

## 2.3 MAIN FEATURES OF EQUIVALENCE IN A LEGAL DISCOURSE TRANSLATION

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**Abstract.** *We proved that legal translation is a type of special translation, which is based not only on knowledge of the language, but also on knowledge in the field of jurisprudence, the peculiarities of legal documents of different countries and the peculiarities of their legal systems. And currently, legal translation is considered one of the most popular types of translation. Legal language has its own characteristics, it is characterized by such qualities as: accuracy, clarity, use of terms in a certain sense. There is no ambiguity in the legal document. The main feature of legal language is its emotional neutrality. To fulfil a high-quality and understandable translation, the translator must not only be fluent in the language, but also master the specialized vocabulary and its components. It was proved that linguistically equivalent terms will not coincide in terms of concepts and areas of use in different jurisdictions. That is, the legal significance of terms can be radically different in various languages, the relationship of terms and concepts within the system of legal language, as well as legal culture affect not only the meaning and use of terms, but also their practical use.*

**Keywords:** *legal translation, jurisprudence, equivalence, equivalent translation, descriptive translation, conceptual and terminological system, semantics, legal lexeme.*

### Introduction

English legal language is archaic, it adheres to strict stylistic conventions and clearly defined genre structures. It has strict restrictions at all levels, starting from sentences, phrases, paragraphs and ending with the macrostructure of the text. The use of standard forms and clichés, often archaic and atypical for ordinary text, is constant. But the constant development of international relations, trade, etc. is the reason that this issue is actively researched even now. Legal translation can cover almost all levels of public activity, starting with legal texts of state bodies of various countries, ending with accompanying documents of individuals. Constitutional, administrative, commercial, criminal and other types of legal relations require proper legal translation.

The text of the legal document must be complete; it must not leave behind the possibility of a wider text interpretation. The normative and legal text should consist of authoritative wordings that are exclusively of an official nature.

Translators of legal texts usually adhere to the principle of correspondence to the original text. The main goal of the translator is to reconstruct the form of the translated text as closely as possible to the original text. This principle of literal translation is still followed by some translators. Many translation scholars believe that the translation of legislative and regulatory texts requires absolute accuracy. But, in our opinion, it is still necessary to take into account the peculiarities of the translation language and the mentality of one or another nation, so that the legal document is clearly and completely understood, and not simple rendering. We believe that translation requirements should be different depending on the purpose of the translated text; for example, texts of an informative or casual nature can be translated freely.

### **Research Outcomes**

Nevertheless, legal texts do not give the translator a wide opportunity for creative and free translation, because the translated texts must be as close as possible to the original text and, in some cases, have the same legal force as the original.

Legal translation has its own specifics, so special tasks are set before the translator. One of the main problems is the definition by the translator of what exactly the translated text should match with the original text, and what may not match (which was discussed above). The main parameters for the comparison of the original text and the translation are the structure, semantics and the potential of influence [10, p.53-54].

The translated and original texts must have the same regulatory impact, which will ensure the same perception of the recipients of both texts. The translated texts must correspond to the style of the legal language in which the original is written. The terminology of the original text must be exactly reproduced in the translation.

All tasks faced by a translator in this field are aimed at achieving the maximum equivalence of the original and translated texts, as well as ensuring successful communication.

The first and most important task for the translator is to achieve equivalence and adequacy of the translation of the legal text, primarily due to the difference in the legal systems of the countries.

Many translation researchers study the issue concerning equivalence in legal translation and have different opinions. We would like to single out the most interesting opinion among all i.e., Uwe Kischel, a German lawyer, considers equivalence in legal translation to be unattainable. This statement is based on the main problems of comparative jurisprudence i.e. in many cases, linguistically equivalent terms will not match in terms of concepts and areas of use in different jurisdictions. [8, p.8-12] Thus, the legal significance of terms can be radically different in various languages, the relationship of terms and concepts within the

system of legal language, as well as legal culture affect not only the meaning and use of terms, but also their practical use.

We agree with this statement, but in our opinion, as a result of such inconsistency, when translating legal texts, it is worth choosing the equivalent closest to the original meaning. It is tiresome and difficult work, but our goal is to achieve the most accurate and understandable translation, which will also have legal force.

The legal text of the English language is characterized by the presence of obsolete forms, although they are quite rare. Most often, obsolete forms can be found when the translated text has references to older documents or texts. For example: ME – deed (act, document with a seal) OE – ded, dede; ME – share OE – scearu (in the sense of cutting, cutting); ME – law OE – lagu.

