Legal linguistics challenges: legal language adaptation in the framework of the Russian Federation language policy

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Abstract. The article studies the problem of comprehensibility of the modern legal language of the Russian Federation from the point of view of an ordinary citizen. The authors define a concept of law from the linguistic level and summarize the existing theories concerning the problem of the legal language adaptation. Two legal and technical methods of addressing to federal executive bodies are discussed and compared. It is highlighted that imperfection of legal texts within a linguistic aspect is directly related to the uncertainty and vague designation of the federal executive and legislative bodies, the duality of definitions used and the excessive complexity of syntactic structures. Taking into account the experience of the Administrative Reform and the achieved results of the study, it is offered to work out a new direction of the Federal Language Policy for the development of legal culture, improve the law-making process and quality of laws. It is also proved that legal language should be adapted according needs and concerns of an ordinary citizen of the country in order to avoid legal illiteracy.

1 Introduction

The use of language is extremely important for any legal system, not only in the same sense that it is crucial for politics in general, but also in two special respects. Legislative authorities generally use language to create laws and the law should provide for authoritative resolution of disputes about the consequences of such language use.

The linguistic approach defines the law as a collection of linguistic acts. Such utterances are called norms or provisions. Legal norms are formulated in a specific language - termed legal or law language. The viewpoint that the law is a linguistic phenomenon considered to be the dominant one in the contemporary legal science. Also laymen usually understand the law as a system of norms or provisions. Linguistically oriented legal research distinguishes between two basic types of the legal language: a language of legal texts (law-making

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instruments) and a language of legal practice and legal science. Nevertheless, the distinction is not free of controversies being clearer in so called civil law systems and rather blur in legal systems of common law. It is also rather important to study the development of a legal style in retrospective [1].

As it was already mentioned the law is perceived to be mainly linguistic phenomenon. Thus, as far as the norm is concerned, the findings of semiotics need to be taken into consideration while creating legal norms and laws.

The language policy of Russia is one of the most important aspects of the internal state policy. It is based on the modern Constitution of the Russian Federation (hereinafter – the Constitution), the language policy is aimed to ensure the interests of the country. According to the Constitution of the Russian Federation, the official (state) language of the Russian Federation within the whole territory of the country is Russian [2].

The Constitution prohibits any discrimination, including the linguistic one [2]. Therefore, the peoples of the Russian Federation have the right to speak their mother tongues and freely choose the language for formal and informal communication – for interaction, education, training and creativity [2]. However, the law strictly prescribes the use of Russian as the official state language within all the state and municipal bodies and institutions, including those, located in the territories of the republics.

The Russian language is mandatory for all the state and municipal bodies, institutions and organizations Art.11 of the Federal Law of the Russian Federation "About Languages of the People of the Russian Federation" presupposes the work of all public bodies in Russian, while allowing the use of the republican languages in the respective territories [3].

The formation of a legal language is one of the fundamental tasks of the formation of state policy in the field of language. It is obvious that inaccuracies, vague naming, addressing and definitions significantly complicate the law perception by citizens. It is also necessary to take into account the difficulties in translating such linguistic and legal norms into foreign languages: the need for this is extremely high since the events of recent decades have shown that globalization, migration issues and rapid changes in the geopolitical map of the world require a good command of a foreign legal system from the representatives of foreign states.

Consequently, a law-making function at all levels of public authority is carried out, first of all, also in Russian. The process and results of legislative activity, from the introduction of a draft law to the promulgation of an adopted law, are conducted strictly in Russian, although in the republics they can also be published in a language adaptation [3]. This is necessary for:

- increasing legal awareness and legal culture;
- achieving universal legal familiarity [4];
- ensuring the universality of the law, its inter-ethnic portability, the guarantee of equality of all before the law and the exclusion of language discrimination [5].

2 Materials and methods

To achieve the research goals the authors used the following methods of investigation:

2.1 Observation. The authors define the phenomenon "law" taking in account the existing theories concerning law language adaptation; study the examples of law-making difficulties from a linguistic aspect.

