

TILTM 2022**Topical Issues of Linguistics and Teaching Methods in Business and Professional Communication****COMPARATIVE ANALYSIS OF CULTURAL AND LINGUO-
LEGAL STEREOTYPES (EXEMPLIFIED BY «REASONABLE
MAN»)**

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Abstract

The research is aimed at identifying specific features of legal patterns representing special knowledge in the Anglo-Saxon law system and their actualization in the process of case analysis in the Anglo-American law system. The authors make an attempt to highlight the main differences between legal and cultural patterns expressed through the same linguistic means. The results of the research are illustrated by the analysis of the concepts of “reasonableness” and “reasonable man.” The conducted analysis carries the inference that the legal pattern features fixation is a gradual process in the course of interpretational activity as judges make out social and legal characteristics relevant for legal treatment of a case. In the process of modelling events typical of the English courtroom discourse and based on the argumentation principles the judges in the original case (a precedent) work out a legal pattern correlating with the social and cultural parameters relevant to the case. This pattern further gets actualized in further cases to simplify and unify a judgement. It is regarded desirable to work out recommendations for higher education syllabus to take foreign legal patterns into account while teaching law students. Alongside the commonly accepted dialectical method, the following private scientific methods have been exploited: the formal logical method helping to identify attributes of patterns; discourse analysis focusing on verbal representation of patterns and contributing to modelling their structure based on legally relevant social and cultural parameters in the course of legal argumentation.

2672-815X © 2022 Published by European Publisher.

Keywords: Legal stereotype, law system, legal pattern, professional worldview

1. Introduction

In the course of legal communication, cognitive structures enabling successful legal statement “deciphering” within the legal discourse are formed. It occurs among other things due to the formation of legal patterns relating to a specific legal concept in the process of higher courts legal commentating as well as the interpreting activity of legal practitioners on the whole.

2. Problem Statement

The precedent law system in which interpretational powers of lawmakers are much wider compared to those of the continental law system provides more opportunities for legal concepts to become legal patterns. What is more, historical development of the leading case doctrine is closely related to the overall social and cultural development of the society for many of the concepts borrowed from everyday life acquired new denotations in the legal discourse. At present we can witness the process of codification of everyday language phrases and legal patterns being formed on their basis.

As a result, the cultural pattern and the legal pattern are represented in the discourse by the same set of linguistic means. A legal pattern already formed differs from a cultural one both by the number of attributes and their features. Judicial discourse specifics, attention to interpretation of legal regulations and documents wording, the necessity to establish the exact conditions of legal terms usage and highlighting the qualifying features of legal relationship leads to the situation when a legal pattern expressed by the same linguistic means as the cultural one acquires a greater number of attributes and represents a more rigid structure.

3. Research Questions

The current research focuses on the concepts and background knowledge underlying legal terms. The most important “information” needed to distinguish one legal term from another in the relevant system boils down to certain specific features thus forming a linguo-legal stereotype. A linguo-legal stereotype is understood as a relatively rigid structure including both integrating and differentiating features, correlating with the concept of the term and the typical frame of the event.

Legal terms mostly stem from common words and expressions lacking any specific features. Thus, meanings of “everyday” (non-legal) expressions serve as understratum for future linguo-legal stereotypes.

The research questions posed by the authors at the outset of the study are as follows:

Do dictionary definitions reflect all specific features of the linguo-legal stereotype? In what way does it correlate with the popular (non-legal) stereotype?

What specific features are acquired in the course of legal interpretation? And what specific features are “inherited” from the everyday use?

What are the linguistic means helping to reconstruct specific features of the linguo-legal stereotype in the discourse?

4. Purpose of the Study

Linguo-legal stereotypes as cognitive structures lay the foundation for legal patterns with their particular attributes in the discourse. Legal patterns anticipate certain perception and behavioral models relevant for the sphere of legal relationship and shared by all representatives of the community. Legal patterns may have attributes similar to the cultural ones as well as more detailed attributes. The purpose of the study is to figure out differences and similarities in legal and non-legal patterns basing on the concept of reasonableness.

5. Research Methods

The main ideas are supported by the fundamental research of Russian and foreign authors specializing in this sphere, in particular, Emelyanov, Konovalov, Gardner etc.

