A STUDY OF LITERARY SYSTEMS IN THE GREAT GATSBY TRANSLATION

UM ESTUDO DE SISTEMAS LITERÁRIOS NA GRANDE TRADUÇÃO DE GATSBY

UN ESTUDIO DE SISTEMAS LITERARIOS EN LA GRAN TRADUCCIÓN DE GATSBY

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ABSTRACT: Based on the translation studies, one of the most important concepts of polysystem theory is the transfer of dominant literary systems in a literary text such as a novel to a translated text, and this article examines such a process. Hence, to investigate the translation of the systems in question by literary translators in Russia, the present study was conducted, which first of all depends on their understanding of the specific literary systems governing the novel. For this reason, The Great Gatsby, the second greatest novel of the twentieth century, was chosen as the figure. In the end, based on the findings of the original text and the text translated in Russian, it was found that using unique techniques as well as dynamic prose, creative and fluent, the translator was able to make most of the original literary systems within the romantic text.

KEYWORDS: Translation studies. Literary text. The Great Gatsby. Novel.

RESUMO: Com base nos estudos de tradução, um dos conceitos mais importantes da teoria dos polissistemas é a transferência de sistemas literários dominantes em um texto literário, como um romance, para um texto traduzido, e este artigo examina esse processo. Assim, para investigar a tradução dos sistemas em questão por tradutores literários na Rússia, o presente

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estudo foi realizado, o que, em primeiro lugar, depende de sua compreensão dos sistemas literários específicos que regem o romance. Por esta razão, O Grande Gatsby, o segundo maior romance do século XX, foi escolhido como a figura. No final, com base nas conclusões do texto original e do texto traduzido em russo, descobriu-se que usando técnicas únicas, bem como prosa dinâmica, criativa e fluente, o tradutor foi capaz de fazer a maioria dos sistemas literários originais dentro do texto romântico.

PALAVRAS-CHAVE: Estudos de tradução. Texto literário. O Grande Gatsby. Romance.

RESUMEN: Según los estudios de traducción, uno de los conceptos más importantes de la teoría de polisistemas es la transferencia de los sistemas literarios dominantes en un texto literario, como una novela, a un texto traducido, y este artículo examina dicho proceso. Por lo tanto, para investigar la traducción de los sistemas en cuestión por traductores literarios en Rusia, se llevó a cabo el presente estudio, que en primer lugar depende de su comprensión de los sistemas literarios específicos que gobiernan la novela. Por este motivo, El gran Gatsby, la segunda gran novela del siglo XX, fue elegida como figura. Al final, con base en los hallazgos del texto original y el texto traducido al ruso, se encontró que utilizando técnicas únicas así como una prosa dinámica, creativa y fluida, el traductor fue capaz de aprovechar la mayoría de los sistemas literarios originales dentro del texto romántico.

PALABRAS CLAVE: Estudios de traducción. Texto literario. El gran Gatsby. Novela.

Introduction

Today, in the information society, one of the most common forms of protection of violated rights is judicial. Judicial bodies, as authorities, when carrying out their activities, use various social norms, in particular the norms of law (Lebedev, 2020).

The legislator in many legal acts referred directly to the enforceability of an enforceable judicial acts: article 6 of the Federal constitutional law 31.12.1996 No. 1 "On the judicial system of the Russian Federation" (Federal Constitutional Law, 1996), article 13 of the code of civil procedure of the Russian Federation (Civil Procedure Code, 2002), article 16 of the APC of the Russian Federation(The Arbitration Procedure Code, 2002), article 31.2 of the administrative code of the Russian Federation(Code of Administrative Offenses, 2002) and article 392 of the criminal procedure code of the Russian Federation (Criminal Procedure Code, 2001) for all bodies of state power and local self-government, public associations and other organizations and are subject to strict enforcement throughout the territory of Russia.

The adoption of a criminal law norm on the topic of the study was necessary for a clear understanding of the mechanism for bringing to criminal responsibility subjects who maliciously evade the execution of a court sentence, court decision or other judicial act, or prevent their execution. Among the crimes against justice, non-execution of a sentence or court decision prevails, which is confirmed by the statistics provided by the Supreme Court.

So, according to departmental statistical reports, according to the results of 3 months of 2019, fired on part 2 of Article 315 of the Criminal Code of the Russian Federation (further– the Criminal code of Russian Federation)-437 cases (Letter of the FSSP of Russia, 2019). Under part 1 of article 315 the Criminal code of Russian Federation practice is only beginning to emerge, in view of the fact that the administrative prejudice and increase the number of subjects of the crime were introduced by the legislator only 2 Oct 2018(Federal Law, 2018). Violation of the general obligation to execute a judicial act undermines the authority of the judicial system, deprives the meaning of justice, and harms the legitimate interests of citizens and organizations in whose favor they are rendered. Therefore, the protection of public relations for the execution of judicial acts should be clear.

