

## Innovations in legal discourse translation practice

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### Abstract

This research deals with the translation of legal discourse into English and addresses the related problems. As legal translation is becoming increasingly important in the present global world, legal discourse appears to be one of the most challenging areas in translation practice. Hence, the studies in the field of translation in general and institutional-legal interlingual communication, in particular, appear to be of immense topicality. The research objective is to identify the main strategies relevant for legal discourse translation. As a result of the translation techniques analysis, the following effective strategies of legal discourse translation into English have been considered: terminological construction, the strategy of "conscious omissions," and the strategy of "conscious simplifications". Their effectiveness in solving many problems of legal translation into English has been proved, taking into account the dynamics of the legal discourse development, as well as linguistic and cultural factors. The expediency of using the suggested approaches and principles as a linguistic guide is substantiated.

**Key words:** innovation, translation practice, legal discourse, law text, translation strategy

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### Introduction

Legal translation is more of an act of intercultural communication than an act of interlingual communication. Since different legal systems and legal cultures enter into translation contact, inconsistencies which cause many problems of legal translation.

The terminological features of the legal field, constituted by terms and legal concepts of different origins, represent the most difficult obstacle that has to be overcome in legal translation into English through the use of a set of specific strategies.

The translation of even a single term included in the same terminological nest with other terms may require the construction of a certain system of translation coordinates to ensure the legal correctness of the translation since the choice of the terminological correspondence can be systemically conditioned.

One of the ways of meeting this linguistic and legal challenge is the creation by a legal translator of a certain system of "translation" coordinates with a legally and linguistically justified choice of certain interlingual terminological correspondences. This system should be based on the awareness of the factors that cause translation difficulties.

The translation of legal terminology into English is influenced by both objective factors (the presence of terms reflecting legal specifics, the ambiguity and variability of terms, their semantic opacity, etc.) and subjective factors (for example, the principle of the first association, etc.). The research introduces three types of translation strategies relevant for legal translation: terminological construction, the strategy of "conscious omissions" and the strategy of "conscious simplifications", and proves the effectiveness of their use in solving many problems of legal translation into English. The legal translation problems' complexity requires an integrated approach to their solution and a combination of translation strategies. It is necessary to take into account the "dialectics" of legal translation, which is treated as a combination of two multidirectional, but mutually enriching and closely interrelated processes, since a situation that is problematic for translation from a native language into a foreign

language can serve as a source of solution for a problematic situation in the opposite translation.

One of the problems of legal translation that we have identified is the combinatorics of legal terms. Many legal terms have a high degree of syntactic valency, which, in addition to the emergence of a large number of terminological phrases in one terminological field, may result in the emergence of a new meaning for the term or the foregrounding of one or another aspect of its meaning. Another major problem in legal translation is interlingual paronymy. This phenomenon requires special attention since the idea of the "international" nature of legal terms that have a similar external design in Russian and English turns out to be false in many cases. The discrepancy between the volumes of terminological paronyms meanings can be either complete or partial, depending on the semantic development of lexical units. Both are difficult to translate. The first is due to the need to choose an equivalent on the basis of the meaning, not the form. The second is due to the need to identify points of semantic intersection of paronyms and to distinguish between cases in which members of the paronymic pair are interlingual correspondences and those cases in which they are not. Plasticity of a number of compound legal terms arising from the definitions of their components, does not prevent the active use of these terms in legal usage. A legal translator must be aware of this pleonasticity and take it into account when translating, using a certain set of translation strategies. At the beginning of the study, we singled out three translation strategies relevant for legal translation, and in the course of the study, the effectiveness of their use for solving the problems of translating legal terminology was proved:

a) when translating into English legal terms denoting specific for the system of law, concepts, the strategy of terminological construction enables to avoid substitution or confusion of concepts characteristic of different legal systems; b) the strategies of "conscious omissions" and "conscious simplifications" do not only result in distorting the meaning of the legal text, but also help to identify it, avoid unnecessary associations, and in certain cases allow to eliminate the "accent" in the translation, while the translated text as a result of applying these strategies will meet the requirements, valid in the right environment and the legal culture, in which the translated text falls;

c) the complexity of the problems of legal translation often requires a combination of these translation strategies, not only when translating a legal text, but also when translating individual terms or terminological phrases.

