

**SPECIFICS OF JUDGES' DISCOURSE MOVES:
IN THE PAST AND IN THE PRESENT**

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Специфіка дискурсивних ходів судей: у минулому та сьогодні

Стаття актуалізує поняття «стратагема». В останні роки це поняття тільки починає використовуватися в гуманітарних науках і привертати увагу науковців. Водночас його вивчення в дискурсивному аналізі, зокрема в дискурсі судових засідань, не було у фокусі уваги і не становило спеціального об'єкта дослідження. Метою цього дослідження є визначення поняття дискурсивного ходу або стратагеми в суддівському дискурсі, форм його вербального вираження в наративі судді. Для досягнення поставленої мети необхідно виконати кілька завдань. По-перше, важливо уточнити поняття дискурсивного ходу в контексті комунікативного впливу, оскільки його визначення та роль у комунікації дещо відрізняються від загальноприйнятих уявлень. По-друге, важливо визначити його вербальне вираження в цьому підтипі судового дискурсу. По-третє, простежити еволюцію стратагем у суддівському дискурсі.

Результати дослідження є такими. Виокремлено такі стратагеми в суддівському дискурсі: 1) стратагема апеляції до етосу/моралі, 2) маніфестація легітимної влади/авторитету та 3) маніфестація рівності сторін. З погляду мовної репрезентації стратагеми реалізуються через дискурсивну активізацію певних тематичних сфер з певною спільною семою: для стратагеми апеляції до етосу це «релігійні цінності», «демократичні цінності», «верховенство права», «загальнолюдські цінності»; для стратагеми маніфестації легітимної влади/авторитету – «авторитетний тиск, примус»; для стратагеми маніфестації рівності – форма «питання-відповідь» проведення судового засідання для всіх учасників.

На відміну від стратегем дискурсу обвинувачення й захисту, стратегеми суддівського дискурсу залишилися практично незмінними. Щоправда, можна відзначити, що іноді сучасні судді дозволяють собі короткі роздуми на особисті теми.

Вважаємо, що дослідження видається перспективним, оскільки видається цікавим, наприклад, порівняти стратагеми у промовах суддів зі стратагемами у промовах прокурорів та адвокатів.

Ключові слова: вербальне вираження, дискурсивний хід, еволюція, стратагема, суддівський дискурс.

The paper updates on the notion “stratagem”. The aim of this study is to identify the notion of discourse move or stratagem in judges` discourse, forms of its verbal expression in the narrative of the judge. To achieve the stated goal, it is necessary to perform several objectives: to clarify the concept of discourse move in the context of communicative influence; to determine its verbal expression; to trace the evolution of stratagems in judges` discourse.

The results of our research. The stratagems in judges` discourse are: 1) stratagem of appealing to ethos/morals, 2) manifesting legitimate power/authority, and 3) manifesting equality of parties. In terms of linguistic representation, the stratagems are implemented through the discursive activation of certain thematic areas with a particular common seme: for the ethos appeal stratagem – “religious values”, “democratic values”, “rule of law”, “universal values”; for the stratagem of manifesting legitimate power/authority – “authoritative pressure, coercion”; for the stratagem of manifesting equality – question-and-answer form of holding a court hearing for all participants.

Unlike the stratagems of the prosecution and defense discourses the stratagems of judges` discourse have remained virtually unchanged. Though, we may point out that sometimes modern judges allow themselves short personal digressions.

Key words: discourse move, evolution, judges` discourse, stratagem, verbal expression.

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Introduction. The effectiveness of communication depends on an understanding of the ways and purposes of its realisation, as well as an understanding of the functioning of its elements. In this regard, we distinguish a discursive strategy, a tactic and a discourse move or stratagem.

If strategy is understood as the art of creating one's position/line, model of behaviour to achieve a leading goal and it is implemented through tactics and stratagems, then tactics involve methods of creating one's position/line of behaviour to achieve a certain goal/goals, and discourse moves or stratagems are a step-by-step action plan. Stratagems are the mechanics of executing the plan.

The phenomenon of stratagem, which involves formulating an optimal approach to resolving a complex situation, is of particular interest in modern linguistics due to the cognitive-communicative nature of discourse realization. The stratagem is undoubtedly related to the mental processes in human activities. It has a cognitive dimension and depends on the way of thinking. So, it plays a key role in any success.

