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THE INVOLVEMENT INTO CRIMES OF AN EXTREMIST (TERRORIST) NATURE: FORENSIC LINGUISTIC MODEL

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Abstract

The article substantiates the provisions that underlie the forensic linguistic parametrization of risks associated with the process of involvement into crimes of an extremist (terrorist) nature. The linguistic module of the diagnostic complex, developed on the methodology of parametric forensic linguistic modelling, concerns parameter characteristics, necessary and sufficient for the subsequent legal assessment of communicative risks. The authors note that now, the optimization of the work of a linguist expert in the domain of the application of anti-extremist and anti-terrorism legislation consists in: the choice of a logically correct terminology describing the composition of crimes related to the incitement to extremist activities; consideration of diagnostic features that are significant for law enforcement practice in relevant cases; determination of verbal indicators of criminal involvement. The forensic linguistic parametrization of incitement to extremist activities refers to the term “involvement”, which contains the concept most fully explained by corresponding legislative acts of the Russian Federation. It also takes into account diagnostic features, significant for law enforcement practice, such as involvement methods and the indication of a provoked crime. With regard to linguistic examination, the priority in terms of inclusion into the parametric forensic linguistic model is given to the following ideas on discursive actions by an instigator (a delinquent): the instigator focuses on an inclusive intent; the inclusion of references to the sphere of involvement in the propositional content; the use of communicative and semiotic means aimed at the leveling and rapprochement of the addressee and the instigator.

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Keywords: Forensic linguistic analysis, crime diagnosis, extremism, terrorism, instigator, involvement.



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1. Introduction

According to Russian legislation, the concept of terrorist activity is included in the content of the legal category “extremist activity” (see Federal Law of July 25, 2002 No. 114-ФЗ “Counteraction of Extremist Activity, 2002”) and is its integral part (see the resolution of the Plenum of the Supreme Court of the Russian Federation dated 06/28/11 No. 11 “The Judicial Practice in Extremist Crimes, 2011).

According to the (Federal Law of the Russian Federation..., 2002; Federal Law..., 2006) “The Judicial Practice in Extremist Crimes”, the concept of terrorist activity is included in the content of the legal category “extremist activity” and is its integral part.

Judicially, the concept of terrorism is determined as the ideology of violence and the affection of decision-making by state authorities, local authorities or international organizations related to intimidation of the population and (or) other forms of unlawful violent actions (see Federal Law of March 6, 2006 No. 35-Federal Law Counteraction of Terrorism”). Moreover, terrorist activity is described through a list of action that include: the organization, planning, preparation, financing and implementation of a terrorist act; the incitement to a terrorist act; the organization of an illegal armed formation, a criminal community (criminal organization), a group aimed at the implementation of a terrorist act, as well as participation in similar structures; the recruitment, armament, training and use of terrorists; informational or other aid in the planning, facilitation or implementation of a terrorist act; propaganda of the ideas of terrorism, distribution of materials or information calling for terrorist activities or justifying the need for such activities (see Federal Law of March 6, 2006 No. 35-Federal Law “Counteraction of Terrorism”, 2006).

As determined by the Federal Law of the Russian Federation of March 6, 2006 No. 35-Federal Law “Counteraction of Terrorism” (2006), the concept of terrorism is an ideology of violence and affection of decision-making by state authorities, local authorities or international organizations related to intimidation of the population and (or) other forms of unlawful violent actions. Moreover, terrorist activity is described through a list of action that include: the organization, planning, preparation, financing and implementation of a terrorist act; the incitement to a terrorist act; the organization of an illegal armed formation, a criminal community (criminal organization), a group aimed at the implementation of a terrorist act, as well as participation in similar structures; the recruitment, armament, training and use of terrorists; informational or other aid in the planning, facilitation or implementation of a terrorist act; propaganda of the ideas of terrorism, distribution of materials or information calling for terrorist activities or justifying the need for such activities.

In its turn, the Federal Law of July 25, 2002 № 114-Federal Law “Counteraction of Extremist Activity” (2002) also refers “public justification of terrorism and related terrorist activities” to the content of extremism (see Article 1).