When describing the modern terminological situation in legal discourse, the present-day approaches in the works on terminology, theory and practice of translation, intercultural communication, law, and comparative law consider legal terminology to be its component, reflecting the current linguistic, legal, political, economic, and cultural trends. The following objective and subjective essential problematic facets of the legal discourse translation can be brought into the open: terminological ambiguity related to the general unsettledness of the legal space; the presence in the corpus of law terms of both terminology, which is a linguistic legacy, and terms reflecting the legal specificity with no analogs in other legal systems; the lack of official translations into English of the most important laws and other regulatory legal acts; lack of translators' legal awareness, general terminological errors, lack of knowledge of effective legal translation strategies.

In order to reach the research objectives, the following tasks have been set:

- to identify cases of discrepancy between the theoretical requirements for terms in linguistic terminology and the terminological realities of the legal field (in particular, polysemy, synonymy and variability of terms) and to consider these discrepancies as one of the factors that cause difficulties in legal translation into the English language;

- to analyze a wide range of textual and dictionary examples of the difficulties of legal translation into English and to substantiate the approach to their solution based on the systematization of translation problems according to the "generating factor" criterion;
- systematize and substantiate a set of legal translation strategies that provide a differentiated approach to terminological problems that differ according to the "generating factor" criterion.

### **Methods and material**

The material of the study included monolingual and bilingual dictionaries, sources on law, economics and translation, laws and other regulatory legal acts, contract documentation and other legal documents, materials of business turnover, including business correspondence; texts of print and electronic media in English, materials of websites of various companies, international organizations, government bodies and commercial structures; Internet portals dedicated to legal issues. The texts of the Civil, Land, Urban Planning, Tax, Arbitration Procedure, Criminal Procedure Codes, regional laws and regulatory legal acts of local governments, international conventions, constituent documents, legal opinions, judicial and other legal documents, and also translations of these texts, both official and the ones, made by the authors of the study and practicing translators. The dictionaries used include both authoritative printed publications (English Legal Dictionary, Black's Law Dictionary, Barron's Dictionaries, etc.), as well as electronic dictionaries and specialized reference resources and glossaries.

A multidimensional study of the problems of legal translation has led to the use of a comprehensive analysis methodology. A number of methods have been applied. Among them are linguo-legal, linguo-cultural, comparative analysis, as well as semantic, conceptual, componential, contextual, and corpus analysis. In addition, methods of translation and text search were used, followed by an interpretative analysis of the collected material.

### **Discussion**

The processes of globalization and informatization characteristic of the XXI century have led to the widespread of legal discourse as an obligatory component of the life of every member of society. The worldview of a modern person determines the information space, represented by a variety of law typologies. Law texts functioning in the legal discourse traditionally perform two main functions, i.e. of, information and impact. However, modern scholars recognize their ratio as having changed towards the pragmatic function predominance, which allows highlighting the manipulative influence of the media, implemented through language and audiovisual means. In modern linguistics, language is considered as "a powerful social tool that shapes the flow of people into an ethnic group, forming a nation through the storage and transmission of culture, traditions, and social consciousness of a speaking community" (Karasik, 2002). At the same time, one of the most important functions of language is realized, i.e. the fixation by the linguocultural community on the experience related to the surrounding reality cognition. Thus, language as a gatekeeper of the ethnic group cultural codes plays a decisive role in the formation of the national worldview of an individual and a national community. The features of the ethnic group worldview and culture are most clearly reflected in phraseological units, which are extensively used in media texts. The relationship between law texts and national culture, expressed through phraseology, can be defined as mutual influence: "culture forms the law text through cultural-specific norms that determine the author's activity, and the law text itself adds up to modeling culture, and worldview" (Karasik, 2002). The analysis of the sources under study proves that legal discourse is one of the most productive speech resources of the language in terms of forming a phraseological picture of the world. The idioms used in the legal discourse account for

its following features, such as: high pragmatic flexibility, vivid evaluativeness, deep imagery, high-frequency value, and semantic density. In legal discourse, the most frequent function is semantic manipulation in the context of the discursive formation of typical autostereotypes and heterostereotypes. In modern legal discourse, phraseological units can undergo various transformations in order to enhance expressiveness and emotional impact.