In order to figure out the meaning of words and expressions under consideration and compare them with the acute senses implied in the discourse a thorough analysis of relevant dictionary entries has been carried out. But mostly this research heavily relies on the results of the discourse analysis. Exact examples are taken from non-professional and professional discourse to describe the patterns and their attributes. In the course of the analysis the following steps have been taken:

1. Basing on the literature and common use of the expression “reasonable man” as well as on definitions and examples given in such dictionaries as Oxford Dictionary (2020), Merriam-Webster Dictionary (2020), Cambridge Dictionary (2020), Thesaurus.com (2020) etc., senses acquired in the non-professional discourse have been stated and generalized. As a result, only one general sense (and the only attribute of the non-legal pattern) has been found.
2. Examples from the English legal discourse (court cases, Black’s Law Dictionary (2004), court argumentation) have served as the foundation for determining attributes typical of a reasonable man legal pattern in English. The actualization of the pattern in the English legal discourse has helped to specify social and cultural parameters relevant and vital in a particular legal situation.
3. Comparison of the patterns in the legal and non-legal discourse has provided grounds for drawing similarities and finding differences in the patterns.

The same steps have been taken to assess the Russian pattern “reasonable man” and the concept of “reasonableness” in Russian.

6. Findings

6.1. Interpretation of the concept “reasonableness” in Anglo-American law

Since the existence of the society itself is determined legally, the attributes of a legal pattern are socially oriented, they reflect the essence of the rights and duties, provisions of the regulating norm, disposition of the violations and the consequences.

As an example we consider the concept *reasonableness*, which is an evaluation category and in each separate case in the Anglo-American law system the court analyzes the circumstances in order to determine what can be considered reasonable.

In the process of the interpretation activity the finder of facts points out and summarizes the criteria of reasonableness and attributes of a reasonable man, which are relevant for a particular legal relationship. Besides the fact that the common speech understanding of reasonableness implies an ability to logical and critical thinking, the judges take into consideration the experience, knowledge, age, psycho-emotional state, memory span etc. Emelyanov (2002) believes that correlation with a possible behavior of a reasonable man in a specific situation serves as a criterion of legality of acts of mental (reasonable advance knowledge, reasonable understanding) or physical (reasonable measures, reasonable care) activity of a real subject in law.

In the Anglo-American law system, the idea of reasonableness is directly related to the development of law when a legal dispute was resolved on the basis of a reasonable and wise approach to the facts of the case as well as to the development of the equity law, when considering a case, the judge rather relied on common sense, objectivity and fitness of the decision than on the literal wording of the law. The meaning of the word *reasonable* is rather stipulated by the spirit of the law than by the letter of the law and reflects a native speaker's conception of the objectives and principals of the judicial system itself.

One of the basic English language concepts both common and professional is the concept of *a reasonable man*. Native speakers use the collocation *reasonable man* outside the legal context, however, the perception of this collocation in common and professional discourses has a number of differences.

The central meaning in non-professional discourse is soundness and common sense. For instance, Oxford Dictionary (2020) offers the following definitions of *reasonable*:

1. Having sound judgement; fair and sensible: no reasonable person could have objected.

Merriam-Webster Dictionary (2020) defines *reasonable (man)* as possessing sound judgment. Cambridge Dictionary adds capability of rational thought to sound judgement: *reasonable* — based on using good judgement and therefore fair and practical: If you tell him what happened, I'm sure he'll understand – he's a reasonable man.

Tesaurus.com (2020) provides the following synonymous adjectives objective, prudent, modest, sensible.

The basic attribute of *reasonable man pattern* in non-professional discourse is the abilities for abstract logical reasoning, soundness, common sense. The example provided in Cambridge Dictionary (2020) («If you tell him what happened, I'm sure he'll understand – he's a reasonable man»), demonstrates that native speakers perceive a reasonable man as a person who is able to understand what is happening and react adequately to the situation.

