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DOI <https://doi.org/10.32782/2522-4077-2024-208-60>**LEXICAL SPECIFIC FEATURES OF LEGAL TERMS TRANSLATION
FROM FRENCH AND ITALIAN LANGUAGES INTO UKRAINIAN****ЛЕКСИЧНІ ОСОБЛИВОСТІ ПЕРЕКЛАДУ ЮРИДИЧНИХ
ТЕРМІНІВ З ФРАНЦУЗЬКОЇ ТА ІТАЛІЙСЬКОЇ МОВ
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The article is devoted to the issue of transferring the meaning of legal terms when translating from French and Italian languages into Ukrainian. The author divides legal terms into three groups: terms that have a direct correspondence in the target language, terms – variant correspondences and non-equivalent vocabulary. Various ways of translating legal vocabulary are given. The author concludes that for adequate translation, in addition to knowledge of two languages and familiarity with the subject (jurisprudential competence), a prerequisite is preparation in the field of translation theory and possession of practical translation skills. The point is that it is always necessary to assess the boundary beyond which cultural substitution begins. Indeed, when choosing an equivalent, the translator will need to consider a host of factors: the specific field, the context, the situation, the target audience, and even the requirements (or known expectations) of the client. And an important factor is the divergence between legal systems. The translator must be aware of what he or she is doing and for whom, where clarifications will be needed, where he or she can use a more general concept, and where generalisation, description, simplification will be unacceptable due to the specifics of the text. The following procedures are necessary: comparative study of the subject area; consideration and evaluation of all significant factors, the pros and cons of a given decision, risks. The written translation of legal terms from French and Italian languages into Ukrainian might be conservative and dynamic at the same time. The problem of choosing an adequate correspondence when translating legal terms from one language into another, in particular, from French and Italian languages into Ukrainian, remains one of the problems of translation theory that require detailed study. The considered examples in the article allow us to conclude that the choice of an acceptable translation variant is determined by the presence or absence of an equivalent in the target language.

Key words: translation, communicative competence, legal terminology, non-equivalent vocabulary, target language, linguistic context.

Стаття присвячена проблемі передачі значення юридичних термінів при перекладі з французької та італійської мов на українську. Автор поділяє юридичні терміни на три групи: терміни, що мають прямий відповідник у мові перекладу, терміни-варіанти та безеквівалентна лексика. Наведено різні способи перекладу юридичної лексики. Автор доходить висновку, що для адекватного перекладу, крім знання двох мов і обізнаності з предметом (правознавча компетенція), необхідною умовою є підготовка в галузі теорії перекладу та володіння практичними навичками перекладу. Справа в тому, що завжди необхідно оцінювати межу, за якою починається культурна субституція. Адже при виборі еквівалента перекладачеві необхідно враховувати безліч факторів: специфіку галузі, контекст, ситуацію, цільову аудиторію і навіть вимоги (або відомі очікування) замовника. Важливим фактором є розбіжності між правовими системами. Перекладач повинен

усвідомлювати, що він робить і для кого, де потрібні уточнення, де можна скористатися більш загальним поняттям, а де узагальнення, опис, спрощення будуть неприйнятними через специфіку тексту. Необхідні наступні процедури: порівняльне вивчення предметної області; розгляд і оцінка всіх значущих факторів, плюсів і мінусів того чи іншого рішення, ризиків. Письмовий переклад юридичних термінів з французької та італійської мов на українську може бути консервативним і динамічним водночас. Проблема вибору адекватного відповідника при перекладі юридичних термінів з однієї мови на іншу, зокрема, з французької та італійської мов на українську, залишається однією з проблем теорії перекладу, яка потребує детального вивчення. Розглянуті в статті приклади дозволяють зробити висновок, що вибір прийнятного варіанту перекладу визначається наявністю або відсутністю еквівалента в мові перекладу.

Ключові слова: переклад, комунікативна компетенція, юридична термінологія, безеквівалентна лексика, мова перекладу, лінгвістичний контекст.

Statement of the problem. In recent years, the process of globalisation of the world community with a high level of development of integrative processes has accordingly raised the status of legal professionals with foreign language skills. It is known that translation is a complex, versatile type of intercultural communication, aimed at identifying and interpreting written or oral texts created in one culture and adapting their content for perception by representatives of another culture [2].