In recent years, this concept, which is widely used in the humanities, has gained attention in linguistic analysis. At the same time, its investigation in discourse analysis and, in particular, in courtroom discourse has not been in the focus of attention and has not constituted a special object of research.

In view of the above, we want to integrate those approaches and suggest a broader perspective in analysing stratagems.

Given that this problem has not been properly analysed in scientific papers, we consider this topic to be **relevant**. Thus, the **aim** of the paper is to identify the notion of discourse move or stratagem in judges' discourse, forms of its verbal expression in the narrative of the judge. To achieve the stated goal, it is necessary to perform several **objectives**. **First**, it is important to clarify the concept of discourse move in the context of communicative influence since the definition of it and its role in communication are somewhat different from the commonly accepted understandings. **Second**, it is important to determine its verbal expression in this subtype of courtroom discourse. **Third**, to trace the evolution of stratagems in judges' discourse.

The corpus material is speeches of judges, delivered at authentic US trials (The Giuseppe Yaccobacci Trial 1906; People of New York against Leroy Stanley 1920; The Nelson Mandela Trials 1963 – 64; The Kevorkian Trial 1999; Abbott v. Perez, Supreme Court 2017; The Brendt A. Christensen Trial 2019), both in paper form and e-form, as well as YouTube video recordings.

The methods of analysis differed at each of its different stages. The clarification of the position of the author of this article concerning the definition of the concept of strategy was carried out in the process of the analysis of the interpretation of the named concept presented in the theoretical sources. With the use of methods of comparison, the approaches to interpretation of this concept and types of signs of the considered phenomenon, generalization (which generalized the general and differing views of the authors), and argumentation were compared.

For performing other tasks, the method of discourse analysis was chosen, which necessitated the determination of the features of three types of contexts: social, pragmatic, and linguistic. In analyzing the social context, we focused on identifying the specific features of the judicial social context and the status roles of different agents of courtroom discourse.

In characterizing the pragmatic context, we proceeded from the fact that the main (illocutionary) goals of the speakers (in our case, judges) are conditioned by their status functions (the judge – to administer justice and to impose a penalty).

While determining their intentions at different stages of utterance production the methods of intent-analysis, component analysis (when revealing the ways of language expression of intentions) and partially functional-stylistic analysis (in cases of emotional tension of utterances) were used.

The method of modeling was applied to form the structure of the analysis according to the following features: revealing the essence, types, forms of representation, type of discourse move, ways of its linguistic expression. A typified characterization of the three discourse contexts (social context, pragmatic context, and linguistic context) was created using a design method: the results of observations of actual trials in the United States were projected onto each of the named contexts of the courtroom discourse.

In identifying the features of the speeches of judges we applied the techniques of component analysis: the semantic components (seven) meanings of words and phrases that represent the stratagem, as well as those that ensure the effectiveness of its influence on the audience. The method of classification was exploited in highlighting the specific signs of the stratagem in the courtroom narrative, while the method of generalization was used to draw conclusions on the results of the study.

Background review. There are currently several definitions of the term “stratagem”, which has the status of a concept in psychology, political science, economics, and communication theory. The analysis of these definitions allows us to find the sought-after characteristics of stratagem as a way of organising discourse. Thus, in psychology it is interpreted as a certain algorithm of behaviour, a calculated sequence of actions, which, taking into account the psychological inclinations of the subject and other features of the situation, aims at solving a specific problem or achieving an implicit goal.

Thus, stratagem is associated with a particular way of achieving effectiveness in communication. It is also important to clarify the essence of the concept of stratagem, which is embedded in its primary source – the generalisation of the military experience of achieving victory in the fight against the enemy. This ontological sphere of stratagem indicates that the main reason for the emergence of stratagems was the social conflict and, above all, its most severe form – war.

It was the consequence of conflicts that required a theoretical understanding of the principles of creating stratagems within the framework of clarifying the regularities of wars, developing hidden strategies and tactics to achieve victory with the minimisation of risks and costs.