2.2 Description. The particular examples of legal language failures from the point of view of an ordinary citizen interpretation from the Russian Federation legal texts, utterances, norms, laws and acts are depicted and described.

2.3 Comparison. The authors compare the existing enunciation of legal clauses of the Russian and Belorussian legal texts; discuss the variants of legal language of the Russian Federation adaptation in order to simplify the understanding of the language of laws for the ordinary citizens.

2.4 Analysis. The authors analyze and compare the enunciation of legal clauses of the Russian and Belorussian legal texts within a linguistic paradigm.

3 Results

The most part of the modern Russian laws are drawn up in such a way that their perception and interpretation is significantly difficult for citizens who do not have special legal knowledge. Some acts are full of multi-step references, others are devoid of reference norms where it would be appropriate, others are characterized by inconsistency of presentation, and almost every one of them suffers from artificially complicated syntactic constructions and lexical overload. In fact, it doesn't improve a legal culture, but only causes an irrational fear of the law to ordinary citizens – after all, in order to understand and explain it, many of them have to look for the necessary information in the Internet, and, seek for a qualified legal assistance (usually paid). Unfortunately, these benefits are not available to everyone and not everyone has the right to get a free legal assistance [6].

N.D. Golev analyzes existing points of view towards the essence of a legal language: he mentions that the lawyers consider a language to be an instrument of a legislator's will and opinion expression. This point of view correlates with the theory that language is an instrument of a logical thinking that is extremely close to a legislative activity. On the other hand, the language could be defined as a substance of legal activity. [7]

A.S. Alexandrov points that law is a language derivation that is closely connected. It is also said that law is learned through language and by it. [8]

In addition, foreign scientists (M. Coulthard, H. Kniffka, J. Habermas, G. Kress etc.) started to research certain aspects of judicial discourse considering language to be one of the key aspects in the formation of public consciousness, including in negative manifestations.

And another important issue concerning law-making and legal language adaptation is a way of a legal instruction in the Law Institutes. The institutionalization of Forensic linguistics resulted in a closer interaction between linguists and lawyers. [9]

As already mentioned, the adaptation of the legal language should not be limited only to translation into the languages of all the republics within the Russian Federation, but should be a deep human-oriented study. And we are not talking about mechanical simplification and reduction – after all, in this case, the legislative authorities would inevitably leave difficult gaps, and they would have to be closed up with long and complicated judicial explanations, which would become a kind of a parallel law. The principle of reasonableness in adaptation means finding a golden mean that can provide clarity, concreteness and legal simplification from the linguistic point of view. This will require a careful approach to legal technique and style: to convey maximum information with a minimum of text, to find the optimal ratio of abstraction and casuistry, to combine the advantages of pandect and institutional construction, to balance direct, reference and blank presentation of norms, to avoid vague formulations and, in the end, to formalize the legislation extremely compactly, and as a result to develop a Unified Code of Laws of the Russian Federation [10].

It should also be noted that the process of law-making is an important and integral part of the language policy of the state as a whole. Legislative activity presupposes basic and professional competencies of law-makers. An important component of a successful legislative activity is considered the ability to express ideas, explain the peculiarities, characteristics of procedures, use the appropriate terminology in order to avoid complicated

structures and casuistry precluding the understanding and interpretation of legislative acts by ordinary citizens without any special legal skills [11].

For a closer examination we have focused on the Federal Law of 22.11.1992 №4180-1 "On transplantation of human organs and (or) tissues transplantation" [12]. It seems necessary to make a retrospective comparison of the indicative wording addressing citizens and law enforcement officers to the competent state body. In order to track the evolution of legal technique and style, the pre-constitutional law adopted before 12.12.1993 is specially selected as an example. We could highlight two significant versions of the Law: the original version and the current one (valid within a period of the current research: *noted by the authors*).