In our opinion, the study of legal regulation of public relations related to the manner of execution of judicial acts, will identify the problematic issues relating to the criminal law prohibition of non-execution of the verdict, court decision or other judicial act in the Criminal code of the Russian Federation, as well as to develop proposals for improvement of current legislation regarding the most effective execution of judicial acts.

However, in establishing certain circumstances that are subject to proving in a criminal case of non-execution of a court verdict, court decision or other judicial act, there are difficulties that lead to the fact that many debtors remain unpunished.

In this regard, it is necessary to thoroughly conduct both a pre-investigation check and an inquiry in these cases in order to bring the perpetrators to justice. An inquiry in a criminal case under article 315 of the Criminal Code of the Russian Federation is conducted by the bodies of the Federal Bailiff Service of Russia. A report on a committed or planned crime received from other sources, as a rule, serves as a reason for initiating a criminal case under article 315 of the Criminal Code of the Russian Federation. Another source for the act under consideration is the report of the bailiff on the detection of signs of a crime, which is subject to mandatory registration in the Book of Reports on Crimes. This is due to the fact that the duties of the bailiff include a regular check of the safety of the arrested and described property, a monthly inventory of enforcement proceedings (Guidelines for conducting inspections, 2007). These actions are aimed at timely detection of the facts of malicious non-execution of court decisions, and also obstructing their execution.A report may serve as evidence in a case if it meets the following requirements: it is certified by the signature of the bailiff, contains the necessary information about it, the signs of the detected crime and, most importantly, the source of the information received (Commentary on article 143 of the RF Criminal Procedure Code,2021). The signs of the specified crime are contained in the

enforcement proceedings, which are carried out by the bailiff. However, one reason is not enough to initiate a criminal case.

It is also necessary to have sufficient grounds, which can include the following:

–obligatory introduction into legal force of a judicial act, the obligation to execute which is assigned to the debtor.

–malicious failure by the debtor, or obstruction by him of the execution of the judicial act; appeal by the debtor of the specified court decision (in case of appeal, find the appropriate decision);

–written request of the debtor to extend the terms of execution of the judicial act (in the presence of);

–there is a real opportunity to the debtor to execute a judicial act; warning bailiff debtor criminal responsibility under article 315 of the Criminal code of Russian Federation(in this case, one must have the signature of the debtor, the date and time of signing);

–the establishment of intent to commit this crime; other circumstances that are subject to establishment in each criminal case.

Therefore, together with the report and the documents that are attached to it for all identified crimes (a copy of the decision to initiate enforcement proceedings, a copy of the court decision, a copy of the writ of execution), the bailiff is obliged to provide the investigator with documents confirming the above circumstances. At the same time, the specified list of documents is not exhaustive and depends on the specific case.

Literature Review

It is worth noting that the institute of judicial acts was the subject of research even before the revolution of lawyers (Argunov, 2014). A large number of works devoted to the Institute of judicial acts were written during the Soviet period. Soviet proceduralists investigated certain issues related to this institution: certain types of judicial acts, the requirements for judicial acts, the legal force of judicial acts. A lot of modern researchers of procedural law have also made the institute of judicial acts the subject of their research.

Despite the fact that the institute of judicial acts has been studied by legal scholars for a long time, legal science has not been able to develop a unified approach to determining the essence of this legal phenomenon. At the same time, the analysis of works devoted to the problem of defining the category "judicial act" allows us to conditionally divide the existing definitions into several groups. Researchers whose work can be conditionally attributed to the

first group, when determining the content of the definition of "judicial act", focus on the following property as a written form. Among the members of this group can be noted M.A. Vicut (2005) and N.A. Rassakhatskaya (2000). Judicial acts are the totality of all acts issued by the judicial authorities, according to representatives of the second group. A.M. Bezrukov (2004) defines judicial acts as acts issued by the court to achieve the goals of civil proceedings. According to Y.A. Shirokopoyas (2002), the category "judicial act" refers to acts of the entire judicial power exercised through constitutional, civil, administrative and criminal proceedings. Representatives of the third group understand the definition of "judicial act" in a generalized form as a reflection of the will of the court, its expression of will, objectified in the form established by the relevant law. The brightest representative of this group is D.M. Chechot (2005).