Phraseological units do not only adorn speech but also add up to its credibility. Their brevity, simplicity, and conciseness constitute a great stylistic advantage. Phraseological units perform the function of laconizing speech, making it short, and concise, giving it an emphatically energetic tone that expresses the purposefulness of the author's thought. New semantic shades are created, and a new artistic quality of phraseological units appears. Moreover, the connections of words are enriched because "the phraseological creativity of writers is expressed, first of all, in the renewal of the contexts, in which these words usually appear" (Baranov, 2008).

The research presents a study of the parameters of legal discourse and ways of its interpretation. In the modern period, the relationship between a person and society is complex, and the interests of both parties are enshrined in laws and other regulatory documents of state power. Legal discourse is focused on all strata of society and is considered one of the most relevant discourses of our time. The semantic and pragmatic status of legal discourse is confirmed by a complex of texts, legal documents and metalanguage of jurisprudence. Semantic analysis of the texts of legal documents showed that in legal discourse, a set of concepts expressed in words and phrases serves as the verbal formulas for interpreting the essence of a law. Thus, legal texts contain not only "logical" synonyms of classification categories in the form of keywords but also linguistic markers of the cognitive structures that affect the interpretation of the legal text. The legal text characterized by semantic polysemy for legal consciousness is the subject of the researcher's "multifocal" polymodal reflection.

In the course of the research, we came to a conclusion that the legal text ontological aspect is associated with the conscious study of certain text symbols of a legal discourse interpreter, placed in the same textual semantic space and, therefore, involved in communication. The research is mainly focused on the legal text and its meaning, which are adapted to the needs of our time in order to solve the initial practical problem by means of the procedure of interpreting and recognizing the meaning of certain terms as valid.

The analysis showed that the epistemological aspects of the study of the legal text are based on the analysis of the specifics of legal professional thinking. In the course of the research, special attention was paid to the study of linguistic consciousness structures functioning in the field of law. Legal interpretation within this approach is viewed as a homogeneous system of mental operations, a kind of mental sociolect, fixing official attitudes in the ideas of normative behavior in society.

The analysis has revealed that the language of legal interpretation systematically organizes lawful behavior perception stereotypes in the linguistic consciousness and compares them with official attitudes towards it in the form of interpretation methods, the classification of which, for example, in domestic law is based on the presumption of understanding. It has been proved that linguistic conventions determine the legal text semantics, adjusting it to the perception stereotypes.

So, the analysis showed that the pragmatic aspect of the legal discourse study covers the specifics of legal professional thinking. The semantic relations in the text and the dissonance of the meanings of what is written and understood have become the subject of attention of modern lawyers. As a result, interpretation is considered as one of the factors in understanding the legal text, since it is characterized by the involvement of knowledge of varying degrees of abstraction. In addition,

interpretative activity contributes to the systematic analysis of legal discourse. A productive interpretative approach to the analysis of legal discourse reveals the ability of a discourse participant to comprehend legal provisions, synthesize knowledge of law and generate individual interpretations, and, therefore, reveals the features of their linguistic formulas. The interpretation of legal discourse presupposes a set of strategies, and its result is the indexation of knowledge, expressed in the presentation of the content of the legal text.