Federal Law of 22.12.1992 №4180-1 "On human organs and (or) tissues transplantation" (amended 01.05.1993)	Federal Law of 22.12.1992 №4180-1 "On human organs and (or) tissues transplantation" (amended 23.05.2016)
The death statement is given on the basis of a conclusion of an irreversible damage of the entire brain (complete brain destruction), established in accordance with the procedure approved by the Ministry of Health of the Russian Federation.	The death statement is given on the basis of a conclusion of an irreversible death of the entire brain (complete brain destruction), issued in accordance with the procedure approved by the federal executive body responsible for the development and implementation of the state policy and regulatory norms in the field of healthcare.

Fig. 1. Transformation of a legal language style [12, 13].

The original version of the Law gives particular information concerning the executive body responsible for the procedure of brain death verification - the Ministry of Health of the Russian Federation [12]. In this case it is obvious that the representatives of the Ministry, considering an established procedure, have all the required eligibilities to report a brain death within the given circumstances.

The same paragraph, as amended on 23.05.2016, is presenting nebulous information: no particular addressing is presented and reference is given to an abstract "federal executive body responsible for the development and implementation of the state policy and regulatory norms in the field of healthcare" [13].

The visual result of the correction is obvious: 4 words turned into 18. As it can be seen, a very cumbersome participial turn has appeared in the law: it doesn't only complicate the perception and understanding of the norm by an ordinary reader but also fails from the point of view of a linguistic and legal laconism. Although the meaning of the legal phrase has been preserved, its external expression has been paraphrased almost beyond recognition. A clear and specific reference to the Ministry of Health of the Russian Federation swelled into a long, deliberately clerical, indirectly orienting characteristic of some abstract executive body. This case should be cleared up in transparency [14, 15, 16].

In our opinion, it is necessary to highlight two key points that set a peculiar style of the language of laws in terms of an obligatory mentioning of the state executive bodies without addressing them by a clear naming. The first factor is the adoption of the Russian Constitution by the Referendum on 12.12.1993 [2] However, the problem is not seen in the Constitution but in some norms concerning the interaction of the Prime Minister of the Russian Federation and the President of the Russian Federation.

It is obvious that the constitutional names of the highest federal bodies are unambiguous, static and unshakable as enumerated in Constitution and fixed by the

legislative norm. However, there are numerous bodies that are not explicitly named in the Constitution. Perhaps all this is initially associated with the ideas of continuous renewal, refreshment and rotation, a search for optimal management solutions and combinations, but in fact, such imprecisions seem to be a significant disadvantage to the stability of the entire state administration. It is a constitutional premise, in our opinion, that forces the law-makers to hedge and evade the direct mention of the competent state bodies that can be renamed at any time. As a result, the clarity of laws and the certainty of legal regulation suffer significantly.

The second factor is the Decree of the President of the Russian Federation of 09.03.2004 №314 "On the System and Structure of Federal Executive Bodies" issued in order to optimize a public administration in the framework of administrative reform. By the Decree, the President of the Russian Federation proves the system of federal executive bodies including federal ministries, federal services and federal agencies [17], that is, he legally outlined a three-tier executive power. The administrative reform significantly streamlined the administration and simplified the state mechanism, and thus brought some order to the above-mentioned constitutional "presumption of dynamic development". It was definitely aimed at preventing the bureaucratization of society and the corruption of the individual representatives of the legislative and executive authorities [18,19].

Some legal-technical and linguistic-legal problems can also be shown by the example of Federal Law №323-FZ of 21.11.2011 "On the Basics of Public Health Protection in the Russian Federation" [20].

First of all, let's review the title of the Law. For reasons of laconism it would be preferably to entitle simply "On health care" (similar to the way it is implemented in the Republic of Belarus). It is noteworthy that the Belarusian standard-setting technique requires that the title of the act should be clear, as concise as possible and reflect the main content of the act.