The legislator considers the legal category "judicial act" as a decision that is made in the form established by the relevant law on the merits of a case considered in the course of constitutional, civil, administrative or criminal proceedings or proceedings in an arbitration court, as well as a decision rendered by a court of appeal, cassation and supervisory instance (Federal Law, 2008). In our opinion, the legal definition does not reflect the whole essence of the category "judicial act". First of all, it does not allow us to understand what the legal nature of judicial acts is. We believe that when considering the concept of "judicial act", it is necessary to proceed from the fact that a judicial act by its legal nature is a specific type of law enforcement acts. Judicial acts are characterized by common signs (traits) for all types of acts of application of law, which in the context of this category find their specific refraction. This conclusion is consistent with the opinions of many representatives of legal science (Matuzov&Malko, 2020) I would like to focus on the f oundation of the criminal case, as the malice of evasion from execution of the judicial act, used by the legislator in the disposition of part 2 of article 315 of the criminal code of Russian Federation, and having an estimate. The analysis of the scientific legal literature allows us to identify several approaches to determining the content of the attribute «malice»

−ways of committing crimes, the elements of which are specified in Article 315 of the Criminal Code of Russian Federation and a rticle 177 of the Criminal Code of Russian Federation. For example, I.A. Klepitsky (2005) reveals malice as follows: "Concealment of income or property from compulsory collection, bribery of the bailiff, the head of the debtor's organization, the debtor's attempt to hide and other similar actions";

−researchers who determine the content of this attribute by listing the circumstances that indicate the malicious behavior of a person who does not execute a judicial act. This

approach is presented in the works of N.A. Lopashenko (2018), A.V. Galakhova (2010), P.G.Marfitsin, V.T.Tomin, I.A.Zinchenko(2015), V.V. Sverchkov(2019);

–researchers who determine the content of this attribute focus on the quantitative and qualitative characteristics of the behavior of a person who does not execute a judicial act;

–the researchers who determine the content of this attribute describe the forms of counteraction to enforcement proceedings, within the framework of which the enforcement of judicial acts is carried out. We agree with those researchers who consider it a sign of "malice" inappropriate elements of the objective side of the crime associated with the failure of judicial acts (article 177 of the criminal code of Russian Federation and article 315 of the criminal code of Russian Federation). L.M.Alanina, for example,writes: "In this regard, we will allow ourselves to doubt the very expediency of introducing such a feature as" malice", if only because it is impossible to establish a clear boundary between the lexical meanings of" malicious "and" intentional", since in general, any intent to commit a crime is, in fact, malice. At the same time, it seems very strange to include in the definition of evasion (an act that is part of the objective side of the crime) malice as a certain qualifying criteria" (Allanina, 2019). In addition, the need for exceptions from article 315 of the criminal code of the Russian Federation and article 177 of the criminal code of the Russian Federation of the symptom of "malice" shows the changes associated with the symptom, which were made by the legislator in recent years. In particular, the sign of malice was excluded from the criminal law norm specified in article 157 of the Criminal Code of the Russian Federation. In addition to malicious non-execution of court decisions that have entered into legal force, the objective side of the crime under article 315 of the Criminal Code of the Russian Federation may consist in obstructing their execution. It seems that it is not possible to establish a single interpretation of the term "malice".

Materials and Methods

Research Methods

In the course of the research, the following methods were used: general scientific methods of cognition (analysis, deduction, synthesis, structural and functional method and method of system analysis). In addition, formal-legal, comparative-legal and historical-legal methods are used. The legal basis of the study was the current criminal legislation, which establishes liability for crimes committed through bribery.

Research Phase

The study of the problem was carried out in three stages:

–at the first stage, the theoretical analysis of the existing methodological approaches in the criminal law scientific literature, dissertations on the problem of researchwas carried out, as well as the theory and methodology of research; the problem, purpose, and methods of research were identified, and a plan for solving the identified problems was drawn up.

–at the second stage, the existing theoretical and practical problems are considered; a set of solutions is identified and justified; the conclusions obtained in the course of the study are analyzed, verified and clarified.

–at the third stage, the study was completed, the theoretical and practical conclusions were clarified, the results were generalized and systemized.

Results

I would like to draw attention to such a basis for initiating a criminal case as the malignity of evading the execution of a judicial act, used by the legislator in the disposition of part 2 of Article 315 of the Criminal Code of the Russian Federation (Criminal Code,1996), and having an evaluative character. It seems that it is not possible to establish a single interpretation of the term "malignity". However, the following circumstances may indicate malignity: the presence of a real opportunity to execute a judicial act; rejection of measures aimed at executing a judicial act; missing the deadline for fulfilling obligations; the amount of unfulfilled obligations; the presence of a written warning of the debtor about criminal liability under Article 315 of the Criminal Code of the Russian Federation. Consequently, depending on the specifics of a particular case, the inquiry officer must evaluate the totality of the existing circumstances, the analysis of the sufficiency of which will be evidence of the debtor's malicious evasion from the execution of the judicial act.

