

# TRANSLATION AND LINGUISTICS

## *TRADUÇÃO E LINGÜÍSTICA*

## *TRADUCCIÓN Y LINGÜÍSTICA*

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**ABSTRACT:** In the seemingly easy process of translation, complex cognitive operations occur. To decipher the meaning of the source text, the translator must interpret and analyze all the features of the text. A process that requires an in-depth knowledge of grammar, syntax, semantics, and idioms from the reference language should also know the culture of the speakers of that language. Translation theorists generally believe that translation is a subjective, complex, conscious, and purposeful activity. In all stages of translation, the translator's verbal choices - including the style of expression, choice of words, choice of different interpretations, use of different combinations, and the like - all affect the translation in some way. In this article, the relationship between linguistics and translation is investigated by descriptive method and using library resources, including the sources of linguistics and translation. This article discusses the history of translation and the characteristics of a good translator.

**KEYWORDS:** Translation. Cognitive operations. Grammar. Semantics.

**RESUMO:** No processo aparentemente fácil de tradução, ocorrem operações cognitivas complexas. Para decifrar o significado do texto de origem, o tradutor deve interpretar e analisar todas as características do texto. Um processo que requer um conhecimento profundo de gramática, sintaxe, semântica e expressões idiomáticas do idioma de referência também deve conhecer a cultura dos falantes desse idioma. Os teóricos da tradução geralmente acreditam que a tradução é uma atividade subjetiva, complexa, consciente e com propósito. Em todas as fases da tradução, as escolhas verbais do tradutor - incluindo o estilo de expressão, escolha de palavras, escolha de diferentes interpretações, uso de diferentes combinações e assim por diante - todas afetam a tradução de alguma forma. Neste artigo, a relação entre lingüística e tradução é investigada pelo método descritivo e utilizando recursos da biblioteca, incluindo as fontes de lingüística e tradução. Este artigo discute a história da tradução e as características de um bom tradutor.

**PALAVRAS-CHAVE:** Tradução. Operações cognitivas. Gramática. Semântica.

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**RESUMEN:** *En el aparentemente fácil proceso de traducción, ocurren operaciones cognitivas complejas. Para descifrar el significado del texto fuente, el traductor debe interpretar y analizar todas las características del texto. Un proceso que requiere un conocimiento profundo de gramática, sintaxis, semántica y modismos de la lengua de referencia también debe conocer la cultura de los hablantes de esa lengua. Los teóricos de la traducción generalmente creen que la traducción es una actividad subjetiva, compleja, consciente y con un propósito. En todas las etapas de la traducción, las elecciones verbales del traductor, incluido el estilo de expresión, la elección de palabras, la elección de diferentes interpretaciones, el uso de diferentes combinaciones y similares, afectan la traducción de alguna manera. En este artículo, la relación entre la lingüística y la traducción se investiga mediante un método descriptivo y utilizando recursos de la biblioteca, incluidas las fuentes de la lingüística y la traducción. Este artículo analiza la historia de la traducción y las características de un buen traductor.*

**PALABRAS CLAVE:** *Traducción. Operaciones cognitivas. Gramática. Semántica.*

## **Introduction**

Over the past few years, the number of citizens' appeals to law enforcement agencies in the Russian Federation has increased with complaints of inadequate medical care provided for them or their loved ones. Most often, criminal prosecution against medical workers is initiated under Article 109 of the Criminal Code of the Russian Federation (hereinafter CC RF) "Causing death by negligence", for example, as a result of surgical intervention (Borodinova et al., 2020). Also, quite common in this respect are such offences as "Negligence" (Art. 29, CC RF) and "Provision of services that do not meet safety requirements" (Art. 238, CC RF). According to some official estimates, about 70,000 patients in Russia suffer serious complications every year due to inadequate medical care in Russia (Talan & Dunin, 2018).

Iatrogenic crimes are reasonably considered not only very latent but also very difficult due to their disclosure and organization of investigation. In this regard, in the criminal procedural and forensic sciences, one of the hot issues remains the study of the procedural and forensic tools already at the disposal of the investigator, used in the proceedings for such crimes, which should allow using its results for further supplementing and improving the named arsenal, as well as have a positive effect on the effectiveness of law enforcement agencies in countering criminal activity in the healthcare sector.