Secondly, one unjustified multi-stage reference draws attention as well. According to Art. 56 of the Law, social reasoning for induced abortion of pregnancy is determined by the Government of the Russian Federation [21]. The Government of the Russian Federation, in turn, refers further and confirms that the social reasoning for induced abortion of pregnancy is pregnancy that occurred as a result of the commission of a crime under Art.131 of the Criminal Code of the Russian Federation [22] (a *rape*; since 2012 is the only social reason for this surgery: *noted by the authors*). Thus, the Law calls the social indication for abortion not directly but through a double reference to the Criminal Code of the Russian Federation, forming a tortuous legal labyrinth or even a rebound (literally referring to the reference).

It is interesting that the law-making technique of the Republic of Belarus explicitly prohibits the use of references to a law that refers to another norm (norms) of law, as well as if the application of the reference causes difficulties in understanding of the normative legal prescription [23].

In the considered case, the reference statement of a legal norm is implemented unsuccessfully, illogically and wastefully, since it can cause difficulties in its understanding (after all, a "bare" reference is always uninformative) and requires a consistent reference to three normative legal acts at once. In our opinion, it would be most appropriate to state this reference in a direct way.

It should be noted that the by-law list of social indications for abortion was revised three times (in 1996, 2003 and 2012), and the first two editions [24,25] referred to the aggravating factors in a direct text as pregnancy being a result of a rape. In our opinion, this approach was clear, obvious and laconic in comparison with the current method of extensive by-law pre-reference or even cross-reference. Of course, when several social indications were provided for abortion (first 13, and then only 4: *noted by the* authors), it was quite reasonable to give a reference to a lower-level document (not to mention the

numerous medical indications that would be difficult to fit inside the law itself) within the Law. However, after the list of social indications was narrowed down to a single position, any necessity for a special by-law reference disappeared, and therefore, in our opinion, it would be more reasonable to write the relevant indication directly into the text of the Law, setting out part 5 of Art. 56 in the following wording: "A social indication for an artificial termination of pregnancy is a pregnancy that occurred as a result of a rape (Art.131 of the Criminal Code of the Russian Federation)". In this form, the norm would look compact, comprehensive and informative, and the explanatory reference given in parentheses would not overload the text itself, but would serve to link the laws, as well as to clarify and qualify the relevant legal fact.

If the observations given above are the questions of legal technique and ways of introducing legal norms, then now we approach psycholinguistic aspect. We believe that a number of citizens may have significant uncertainties in connection with the mentioning of federal executive authorities in the current texts of laws.

Some Russian researchers also advocate the development of a single Medical Code of the Russian Federation, which would combine the existing laws:

- Federal Law №323-FZ of 21.11.2011 On the Basics of Public Health Protection in the Russian Federation;
- Law of the Russian Federation of 02.07.1992 №3185-1 On Psychiatric Care and Citizens Rights Guarantees within its Provision;
- Law of the Russian Federation of 22.12.1992 №4180-1 On Human Organs and (or) Tissues Transplantation;
- Federal Law of 20.07.2012 №125-FZ On Donation of Blood and its Components.

In fact, the Covid-19 has revealed the acute problem of weakness and imperfection of the health system in general and its legal aspect in particular [25].

Returning to the question of naming or describing of the federal executive bodies, in our opinion, we should give preference to the first method, since static nominative addressing would help to reduce the amount of the normative text, would bring the spirit of the law as close as possible to its letter and would bring the law closer to people with ordinary legal awareness. And to guarantee the stability and static nature of the state mechanism, the final system and structure of the federal executive bodies should be approved once, prohibiting further renaming.

4 Discussion

As already mentioned, the adaptation of the legal language should not be limited only to translation into the languages of all the republics within the Russian Federation, but should be a deep human-oriented study. And we are not talking about mechanical simplification and reduction – after all, in this case, the legislative authorities would inevitably leave difficult-to-fill gaps, and they would have to be closed up with long judicial explanations, which would become a kind of a parallel law. L. Konovalova strives for clarity and simplicity, but warns against simplifying [26]. The principle of reasonableness in adaptation means finding a certain golden mean that can provide clarity, concreteness and linguistic and legal laconism.

This is particularly indicated by Art.29 of the Law of the Republic of Belarus "On Normative Legal Acts": the text should be presented in a clear, simple and accessible language using legal terminology and observing the norms of the Belarusian and (or) Russian languages, including the official business style [23].

