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**TÍTULO:** Implementación del derecho constitucional a la protección judicial en los idiomas estatales del sujeto de la Federación Rusa.

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**RESUMEN.** El artículo proporciona una descripción de la posibilidad de ejercer el derecho constitucional a la protección judicial en los idiomas estatales de las repúblicas dentro de la Federación Rusa, notándose los puntos problemáticos, que con debida atención, pueden convertirse en puntos de crecimiento: la aplicación de la implementación del derecho a la protección judicial en el segundo lenguaje estatal, y la posibilidad de redactar textos de decisiones judiciales y documentos procesales separados en idiomas del estado de la Federación Rusa. El artículo destaca la posición de los autores sobre el uso del idioma del estado de la Federación Rusa y las propuestas para mejorar el mecanismo legal existente en el tema designado desde la implementación del derecho constitucional a la protección judicial.

**PALABRAS CLAVES:** idiomas estatales de las repúblicas de la Federación Rusa, derecho a la protección judicial, Constitución de la Federación Rusa, Constitución de la República de Tayikistán, procedimientos judiciales.

**TITLE:** Implementation of the constitutional right to judicial protection in the state languages of the subject so the Russian Federation.

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**ABSTRACT.** The article provides a description of the possibility of exercising the constitutional right to judicial protection in the state languages of the republics within the Russian Federation, noting the problematic points, which with due attention, can become points of growth: the application of the implementation of the right to judicial protection in the second state language, and the possibility of drafting texts of judicial decisions and separate procedural documents in the state languages of the Russian Federation. The article highlights the position of the authors on the use of the language of the state of the Russian Federation and the proposals to improve the existing legal mechanism in the designated theme from the implementation of the constitutional right to judicial protection.

**KEY WORDS:** state languages of the republics of the Russian Federation, right to judicial protection, the Constitution of the Russian Federation, the Constitution of the Republic of Tajikistan, legal proceedings.

**INTRODUCTION.**

Being the main communication means, a language provides its carrier with the widest range of possibilities for the implementation of its subjective rights and the performance of duties. In particular, the emergence, change, termination of existing legal relations is carried out through the impartial actions of the interested person (not so often), as follows from the provisions of clause 2 of Article 158 of the Civil Code of the Russian Federation [Civil Code of the Russian Federation,

1994] or the actions of a person mediated by the communication means, in particular oral or written form of a transaction, Article 159-164 of the Civil Code of the Russian Federation.

### **Methods.**

The methodological basis of the study is represented by the general provisions of the science of constitutional law, civil procedural law and criminal procedural law. We used the following methods of scientific knowledge during the study: intersectoral, dialectical, sociological, historical method.

### **DEVELOPMENT.**

#### **Results.**

As a study result, the currently existing legislative preconditions have been established that reveal the possibilities for exercising the constitutional right to judicial protection in the state languages of the subject of the Russian Federation.

#### **Discussion.**

Language functioning is possible in two stages of the development of social relations:

- (1) material regulatory.
- (2) controversial and procedural.

The stage of emergence, change, termination of regulatory material relations is characterized by the absence of a dispute about the right. At this stage, the parties implement the rights and obligations provided for by the agreement. However, if a dispute arises about the right, there is a need to protect the subjective right of one of the parties, within the controversial procedural stage [Safin Z.F. 2016; Nuriev A.G., Khodzhev A.R., 2015 ; Valeev D.K., Golubtzov V.G., 2014].

The current federal legislation provides for a set of measures aimed at developing the languages of the subjects of the Russian Federation. In particular, Part 2 of Article 26 of the Constitution of the Russian Federation [The Constitution of the Russian Federation, 1993] determines that everyone has the right to use his/her native language, to the free choice of language of communication, education, training and creativity.

Based on the provisions of Part 2 of Article 68, the republic being part of the Russian Federation, has the right to establish their own state languages. In the state bodies, local governments, state institutions of the republics, they are used along with the state language of the Russian Federation.

In accordance with Part 7 of Article 1 of the Federal Law No. 53-FZ dated June 1, 2005 “On the State Language of the Russian Federation” [Federal Law No. 53-FZ dated June 1, 2005], the obligation to use the state language of the Russian Federation should not be interpreted as denying or diminishing the right to use the state languages of republics, being part of the Russian Federation, and the languages of the peoples of the Russian Federation.