## **Material and Methods**

The research methodology is expressed by systemic, structural-functional, structural-logical, descriptive, institutional, as well as dialectical methods of scientific knowledge, collection and analysis of scientific and practical material in the field of criminal proceedings on iatrogenic crimes. Some aspects of the issue of detection and resolution of iatrogenic crimes

faced by law enforcement agencies have been illustrated by some authors. Interviews were conducted with several groups of investigators and police and security service operatives in the Kharkiv area. This made it possible to recognise the troublesome problems encountered by investigators or tactical officers during the investigation of crimes committed by a negligent crime, when offering medical assistance or improper execution of professional duties by medical personnel or pharmacists, and to recommend ways of fixing them (Danshyn et al., 2019; Kapustina, 2018; Pristanskov, 2015).

Another effective means of studying legal phenomena is the comparative-legal method since the need to analyze foreign experience in the regulation and application of the considered institution remains relevant for its use in the Russian Federation, which predetermined our scientific interest in a wide range of foreign studies in this area. Among them are the works by (Abdulaeva & Osmanov, 2017; Bookman & Zane, 2020; Erin & Ost, 2007; Miletić, 2019; Rustemova & Tazhibayev, 2015; Samuels, 1987; Taromsari et al., 2018).

## **Results and Discussion**

The national model of criminal proceedings involves, as an independent stage, the stage of initiating a criminal case, the timeliness and quality of production of which largely determines the prospect of solving crimes, including those committed by medical workers in the professional sphere.

The most common reason for initiating criminal cases for iatrogenic crimes are statements by citizens about the prosecution of specific individuals. In the age of information technology, materials posted in the media and on the Internet are increasingly becoming a reason for initiating a criminal case. Today, the media quite often covers cases of medical negligence, which are confirmed not only by the description of the most negative situation but also by a visual video of what happened. At the same time, the number of such materials has reduced in 2020 due to the enormous merit of doctors in the fight against the COVID-19 pandemic and the gratitude of society for their heroic contribution thereto.

According to Part 2, Article 140 of the Criminal Procedure Code of the Russian Federation (hereinafter CC RF), the basis for initiating a criminal case is the availability of sufficient data indicating signs of a crime. In other words, the basis for initiating a criminal case on an iatrogenic crime can only be information indicating that a medical worker violated the rules for providing medical care, which resulted in adverse consequences for the patient's health or his death. During verification actions, the investigator often encounters difficulties typical for this category of cases: medical corporation; falsification of documents available in a medical

institution, complex schemes of interaction according to which a patient is provided with medical assistance by different doctors, comparison of the actual actions of doctors with legislative and local regulations governing medical activities. A particular difficulty is the establishment of a causal relationship between the actions of the doctor and the resulting adverse consequences for the patient's health.

During a pre-investigation check, the investigator must, first of all, use the cognitive potential of those investigative actions that, as an exception, can be performed before the initiation of a criminal case: inspection of the scene of the incident, object, documents, corpse; survey; production of a forensic examination (Art. 144 of the Code of Criminal Procedure of the Russian Federation).

The investigator, according to the Code of Criminal Procedure of the Russian Federation, has the right to demand documents and objects at the stage of initiation of a criminal case, to seize them in the prescribed manner. Since all professional actions of doctors are drawn up in accordance with the accepted rules of document flow in the field of health care, for an objective assessment of the legality of the actions of a medical worker at the stage of pre-investigation verification, it becomes necessary to promptly withdraw such documents in order to minimize the risks of making any changes to them, falsification or even destruction of individual medical documents. The legislator, unfortunately, does not determine within the framework of what procedural actions it is possible to seize documents (in our case, medical documents) when checking a crime report. The literal interpretation of legal norms allows us to talk about those investigative actions only that can be carried out before the initiation of a criminal case. At the same time, if the investigator had the opportunity to carry out such an investigative action as seizure already at the stage of initiating a criminal case, then, in our opinion, this would lead to an increase in the efficiency of his activity in exposing the perpetrators of iatrogenic crimes.

To make a procedural decision when identifying signs of an iatrogenic crime on a person and an article of the Criminal Code of the Russian Federation to initiate a criminal case, the investigator must establish: a) the exact diagnosis the patient applied to the medical institution with; b) compliance of the doctor's diagnosis with the actual diagnosis; c) the reasonableness of treatment tactics; d) professional qualification of a medical worker; e) compliance of the doctor's actions with the regulations for the provision of medical care; f) standards and rules violated in the process of providing medical care.