But archaic and outdated phrases can also be found in modern documents, although the frequency of their use is quite low. Archaisms of legal terminology can be divided into 2 large groups [6]:

- 1) words beginning with "here" with the meaning "this document/agreement":
  - Hereby – as a result of this document, this document/statement;
  - Herein – in this document/contract;
  - Hereof – of this document;
  - Hereinafter – further according to this document;
  - Hereunder – further under the terms of this contract.
- 2) words beginning with "there" with the meaning the statement that was mentioned before it.
  - Thereby – thus, therefore, from that;
  - Thereon – on this issue, in this area;
  - Therein – in the same place/subject that was indicated earlier;
  - Thereof – the document that was mentioned earlier.

It is worth noting that the English legal language often uses complex syntactic constructions and extensive synonymous series in order to clarify the meaning. There is also a large number of passive constructions, impersonal verb forms, the use of gerunds and limited use of personal verb forms.

Content component. The specificity of legal translation is determined by the peculiarities of the language of law. Any national language of law has a number of features that are determined by the relationship with the corresponding legal system of a particular state. It is understood that the legal systems of individual states, including, for example, European countries, have similar legal systems, but each state has its own legal order, its own specific legal norms, court procedures, its own language of law with the corresponding conceptual and terminological system.

Therefore, it is worth highlighting that the translation of legal discourse from one language to another involves not only the transition from one language to another, but also simultaneously the transition from one legal system to another.

A distinctive feature of the language of law is a wide range of terms. Legal terminology is always conditioned by one or another legal system that uses this terminology and reflects its basic legal norms [11].

That is why the researcher D. Kao singles out 4 types of difficulties associated with the translation of legal terminology [3]:

- 1) The problem of the legal concepts content and the problem of finding or lack of equivalents;
- 2) Terms related to specific legislation and legal system;
- 3) The problem of the language of law is of general literary and special significance;
- 4) Terminological difficulties caused by the vagueness and uncertainty of the meanings of a number of terms.

But it is worth noting that the equivalent should be selected very carefully, with correspondence at the linguistic, conceptual and referential levels, because the following problems may arise during translation that the translator may encounter:

- 1) Neither at the linguistic nor at the conceptual level in the language of translation there is an equivalent to the concept that is, there are no equivalent terms or similar concepts in the legal system in the language of translation;
- 2) There is a corresponding equivalent in the translation language, but from the point of view of jurisprudence, that is, at the conceptual level, there may be equivalent only partially, or they may not be equivalent at all.

Survey methodology. When translating legal terms, the following methods can be used i.e., borrowing terms, creating neologisms, literal translation, selecting an equivalent or descriptive translation.

We can offer a "strategy" for translating legal terms:

- firstly, thing to do is to establish the meaning of the term in the original language;
- secondly, after comparing the two legal systems, it is necessary to choose a term with a similar meaning (equivalent) in the translation language.

If there is no corresponding equivalent, one should resort to the following methods of translation that is translation by transcription through paraphrasing, or introduction of a neologism, if necessary, add an explanation, or resort to word-forming or semantic tracing.

So, legal translation is quite specific and complex, mostly due to the difference in the legal systems of different countries. Translation of legal texts from one language to another involves not only the transition from one language to another, but also the simultaneous transition from one legal system to another. That is why finding an equivalent can become another problem. It is worth making sure that the equivalent is not only linguistically appropriate, but also conceptually, that is, the terms can be only partially equivalent, or not equivalent at all.

Definitions of legal vocabulary can be found in jurisprudence. Legal vocabulary is a vocabulary of modern language used by lawyers, legislators, etc. in

the professional activity. Legal vocabulary or vocabulary of law should be divided into two categories: legislative vocabulary and vocabulary of law. The first category includes the vocabulary of legal texts that are of a scientific nature. The second category includes law enforcement practices that have less theoretical significance [34].

The problem of translating legal lexicon is one of the main problems of translating legal texts. It is worth highlighting a set of reasons:

- difficulties associated with the specific characteristics of the legal term;
- difficulties that arose due to the difference in the legal systems of the states, and, accordingly, due to differences in the concepts conveyed by analogous terms;
- difficulties caused by the existence of specific units that are peculiar to one system of terms, and, accordingly, their equivalents are not available in another legal system.

From the point of view of cognitive linguistics, any language term has a certain concept and is its linguistic representation. Therefore, legal terms can also be considered as the embodiment of a certain concept. Cognitive linguistics has its own ways of translating legal concepts and distinguishes 3 main ways of interaction of concepts of different legal languages [9]:

1. The concept has an equivalent in the target language. For example: theft, agreement, contractual obligation.
2. The legal concept does not have an exact equivalent in the target language, but there is a similar concept in the target language. For example: LLC is a limited liability company.
3. There is no similar concept in the translation language.