In its turn, Article 1 of the Federal Law of the Russian Federation of July 25, 2002 № 114-Federal Law “Counteraction of Extremist Activity” (2006) also refers “public justification of terrorism and related terrorist activities” to the content of extremism.

On the one hand, within this law, the concept of “extremist activity” is clearly broader than the concept of “terrorist activity”, since the latter is considered only as one of the numerous displays of extremism. On the other hand, according to the Federal Law “Counteraction of Terrorism” of 2006, a

group that organizes, facilitates, or commits extremist crimes under Art. 280, 282.1 and 282.2 of the Criminal Code of the Russian Federation (Article 24) is also recognized as terrorist. The inclusion of one concept into another causes inconvenience in their application due to a provoked conflict of federal laws (Mozhegova, 2014).

No less problematic is the use of legislation to prosecute for such a form of abetting terrorist activities as the incitement to the commission of crimes of an extremist (terrorist) orientation. In relevant articles of the Criminal Code (for cases of an extremist nature - Part 1.1., Part 3 of the Article 282.1; Part 1.1., Part 3 of the Article 282.2 of the Criminal Code of the Russian Federation; for cases of a terrorist nature - Part 1, Part 1.1., Part 2 of the Article 205.1), the term incitement is referred to as a multicomponent verbal construction of “inducement, recruitment or other types of involvement”. The difficulty of its effective application consists in the following:

- The Criminal Code of the Russian Federation and related legal acts does not provide a system of definitive forms (legal definitions), which allow to distinguish and bring the legal concepts of inducement, recruitment and involvement into a strict correlation system;

- Limited explanation provided by a competent authority within Part 1 of the Article 205.1 of the Criminal Code of the Russian Federation (see paragraph 14 of the resolution of the Plenum of the Supreme Court of the Russian Federation of 09.02.12 No. 1 “Certain Issues of Judicial Criminal Practice in Terrorist Crimes”) does not allow to unambiguously bring the concepts under consideration into the category of incitement, which may provoke the intuitive use of these norms with regard to functionally related forms of complicity;

- Unjustified diversity in the characterization of actions encouraging to complicity in the commission of crimes of an extremist (terrorist) orientation overloads the terminology of legislation with vague categories amplifies the influence of subjective factors on decision-making;

- Uncertain application of terms leads to polyphony in their unofficial (doctrinal) interpretation, while some of the explanations (often provided to use the term in expert practice) cannot be considered exhaustive (Beshukova, 2016; Korosteleva, 2018; Nagaeva, 2011; Reshetnikov, 2019), and etc.

The current situation negatively affects the quality of the forensic linguistic examination carried out in relevant cases, since a linguistic expert may obtain an incorrect idea of the nature of features, which have to be diagnosed in the researched objects.

2. Problem Statement

The quality of the analysis of verbal displays of incitement as an activity of a radical delinquent depends on tackling numerous problems that lie at the intersection of law, linguistics and judicial speech.

The authors believe that now, the solution to the problem associated with the organization of the work of an expert on the cases related to inducement, recruitment or other types of involvement consists in:

- the choice of terminology adequate for modelling diagnostic procedures aimed at the identification of necessary and sufficient features of the objective side of a crime;
- consideration of diagnostic features that are significant for law enforcement practice in cases of extremist (terrorist) orientation;

- determination of verbal indicators representing corresponding diagnostic features.

The authors suppose that the solution to the first two problems falls within the competence of the legislative body, whereas the search for a solution to the third problem cannot be effectively carried out without the help of a linguist.

