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LINGUISTIC FEATURES OF LEGAL TRANSLATION IN THE CONTEXT OF INTERCULTURAL DIFFERENCES OF LEGAL SYSTEMS

ЛІНГВІСТИЧНІ ОСОБЛИВОСТІ ЮРИДИЧНОГО ПЕРЕКЛАДУ В КОНТЕКСТІ МІЖКУЛЬТУРНИХ ВІДМІННОСТЕЙ ПРАВОВИХ СИСТЕМ

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The article analyzes the linguistic features of the translation of legal terms from English to Ukrainian and vice versa in the context of intercultural interaction of different legal systems. The state of research on this issue by leading linguists is analyzed. Since the field of law is constantly being modified and improved in accordance with the challenges of modernity, there are still quite a lot of questions that need to be studied and analyzed in the field of legal translation. The article analyzes the main characteristic features of the Ukrainian and English legal systems. Legal discourse is a rather complex phenomenon. The paper examines in detail the linguistic features of legal texts, namely the presence of a clearly defined structure, the use of language that does not contain emotionally colored, colloquial, slang or metaphorical vocabulary; the presence of repetitions of the same term; the presentation of information is carried out mainly in the present tense; presence of Latin phrases, words of Old English origin; frequent use of constructions in the passive state of the verb; the use of special idiomatic expressions and phraseological combinations in the texts of legal documents.

The article also reveals the peculiarities of interpretation and translation of Ukrainian and English terms in the field of law, taking into account linguistic and extralinguistic factors. The method of translating complex terms is analyzed. The reasons for inaccurate translation of legal terms are outlined. The translation methods and techniques used in the translation of terms are considered, the types of transformations and translation methods used in the translation of terminological units are substantiated. Also, certain types of problems faced by the translator during the translation of legal terminology are defined and the ways to overcome them are outlined: descriptive translation, selection of an analogue, semantic tracing of a term, etc. The study of this problem showed that the differences in the Ukrainian and English terminological systems are due to their peculiarities, which must be taken into account in the translation process.

Key words: legal terms, translation methods, intercultural communication, legal system, transformations.

У статті проаналізовано лінгвістичні особливості перекладу юридичних термінів з англійської на українську мову і навпаки в контексті міжкультурної взаємодії різних правових систем. Проаналізовано стан дослідження цього питання провідними лінгвістами. Оскільки сфера права постійно модифікується та удосконалюється у відповідності до викликів сучасності, питань, які потребують вивчення та аналізу у сфері юридичного перекладу, залишається досить багато. У статті проаналізовано основні характерні особливості української та англійської правової систем. Юридичний дискурс є досить складним явищем. У роботі детально розглянуто мовні особливості юридичних текстів, а саме наявність чітко визначеної структури, використання мови, що не містить емоційно забарвлену, розмовну, жаргонну чи метафоричну лексику; наявність повторів одного і того ж терміна; виклад інформації здійснюється переважно у теперішньому часі; наявність латинських словосполучень, слів давньоанглійського походження; часте використання конструкцій

у пасивному стані дієслова; використання у текстах юридичних документів особливих ідіоматичних виразів та фразеологічних сполучень.

У статті також розкрито особливості трактування та перекладу українських та англійських термінів у сфері права, зважаючи на лінгвістичні та екстралінгвістичні фактори. Проаналізовано спосіб перекладу складних термінів. Окреслено причини неточного перекладу юридичних термінів. Розглянуто перекладацькі методи та прийоми, які використовуються у перекладі термінів, обґрунтовано види трансформацій та способи перекладу, які використовуються під час перекладу термінологічних одиниць. Також визначено певні види проблем, які постають перед перекладачем у ході перекладу юридичної термінології та окреслено шляхи їх подолання: описовий переклад, підбір аналога, семантичне калькування терміна тощо. Вивчення такої проблеми показало, що відмінності в українській та англійській терміносистемах зумовлені їх особливостями, які необхідно враховувати в процесі перекладу.

Ключові слова: юридичні терміни, методи перекладу, міжкультурна комунікація, правова система, трансформації.