The concept of stratagems is introduced into this research through the interpretation of courtroom discourse as a discourse of confrontation, and a stratagem vision is usually a vision through the prism of conflict, a confrontation between someone and someone else. That is, stratagems are focused on solving conflict problems. They are in demand in situations of military, commercial, political, and interpersonal confrontation. They are applicable in all areas of competition. They are also effective in the courtroom confrontation between the parties because they are primarily used as a weapon, a tool of struggle.

In our research we distinguish the following subgroups of the legal discourse community in courtroom discourse: the discourse community of judges, the discourse community of defense lawyers and the discourse

community of prosecutors. Each of these professional discourse communities within the courtroom discourse has common features and own peculiarities.

Being goal-oriented to achieve a specific end-state, result, they produce particular subtypes of courtroom discourse:

a) discourse of the prosecution with the verdictive strategy and tactic of persuasion. Verdictive statements have an obvious connection to truth and falsity in terms of being justified or unjustified or fair or unfair. Verdictives consist in the delivering of a finding, official or unofficial, upon evidence or reasons as to value or fact;

b) discourse of the defense with the strategy of refutation and tactic of suggestion. Refutative statements are used when challenging and wishing to argue in order to influence people's minds, to motivate people to act and even to manipulate people.

c) judges' discourse with the exercitive strategy and tactic of coercion. Exercitive statement is used when making a decision in favour of or against a certain course of action. It is a ruling that something should be so-and-so in opposition to a judgement or as a confirmation of a judgement.

All of them are determined by communicative intentions and adjusted depending on the specific situation.

The distinction of the above types of strategies and tactics may seem arbitrary since they are diffuse in courtroom discourse. However, there is a central idea in each subtype of discourse that determines its nature and purpose.

In other words, the participant receives information, processes it, and transmits it to the recipient, while expressing their assessment of the information received.

Thus, taking into account their goal setting, which is also influenced by the extra-linguistic factors, ritual and ceremonial nature of the trial, the sender of the speech determines the strategy and chooses the relevant tactics and stratagems for presenting the content, taking into account the linguistic, syntactic and grammatical means used to convey the message, which ultimately allows achieving the desired perlocutive effect.

This approach emphasises that a stratagem is an algorithm of action, a scenario with a hidden character that is revealed when the task of understanding its essence is undertaken. This provision is important for discourse analysis, which is inseparable from the processes of interpretation and understanding the meaning of the message.

Based on the data gathered from the studied works, the **concept of stratagem** for communicative analysis of discourse can be formulated as follows: stratagem is a discursive move, which involves an implicit strategic plan aimed at achieving dominance in a communicative situation in an asymmetric, non-linear, and hidden way. Stratagem reflects the systemic vision of the situation by the subject of communication, his reliance on psychological aspects of interaction, non-standard thinking.

Overview of the main research findings.

1. Judges' discourse

While working with court materials, we noticed that the judges' discourse is fundamentally different from the discourse of the defense and the discourse of the prosecution.

In our opinion, it is the functions performed by the discursive person, the judge, his or her discursive role that differentiate judges' discourse from other subtypes of courtroom discourse. Justifying our position, let us turn to a brief characterisation of the concepts of "metacommunication" and "meta-metacommunication" in the conditions of judicial process.

We define metacommunication as communication about communication: "it is about how communication is organised and how it is exercised, it is text about text, discourse about discourse, utterance about utterance. Metacommunication is a secondary communication about how a piece of information is meant to be interpreted. The functions of metacommunication can be commenting, explaining, stating or evaluating communicative messages, both one's own and others'. The non-verbal cues that are so important. Things like tone of voice, body language, gestures and facial expressions can contain meanings that sometimes don't match up with the actual words being said (Craig, 2016, pp. 1-8).

Lawyers perceive information from defendants, witnesses, experts. They process it, trying to present the events in the right perspective and deliver it in the right way. Prosecutors examine the materials of the court case and also provide their version of the perspective of the case. It is as if there is a layering of communication on communication, which complicates the process. In the process of communication, they learn information, compare it, analyse it, interpret it, control it, deliver it and also influence through information. It allows us to treat as metacommunicative the discourse of the defense and the discourse of the prosecution.

