force 23 March 1976. Доступно по адресу: <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights> (дата обращения: 20 июня 2025 г.).
12. Адильмуратова, Р. (2023) «Процессе қатысушылардың сот ісін жүргізу тілін меңгеру деңгейін анықтаудың процесстік мәселелері», Л.Н. Гумилев атындағы Евразия ұлттық университетінің

Хабаршысы. Құқық сериясы, 145(4), стр. 110–118. doi: <https://doi.org/10.32523/2616-6844-2023-145-4-110-118>.

13. Ярков, В.В. и Плешанов, А.Г. (ред.) (2017) Гражданский процесс: практикум: учебное пособие. 5-е изд., перераб. и доп. Москва: Статут, 400 с.

14. Гевандова, Я.С. (2017) «Принципы гражданского процессуального права: теоретическое исследование», Символ науки, (5), стр. 120–123.

15. Cao, D. (2017) *Translating Law*. Bristol: Multilingual Matters, 189 p.

16. Gustafsson, K., Norstroem, E. and Åberg, L. (2022) «The right to an interpreter – A guarantee of legal certainty and equal access to public services in Sweden», *Just. Journal of Language Rights & Minorities, Revista de Drets Lingüístics i Minories*, 1(1-2), PP. 165–192. doi: <https://doi.org/10.7203/Just.1.24781>

17. Meirbekova, G., Zharbolova, A. and Mynbatyrova, N.K. (2023) «Некоторые вопросы правового регулирования участия переводчика в гражданском процессе», *Journal of Actual Problems of Jurisprudence*, 107(3), стр. 51–59. doi: <https://doi.org/10.26577/JAPJ.2023.v107.i3.07>

18. Дружинина, Д.И. (2020) «Участие переводчика в арбитражном процессе», *Международный журнал гуманитарных и естественных наук*, (11-2), стр. 159–163. doi: <https://doi.org/10.24411/2500-1000-2020-11408>

19. Vogiatzis, N. (2022) «Interpreting the Right to Interpretation under Article 6(3)(e) ECHR: A Cautious Evolution in the Jurisprudence of the European Court of Human Rights?», *Human Rights Law Review*, 22(1). doi: <https://doi.org/10.1093/hrlr/ngab027>

20. Liu, X. and Hale, S. (2018) «Achieving accuracy in a bilingual courtroom: the effectiveness of specialised legal interpreter training», *The Interpreter and Translator Trainer*, 12(3), стр. 299–321. doi: <https://doi.org/10.1080/1750399X.2018.1501649>

21. Гаджиалиева, Н.Ш. (2024) «К вопросу о безусловных основаниях отмены судебных решений по гражданским делам», *Юридический вестник Дагестанского государственного университета*, 52(4), стр. 99–106. doi: <https://doi.org/10.21779/2224-0241-2024-52-4-99-106>

22. Pöchhacker, F. (2004) *Introducing Interpreting Studies*. London: Routledge. Доступно по адресу: <https://www.routledge.com/Introducing-Interpreting-Studies/Pochhacker/p/book/9780415742726> (дата обращения: 15 августа 2025 г.).

23. Directive 2010/64/EU (2010) on the right to interpretation and translation in criminal proceedings. Доступно по адресу: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32010L0064> (дата обращения: 07 октября 2025 г.).

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Шетелдік тұлғалардың қатысуымен қаралатын азаматтық істерде сот ісін жүргізу тілі мен аударманың процессуалдық маңызы

Аңдатпа. Мақалада Қазақстан Республикасының азаматтық сот ісін жүргізуіндегі шетелдік тұлғалардың тілдік құқықтарын қамтамасыз етудің өзекті мәселелері қарастырылады. Зерттеудің мақсаты – жеке-құқықтық даулардың интернационалдануы жағдайында сот ісін жүргізу тілін және аударма институтын сот арқылы қорғалу құқығының іргелі құрылымдық кепілдіктері ретінде тұжырымдамалық тұрғыдан негіздеу. Зерттеудің объектісі ретінде шетелдік тұлғалардың қатысуымен туындайтын азаматтық процестік қатынастар айқындалса, ал пәні – сот ісін жүргізу тілі қағидатын іске асырудың және сапалы аударманы қамтамасыз етудің құқықтық тетіктері болып табылады.

Зерттеу барысында мынадай маңызды нәтижелер алынған: сот ісін жүргізу тілі құқықтық айқындық пен тараптардың теңдігін қамтамасыз ететін процестік нысанның автономды

элементі ретінде негізделеді. Қазақстанда мемлекеттік және ресми тілдерді қолданудағы өңірлік асимметрия, сондай-ақ Қазақстан Республикасы Азаматтық процестік кодексінің 14-бабында аударма сапасының өлшемдеріне қатысты нормативтік олқылықтардың болуы шетелдік азаматтардың құқықтарын іске асыруда формализм тәуекелдерін туындататыны айқындалды. Авторлар сапасыз аударманы жарыспалылық тепе-теңдігін және «қару теңдігі» қағидатын бұзатын елеулі процестік құқық бұзушылық ретінде саралау қажеттігін дәлелдейді.