Introduction. The development of Ukraine's international cooperation requires the development of linguistic foundations for effective cross-linguistic communication. Legal translation is becoming more and more relevant. Legal terminology is a complex field of study that manifests the language used to convey legal concepts and principles. This language is specific to a particular legal system and is used in the process of analyzing and interpreting that system. The purpose of legal terminology is to enable lawyers and judges who use it to accurately analyze the meaning and purpose of the law. There are many terms in legal terminology and they need to be accurately translated so that they can convey exactly the original meaning in different languages. This makes the legal system difficult to understand, but a proper legal translation can make it much easier to understand. Modern linguistic science faces an extremely important and difficult task: to identify and investigate factors affecting the translation of legal terminology from Ukrainian to English, to analyze existing and new legal translation strategies based on serious interdisciplinary interaction with jurisprudence.

The importance and relevance of this issue is determined by the dynamics of the development of the Ukrainian legal discourse, in which terminology of different origins – Ukrainian and borrowed – coexists. This became the reason for a differentiated approach to the translation of terms of Ukrainian law into English.

Analysis of recent research and publications. For a rather short period of research in the field of legal terminology, quite a lot of various scientific investigations have been carried out. In particular, basic concepts, various specific features of legal terms and terminological phrases were studied and researched, namely semantic, functional and structural-grammatical. Scientists such as T. Stoianova, N. Sheremeta and others were engaged in the study of these problematic issues.

Modern linguistics studies legal terminology from various aspects: pragmatic, cognitive, anthropocentric. In his works, researcher A. Liashchuk conducts a comparative analysis of the functioning of legal terms in the Ukrainian and English languages. O. Khodakovska, E. Tytarenko, I. Alekseeva, V. Komisarov, N. Ishchenko, V. Honcharova and others devoted their scientific works to the study of translation strategies of English-language legal discourse. Researchers S. Dorda, N. Kachmar analyzed legal terminology in the context of requirements related to legal language, legal cultures, etc.

The aim of the study. The purpose of the article is to identify and analyze the main linguistic factors that affect the translation of Ukrainian legal terminology into English and vice versa, to study the main problematic points of such translation and to outline possible ways to solve problems that arise during legal translation.

Presentation of the main research material. Translation is a major factor in understanding and interacting with other people and their societies. The quality of the translation of texts, especially of a legal nature, is extremely important, because even the slightest inaccuracy in the translation test can result in material losses or the receipt of a lawsuit. Translators and linguists pay extremely important attention to the issue of high-quality translation of the texts of business documents, namely

contracts, which determines the relevance of the study of ways of reproducing the texts of contracts and contracts in the Ukrainian language and the use of appropriate translation strategies and types of translation transformations to perform this task.

Legal terminology is a collection of various terms used in the texts of legal documents. Legal terms are verbal designations of state-legal concepts, which are used to express and establish the content of regulatory and legal orders of the state. Therefore, the main requirements for legal terms are clear, compliance with which is the basis of a successful translation: unambiguity, clarity, universal recognition, brevity, self-intelligibility [6]. Scientists I. Klymenko and I. Zorenko claim that the translation of terms is the core of legal translation, therefore it is important to know the peculiarities of the translation of vocabulary of this type in order to achieve maximum equivalence [3, p. 82].

An important area of study of legal terminology is legal culture, which connects such concepts as law, culture and translation into a single entity. This phenomenon has its origins in the content of the Law as Culture movement, originating in the USA. Proponents of the direction understand the peculiarities of the legal system (including the legal terminology specific to one or another legal system) as special forms of manifestation of the national legal culture. The interaction of legal cultures is carried out with the help of legal translation, which is intercultural mediation in the legal field. It is necessary to analyze legal translation as a component of international legal discourse, to account for the typology of legal texts and stylistic varieties of legal language in translation, to study the specifics of legal translation as an act of intercultural communication [5].

Legal translation as an act of intercultural communication is a specific phenomenon, the peculiarity of which lies primarily in its interdisciplinary nature, as it is at the intersection of jurisprudence, linguistics and translation studies. The translation of legal texts of any type is at the intersection of three areas of theoretical research: legal theory, language theory, and translation theory.

Three types of terms are used in the texts of legal documents: commonly used, special-scientific and special-legal.