The analysis of the examples borrowed from Oxford Dictionary (2020) demonstrates that the basic meaning of the word *reasonable* in the collocation *reasonable man* in non-legal/non-professional discourse is the meaning level-headed, sober-minded: having sound judgment; fair and sensible:

- *It is saying that the only way in which we, as a group of reasonable people, were able to interpret the provision was in that way.*

The collocation *to interpret the provision* articulates reasonableness as an ability to adequately understand and perceive the provision depending on the circumstances.

- *That's the only logical conclusion that a reasonable person can draw.*

The phrase *the only logical conclusion* in the example given above indicates the ability for logical reasoning, while in the following example another attribute of reasonable person (reliance on common sense and logics) is maintained by the verb *to assume*:

- *Should a reasonable person be able to assume that law and ethics are the same?*

The further analysis of the examples of *reasonable man* collocation usage outside judicial discourse also proves that reasonableness is perceived as an ability to evaluate the situation adequately and act in accordance with the accepted standards and modes which the members of the society consider most logical. This can be proved by the following examples:

- *He voted very conservatively, but he appeared to be a moderate, reasonable person because he was candid with the press and open*

(<https://context.reverso.net/translation/english-russian/reasonable+man>).

The example provided shows that reasonableness of the individual involved choosing an adequate manner of behavior consistent with his status and standing. The speaker evaluates another individual through being reasonable, arguing that the said individual has built correct (*sincere and straightforward*) relationships with the press: *because he was candid with the press and open*.

- *"I think a reasonable man wouldn't object to this," – he said*

(<https://ludwig.guru/s/reasonable+man>).

Here, reasonableness from the speaker's point of view lies in the fact that the person does not have to challenge some specific fact as it would contradict the rationale and common sense (*a reasonable man wouldn't object*).

As it is pointed out in the dictionary Thesaurus.com (2020), reasonable most often means sensible: A reasonable supposition is one which appeals to our common sense.

The analysis of the materials/narrative provided by Linguazza web portal confirms the inference that the differential attribute of the reasonable man cultural pattern is the skill of critical and logical thinking. Consider a few more examples:

- *Let's just say this governor (Cuomo) is a reasonable man and communicated to us with respect and common courtesy and we responded.*

The provided example illustrates the fact that from the speaker's point of view reasonableness involves the individual's adequate behavior in a specific situation – common courtesy and respectful communicative style: «a reasonable man and communicated to us with respect and common courtesy», which causes the responsive positive reaction in the society: «and we responded».

- *Above all else, you must plan early to be the most reasonable man in the room when it comes to arguing non-infringement, whether your reasoning is based on claim construction or the facts.*

In spite of the fact, that the collocation concerns a claim construction or the facts pointing to a communicative situation involving legal community, the context actualizes the *reasonable man cultural pattern* as due to the words arguing and reasoning the speaker focuses on the argumentation ability, logical reasoning and common sense.

- *I have met three or four reasonable men who are capable of arguing the point logically, most were well educated and of the old school of politeness and you Sir are not amongst them.*

The example provides another situation when the attribute of the reasonable man cultural pattern – a skill for logical reasoning pursuant to common sense – is being actualized due to the use of the collocation *capable of arguing the point logically*.

- *The sheer numbers, diversity, and plurality of beliefs should be enough for a reasonable man to question the validity of any of them.*

In the above sentence the means of actualizing the reasonable man cultural pattern is the verb *to question* which provides for analysis and review of a certain reality fact.

All said above allows to conclude that in the native speakers' naïve world view of while using the collocation *reasonable man* the ability to critical/logical reasoning and sound judgement as well as common sense of an individual come to the foreground. In the cultural context the collocation *reasonable man* becomes a pattern the differential attributes of which are reasonableness, common sense, perception ability and ability to logical reasoning. The reasonable man cultural pattern represents some knowledge that an individual is capable to perceive the information, analyze it and take some actions corresponding with the communicative situation living up to the society's expectations. Thus, the reasonable man cultural pattern is connected with the patterns of behavior, perception and judgement culturally dependent and considered by the society the most acceptable and logical in a specific communicative situation.