In the event that a person interferes with the execution of a court verdict, court decision or other judicial act, in order to make a decision to initiate a criminal case, the inquiry officer conducting the pre-investigation check must collect documents or information confirming these facts.The documents confirming this information may be explanations of employees who were forbidden by the head to execute court decisions, explanations of the head himself; balance sheet of the organization; an extract from the bank on the status of the debtor's accounts, on the transfer of funds from the debtor-organization to the settlement accounts of other organizations, in order to avoid the arrest of these funds by the bailiff.

Consider the actions of the head (Sentence of the magistrate of the judicial district No. 23, 2017) of the debtor organization, preventing the execution of the judicial act. So, the reason for initiating a criminal case may be the report of the bailiff. The grounds for initiating a criminal case may be copies of court decisions that have come into legal force, statements of employees to whom the employer has not paid wages for several months, saying that the organization does not function and there is no income, a decision to arrest the organization's funds, extracts on the movement of funds on the bank card of the head of the organization to third parties, that is, the materials of enforcement proceedings.

It is extremely rare that a crime report, drawn up in an appropriate procedural document, contains all the information that is sufficient grounds for initiating a criminal case on the fact of non-execution of a court sentence, court decision or other judicial act. Often, an inquiry officer, as part of a pre-investigation check, has to perform many verification, investigative and other procedural actions, based on the results of which a final decision is already made. The most common verification action is sending requests. This is due to the fact that the location of the debtor is often unknown. In this regard, it is necessary to send requests, for example, to the information center of the Ministry of Internal Affairs of Russia in order to find out information about a criminal record, about bringing to administrative responsibility, or to get information from the address bureau. It should be noted that all the requirements and requests of the inquiry officer at this stage are mandatory for all institutions, enterprises, organizations, officials and citizens to whom they are sent.

However, in addition to requests, such as obtaining explanations, claiming documents and items, the requirement for the production of documentary checks, audits, studies of documents, items are also used. During the pre-investigation check, in addition to the verification non-procedural actions, some investigative actions are also carried out (in a strict procedural form), that is, the actions of authorized persons aimed at collecting and verifying evidence. The most common investigative action at the stage of initiating a criminal case is an inspection of the premises of the debtor organization. As a rule, it is carried out without delay, that is, immediately after receiving a report of the crime. The peculiarity of this investigative action is that when it is carried out, the presence of a representative of the administration of this organization is mandatory, about which a corresponding entry is made in the protocol. This investigative action is aimed at the immediate removal from the scene of documents related to the ongoing check in order to confirm the data specified by the bailiff in the report. For example, the head of the debtor organization, in his explanation to the bailiff, says that the obstacle to the execution of the court decision is the termination of the organization's

economic activities. In this case, the production of an inspection of the organization's premises can help to find and seize checks, receipts or other documents of late, which refutes the information from the explanations.

Discussions

Due to the fact that the subject of the crime in question is a judicial act that has entered into legal force, and the grounds for initiating a criminal case are the documents contained in the materials of enforcement proceedings, inquirers often resort to examining the documents. The essence of the examination in this case is to find out the presence or absence of those circumstances that would serve as the basis for initiating a criminal case. So, for example, an examination of the bailiff's warning about criminal liability under Article 315 of the Criminal Code of the Russian Federation to check the presence of the debtor's signature and the date when it was delivered; requirements for the execution of a judicial act; receipts for the sale of seized property, confirming partial repayment of the debt by means of compulsory execution, and others. However, problems arise with the establishment of such a fact, testifying to the existence of a subjective side of the crime in question, as a real possibility of the debtor to enforce a court decision that has entered into legal force.

Modern practice is developing in such a way that to establish this fact, the accountant of the FSSP of Russia draws up a certificate of the result of the examination of the accounting documents of the debtor organization, where, based on the income of this organization, it is concluded that it is possible to enforce the court decision. At the same time, the necessary expenses of the organization are not taken into account, which indicates the inaccuracy of the information contained in the specified document. In addition, from the point of view of part 2 of article 74 of the Criminal Procedure Code of the Russian Federation, the certificate of an accountant of the FSSP of Russia is not evidence. Consequently, this document has no legal value and does not contribute to the establishment of the circumstances of the case. It seems that the most expedient in this case is to conduct a forensic accounting examination. This is due to the fact that as part of the examination, all profitable and forced expenditure transactions of the debtor organization will be analyzed, therefore, it will be possible to find out the amount of those funds that can go towards fulfilling obligations.