Indeed, the last group presents many translation difficulties. The lack of a similar concept in the translated language may be due to the fact that the terminology found in the original text is not sufficiently developed in the translated language. Languages develop constantly, including terminology. For example, new terms appear that mean concepts that did not previously exist in science (in our case, in jurisprudence). Then the translator must find the most appropriate equivalent for the clearest and adequate translation. The translator must possess not only a high level of language, but also deep knowledge of the subject.

If you compare American and British legal terminology, you can see that they have differences at the national-cultural level (everyone knows the most common difference in the everyday concept of "autumn" - BrE Autumn, AmE Fall), even in terms that mean universal concepts of law. For example, "prison" will have the equivalent of the American "jail" and the British "prison"; "arrest warrant" AmE - arrest warrant, BrE - bench warrant.

When translating these terms, it is necessary to take into account the specifics of the law of Great Britain and America, as well as Ukraine (target language). Taking into account the specifics of the legislative and legal system of countries, of course, requires the translator's ability to navigate legal systems.

We would like to give a very vivid example: the term "attorney" in the Ukrainian language can have several equivalents - attorney, lawyer, prosecutor. But the term "advocate" has equivalents in British English - a lawyer, a barrister, a solicitor, in American - a lawyer, an attorney. This all reflects the difference in our legal systems.

By the way, an interesting fact is that the terms "prison" and "jail" have different concepts, although they are synonymous. Their semantic difference is reflected in the term of imprisonment and, accordingly, in the severity of the crime committed. If it is a term of imprisonment of no more than one year, then the place of punishment is jail, and if the term is more than one year - prison. Such a deep difference is due to the history of the development of correctional and labour institutions in the United States.

Findings. It is worth emphasizing that the Latin language had a significant influence on the formation of English legal vocabulary. To this day, in modern English legal language there are a large number of terms and phrases that have retained their Latin form. For example:

- de jure (by law) - by law, legally, by law;
- actus rea (guilty act) – illegal action, the presence of a crime;
- mens rea (guilty mind) – motive, criminal intent;
- habeas corpus – legal procedure, court order;
- writ of mandamus – a court order to an official to fulfill the demands of the plaintiff.

The translator's problem is whether to translate the expression while preserving the Latin language or to translate it with a similar equivalent. In this regard, the translator must rely on the legal culture of a particular country and legal system.

So, first of all, the main problem of translating one or another legal lexeme is to find a suitable equivalent. Due to the difference in the legal systems of the countries, the concepts may differ, so the main task of the translator is to find the most adequate and as close as possible concept. Also, the difficulty lies in the large number of Latinisms in the English legal language, and the translator, relying on the text, has to decide whether to keep the concept in Latin or to translate it with an equivalent. It should be remembered that the translation should be as close as possible to the original, adequate and understandable i.e. this will show the professional level of the translator.

And currently, legal translation is considered one of the most popular types of translation.

Legal language has its own characteristics, it is characterized by such qualities as: accuracy, clarity, use of terms in a certain sense. There is no ambiguity in the legal document. The main feature of legal language is its emotional neutrality.

While writing, we made a comparative analysis of English and Ukrainian legal terminology. This is necessary in order to understand the main similarities and differences in two completely different languages.

### **Conclusions**

Therefore, it can be concluded that for a high-quality and comprehensible translation, the translator must not only be fluent in the language, but also knowledgeable in the fields of law and jurisprudence, master the specialized language and its components.

Also, we determined that legal translation is quite specific and complex, mostly due to the difference in the legal systems of different countries.

Translation of legal texts from one language to another involves not only the transition from one language to another, but also the simultaneous transition from one legal system to another. That is why the translator's biggest "headache" is the search for the most appropriate equivalent.

Thus, linguistically equivalent terms will not coincide in terms of concepts and areas of use in different jurisdictions. That is, the legal significance of terms can be radically different in different languages, the relationship of terms and concepts within the system of legal language, as well as legal culture affect not only the meaning and use of terms, but also their practical use. This proves that due to the difference in the legal systems of the countries, the translator must necessarily understand the jurisdiction and the language.

It is worth making sure that the equivalent is not only linguistically appropriate, but also conceptually, that is, the terms can be only partially equivalent, or not equivalent at all. Non-equivalent terms can be translated using such methods as: borrowing terms, creating neologisms, literal translation, selecting an equivalent or descriptive translation.

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