In the course of the analysis, it has been confirmed that understanding the essence of jurisprudence requires not only careful study but also the practice of using legal texts. In this context, the problem of creating a thesaurus was raised, which appears to be a sort of codification of the legal discourse perception. The thesaurus, in our opinion, plays a special role in the systematization and arrangement of the legal vocabulary as a bulk of basic concepts of law. The analysis of the requirements and the revealed features of the legislative material gives grounds to conclude that the thesaurus of the IPL type is the most appropriate for the purposes of indexing and searching for legal information. The absence of grammar in such a thesaurus does not diminish its merit. Artificial grammatical categories, designed to reflect the complex interrelationships of the natural language, may be replaced by simpler but no less effective means of a natural language itself. In this case, however, it is necessary to take into account the specifics of the verbal expression of a particular text. So, a characteristic feature of many phrases of legal materials is their attributive-substantive construction (*mitigating circumstances, especially dangerous crime, newly discovered circumstances, etc.*). The use of such phrases as descriptors makes it possible to express complex intra-textual relations of legislative material. It should be emphasized that in legal discourse, the thesaurus determines the semantics of the language of the law: it accurately reflects the specifics of legal information and becomes an effective tool capable of describing the legal phenomena with appropriate completeness and accuracy. Identifying the parameters of an adequate thesaurus of law seems to be a promising area of research in legal discourse.

## **Conclusion**

The analysis of language functioning in the legal system cannot be carried out in isolation from the pragmatic functions of legal texts (Khairullina, 2008).

In the course of the study, the following translation dilemmas that inevitably arise in the process of legal translation have been identified:

- a) In the case of two possible translations, i.e. of translation based on official Russian translations of international treaties or of translation that takes into account the terminological realities of domestic law, the translator is forced to seek a linguistic and legal compromise. Only a contextual solution to such a dilemma is possible, taking into account the pragmatic aspect of the translated text and extralinguistic factors.
- b) The terminological equivalents found in the target language may be of a highly professional nature. As a result, a translator faces a choice: he can use a strict term, which may not always be clear or known to the text addressee, or he can resort to descriptive translation, which, in the end, may be preferred with regard to the pragmatic component of translation, and which should be as compact and transparent as possible;
- c) In case of semantic shifts, differences in the perception and interpretation of the legal term by a wide range of people, the translator is faced with a choice: either to build a new system of translation coordinates to focus exclusively on dictionary definitions and using dictionary equivalents, or to embed the term into the practically established coordinate system, and look for new interlingual terminological correspondences, since the term to be translated turns out to be “burdened” with another meaning.

In the course of the study, cases of discrepancy between the theoretical requirements for terms in linguistic terminology and the legal field terminological realia have been identified. Having admitted that many legal terms are ambiguous, we should assume that polysemy can be realized not in different terminological systems, which is theoretically permissible, but within the same terminological system. With such an ambiguity, the context in which the term is used turns out to be the essential condition for understanding the terminological meaning. It does not meet the theoretical requirements that apply to terms, one of which is the independence of the term from the context. These factors greatly complicate the translation of legal texts with ambiguous terms.

The analyzed sources of legal terminology and examples of its practical use indicate that there are serious discrepancies between such an important theoretical requirement for terms as the absence of synonyms and the terminological reality of the legal field, in which synonymic relations between lexical units are formed in various combinations: a) synonymous words in the general literary language are not synonyms in legal usage; b) synonymous legal terms may not be synonyms in their general literary meanings; c) terms that are synonymous in one area of law may not be synonymous in another area of law. These synonymic combinations, due to their diversity, is a factor complicating legal translation into English.

Given the peculiarity of the interpretation of terminological synonymy in the field of law, when translating legal terms into English, the translation of synonyms by synonyms is not always the best translation solution. In some cases, a more effective approach seems to use the same term in combination with qualifying words. In other cases, an adequate translation solution helps to find a terminological construction strategy.

The use of synonymy in the target language as a guideline for the translation of synonymous terms requires a detailed comparison of the scope of meanings and the functional peculiarities of lexical units from which the English correspondence is supposed to be made.

The translation of even a single term included in the same terminological nest with other terms, the semantics of which is complicated by the synonymy of these lexical units in their general literary meanings, may require the construction of a certain system of translation coordinates to ensure the legal correctness of the translation since the choice of terminological equivalence must be systemic.

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