In stating the difference these discourses and the judges' discourse, we were driven by the fact that the judge receives already interpreted information from lawyers, prosecutors, witnesses, experts, plaintiffs, defendants, when the facts of reality (initial communication) are so "loaded" with interpretation (metacommunication) that it sometimes loses its original meaning: "That is, the actual message (the communication) being conveyed is *overwhelmed* by the metacommunication, so that the initial meaning is lost" (Metz, 2017).

At the same time, the information received by the judge is subjected to professional processing by specialists. In this complex information space, the judge has to orientate himself: to sort out the true facts from the artificially transformed facts and to make a decision. In addition, the judge's function is to exercise control over the entire process, positioning himself as a representative of the power to which the state has given the authority to administer justice.

The discursive role of a judge requires of the following functions to be fulfilled:

- 1) creating a credibility image of the judge to organise an effective communicative process;
- 2) regulating and stimulating the communication process to obtain full information from the interactants of the trial;
- 3) ensuring alteration, i.e. substitution of speaker and listener to guarantee the adversarial principle of the parties;
- 4) monitoring message comprehension and feedback to avoid communicative failure;
- 5) stating their position to focus the jury's attention
- 6) articulating the court order in such a way as to eliminate the possibility of further appeal.

It can be summarised that the functions performed by the discursive personality of the judge, who displays power to exercise control over the trial, determine the specificity of judges' discourse as coercive and refer it to meta-metacommunicative discourse.

2. What is coercion?

In Collins English Dictionary coercion is defined as “the act or process of persuading someone forcefully to do something that they do not want to do. Synonyms: force, pressure, threats, bullying.” (Collins Dictionary). But we reckon that this concept is much broader than this definition. It is not by chance that many philosophers, politicians, sociologists, legal theorists from time to time consider coercion, finding new facets and shades of its meaning. As we do not have time to characterise coercion in all its aspects, thus, let us dwell on our understanding of it.

The law, as interpreted by Thomas Aquinas, should use “force and fear” to restrain those who are “found to be depraved, and prone to vice, and not easily amenable to words” so that they “desist from evildoing, and leave others in peace”, and so that such behaviour becomes habitual for them (“habituated in this way”) (Aquinas, 2017).

As Kant puts the point, the goal of the state is not the good and happiness of each and every person, but the condition of the greatest conformity of the state structure with the principles of law. This fundamentally distinguishes Kant's views from the traditions of ancient philosophy, which regarded the achievement of the common good as the goal of the state. The common good, in Kant's view, is not a legal principle, because it cannot be realised universally and understood by each citizen in their own way. He considers coercion as a dual phenomenon: both restraining the human will and promoting human freedom, because coercion in the form of law prevents violations of the rights of some citizens by others. And only such coercion can be justified (Kant, 1996; 2012).

M. Foucault draws attention to the problem of discourse and power explicitly establishes the link between discourse and power (Foucault, 2002, p. 325).

Nowadays, echoing Kant, in *A Theory of Justice*, John Rawls says “By enforcing a public system of penalties government removes the grounds

for thinking that others are not complying with the rules. For this reason alone, a coercive sovereign is presumably always necessary, even though in well-ordered society sanctions are not severe and may never need to be imposed” (Rawls, 1999, p. 33).

Another contemporary researcher, F. Pettit, also talks about the controlling role of discourse, but he considers the problem of power from a different perspective – freedom as the absence of any kind of domination: “It is only by means of international debate, grounded in the acceptance of certain common reasons, that states can hope to establish where, as in such cases, they may be harming one another and where the limits should naturally be set to the freedom as nondomination...” (Pettit, 2010, p. 74).

Recently, there has been considerable debate over reconceiving coercion-based criminal defenses, for example, Galoob, Stephen and Erin Sheley (2021) in their research “Reconceiving Coercion-Based Criminal Defenses” argue that: “Legitimate states claim a monopoly on the use of force. On many theories of political legitimacy, this claim gives rise to a state’s duty to protect those, subject to its authority, from encroachments of others, including coercion. A state that fails to protect those, subject to its authority, from such private coercion has committed an injustice that can undermine its legitimacy” (Galoob, Sheley, 2021, p. 327).