Republican legislation also guarantees the functioning of the Tatar language as the state one. In accordance with Part 2 of Article 8 of the Constitution of the Republic of Tatarstan [Constitution of the Republic of Tatarstan, 1992], the state languages of the Republic of Tatarstan are used on an equal basis in the state bodies, local governments, and state institutions. According to Article 3 of the Law No. 1560-XII dated July 8, 1992 "On the State Languages of the Republic of Tatarstan and Other Languages in the Republic of Tatarstan" [Law of the Republic of Tatarstan No. 1560-XII dated July 8, 1992], the state languages are equal Tatar and Russian languages.

It is assumed that these language guarantees apply to all aspects of public life, including the possibility of compulsory protection of a violated subjective right or right in respect of which there is a threat of violation. Article 46 of the Constitution of the Russian Federation guarantees everyone the right to judicial protection, as the main way to protect a subjective right.

The right to judicial protection in accordance with the Federal Constitutional Law dated December 31, 1996 “On the Judicial System of the Russian Federation” [Federal Constitutional Law No. 1-FKZ dated December 31, 1996], taking into account the rules of jurisdiction, is exercised in the federal courts and the courts of the subjects of the Russian Federation. In accordance with Art. 4 of this law (1) the federal courts include: Constitutional Court of the Russian Federation; Supreme Court of the Russian Federation; courts constituting a system of federal courts of general jurisdiction; arbitration courts constituting the system of federal arbitration courts; (2) the courts of

the subjects of the Russian Federation include: constitutional (charter) courts of the subjects of the Russian Federation, justices of the peace who are the judges of general jurisdiction of the subjects of the Russian Federation.

The right to judicial protection in all the courts represented is implemented in one of the forms provided by law: constitutional, civil, administrative, criminal proceedings. The current legislation determines the possibility of using the second state language of the republics in the federal courts within the Russian Federation in the following way.

According to Article 33 (the language of constitutional legal proceedings) of the Federal Constitutional Law “On the Constitutional Court of the Russian Federation” [Federal Constitutional Law No. 1-FKZ dated July 21, 1994], the proceedings in the Constitutional Court of the Russian Federation are conducted in Russian. Participants in the process who do not speak Russian are guaranteed the right to give explanations in another language and use the services of an interpreter.

In accordance with Art. 9 (language of civil proceedings) of the Civil Procedure Code of the Russian Federation [Civil Procedure Code of the Russian Federation dated November 14, 1992], the civil proceedings are conducted in Russian - the state language of the Russian Federation, or in the state language of the republic, being part of the Russian Federation, and on whose territory the relevant court is located. In military courts, the civil proceedings are conducted in Russian. Persons participating in the case and not knowing the language in which the civil proceedings are conducted, are explained and ensured the right to give explanations, conclusions, to speak, to file motions, to file complaints in their native language, and to use the services of an interpreter.

Based on the provisions of Article 12 (the language in which the administrative proceedings are conducted) of the Administrative Procedure Code of the Russian Federation [Administrative Procedure Code of the Russian Federation dated March 8, 2015], the administrative proceedings are conducted in Russian - the state language of the Russian Federation. [The administrative proceedings in the federal courts of general jurisdiction located in the territory of the republic, being part of the Russian Federation, may also be conducted in the state language of this republic.

Persons participating in the case and not knowing the language in which the administrative proceedings are conducted shall be clarified and ensured the right to get acquainted with the materials of the administrative case, to file petitions and to file complaints in their native language, to use the services of an interpreter. In this case, the court decision is set out in Russian. If the party requests, it is translated into the language used during the trial.

As follows from the content of Article 18 (language of criminal proceedings) of the Criminal Procedure Code of the Russian Federation [Criminal Procedure Code of the Russian Federation dated December 18, 2001], the criminal proceedings are conducted in Russian, as well as in the state languages of the constituent republics of the Russian Federation. Participants in the criminal proceedings who do not speak or are not sufficiently fluent in the language in which the criminal proceedings are being conducted shall be explained and ensured the right to make statements, to give explanations and testimony in their native language, as well as to use the interpreter free of charge.