6.2. Attributes of the reasonable man legal pattern in Anglo-American law

In the English language legal discourse *reasonable man* is a generalized vision possessing a number of relevant for the field of law characteristics and a legal pattern formed on its basis receives the attributes typical of a cultural pattern as well as demonstrates additional attributes, e.g. a certain level of education, basic skills and personal experience typical of an average adult. The collocation first borrowed from the natural language and used in the judicial discourse in the court case *Vaughan v. Menlove* (1837) when the judge was to determine the reasonableness of the act and decide on the fact of negligence.

As described by Gardner (2015) in his introduction to *Many faces of the reasonable man*, the doctrine of a reasonable man is the oldest and has been applied by the judges in Anglo-Saxon law for ages, and, although at present a number of standards actively used have emerged by analogy in the legal system, the doctrine of reasonable man remains basic for the judges.

The word with the attitudinal meaning *reasonable* is included into a range of historically formed legal concepts, e.g. *reasonable man*, *reasonable doubt*, *reasonable suspicion*, *reasonable belief* and the like, which for many centuries have functioned as standards when trying cases. In the legal discourse the concept of *a reasonable man* is assigned a behavioral and reasoning model which provides the judges with a clear understanding how a person who possesses average/ standardized set of knowledge and skills and has no psychological problems must act in a specific legal situation.

Black's Law dictionary (2004) provides the following definition of reasonable man: «A hypothetical person used as a legal standard, esp. to determine whether someone acted with negligence; specif., a person who exercises the degree of attention, knowledge, intelligence, and judgment that society requires of its members for the protection of their own and of others' interests. The reasonable person acts sensibly, does things without serious delay, and takes proper but not excessive precautions. Also termed

reasonable man; prudent person; ordinarily prudent person; reasonably prudent person; highly prudent person».

The collocation *used as a legal standard* indicates that when trying a case the judge applies a *reasonable man* doctrine as a standard which allows to weigh the circumstances of the case and the acts/reactions of the process participant against an ideal model, i.e. the way an average man possessing a particular set of knowledge, skills, intellectual level and attention, as well as perception and expectation formed in this cultural and historical environment exercises the degree of attention, knowledge, intelligence, and judgment that society requires of its members. The dictionary entry particularly points out that this “ideal” behavioral model is stipulated by the interests of the law (*for the protection of their own and of others' interests*). The legal pattern *reasonable man* coincides with the cultural one in one of the attributes – the ability for logical reasoning and reacting in accordance with common sense (*person acts sensibly*), however, the legal context imposes on the person a duty to act without delay (*does things without serious delay*), having taken all reasonable but not excessive precautions (*takes proper but not excessive precautions*) and considering the rights and duties of other participants of the legal relationships.

Codification of the legal concept *reasonable man* is emphasized in the legal dictionary by means of the word *standard* in the commentary to the dictionary entry: *The reasonable man connotes a person whose notions and standards of behaviour and responsibility correspond with those generally obtained among ordinary people in our society at the present time, who seldom allows his emotions to overbear his reason and whose habits are moderate and whose disposition is equable. He is not necessarily the same as the average man – a term which implies an amalgamation of counter-balancing extremes (R.F.V. Heuston, Salmond on the Law of Torts 56 (17th ed. 1977).*

This comment demonstrates that the legal pattern *reasonable man* anticipates perception and behavioral models (*notions and standards of behaviour*) as well as degree of responsibility, relevant for the sphere of legal relationship and shared by all the representatives of the community. The fact that these models perform as a pattern is indicated by the words *standards, generally obtained* and *ordinary*. However, if the reasonable man cultural pattern presumes only the existence of common sense, prudence and logics, the reasonable man legal pattern besides the attributes similar to the cultural one includes more detailed attributes: the ability to control emotions and personal characteristics like moderate habits and even temper (*habits are moderate and whose disposition is equable*).

The formation of a legal pattern is greatly influenced by the wording and definitions provided by the Supreme Court as the Supreme Court is the highest judicial authority and its decisions are treated as legal norms, fragments of its rulings and judgements are cited by all the lower courts and legal writers in the course of legal argumentation. Correspondingly, the attributes the Supreme Court provides for as relevant for the definition of the reasonable man model are fixed as the attributes of a legal pattern.