The linguist researcher D. Melinkoff identifies nine specific characteristics of legal English:

1. Frequent use of commonly used words with uncommon meanings.
2. The presence of Old English terms (thereafter, hereafter, hereinafter, thereabout, thereby, herein, hereunder, henceforth, hereto, herewith, hereof, herein, thereof).
3. Frequent use of Latin words and phrases (*prima facie* – credible at first sight; *ex post facto* – after the event, *pari passu* – on equal terms, *pro rata* – proportionally, *Sui juris* – acting on its own behalf, etc.)
4. Use of specific legal terms.
5. Use of slang (slang of a certain group or class).
6. An attempt at extreme accuracy of expression [4].

In addition, most researchers believe that the greatest difficulties in legal translation arise when the languages involved serve fundamentally different legal systems, which are, in particular, the common law system (to which England and the USA belong) and the continental law system. Of course, such a legal translation can reasonably be called cross-system (or intersystem). In this sense, a cross-system legal translation is a translation involving languages that serve fundamentally different legal systems, and which involves the transition from one legal coordinate system to a completely different legal coordinate system.

The translation of legal terminology from the Ukrainian language into English has a number of peculiarities and difficulties that arise in connection with the specifics of this type of translation [1]:

- 1) polysemanticity and variability of legal terminology. Such terms are present in such areas of law as land law, tax law, intellectual property law. Variants of translation of such terms into English are often not recorded in Ukrainian-English legal dictionaries (for example, commerce, commercial dealings, market, trade, tradability, transferability, transactions, sale, etc.);

2) cross-language paronymy, for example, of terms such as title, novation, balance sheet reformation, object and subject. These terms indicate that in legal translation one should treat “internationalisms” with special care, since the idea of the “international” nature of legal terms in particular turns out to be wrong: об’єкт – *object*, об’єкт оподаткування – *taxable item*; *object of taxation* = *purpose of taxation* – мета стягнення податків (діяч); суб’єкт злочину – *perpetrator of a crime*, *criminal subject of a crime* – предмет злочину;

3) legal synonymy. The use of synonymy in translation as a guide for the translation of synonymous terms requires a detailed comparison of the scope of meanings and the functional relevance of the lexical units from which the Ukrainian-English correspondence is supposed to be made. There are cases when words that are synonyms in general literary language denote different concepts in legal language (слідство та розслідування – *investigation and examination*, санація та фінансове оздоровлення – *rehabilitation and financial recovery*). Or vice versa. Synonymous terms in legal language are not synonymous in their general literary meanings (земельна ділянка та землекористування – *land plot and land holding*). There are also terms that are synonymous in one area of law and have different meanings in another (реєстрація та постановка на облік – *registration at the place of residence and registration at the place of stay*);

4) it is worth remembering that the legal text allows frequent repetition of the same term in the text, which is unacceptable and is considered a tautology in the literary style: ... in accordance with the legislation on archives, as well as tax and accounting legislation ... – відповідно до законодавства про архівну справу, а також податкового законодавства і законодавства про бухгалтерський облік...;

5) the presence in legal texts of special idiomatic expressions and phraseological combinations that are not used or rarely used in the literary language (to meet claim – оскаржувати заяву; under the terms of agreement – за умовами договору; all and sundry – всі і кожен etc.);

6) the legal text is characterized by the wide use of verbs in the passive state, which is important to take into account in correct literary translation: This Agreement may be early terminated. – Цей договір може бути достроково розірваний. All settlements between the Parties under this Agreement shall be made in hryvnias. – Всі розрахунки між Сторонами за цим Договором здійснюються у гривнях;

7) semantic opacity of terms. In the Ukrainian legal field, there are quite a large number of unmotivated terms with opaque semantics, which complicates translation, since the phonetic shell of the term does not always make it possible to understand whether the term designates an exclusively Ukrainian legal concept or a concept that is common to the Ukrainian legal system. As a result, the translator is faced with a choice between terminological construction and linguistic-legal equivalent search. The decision to choose a translation strategy depends on the specific situation and the level of legal awareness of the translator. For example, four terms: валюта балансу – *balance sheet total*, облік по відвантаженню – *accrual basis accounting*, будівництво госпспособом – *force account construction* і забезпечувальні заходи – *provisional remedies*. In this case, the third strategy of legal translation is used – the strategy of “conscious simplifications”, which can be used for semantically unmotivated terms in the case when the direct English equivalent of the Ukrainian term (construction by the farm method) is highly specialized (force), and the pragmatics of translation requires ensuring the maximum availability of the translated term text for understanding by the target audience (construction using internal resources).