According to Art. 12 (language of legal proceedings) of the Administrative Procedure Code of the Russian Federation [Arbitration Procedure Code of the Russian Federation dated July 24, 2002], the proceedings in the arbitration court shall be conducted in Russian - the state language of the Russian Federation. Participants in the case, who do not speak Russian, are explained by the arbitral tribunal and provided with the right to get acquainted with the materials of the case, to participate in judicial actions, to speak in court in their native language or a freely chosen language of communication and to use the services of an interpreter.

In the courts of the subjects of the Russian Federation, on the example of the Republic of Tatarstan, the right to administer justice in two state languages is guaranteed. Thus, according to Article 34 (the language of constitutional legal proceedings) of the Law of the Republic of Tatarstan "On the Constitutional Court of the Republic of Tatarstan" [Law of the RT No. 1708-XII dated December 22, 1992], the proceedings in the Constitutional Court of the Republic of Tatarstan are conducted in the state languages of the Republic of Tatarstan. Participants in the case, who do not speak the

language of legal proceedings are guaranteed the right to speak and give explanations in their native language or in any freely chosen language of communication, as well as to use the services of an interpreter.

As we can see, the volume of guarantees is similar to that established at the federal level.

It is also necessary to identify the problem of making texts of court decisions and other procedural documents in the state language of the subject of the Russian Federation in the staged aspect.

Addressing the court, the parties as the carriers of opposing material interests, have a specific goal - to achieve the desired legal result, objectified in a court decision, based on a comprehensive study of all means of evidence, based primarily on their personal explanations in the form of approval. Accordingly, the evidence line, based on their personal understanding of the disputed situation and possible means of proof, determines the logic of developing a particular process.

If the parties filed a petition for the consideration of the case in the state language of the subject of the Russian Federation and it was satisfied by the court, the question arises as in what language the court decision should be made as the final act allowing the disputed legal relationship. The designated “linguistic” guarantees established by the federal legislation create all the prerequisites for the administration of justice in the civil cases in the state language of the subject of the Russian Federation, but based on the content of the current Civil Procedure Code of the Russian Federation. It can be concluded that there is no legal regulation on the possibility of drafting a judicial act in the state language of the subject of the Russian Federation. Art. 197 Civil Procedure Code of the Russian Federation includes only an indication that the court decision is made in writing by the presiding judge or one of the judges. This question also remains open in Chapter 17 of the draft Unified Civil Procedure Code of the Russian Federation.<sup>1</sup>

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<sup>1</sup> **The concept of the Unified Civil Procedure Code of the Russian Federation // Approved by the Decision of the Committee on Civil, Criminal, Arbitration and Procedural Legislation of the State Duma of the Federal Assembly of the Russian Federation No. 124(1) dated December 8, 2014 / STS Consultant Plus.**

In summary, we would like to draw your attention to two aspects that can indirectly affect the quality of functioning of the second state language:

1. There is no monitoring at the regional level that determines the applied aspect of the implementation of the right to judicial protection in the second state language. In particular, there are no generalizations on the number of decisions made in the Tatar language and the number of meetings held with the involvement of an interpreter;
2. There is still no cohort of interpreters, widely known in the foreign law enforcement practice, referred to as "sworn interpreters", otherwise, legal interpreters, in the Russian Federation. They are the interpreters who have been accredited to the judicial authorities, with the subsequent possibility of interpreting official legal documents and other materials, as well as accompanying the court session as necessary.
3. It remains an open question about the possibility of making the texts of court decisions and of separate procedural documents in the state language of the subject of the Russian Federation.

## **CONCLUSIONS.**

As we see, there are three guarantees ensuring the possibility of exercising the right to judicial protection in the state languages of the subject of the Russian Federation in the federal courts:

1. The possibility of administering justice in the state language of the republic, being part of the Russian Federation and on whose territory the relevant court is located (with the exception of: military courts, arbitration courts, higher courts of the Armed Forces of the RF and the Constitutional Court of the RF). This means that there is a possibility of submitting an application to the court and conducting further proceedings before the court, which concludes with a final decision in the second state language.
2. Persons participating in the case and not knowing the language in which the proceedings are conducted are ensured the right to give explanations, conclusions, to speak, to file motions, to file complaints in their native language.

3. To use the services of an interpreter. At the same time, an interpreter is provided for the citizens of the Russian Federation free of charge.

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