A legal pattern sets a model which can apply to all potentially possible legal situations. Judges in the process of interpretational activity by means of extensive or restrictive interpretation single out characteristics commonly found in a man acting in a specific situation of legal relationships in accordance with common sense and reasonably from the legal point of view taking into account psychic, emotional, social and cultural parameters. By means of a later interpretation and multiple citing of those

characteristics by lower level judges the singled out features begin to correspond to the attributes of the legal pattern.

The analysis of the argumentative part of the Supreme Court decisions corroborate that the reasonable man legal pattern possesses more detailed attributes, e.g. the individual's specialization, emotions, perception, experience, skills, their background, upbringing, origin, which were not included in the definition offered by the dictionary.

The following examples from the argumentative part of the Supreme Court decisions illustrate the attributes of the legal pattern being actualized in the legal discourse:

A jury generally decides whether a defendant has acted as a reasonable person would have acted. In making this decision, the jury generally considers the defendant's conduct in light of what the defendant actually knows, has experienced, or has perceived (<https://www.supremecourt.gov/>).

The given example shows that the jury considers the background knowledge of an average adult (*what the defendant actually knows*), as well as what the defendant has gone through (*has experienced*), how he understands the situation and what emotions he is under (*has perceived*). The jurors compare the defendant's personality characteristics, experience and emotions with behavior and emotional experience of a reasonable average society member (*as a reasonable person would have acted*), i.e. true behavioral mode accepted in the judicial discourse. The use of the collocation *reasonable man* maintains a stereotype image of a level-headed person who is able to control their emotions and provides an adequate reaction to the existing legal situation.

The correlation between the factual and the stereotypical (right for the legal relationship) behavioral models can be illustrated with the following example:

If a reasonable man with the actor's own knowledge and experience plus the knowledge and experience with which he is charged would perceive a risk in the conduct in question the actor will be held to perceiving this risk. But even his mistaken impressions and beliefs are to be taken into account in judging a man's conduct, and allowance would be made for them provided they are not unreasonable in the light of his background and experience (<https://www.supremecourt.gov/>).

The defendant's knowledge and experience as a representative of a specific social, age, and ethnic group are correlated to the knowledge and experience of an average society member. The sentence *If a reasonable man with the actor's own knowledge and experience plus the knowledge and experience with which he is charged would perceive a risk in the conduct in question the actor will be held to perceiving this risk* points out the fact that if an average society member possessing similar knowledge and experience as the defendant reacted similarly then the defendant's behavior can be considered reasonable. What is more, the Supreme Court prescribes the necessity to take into account and make allowances for the perception, emotions, misapprehensions, false impressions if the defendant truly believed in them on the basis of his previous experience (*mistaken impressions and beliefs*) and if these misapprehensions can be found in a member of the social, age or other group which the defendant belongs to (*they are not unreasonable in the light of his background and experience*).

In other words, in making a decision the court relies not only on the reasonable man cultural pattern, but it evaluates actions of a specific person from the position of the pattern that is applied in the judicial practice.

The reasonable man legal pattern assumes that a reasonable man possesses some background knowledge, attitudes and visions typical for the members of the society as a whole.

The said attribute of the pattern may vary depending on what type of community (professional, social or any other) the participant of the trial whose behavior is being evaluated against the “correct” behavioral model (*reasonable man pattern*) belongs to.

In the process of interpretation, the US Supreme Court judges determine that the criteria which influence the evaluation of whether the individual’s actions were reasonable from the legal point of view depend on the level of knowledge, skills and other professional qualifications of the said individual:

- «The reasonably prudent man is, to be sure, endowed with some of the qualities of the person whose conduct is being judged, especially where the latter has greater knowledge, skills, or the like, than other people generally» (<https://www.supremecourt.gov/>).

The collocation *reasonably prudent man* in the legal discourse acts as a synonym of *reasonable man*. In its decision the Supreme Court emphasizes that the reasonable man model must consider (*is endowed with*) the defendant’s social and cultural parameters in particular his knowledge and experience (*knowledge, skills, or the like*), especially when they differ from knowledge and experience of an average person (*especially where the latter has greater ... than other people generally*). Thus, the behavioral model of a defendant who possesses greater knowledge and experience in a particular field is compared with a model of how an average representative of a professional or other community who may have access to similar knowledge or experience would have behaved in a similar situation. If the defendant possesses greater experience, knowledge or skills that enable him to take actions which better suit the legal relationship situation but the defendant does not do it, the court will consider his behavior unreasonable and, as a result, illegal.