This will require a careful approach to legal technique and style: to convey maximum information with a minimum of text, to find the optimal ratio of abstraction and casuistry, to combine the advantages of pandect and institutional construction, to balance direct

reference and blank presentation of norms, to avoid vague formulations and to formalize legislation in an extremely compact way, and in the future –develop a Set of Laws of the Russian Federation.

Based on the results of research, it can be concluded that the domestic legislation is not yet perfect. And all the problems described above are compounded by a low index of its stability. Therefore, as the most important direction of the state legal policy, it is also necessary to highlight the general legal stabilization with the gradual rejection of intensive amendments.

In this regard, we present the results of the Annual Survey of Foreign Business in Russia 2020 [27]. The representatives of a focus group included 62 foreign companies expressed the following judgments about our legal reality:

50% reported that constant changes in regulation negatively affect the investment attractiveness of Russia;

39% pointed to high administrative barriers;

34% drew attention to the inconsistency of the legislation with the current conditions;

31% identified selective interpretation and application of laws;

15% stated that the transition periods are not long enough for the changed regulation or there are no transition periods at all.

So, the key problem is the variability of the Russian legislation and in connection with such a conclusion, we would like to draw attention to the principles of Belarusian rule-making once again. For example, the Law of the Republic of Belarus "On Normative Legal Acts" proclaims the principle of stability of legal regulation [23] that is ensured, among other things, by the proper quality of normative legal acts and the restriction of frequent adjustments [23].

5 Conclusion

As a result of the above-described comparison, it can be concluded that after the adoption of the Constitution of the Russian Federation and the administrative reform, the law-making authorities chose a different legal and technical method of addressing the federal executive bodies: a direct nominative addressing was abandoned in favor of descriptive and functional addressing. Since it is customary to use this approach in a law-making, the modern language of laws has become, in our opinion, heavy and non-compact. On the one hand, this situation facilitates the legislative process and eliminates minor amendment work, since laws with dynamic functional addressing have become more resistant to changes within the executive branch of government. But, on the other hand, it makes it difficult to comprehend the spirit of the laws in the artificial darkness of letters, which could be avoided without any damage to the achievements of administrative reform. In addition, there is a clear uncertainty arising from the Constitution of the Russian Federation itself. In fact, the legislation now simply does not know what the executive bodies are addressed.

E. F. Mamedov notes the quality of a normative legal act largely depends on the language in which it is written [28]. And the quality of the normative legal act (in particular, the law) largely depends on the quality, effectiveness and stability of the state [29, 30]. And whether ordinary citizens or professional law enforcement officers apply to the law is a secondary question. All of the citizens are equal before the law and the law must be equally accessible to all.