Жұмыстың теориялық маңыздылығы аударманы техникалық қызмет ретінде қабылдаудан оны сот шешімдерінің заңдылығына тікелей ықпал ететін заңдық мәні бар процестік акт ретінде түсінуге көшуімен айқындалады. Практикалық құндылығы сот аудармасын кәсібилендіруге бағытталған шараларды ұсынудан, оның ішінде сертификатталған мамандардың ұлттық тізілімдерін қалыптастыруды және сот төрелігін цифрландыру жағдайында тілдік көмектің сапасын бағалау стандарттарын әзірлеуді қамтиды.

Түйін сөздер: сот ісін жүргізу тілі, сот аудармасы, шетелдік тұлғалар, процестік кепілдіктер, сот төрелігіне қол жеткізу, тараптардың теңдігі, Қазақстан Республикасының азаматтық сот ісін жүргізуі.

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Язык судопроизводства и перевод как гарантия процессуальных прав иностранных лиц

Аннотация. В статье рассматриваются актуальные вопросы обеспечения языковых прав иностранных лиц в гражданском процессе Республики Казахстан. Цель исследования заключается в концептуализации языка судопроизводства и института перевода как фундаментальных структурных гарантий права на судебную защиту в условиях интернационализации частно-правовых споров. Объектом исследования выступают гражданские процессуальные отношения с участием иностранных лиц, предметом – правовые механизмы реализации принципа языка судопроизводства и обеспечения надлежащего качества перевода.

В ходе исследования получены следующие результаты: обосновано, что язык судопроизводства представляет собой автономный элемент процессуальной формы, обеспечивающий юридическую определённость и равенство сторон. Выявлено, что существующая региональная асимметрия в использовании государственного и официального языков в Казахстане, а также нормативные лакуны в статье 14 Гражданского процессуального кодекса Республики Казахстан в части критериев качества перевода создают риски формального подхода к реализации прав иностранных граждан. Доказывается, что ненадлежащий перевод должен квалифицироваться как существенное процессуальное нарушение, искажающее баланс состязательности и принцип «равенства оружия».

Теоретическая значимость исследования состоит в переходе от восприятия перевода как технической услуги к его пониманию в качестве юридически значимого процессуального акта, непосредственно влияющего на законность судебных решений. Практическая ценность работы заключается в разработке мер по профессионализации судебного перевода, включая создание национальных реестров сертифицированных специалистов и формирование стандартов оценки качества лингвистической помощи в условиях цифровизации правосудия.

Ключевые слова: язык судопроизводства, судебный перевод, иностранные лица, процессуальные гарантии, доступ к правосудию, равенство сторон, гражданский процесс Республики Казахстан.