In addition, the expert is an independent researcher, that is, he is not interested in the outcome of the case, which cannot be said about the accountant of the FSSP of Russia. And most importantly, the expert's opinion in accordance with Part 2 of Article 74 of the Code of Criminal Procedure of the Russian Federation is evidence in a criminal case.

Let us consider that rare example when the examination was still carried out. So, as part of the verification of the crime report, a forensic accounting examination of the financial and economic activities of the SCC "D." in order to establish the fact that the chairman of the SCC "D." V. to execute the decision of the court. According to its results, it was established that when spending money, the chairman of the agricultural company "D." V. violated the order of priority for spending funds established by Article 855 of the Civil Code of the Russian Federation and did not repay debts under court decisions ... (Sentence of the magistrate of judicial district No. 1, 2017). The results of this examination made it possible to establish a real possibility of fulfilling the obligations under the court decision, namely, the presence of the chairman of the debtor organization of funds that could be used for this, but they deliberately spent it for other purposes. The specified expert opinion proves such a circumstance as the guilt of a person in committing a crime under Article 315 of the Criminal Code of the Russian Federation.

At the end of the pre-investigation check and if there are sufficient grounds, the inquirer issues a resolution to initiate a criminal case.

The most common investigative action in the conduct of an inquiry is an interrogation aimed at obtaining information from the interrogated person related to the criminal case and with their fixation in the protocol. As a rule, employees of the debtor's organization are questioned; third parties with whom the economic entity made settlements. The production of the specified investigative action makes it possible to establish the objective aspect of the crime in question. For example, when obstructing the execution of a judicial act, during interrogation from the employees of the debtor organization, you can learn about the opening of any other accounts in the name of the organization, about the transfer of funds to third parties, about the receipt of any profit by the organization.

So, for example, P.V.N. in the commission of a crime under Article 315 of the Criminal Code of the Russian Federation, among other evidence, is confirmed by the testimony of the witness FNS, who testified that "date" he applied to LLC "*" to purchase stained glass windows. He paid for the purchase by bank transfer. The transfer was made to the details of a bank card in the name of P., which were given to him by LLC "*", after the transfer of funds, he received his order. At the same time, the general director of LLC "*" argued that during the specified period the organization was not engaged in economic activities, and therefore was not able to execute the court decision (Verdict of the Samara District Court, 2016). This circumstance indicates the presence of a direct intent to evade the fulfillment of obligations.

In addition to interrogation, the seizure of documents is also carried out, aimed at the seizure of certain documents relevant to the criminal case. A feature is that the interrogator knows exactly where and who has these documents (this information, for example, can be obtained from employees of the debtor organization during interrogation). At the same time, the order of the inquirer on the production of seizure must necessarily indicate which specific document is subject to seizure, its location. Often, invoices for payment, various checks, invoices and other documents are withdrawn that indicate the debtor's economic activity, as well as, albeit indirectly, that it is possible to enforce the judgment. The withdrawn is recorded in the seizure protocol, which subsequently serves as evidence in a criminal case.

So, for example, M.S.G. in the commission of a crime under Article 315 of the Criminal Code of the Russian Federation is also confirmed by the protocol of seizure of documents from "data seized" of enforcement proceedings No. "data seized" from the bailiff-executor of the Oktyabrsky PCB of Irkutsk (2015).

Conclusion

Without conducting investigative actions, it is impossible to establish all the circumstances to be proved in a criminal case on non-execution of a court verdict, court decision or other judicial act. The defects and procedural violations made at the stage of collecting materials on the grounds of a crime by the officers of the bailiff service lead to the loss of the evidence base, which cannot always be replenished by the interrogator who has started work. The reasons for this: lost time, impossibility or difficulty of modeling a particular situation, loss of documents.

In this regard, it is necessary to inspect the premises and documents in a timely manner, since their liquidation does not present any difficulty for the debtor. It is imperative to apply for a forensic accounting examination, because its absence may lead to an unjust verdict.

Thus, the final decision depends on the quality of the material collected by the interrogators. A criminal case can only be initiated if there is a reason and sufficient grounds. Therefore, it is necessary for each enforcement proceedings to clearly fulfill their duties, to monitor the actions of each debtor in order to avoid the negative social consequences that were mentioned earlier.

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