The following example taken from the argumentative part of the Supreme Court decision shows that the court initially presumes that the experience and knowledge are individualized nevertheless it assumes that it is logical and justifiable to expect the individual to possess the knowledge of common, well-known and accessible to everyone facts, perceptions, norms and rules formed in the society and shared by the representatives of the specific community:

- «Knowledge or experience of a specific fact like this is always individualized and the actor will not be charged with it unless a reasonable man would have acquired it» (<https://www.supremecourt.gov/>).

The collocation *unless a reasonable man would have acquired it* assumes that specific experience and knowledge may become attributes of the reasonable man legal pattern only if they are accessible to an average member of the specific community.

Along with an adult’s education and average knowledge a legal pattern attribute includes emotions and reactions typical of a specific legal relationship situation. One of the attributes of the reasonable man legal pattern is a level-headed feature of the individual and the ability to control their emotions.

Gardner (2015), referring to Homicide Act 1957, says that where on a charge of murder there is evidence on which the jury can find that the person charged was provoked <...> to lose his self-control, the question whether the provocation was enough to make a reasonable man do as he did shall be left to

be determined by the jury; and in determining that question the jury shall take into account everything both done and said according to the effect which, in their opinion, it would have on a reasonable man.

The given example retrieved from a legal writing maintains level-headedness and control over emotions as an attribute of the reasonable man legal pattern (*provoked ... to lose his self-control, whether the provocation was enough to make a reasonable man do as he did*) and shows that when the solution of a legal situation depends on how the court evaluates the defendant's emotional state the latter's behavior is compared with the standard behavior of a reasonable man who finds himself in a typical for the situation in question emotional state and acts on the basis of common sense (*to the effect which, in their opinion, it would have on a reasonable man*).

Interpreting the reasonable man notion, the Supreme Court finds its decision on the image of an average person's memory.

The normal adult is required to possess the ability to remember which a reasonable man possesses both as to the character of the phenomena which he must remember and as to the circumstances under which he is required to remember them (<https://www.supremecourt.gov/>).

The notions of normal adult and reasonable man are assigned a similar meaning if they possess a similar memory capacity, accuracy of perception and reproduction of the events as well as the information storage period. The definition of *normal* points to the assumption of the Supreme Court that a reasonable person is to possess a memory which in all respects complies with the norm, i.e. according to the further clarification of the Court the person must remember both the incident itself (*the character of the phenomena*) and the attending circumstances (*the circumstances*). The Supreme Court's definition based on the norm and providing its general idea subsequently becomes a criterion for the lower courts and as a result of frequent application and citation is fixed as an attribute of the pattern – a reasonable man possesses an average memory agreeable with the norm.

Thus, in accordance with the results of our research, *reasonable man* is a pattern of a reasonable man possessing the following features:

1. background knowledge typical for the members of the said society;
2. skills which an average adult should possess;
3. experience typical for all the society members;
4. level-headed character and “exemplary” reactions;
5. “normal” memory (neither phenomenal, nor weak).

While the cultural pattern does not include psychological and emotional state estimation and presupposes existence of common sense and ability for logical reasoning only, the memory, reflexes, emotions and mental state may prove critical for the reasonable man legal pattern, therefore the Supreme Court rulings provide for them separately. So, for instance, cognitive processes and reflexes are always treated not as cognitive processes and reflexes of an individual capable of thinking, but as a teetotal person with common sense:

Voluntary intoxication is generally said to be no excuse for acts or omissions which fail to conform to the conduct of a reasonable and sober man (<https://www.supremecourt.gov/>).

Here the Supreme Court provides in particular that the behavior must correspond with the behavior of a teetotal (sober) person.

Applying the age criterion to a case, judges rely on the idea that the age means “age of understanding” (and not a child or an elderly), which can be illustrated by the following example:

QUESTION: On your view of this case, ... reasonable person doesn't mean 16. I mean, isn't it ... a warning that is designed for a reasonable person, meaning a reasonable adult? And so that the situation is ... as has been portrayed. It's just an objective thing ... that the police are supposed to do (Yarborough & Warden, 2004).