Thus, the choice of terminology that determines the nature of the diagnosed act should reflect, which of the concepts revealing the features of incitement in the field of extremist (terrorist) crimes possess the most comprehensive legal description. From the corresponding articles of the Criminal Code of the Russian Federation and their official interpretation by competent authorities, we conclude that, making the term involvement generic (cf. microcontexts objectifying its hyperonymic essence: "... other types of involvement ...", "... actions aimed at the involvement ..."), the legislator ascribes a certain combination of features characterizing a criminal act to it. These are: 1) the presence of addresser's (delinquent's) intent, 2) his/her focus on a specific person / group of people, 3) involvement (inclusion) as the essence of incitement, 4) a sphere for involvement (crimes, in which someone is involved by an extremist / a terrorist), 5) methods of involvement (persuasion, bribery, etc.), 6) means of transmitting involvement (in particular, information and communication networks), 7) type of involvement (physical / mental impact), 8) means of involvement arrangement (for example, searching for people), 9) degree of effectiveness (for example, potential / actual effectiveness, that consists in inciting someone into the commission of at least one crime) (for the precise wording of inducement, recruitment or involvement, see. paragraph 14 of the resolution of the Plenum of the Supreme Court of the Russian Federation from 09.02.12 No. 1 "The Issues in Judicial Criminal Practice Involving Terrorism-Related Offenses). Against this conceptual background, the terms inducement and recruitment acquire a status of recondite verbal units, which promotes the use of a limited term involvement reflecting an element that has been brought by the legislator to the level of a logically processed concept.

In addition, when selecting the components of the diagnostic complex, one should be guided by the provisions of criminal law and the experience accumulated in the field of judicial practice, which indicate the need to identify within the composition of each criminal offense, how the instigator acted on the perpetrator and to the commission of which exact crime the perpetrator was persuaded (Nagaeva, 2011, p. 525). In other words, the necessary and sufficient features that qualify involvement as a criminal act are recognized as "methods of implementing inclusion" (here we can also attribute accompanying parameters such as "means of transmitting involvement", "type of involvement", "means of involvement arrangement") and a "reference sphere for inclusion", which, in turn, presupposes the detection of indicators proving the presence of involvement in the scope of the communicative intention of the offense subject.

In the framework of this article, the range of issues that contribute to the identification of lingual correlates diagnosing the presence of features typical of involvement in the commission of extremist (terrorist) crimes is subject to discussion.

3. Research Questions

The study concerns lingual parameters identifying one's mindset to involve a third party in the commission of a crime of an extremist (terrorist) nature as one of varieties of criminally prosecuted incitement.

4. Purpose of the Study

The purpose of the study is to determine linguistically relevant component composition of a diagnostic complex oriented at the detection of features of involvement into the commission of extremist (terrorist) crimes.

5. Research Methods

The detection of communicative and semiotic parameters of criminal involvement is carried out using the methodology of parametric forensic linguistic modelling, which assumes in the general case the fulfilment of three actions: the definition of (1) the composition of phenomenon features, (2) normative (prototypical) forms of expression of each phenomenon feature, (3) the range of variation in the display forms of each feature that does not destroy the identity of the phenomenon (Osadchiy, 2018, p. 7). In the framework of this study, the use of modelling procedures includes characterizing the parameters of the linguistic diagnostic complex "the involvement in the commission of extremist (terrorist) crimes". The model has been designed with due regard for existing expert practice.

6. Findings

The features of involvement suggest that it can be carried out through speech, so the idea that inducement to participation in extremist (terrorist) activities, in which involvement is a form of verbal impact, becomes the basis of parametric forensic linguistic modelling. Thus, a linguistic expert in his practice deals with verbal involvement.

The same concepts in linguistics and law, however, are not identical, which creates some difficulties for the convergence of these domains.

So, in the field of law, the conceptualization of the researched phenomenon is conducted through the features of an instigator (the subject of the offense) – a person prosecuted for the implementation of his/her intent to involve the incited person in activities, including those of an extremist / terrorist orientation, through engagement (persuasion, request, appeals, proposals, etc.). This fact indicates an asymmetric nature of relations between the instigator and the incited person.

In linguistics the researched concept is oriented at the description of consensual actions and conditions (Araeva, Katyshev, Osadchiy, & Olenov, 2018; Gulyaeva, 2016; Katyshev & Olenov, 2016; Khazimullina, 2016), which characterize both of the interaction participants, while the activity itself and the process of involvement are regarded in their connection with socially approved discursive practice based on dialog between equal subjects.

Moreover, the theory of verbal involvement developed in linguistics is heterogeneous in terms of approaches used for the comprehension of this phenomenon. Among those are:

- the *involvement-study* approach, according to which engagement is considered as an essential requirement and a structure of oral interaction based on the equality of communicants' duties with respect to (1) the focus on conversation and (2) active engagement of another subject into it (Gumperz, 1982; Tannen, 2007) etc.,
- the *engagement-study* approach, which presupposes that texts of mainly indirect communication are studied in terms of their ability to regulate readers' cognitive and behavioral activity in the direction, desired for the addresser (Engagement in Professional Genres, 2019; Hyland & Jiang, 2016; Hyland, 2017) etc.