References

1. I. Zyubina, A. Dzyubenko, G. Matveeva, A. Ratokhina, G. Ostrikova, SGEM Bulgaria, 1089-1095 (2017), doi.10.5593/SGEMSOCIAL2016/B11/S01.032
2. The Constitution of the Russian Federation (adopted by the National Referendum on December 12, 1993 with amendments approved during the All-Russian Vote on July 1, 2020), The Russian Newspaper, **144** (2020)
3. The Law of the Russian Federation No.1807-1 of October 25, 1991 about languages of the people of the Russian Federation (as amended July 31, 2020), Sheets of the CPD and the SS of the RSFSR, **50**, 1740 (1991)
4. A. Reznikova, Humanities, Socio-Economic and Social Sciences, **5**, 148-152 (2013)
5. S. Pervukhina, V. Demchenko, E3S Web of Conferences, **210**, 18033, 1-10 (2020), doi.10.1051/e3sconf/202021018033
6. Federal Law of the Russian Federation of November 21, 2011 No. 324-FZ about free legal aid in the Russian Federation (as amended on 26-07-2019), The Collection of the Legislation of the RF No. 48, Art. 6725 (2011)
7. N. Golev, Legal Linguistics, **5**, 39-57 (2014)
8. O. Barabash, Bulletin of the Penza State University, **2(6)**, 14–18 (2014)
9. N. Udina, Procedia - Social and Behavioral Sciences, **237**, 1337-1340 (2017), doi.10.1016/j.sbspro.2017.02.219
10. A. Morozov, Legal Informatics, **1**, 36-42 (2014)
11. O. Evtushenko, S. Pervukhina, Vestnik Volgogradskogo Gosudarstvennogo Universiteta. Seriya 2. Yazykoznanie [Science Journal of Volgograd State University. Linguistics], **19(5)**, 99-109 (2020), doi.10.15688/jvolsu2.2020.5.9
12. The Law of the Russian Federation No. 4180-I of December 22, 1992 on transplantation of human organs and (or) tissues (ed. of May 1, 1993), Sheets of the CPD and the SS of the RF No. 2, Art. 62 (1993)
13. The Law of the Russian Federation No. 4180-I of December 22, 1992 on human organs and (or) tissues transplantation (ed. of May 23, 2016), Sheets of the CPD and the SS of the RF No. 2, Art. 62 (1993)
14. G. Kernbach, Wighton Legal Medicine, **11(1)**, 31-S35 (2009), doi.10.1016/j.legalmed.2009.01.075
15. B. Wulff, A. S. Schroeder,et al., Legal Medicine, **11(1)**, 141-S142 (2009), doi.10.1016/j.legalmed.2009.02.053
16. S. J. Tomlinson, American Journal of Preventive Medicine, **60(4)**, 497-503 (2021), doi.10.1016/j.amepre.2020.11.008
17. O. Kichalyuk, O. Morozova, Man in India, **97(23)**, 363-373 (2017), https://www.scopus.com/inward/record.url?eid=2-s2.0-85039061088&partnerID=40&md5=9cc6d9e2d56a4bd04fa0469ada6b9ccf
18. The Decree of the President of the Russian Federation No. 314 of March 9, 2004 on the System and Structure of Federal Executive Bodies (ed. of April 12, 2019), The Collection of the Legislation of the RF No. 11, Art. 945 (2004)
19. O. Volkonskaya, A. Kovalyova, N. Petrasheva, et al., European Research Studies Journal, **21(4)**, 1013-1020 (2018), https://www.semanticscholar.org/paper/Influence-of-Corruption-in-Public-and-Political-of-Volkonskaya-Kovalyova/61e4d49f0d54257cadfc430e6f21b292d7661b18

20. Federal Law No. 323-FZ of November 21, 2011 (as amended on April 3, 2017) on the basics of public health protection in the Russian Federation
21. S. Boldyrev, Philosophy of Law, **5(66)**, 27-30 (2014)
22. The Criminal Code of The Russian Federation No. 63-Fz of June 13, 1996 (as amended on April 8, 2021)
23. The Law of the Republic of Belarus No. 130-Z of July 17, 2018 on normative legal acts The National Register of legal acts of the Republic of Belarus No. 30 (2018)
24. M. A. Kovaleva, O. N. Kichalyuk, O. A. Morozova, Mediterranean Journal of Social Sciences, **6(2)**, (2015), doi.10.5901/mjss.2015.v6n2p22
25. T. Tagaeva, L. Kazantseva, E3S Web of Conferences, **210**, 17011 (2020), doi.10.1051/e3sconf/202021017011
26. L. Konovalova, Gosudarstvo i Pravo, **10**, 67-80 (2020), doi.10.31857/S102694520012232-6
27. https://www.ey.com/en_ru/news/2020/10/ey-fiac-survey-eng-2020 (date of application: 24.04.2021)
28. E. Mamedov, Bulletin of ISLU, **1(26)**, 163-168 (2014)
29. S. Pervukhina Yazyk I Kultura [Language and Culture], **29**, 31-37 (2015), doi.10.17223/19996195/29/4
30. P. Sebastian, Angermeyer Journal of Pragmatics, **174**, 157-167 (2021), doi.10.1016/j.pragma.2020.12.022