The words *reasonable person doesn't mean 16* in the given example denote that in the professional community members' minds a reasonable man does not mean a teenager. Moreover, in the given context the court presumes a reasonable man to be an adult (above 18): *a reasonable person, meaning a reasonable adult*.

The speaker is asking for confirmation whether he has a correct understanding that a reasonable person means a “grown up person” which allows to assume that it was his first association when the collocation *a reasonable man* was used in the discourse. The attribute of “age of understanding” has not been revealed in the process of the cultural pattern analysis.

The research allows for the conclusion that the cultural pattern of *a reasonable man* perception as well as the reasonable man legal pattern have a common attribute – ability for logical reasoning, common sense and behavior reasonable under the said circumstances (*having sound judgement; fair and sensible, possessing sound judgment, based on using good judgement and therefore fair and practical*), nevertheless, the reasonable man legal pattern in the English language legal discourse reveals a greater number of attributes than the cultural pattern represented by the same language means. What is more, the Supreme Court definitions afford ground for a further (secondary) interpretation of the legal concept of *a reasonable man* due to age, profession or any other criterion. Further interpretation makes it possible to single out a specific set of attributes, which can facilitate further modification of the legal concept scope and formation of legal pattern new attributes.

6.3. The concept of reasonableness in the Russian legal system

Despite the fact that the concept of reasonableness is a rather new phenomenon for Russian law, the said criterion is widely used in the Civil Code of the Russian Federation (1994) in respect of the price of goods (art. 524, 738), expenses (art. 520, 530, 744), measures taken to minimize damages (art. 404, 750, 962), conduct of business (art. 72, 76), change of transfer of goods place (art. 524), foreknowledge of a circumstance change (art. 451), assumption of the interests of the party joining the contract (art. 428), in respect of deadlines (art. 314, 345, 375).

In the Russian language the collocation reasonable person is before everything else a means of verbalizing the cultural pattern, as the Russian legal system has not yet formed a fully legal concept of a reasonable person.

The analysis of the dictionary entries provides for the following meanings of the word reasonable in the Russian language:

1. capable of logical thinking, reasoning;
2. (of an act or judgement) logical and coherent;
3. not exceeding the natural norm in the given circumstances.

Examination of examples taken from Russian classical writings provides a basis for singling out in the Russian reasonable man cultural pattern the same differential attributes as in the English one – ability for logical reasoning and common sense (<https://kartaslov.ru>). Consider the following examples demonstrating the reasonable man cultural pattern attributes:

– capable of critical reasoning – We assume that time has come when history demands that honest and reasonable Russian people subject this unique to in-depth study, to criticism without reservation (M. Gorkiy «Two souls», 1915).

– forethoughtful - Zakhar: Why has he called for the soldiers? They have found out about it... They know all! And it has brought up his death. I, by all means, had to open the plant... otherwise I would have ruined my relationships with them. Now is the time when they should be treated with more attention and milder... and who knows what will come out of it? In such epochs a reasonable man should have some friends in the masses... (M. Gorkiy «Enemies», 1906).

– level-headed - In Sakhalin among the intelligentsia working and managing offices, I would meet reasonable, kind and noble people whose presence itself is a sufficient guarantee that the return of the past is impossible (A.P. Chehov «Sakhalin Island», 1895).

– smart - Prince Andrew considered such a great amount of people despicable and insignificant, he so much sought in the person of another for the living ideal of that perfection to which he was striving for, that he easily believed that he found this ideal of a quite reasonable and righteous man in Speransky (L.N. Tolstoy «War and Peace» 1873).

However, at present we can watch in the Russian language a tendency similar to the one described in connection with the English language – the collocation to act reasonably and in good faith borrowed from the everyday language first stipulated in the Civil Code of the Russian Federation (1994), article 10, (The good faith of the participants in the civil law relationships and reasonableness of their actions are assumed) becomes stereotyped and is subject to codification. The meaning of the collocation borrowed from the natural language is modified in the process of interpretational activity through narrowing or expanding of the concept content scope, and then the codified concept acquires a number of attributes which differ from the attributes of the non-legal collocation both qualitatively and quantitatively. Later on, the legal pattern is formed on the basis of the essential attributes of the codified concept.