In the researchers' view, the study of inclusive phenomena in oral and written communication based on the same methodological principles is possible only if the description of the regulatory parameter of involvement position is recognized heuristically significant. Involvement position defines a specific behavioral policy chosen by the communicant in relation to the inclusion of himself and another person into the communication act, as well as prerequisites and consequences associated with it. This parameter can describe not only the communication position of the involving party, but also the position of the person being involved, and therefore can explicate, how the communicants represent themselves and the other party as participants of social interaction.

The introduction of this parameter is significant when modelling verbal involvement cases (incitement cases), carried out with the intent to induce the object to the commission of a crime of an extremist (terrorist) nature.

In other words, the priority in terms of inclusion into the forensic linguistic model is given to the ideas of instigator's discursive practice that suppose:

- addresser's focus on inclusive intention (whether it coincides/ does not coincide with the purpose of his/her statements and its expression degree in the relevant parts of the text);
- the introduction of modal and propositional settings, that refer the recipient to the oriented sphere which implies the adhesion of the addressee to the addresser's settings;
- the use of communicative and semiotic means to regulate addressee's behavior towards the addresser's field of interest.

At the same time, in practice (for example, in cases when a person is being verbally engaged in the activities of an organization recognized as terrorist, as well as when organization members are forced to incite others to participate in its activities), the character of communicative and semiotic means of expression of necessary and sufficient features may be accompanied by a description of other discursive procedures. These are, in particular:

- the choice by the addresser of the target audience and its representation;
- the distribution of functions and roles between the addresser and addressee in the context of the ongoing communicative act;
- the establishment of a certain attitude to the recipient, control of the contact dynamics with him/her;

- the indication of the degree and nature of proximity (a) of the message and (b) corporate values to the addresser and the recipient (their identification with the source of the message or discrepancy from it);
- the reference of the recipient to a particular (correct) group with a possible indication of (a) its preferences and values, (b) means of entrance, (c) personal qualities important for the member, (d) membership conditions and (e) members' obligations.

7. Conclusion

Parametric forensic linguistic modelling of risks associated with the involvement in the commission of extremist (terrorist) crimes is carried out based on such a suprasystem determinant as the sphere of law (its theory, legislative fixation and application in the framework of court proceedings).

In accordance with this determinant, which defines the nature instigator's actions in terms of involvement, provoked crime and, as a result, the presence of inclusion within the action scope of delinquent's communicative mindset, a set of linguistically significant parameters, considered as a tool for diagnosing corresponding legal risks, is formed.

As this parametric system indicates, the following factors are of paramount importance when defining of the composition of criminal involvement: (a) the coincidence of inclusive intent with the addresser's communicative objective, (b) the presence of a verbalized idea of a provoked crime, (c) the use by the addresser of communicative and semiotic means of interpersonal impact, which leads to the formation of the addressee's readiness to commit an extremist (terrorist) crime.

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References

- Araeva, L. A., Katyshev, P. A., Osadchiy, M. A., & Olenov, S. V. (2018). Recontextualization of the Religious Term 'Ziyarat': Critical Discourse Study. *European Journal of Science and Theology*, 14(5), 137–147.
- Beshukova, Z. M. (2016). «Skloneniye, verbovka ili inoye vovlecheniye lica» kak al'ternativnyye dejstviya obektivnoy storony organizatsii jekstremistskogo soobshhestva ["Declining, recruiting or otherwise involving a person" as alternative actions by the objective side of the organization of an extremist community]. *Natsional'naya bezopasnost' / nota bene*, 5, 632–639. [In Russ.].
- Engagement in Professional Genres. (2019). *Pragmatics & Beyond New Series*. <https://doi.org/10.1075/pbns.301>
- Federal Law of the Russian Federation of July 25, 2002 No.114-Federal Law "Counteraction of Extremist Activity" (2002). Retrieved from http://www.consultant.ru/document/cons_doc_LAW_37867/
- Federal Law of the Russian Federation of March 6, 2006 No.35-Federal Law "Counteraction of Terrorism" (2006). Retrieved from http://www.consultant.ru/document/cons_doc_LAW_58840/
- Gulyaeva, M. A. (2016). Teoreticheskie osnovy izucheniya vovlechennosti v kommunikatsiyu [Theoretical Foundations of Study of Involvement in Communication]. *Izvestia of the Volgograd State Pedagogical University*, 9–10(113), 65–69. [In Russ.].