With this story as background, we realise that coercion is inextricably linked with law as a form of power. In general, law as a special semiotic system is closely connected with the demonstration of realia and symbols expressing the social status and authorities of the subject or agent of power. It generates its own discourse, a discourse of power.

In judges' discourse as a special ritualised form of power, to find out the truth methods of observation, qualification, classification, punishment as a demonstration of power are used. Relying on their authority, the judge makes a differentiation and puts forward a final sentence. During the proceedings, the judge constructs a certain model of their discursive behaviour using an exercitive strategy and tactic of coercion.

The chosen exercitive strategy and coercive tactic establish the modality of strict veracity of the reported message by means of speech acts in which the speaker states the proof of the incident and obliges to fulfil the decision made, using an authoritative tonality. In our understanding, **modality** refers to the addresser’s attitude towards reality, complicated by existing philosophical, political, socio-ideological theories and determined by the communicative situation. We interpret **tonality** as the emotional tone used by the speaker in a communicative event (discourse).

These speech acts are exercitives (according to J. Austin). They serve to exercise power and/or influence, so called verbal exercise of power.

Thus, the exercitive strategy involves a demonstration of power and aims at affirming and stating the event that was denied before as a fact. Exercitives can be described as acts of exercising authority: a speaker can be taken as performing an exercitive only if she is also recognized as having

some kind or degree of authority or authoritativeness. While the coercive tactic aims at creating an authoritative tonality in the judge's discursive behaviour. So, they help not only to evoke a coercive-persuasive background but also to force the recipients to reason in the right register to avoid their objecting to the final decision. Such strategy and tactic are based on the stratagems of appealing to ethos/morals, manifesting legitimate power/authority, and manifesting equality of parties.

3. Stratagem of appealing to ethos/morals

As we have repeatedly emphasised, the stratagem of appealing to ethos as a moral foundation is obligatory both in the discursive practice of the prosecutor and the defense lawyer, and in the discursive practice of the judge. It is justified by their being within the canon, their obligation to maintain the judicial communicative culture, and, in the case of the judge, also by the fact that they are representatives of the legitimate state power and perform their official duties.

When a judge evokes the values that the audience cares about to justify or support their argument, it is classified as ethos. The audience will feel that the author is making an argument that is “right” in the sense of moral rightness. So, first, ethos, then, is focused on the audience’s values. On the other hand, this sense of referencing what is “right” in an ethical appeal connects to the other sense of ethos: the sender of speech. Ethos that is centered on the speaker revolves around two concepts: the credibility of the speaker and their character.

But in this context, given the coercive aspect, it largely involves an appeal to morals as some form of imperativeness, a system (code) of norms and values imputed to a person to follow. Morals are society’s accepted principles of right conduct that enable people to live cooperatively. “Most people tend to act morally and follow societal guidelines. Morality often requires that people sacrifice their own short-term interests for the benefit of society. People or entities that are indifferent to right and wrong are considered amoral, while those who do evil acts are considered immoral” (Morals, 2024). And a judge stands guard over morals. Judges, in addressing the jury, put emphasis on the fact that they have exclusive authority over all questions of law:

The Judge is the exclusive authority upon all questions of law (The Giuseppi Yaccobacci Trial 1906).

Another trial is the case of Nelson Mandela (1963-1964), where the judge stresses that it is the duty of any judge to ensure that law and order are maintained and that the laws of the state in which he or she functions are upheld:

The function of this court, as is the function of a court in any country, is to enforce law and order and to enforce the laws of the state within which it functions (The Nelson Mandela Trials 1963 – 64).

Finally, a third trial is the case of Dr Kevorkian (1999), when the judge reminds the audience, that America is a country with the rule of law, where

different opinions are tolerated, and all conflicts are resolved in a civilised and legal manner:

Well, we are a nation of laws, and we are a nation that tolerates differences of opinion because we have a civilized and a nonviolent way of resolving our conflicts that weighs the law and adheres to the law (The Kevorkian Trial 1999).

This stratagem is closely intertwined with the stratagem of manifesting legitimate power and authority.

4. Stratagem of manifesting legitimate power and authority

In contrast to ethos/morals, legitimacy stands for the value, cultural aspect of the interaction between power and society, arises from the homogeneity of political attitudes, mores, traditions, economic system, the general spirit of this type of society.