In case of the collocation to act reasonably and in good faith the Supreme Court of the Russian Federation elaborating on the provisions of the said article makes a greater emphasis on the concept of good faith:

«Estimating whether the parties act in good or bad faith, it is necessary to take as a starting point the behavior expected from any participant of a civil relationship, who considers the rights and legal interests of the other party, assisting it, including the receipt of the necessary information. According to the Civil Code of the Russian Federation (1994) art. 10(5) the good faith of the participants of civil relationships and reasonableness of their actions are assumed until otherwise is proved» (Plenary Session Ruling of the RF Supreme Court).

Legal writers note that the notion of reasonableness is an evaluation category in Russian law, and the court takes into account all the circumstances in each individual case in order to define the criteria of reasonableness. According to Konovalov (2019):

Reasonableness of a civil law subject is the striving of the civil transaction participant realizing his rights and fulfilling the undertaken obligations to commensurate his actions with the common sense, general idea of care and foresight and economic efficiency, rights and other subjects' interests protected by law. (p. 19)

In the course of interpretation some social and legal components can be singled out in the notion of reasonableness:

- foreseeability of the consequences of the actions;
- realization of the scope of the rights and duties;
- proper execution of the obligations;
- acting with reference to the knowledge, experience and assumptions shared by all the society members.

These are illustrated by the number of examples borrowed from the texts of court decisions (Archives of court decisions: <http://sudrf.kodeks.ru/rospravo/>):

Having audited the calculations of the losses defined by the reference to the payments made to the newly hired specialists since the first day of their employment and payments made to the specialists with whom the employment relations continue after the liquidation procedures have been introduced between September 2018 and June 2019, since Aminova V.V. acting in good faith and reasonably should have notified them about the forthcoming dismissal two months in advance, it was held correct (Ruling of the Commercial (Arbital) Court for Povolzhskiy District of 14.08.2020 / Case N A49-10760/2016).

Good faith and reasonableness in this case presuppose understanding of the taken obligations (should have notified them) and their execution in a specific situation of legal relation.

Deciding on the question whether the other party to the contract should have known about the stated circumstances, the court takes into account the fact how it could establish the existence of the said circumstances acting reasonably and showing the care required by the transaction (Ruling of the 12th Commercial (Arbital) Appeals Court of 17.08.2020 / Case N A35-4877/2017).

In this case the reasonable behavior includes not only the logical reasoning, but correlation of the precautions in a specific legal situation, estimation of the other party's actions, analysis of the circumstances, as well as the realization by the participants of their legal rights and duties.

Consider another example:

Drafting an application to charge the legal expenses in a form of a separate procedural document is not necessary under the RF Administrative Procedural Code, art. 112, 125, the claims and motions may be filed in the statement of the case. The claimant acting reasonably and in good faith while protecting their rights must take precautions to reduce the legal expenses (Ruling of the 11th Commercial (Arbital) Appeals Court of 14.08.2020 / Case N A65-7671/2020).

In this example the court notes that reasonableness of the actions includes not only understanding of the person's own rights, their protection and adequacy of the amount of damages, but the economic practicability of the filed documents.

Thus, we may conclude that despite the fact that the concept of reasonableness is undergoing the formation process in Russian law, in the course of the interpretational process legally relevant components are being singled out in the content of the concept. The said components state the conditions of its usage within the legal discourse and are not found in the reasonable man cultural pattern, which can in the future become the basis for fixing the attributes of the legal pattern.

7. Conclusion

In conclusion, we may note that formed during the interpretational process legal patterns represent fixed in generalized and schematic mode special knowledge. The legal discourse specifics, the imperative of legal interpretation and the necessity to interpret the wording offered by the lawmaker contribute to the situation when a legal pattern expressed through the same language means as the cultural one acquires a greater number of attributes. Consequently, formation of such cognitive structures is the basis for successful legal communication.

Acknowledgments

The reported study was funded by RFBR, project number 20-012-00466

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