- Gumperz, J. J. (1982). *Discourse strategies*. (Studies in International Sociolinguistics 1.). Cambridge University Press.
- Hyland, K. (2017). Metadiscourse: What is it and where is it going? *Journal Of Pragmatics*, 113, 16-29. <https://doi.org/10.1016/j.pragma.2017.03.007>.
- Hyland, K., & Jiang, F. (2016). “We must conclude that...”: A diachronic study of academic engagement. *Journal Of English For Academic Purposes*, 24, 29-42. <https://doi.org/10.1016/j.jeap.2016.09.003>
- Katyshev, P. A., & Olenov, S. V. (2016). K voprosu o sudebnoi lingvisticheskoi ekspertize po delam, svyazannym s vovlecheniem v deyatel'nost' nelegal'nykh organizatsii [On the Question of Forensic Linguistic Expertise of the Cases about Illegal Organizations Involvement]. *Acta linguistica Petropolitana – Trudy Instituta lingvisticheskikh issledovanij*, 12(3), 407-419. [In Russ.].
- Khazimullina, E. E. (2016). Mekhanizm rechevogo vovlecheniya v deyatel'nost' ekstremistskikh organizatsii [Mechanism of Speech Involvement by Extremist Organizations]. *Acta linguistica Petropolitana – Trudy Instituta lingvisticheskikh issledovanij*, 12(3), 453-469. (In Russ.)
- Korosteleva, L. V. (2018). Problema opredeleniya priznakov verbovki v sudebnoj lingvisticheskoi jekspertize [Determining the Signs of Recruitment into an Extremist or Terrorist Organizatiuon in Forensic Linguistic Expertise]. *Political Linguistics*, 6(72), 127-132. ([In Russ.].
- Mozhegova, A. A. (2014). O razgranichenii jekstremistskikh i terroristicheskikh prestuplenij po ugovnomu pravu Rossijskoj Federacii [On the delimitation of extremist and terrorist crimes under the criminal law of the Russian Federation]. *Biznes v zakone. Jekonomiko-juridicheskij zhurnal*, 3, 52-55. (In Russ.)
- Nagaeva, T. I. (2011). Primenenie terminov «vovlechenie» i «sklonenie» v rossijskom ugovnom prave [The use of the terms “involvement” and “declination” in Russian criminal law]. *Lex Russica*, 70(3), 515-539. [In Russ.].
- Osadchiy, M. A. (2018). *Russkij jazyk na grani prava: Funkcionirovanie sovremennogo russkogo jazyka v uslovijah pravovoj reglamentacii rechi* [Russian Language on the Brink of Law: The Functioning of the Modern Russian Language in the Conditions of Legal Regulation of Speech]. M.: Knizhnyj dom «Librokom». [In Russ.].
- Reshetnikov, A. Ju. (2019). Vovlechenie v sovershenie obshhestvenno-opasnykh dejstvij: normativnye konstrukcii i voprosy ugovno-pravovoj ocenki [Involving in the Committing of Socially Dangerous Actions: Regulatory Structures and Criminal-Legal Assessment Issues]. *Vestnik of the Omsk Law Academy*, 16(1), 43-48. <https://doi.org/10.19073/2306-1340-2019-16-1-43-48> [In Russ.].
- Resolution of the Plenum of the Supreme Court of the Russian Federation dated 06/28/11 No.11 “The Judicial Practice in Extremist Crimes”. (2011). Retrieved from <https://rg.ru/2011/07/04/vs-dok.html>
- Tannen, D. (2007). *Talking voices: Repetition, dialogue, and imagery in conversational discourse*. New York: Cambridge University Press.