A judge demonstrates their legitimate authority as evidence of support, because any authority that enacts and enforces laws is legitimate. But if unrecognised by the people, it is illegitimate. So, the manifestation of legitimacy, the recognition of powers, is a necessary stratagem. To this end, the judge combines the manifestation of their authority and the manifestation of respect and trust in the jury as an additional support and reinforcement of their positions. For example, in the 2019 trial of B. Christensen, the judge manifests his respect to the jury with the following statement:

All right. Thank you. Please be seated. Ladies and gentlemen, thank you for being prompt this morning so we can start as schedule. As you come in, you can be seated. We will remain standing as a courtesy to you and as a courtesy to the process (Brendt A. Christensen Trial 2019).

However, statements of respect and trust are interspersed with emphasis on judge's authority:

Before we begin, I'm going to give you some preliminary instructions that will help you understand the process and follow along with the case (The Brendt A. Christensen Trial 2019).

The message of the guiding, regulating, and dominating role of the judge, without whose prior instructions the jury's actions are complicated or impossible, can be clearly traced. The word "instruction" helps to create the modality of categorical veracity, because the person giving instructions is always authorised, capable of doing so, endowed with a certain set of knowledge; also the word "instruction" conveys the semantics of pressure on the recipient (authoritative tonality), obliging him to fulfil these instructions.

During the 1921 trial of L. Stanley, who was accused of third-degree burglary and first-degree theft, the judge emphasised the role of the jury as supreme judges with exclusive prerogative. It is important to maintain objectivity in legal proceedings and avoid downplaying the significance of any party involved. The judge also explained the charges and provided a clear definition of the crimes:

The Court merely decides the legal questions that arise. There has been practically nothing for the Court to do here. There is a very simple case from

a legal standpoint. The Court has told you the definitions of the crime and has explained the charge to you, and there the Court's duty end. The Court has no right to find any facts, nor to express any opinion, and the Court has not done so. That is your sole prerogative. You are the sole, supreme and exclusive judges of the facts (People of New York against Leroy Stanley 1920 № 3629).

Let's pay attention to the verb to tell, one of the meanings of which is “to assert”, which, along with other means, also contributes to the creation of the modality of categorical veracity. On the other hand, the word “to assert” conveys the semantics of pressure, coercion and creates an authoritative tonality.

Drawing a parallel between the linguistic design of this stratagem in the early twentieth century and the twenty-first, it is worth noting that judges in the last century manifested their power and authority by presenting themselves as a third person with the word “court”. However, in modern times, judges more often use the pronoun “I”, as demonstrated in the examples given earlier. The use of the third person instead of the first person indicates the impartiality of judges and the greater ceremonialism of the judicial process in the past. In addition, such distance should maintain public confidence in the integrity of the judiciary. It is not enough just to administer justice, it must be done openly to the public.

To briefly summarise, we note that the stratagem of manifesting legitimate power/authority is expressed by linguistic means with the discursive expression of the seme “authoritative pressure, coercion”, which creates the modality of categorical veracity, since it is an authoritative opinion, and the authoritative tonality, since this opinion has the character of a prescription for execution.

5. Stratagem of manifesting equality of parties in front of court

According to the Bangalore Principles of Judicial Conduct (2006), the judge should be completely impartial, applying no pressure, respecting the principle of equality, and respecting the diversity of views of the litigants. How then is this compatible with the demonstration of authority and the rule of law, which is already a certain pressure, as well as the need to follow the established ritual of the court hearing?

In order to maintain a balance and reduce pressure, the judge uses the stratagem of manifesting the equality of all parties in court hearing. At that, their positions are equalised. All parties, except the judge and jury, are explicitly equalised in their rights, as evidenced by the question-and-answer form of courtroom procedures. The judge has the right to ask questions of all parties without any exceptions.

Let us illustrate the above with examples from court hearings. Thus, the judge states about the defendant that, firstly, the defendant is considered innocent until proven guilty, and the charge brought by the prosecutor against the defendant is an indictment but not proof of guilt:

First, the defendant is presumed innocent until proven guilty. The indictment brought by the government against the defendant is an accusation, nothing more. It is not proof of guilt or anything else. The defendant therefore starts out with a clean slate (The Brendt A. Christensen Trial 2019).