Context is important when translating legal terms. Researcher D.V. Furt notes the following among the reasons for the inaccurate translation of terms:

1) choosing a meaning of any word (usually a noun) that is inappropriate for each specific case;

2) terms, especially highly specialized ones, are often understood only by specialists in a specific field of scientific knowledge;

3) sometimes the cause of the error is poor-quality sub-line translation, which is a consequence of the above and/or inattention and lack of careful lexical-semantic analysis of the term, as well as its

contextual meaning [2, p. 280]. It is important to note that the restoration and creation of the legal term in Ukrainian legislation should be carried out on a national basis, taking into account domestic legal and linguistic traditions and peculiarities.

When translating terms that reflect Ukrainian legal specificity, the following factors must be taken into account: 1) when choosing an equivalent from the existing English legal terms, differences between Ukrainian and English-language legislation must be taken into account; 2) when forming a new English terminological combination, intended to convey specific Ukrainian realities in English, it is possible to use non-terminological combinations that are in the English language, or resort to copying Ukrainian terminological phrases; 3) when constructing an English term, it is necessary to remember the system of translation coordinates, in which the specified term must be “embedded”, if the terminological construction is applied to an entire terminological series.

Ukrainian legal discourse is characterized by high dynamism, a large number, frequency and somewhat chaotic nature of changes in regulatory and legal regulation. Changes in Ukrainian legislation, different branches of which can “borrow” terminology from each other, filling the old term with new or additional meaning, can affect translation decisions when translating from Ukrainian to English.

The following translation strategies relevant to legal translation can be effective: 1) when translating into English legal terms denoting concepts specific to the Ukrainian legal system, the strategy of terminological construction makes it possible to avoid the danger of substitution or confusion of concepts inherent in different legal systems; 2) the strategies of “conscious omissions” and “conscious simplifications” make it possible to reveal the distortion of the meaning of the legal text, to avoid unnecessary associations, and in some cases to eliminate the “national accent” in the translation that operates in that legal environment and that legal culture to which the translated text hits; 3) the complexity of legal translation problems often requires a combination of these translation strategies not only during the translation of a legal text, but also during the translation of individual terms or terminological phrases.

Legal translation is considered one of the most difficult types of translation. This is largely due to the fact that the usual skills of translators are not sufficient when translating legal texts from Ukrainian to a foreign language or vice versa. Legal translation is very difficult to do correctly without using experience in the relevant field of law and without understanding the details of a specific type of legal relationship.

It is necessary to navigate the current legislation and possess a special vocabulary and understand the peculiarities of using foreign legal terms in specific situations. Legal translation is always associated with certain difficulties – in particular, it is impossible to translate regulatory acts, contracts and other documents without understanding the intricacies of using English legal terminology.

Legal translations are mainly performed by professionals who have an education in the field of legal law. The texts of the translation languages usually refer to different legal systems, therefore, they should use different wordings characteristic of each of the languages. These wordings must be clear to both parties and have the same meaning. Therefore, the translator needs to understand the legal law not only of his country, but also of the country – the speaker of the source language.

Conclusions and prospects for further research. The problems of translation aspects of legal discourse have become the subject of study by many linguists, but in the process of economic development of society, legal documentation undergoes changes, which causes further scientific explorations of linguists-translators. Translating legal documents is a difficult task for a translator, because he must possess a special terminological vocabulary and know the specifics of using foreign legal terminology in a specific context, as well as navigate the current legislation. In legal translation, the availability of thorough legal knowledge, a high level of legal awareness of the translator and his legal culture in the broadest sense of the word are of particular importance (including the ability to use various sources of legal information) in order to find the right translation solution, select the right

term among possible translation options, choose the right translation strategy and the limits of its use, and analyze complex linguistic and legal phenomena.

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