A commissioned forensic examination (hereinafter - CFE) is no less important for resolving the issue of initiating a criminal case on iatrogenic crimes. CFE is mandatory if it is

necessary to establish the cause of death (Articles 196, 197 of the Code of Criminal Procedure of the Russian Federation). CFE in cases of crimes committed by medical workers is complex in nature. Its purpose is to determine the mechanism and sequence of actions of the doctor, which entailed adverse consequences for the patient's health.

The legal basis for the production of the forensic medical examination consists of three normative legal acts: the Criminal Procedure Code of the Russian Federation of December 18, 2001, No. 174-FZ, Federal Law of May 31, 2001 No. 73-FZ "On state forensic expert activity in the Russian Federation", and the Order of the Ministry of Health and Social Development of the Russian Federation dated May 12, 2010, No. 346n "On approval of the procedure for organizing and conducting forensic medical examinations in state forensic institutions of the Russian Federation" (Derbisbekova, 2018; Pletenetska, 2016).

According to the guidelines developed in 2017 by the Russian Ministry of Health on the procedure of a forensic medical examination and the establishment of cause-and-effect relationships upon failure to provide or inappropriate provision of medical care, it is the forensic expert commission that must certify that the procedure for providing medical care, medical standards, care and clinical guidelines.

The CFE's opinion states the presence or absence of a causal (direct) relationship between the inappropriate provision of medical care and the resulting adverse consequences for the patient's health. Its importance in the proceedings on iatrogenic crimes has been repeatedly emphasized in the literature. The CFE's opinion may also indicate that in connection with which the establishment of this causal relationship is impossible.

Of course, during the pre-investigation check, not only the personal actions of a specific doctor but also the organization of the provision of medical services, as well as the technical equipment in a medical institution, where signs of an iatrogenic crime were found, should be analyzed. The results of such a study can also contribute to the establishment of subjective and objective factors that somehow predetermined the harm to the patient's health.

Based on the foregoing, the forensic expert committee should address the following issues: 1) the correctness and timeliness of the diagnosis; 2) the correctness and timeliness of the treatment prescribed by the doctor; 3) confirmation of the existence of a causal relationship between the prescribed treatment and the pathological consequences that have occurred for the patient; 4) the possibility of correct diagnosis and a favourable outcome for the patient's health; 5) the fact of violation of the rules and standards developed by the Ministry of Health (if such a fact takes place, then what are the consequences that followed; 6) the cause of death of the patient (in case of death); 7) the fact of the presence or absence of violations in the organization

of the work of the medical institution (if the fact of the violation is confirmed, then the committee investigates the way it could affect the diagnosis and treatment prescribed by the doctor).

CFE for iatrogenic crimes is critical to establishing the guilt or innocence of a physician.

## **Conclusion**

The issues of iatrogenic crimes are today's important subject for legal science research. The number of medical offences is increasingly rising. The latency of these crimes remains high, however. The effectiveness of countering iatrogenic crimes largely depends on the accuracy and quality of the procedure for initiating criminal prosecution in this category of criminal cases is regulated by the legislator. The pre-investigation check and the procedure for making a procedural decision to initiate a criminal case for iatrogenic crimes have their own specifics. It is no coincidence that departments for the investigation of iatrogenic crimes were created in the structure of the Investigative Committee of the Russian Federation. The content of the pre-investigation check forms a set of checking and investigative actions provided for by the Criminal Procedure Code of the Russian Federation, the production of which is permissible before the initiation of a criminal case (Iedema et al., 2006; Irwin & Weidmann, 2015; Mello & Brennan, 2001). The most significant in this set are the actions aimed at studying the content of documents of medical institutions, as well as the appointment of CFE. The results of the CFE in cases of iatrogenic crimes are the key evidence to reveal the perpetrator of a crime. It should be noted that the role of specialists and experts in solving problems of identifying and investigating criminal cases about the considered category of crimes is highly significant. During verification actions, the investigator may face active opposition to the investigation, both from medical workers and from other persons interested in the outcome of the case. To increase the effectiveness of the investigator's activities in the process of identifying, disclosing and investigating iatrogenic crimes, it is necessary to further improve the criminal procedure legislation and the corresponding forensic support.

At the stage of initiating a criminal case on iatrogenic crimes, the investigator is currently faced with some problems. The key of them is a certain imperfection of the legal instruments in the implementation of pre-investigation checks, as well as the incompleteness of its forensic support. In this regard, the regulation of the procedure for initiating criminal cases on iatrogenic crimes needs further improvement, and forensic recommendations for its implementation need to be supplemented and developed.

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