References

1. Ontanu, E.A. and Pannebakker, E. (2014) «Tackling language obstacles in cross-border litigation: The European Order for Payment and the European Small Claims Procedure approach», *Erasmus Law Review*, 5(3), str. 1–18. Dostupno po adresu: https://repub.eur.nl/pub/51390/Volume05Issue03-Ontanu_and_Pannebakker.pdf (data obrashhenija: 19 avgusta 2025 g.).
2. Halimi Mallem, I.S. (2023) «Translation in pre-trial phases of the judicial process: developing a norm-based framework to train translators working into Arabic», *International Journal of Legal Discourse*, 8(1), str. 1–23. doi: <https://doi.org/10.1515/ijld-2023-2004>
3. McEvoy, G. (2023) «Language proficiency and the right to an interpreter when accessing a fair trial», *Translation & Interpreting: The International Journal for Translation & Interpreting Research*, 15(2), str. 142–156. doi: <https://doi.org/10.12807/ti.115202.2023.a09>
4. Daniyarova, Sh.T. (2016) «Язык судопроизводства в гражданском процессе». Dostupno po adresu: <https://prg.kz/m/amp/document/36495107/> (data obrashhenija: 21 ijulja 2025 g.). [in Russian]
5. Niwagaba, T. (2025) «The Role of Translation in Legal Proceedings», *Eurasian Experiment Journal of Humanities and Social Sciences (EEJHSS)*, 7(3), str. 115–120. Dostupno po adresu: https://www.researchgate.net/publication/395346242_The_Role_of_Translation_in_Legal_Proceedings (data obrashhenija: 07 oktjabrja 2025 g.).
6. Constitution of the Republic of Kazakhstan (1995) adopted on 30 August 1995. Dostupno po adresu: https://adilet.zan.kz/eng/docs/K950001000_ (data obrashhenija: 10 avgusta 2025 g.).
7. Civil Procedural Code of the Republic of Kazakhstan (2015) dated 31 October 2015 № 377-V LRK. Dostupno po adresu: <https://adilet.zan.kz/eng/docs/K1500000377> (data obrashhenija: 10 avgusta 2025 g.).
8. Pravitel'stvo Respubliki Kazahstan (2022) «Ob utverzhdenii Konceptii investicionnoj politiki Respubliki Kazahstan do 2026 goda», *Postanovlenie ot 15 ijulja 2022 goda № 482*. Dostupno po adresu: <https://adilet.zan.kz/rus/docs/P2200000482> (data obrashhenija: 27 ijulja 2025 g.). [in Russian]
9. Law of the Republic of Kazakhstan «On the Legal Status of Foreigners» (1995) dated 19 June 1995 № 2337. Dostupno po adresu: https://adilet.zan.kz/eng/docs/U950002337_ (data obrashhenija: 10 ijunja 2025 g.).
10. Rahymzhanova, N.A. (2025) «Sudebnaja dokumentacija na kazahskom jazyke: praktika i perspektivy». Dostupno po adresu: <https://infozakon.kz/sud/26626-sudebnaya-dokumentaciya-na-kazahskom-yazyke-praktika-i-perspektivy.html> (data obrashhenija: 02 avgusta 2025 g.). [in Russian]
11. International Covenant on Civil and Political Rights (1966) adopted by UN General Assembly Resolution 2200A (XXI), 16 December 1966, entry into force 23 March 1976. Dostupno po adresu: <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights> (data obrashhenija: 20 ijunja 2025 g.).
12. Adil'muratova, R. (2023) «Proceske qatysushylardyn sot isin zhurgizu tilin mengeru deñgejin anyktaudyn procestik maseleleri», *L.N. Gumilev atyndagy Evrazija ul'tyq universitetinin Habarshysy. Kulyk serijasy*, 145(4), str. 110–118. doi: <https://doi.org/10.32523/2616-6844-2023-145-4-110-118>. [in Kazakh]
13. Jarkov, V.V. i Pleshanov, A.G. (red.) (2017) *Grazhdanskij process: praktikum: uchebnoe posobie*. 5-e izd., pererab. i dop. Moskva: Statut, 400 s. [in Russian]
14. Gevandova, Ja.S. (2017) «Principy grazhdanskogo processual'nogo prava: teoreticheskoe issledovanie», *Simvol nauki*, (5), str. 120–123. [in Russian]
15. Cao, D. (2017) *Translating Law. Bristol: Multilingual Matters*, 189 p.
16. Gustafsson, K., Norstroem, E. and Åberg, L. (2022) «The right to an interpreter – A guarantee of legal certainty and equal access to public services in Sweden», *Just. Journal of Language Rights & Minorities, Revista de Drets Lingüístics i Minories*, 1(1-2), PP. 165–192. doi: <https://doi.org/10.7203/Just.1.24781>
17. Meirbekova, G., Zharbolova, A. and Mynbatyrova, N.K. (2023) «Nekotorye voprosy pravovogo regulirovanija uchastija perevodchika v grazhdanskom processe», *Journal of Actual Problems of Jurisprudence*, 107(3), str. 51–59. doi: <https://doi.org/10.26577/JAPJ.2023.v107.i3.07>. [in Russian]

18. Druzhinina, D.I. (2020) «Uchastie perevodchika v arbitrazhnom processe», Mezhdunarodnyy zhurnal gumanitarnykh i estestvennykh nauk, (11-2), str. 159–163. doi: <https://doi.org/10.24411/2500-1000-2020-11408>. [in Russian]
19. Vogiatzis, N. (2022) «Interpreting the Right to Interpretation under Article 6(3)(e) ECHR: A Cautious Evolution in the Jurisprudence of the European Court of Human Rights?», Human Rights Law Review, 22(1). doi: <https://doi.org/10.1093/hrlr/ngab027>
20. Liu, X. and Hale, S. (2018) «Achieving accuracy in a bilingual courtroom: the effectiveness of specialised legal interpreter training», The Interpreter and Translator Trainer, 12(3), str. 299–321. doi: <https://doi.org/10.1080/1750399X.2018.1501649>
21. Gadzhialieva, N.Sh. (2024) «K voprosu o bezuslovnnykh osnovaniyakh otmeny sudebnykh resheniy po grazhdanskim delam», Juridicheskij vestnik Dagestanskogo gosudarstvennogo universiteta, 52(4), str. 99–106. doi: <https://doi.org/10.21779/2224-0241-2024-52-4-99-106>. [in Russian]
22. Pöchhacker, F. (2004) Introducing Interpreting Studies. London: Routledge. Dostupno po adresu: <https://www.routledge.com/Introducing-Interpreting-Studies/Pochhacker/p/book/9780415742726> (data obrashheniya: 15 avgusta 2025 g.).
23. Directive 2010/64/EU (2010) on the right to interpretation and translation in criminal proceedings. Dostupno po adresu: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32010L0064> (data obrashheniya: 07 oktjabrja 2025 g.).

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