This is highlighted by the position of the accused as an equal among other participants in the process. The prosecutor's position as a party to the prosecution does not grant them any privileges, except for the obligation to prove the defendant's guilt beyond a reasonable doubt. Both the government and the defence lawyer have their respective roles in the trial. The government must prove the defendant's guilt beyond a reasonable doubt, while the defence lawyer must either sow doubt about the defendant's guilt or provide direct evidence of their innocence. However, the primary way in which equality is demonstrated is through the question-and-answer format of the hearing. The judge poses questions to all participants in the process, without exception.

The stratagem of manifesting the equality of the parties is also manifested when a judge refers to personal experience, positioning himself as one of the participants in the event, an ordinary servant of the law, for example, in *Abbott v. Perez* (2017), which was considered by the US Supreme Court. And Justice Breyer recalls a case from his practice when his predecessor advised him to consider the reason for the appeal (against a court order or against a denied/accepted motion for an injunction):

When I became a judge in 1981, one of the first things that I was told by the preexisting – Lee Kemp, he said, when you get an appeal, they are appealing from a piece of paper called a judgment, or they are appealing from a piece of paper that says injunction motion denied, or possibly granted (Abbott v. Perez, Supreme Court 2017).

To summarise briefly, we should note that the stratagem of manifesting the equality of the parties is implemented primarily through the question-and-answer form of the court hearing for all participants. In relation to the judge, the stratagem of manifesting equality is implemented through the discursive expression of the thematic area of “ordinary officer of the law”.

Conclusions. Strategy is the art of creating one's position/line, model of behaviour to achieve a leading goal. Tactics involve methods of creating one's position/line of behaviour to achieve a certain goal/goals, and stratagems are a step-by-step action plan. The concept of stratagem for communicative analysis of discourse can be formulated as follows: stratagem is a discursive move, which involves an implicit strategic plan aimed at achieving dominance in a communicative situation in an asymmetric, non-linear, and hidden way.

In accordance with the chosen strategies, tactics, and stratagems the participants try to create certain modality and tonality. Modality refers to the attitude towards reality, complicated by existing philosophical, political, socio-ideological theories and determined by the communicative situation. Tonality is interpreted as the emotional tone used by the speaker in a communicative

event (discourse). In courtroom discourse judges create a modality of strict veracity of the reported message and an authoritative tonality.

The stratagems in judges' discourse are: 1) stratagem of appealing to ethos/morals, 2) manifesting legitimate power/authority, and 3) manifesting equality of parties.

In the early twentieth century, judges often involve appealing to religious values, but in the current circumstances of increasing diversity of universal values, such an appeal is becoming less and less effective. Religious values may be proclaimed, but for various reasons they do not have such a significant impact on society. They more like should be as a "must-have" attribute of social reality, as a traditional cognitive-social form, with which people find it more convenient, by inertia, to identify themselves. It is more common to appeal to democratic rights and freedoms as a system of ideals and values that are inviolable for American society, or to appeal to universal values. Concerning the stratagem of manifesting legitimate power/authority we can conclude that it is expressed by linguistic means with the discursive expression of the seme "authoritative pressure, coercion". The stratagem of manifesting the equality of the parties is implemented primarily through the question-and-answer form of the court hearing for all participants.

In terms of linguistic representation, the stratagems identified for judges' discourse are implemented through the discursive activation of certain thematic areas with a particular common seme: for the ethos appeal stratagem, these are "religious values", "democratic values", "rule of law", "universal values"; for the stratagem of manifesting legitimate power/authority – "authoritative pressure, coercion"; for the stratagem of manifesting equality – question-and-answer form of holding a court hearing for all participants. In relation to the judge, the stratagem of manifesting equality is implemented through the discursive expression of the thematic area of "ordinary officer of the law".

Unlike the stratagems of the prosecution and defense discourses the stratagems of judges' discourse have remained virtually unchanged. Though, we may point out that sometimes modern judges allow themselves short personal digressions.

This study seems promising as it is thought to be interesting to compare stratagems in the speeches of judges with stratagems in prosecutors' and lawyers' speeches.

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