Analysis of the latest research and publications. Nowadays we can find a significant number of works in the field of translation studies, devoted to various problems of special text translation. Jean Boazet-Beyer's [1] research works provides a deep insight into theoretical and practical translation, he discusses cases where translations can be complicated and where stylistics play an important role. Kirsten Malmkjaer [5] specialises in the relationship between translation and interpreting, and between the written and the spoken word. Carmen Millan, Francesca Bartrina [7] provide a discussion of the latest theoretical, descriptive and applied research, as well as views on future directions in the field of translation. Sara Laviosa, Adriana Pagano [4] demonstrate useful corpus-based methodologies in the study of important translation genres such as political and legal texts. Maeve Olohan [9] shows the importance of the use of corpora in translation studies. Noam Chomsky [2] argues development of logical structure of linguistic theory. Bruno Osimo [10] focuses on aspects of cultural mediation that are strategic for understanding the difference between two skills that only seem to coincide: language skills and translation skills.

Purpose of the research. It should be noted that the legal language, as a language for special purposes, is studied relatively little, and the problem of studying the features of translation, in particular, French and Italian legal terms, belong to the least developed aspects of the theory of translation, so we made an attempt to present the possibilities of transferring the meaning of legal terms when translating from French/Italian languages into Ukrainian. The aim of our study was to analyse the difficulties and demonstrate the possibilities of translation of legal terms.

Presentation of the main content. In our study we adhere to the concept of difficulties of special translation proposed by such scientists as Daniel Gouadec and Bruno Osimo, who notes that the difficulties of translation of legal terminology are determined by a whole complex of reasons: difficulties caused by the linguistic nature of the term; difficulties related to the special and specific characteristics of the legal term; difficulties arising due to the mismatch of legal systems of the states, therefore, due to the divergence of volumes of concepts conveyed by the terms-analogues, due to the existence of units specific to one terms system and the lack of translation correspondences in the other [10]. In this article we will consider different groups of difficulties on the example of professionally oriented legal terminology in French, Italian and Ukrainian languages.

The correct choice of a word or word-combination in translation depends first of all on its semantic and stylistic adequacy to the original. This can be clearly demonstrated by the example of equivalent correspondences. According to Noam Chomsky's definition, we consider as equivalents such correspondences between the words of two languages, which are constant, equivalent and, as a rule, independent of the context [2]. Thus, *victime* (f) in French and *vittima* (f) in Italian – *жертва* (n) in

Ukrainian, *esclavage* (m) in French and *schiaiviti* (f) in Italian – *рабство* (n) in Ukrainian, *coupable* (adj) in French, *colpevole* (adj) in Italian, – always *винний* in Ukrainian, *siège* (m) *social* in French, *sede* (f) *centrale* in Italian – always *головний офіс* (n) in Ukrainian, *créancier* (m) in French, *creditore* (m) in Italian – *кредитор* (n) in Ukrainian, *perquisition* (f) in French, *perquisizione* (f) – *розшук* (n) in Ukrainian. Many other words and phrases of terminological character from the field of law belong to the same category: *loi* (f) in French, *legge* (f) in Italian – *закон* (n) in Ukrainian; *testament* (m) in French, *testamento* (f) in Italian – *заповіт* (n) in Ukrainian; *Cour* (f) *d'appel* in French, *Corte* (f) *d'appello* in Italian – *Апеляційний суд* (n) in Ukrainian etc. Despite the fact that the main characteristics of terms are accuracy and unambiguity, legal terminology is often characterised by polysemy, i.e. a term in the language has several meanings in the language and vice versa [8]. To choose the correct variant correspondence it is necessary to pay attention to the linguistic context in which the word is used. Thus, the French word *action* (f) and the Italian *azione* (f) have among other meanings *судове провадження* or *судовий розгляд*, and the expression *intenter une action* in French, *intentare un'azione*, in Italian in its turn, is translated in Ukrainian *подати позов до суду*, here are examples of translation: *La Commission europeenne intente une action contre l'Italie pour non-respect des regles de l'Union europeenne dans les services de sante publique.* (in French); *La Commissione europea porta l'Italia in tribunale per il mancato rispetto delle norme UE sui servizi sanitari pubblici.* (in Italian); *Європейська комісія подає на Італію до суду за недотримання правил ЄС у сфері охорони здоров'я.* (in Ukrainian); *Le père d'un passager du vol MH370 de Malaysia Airlines tombe dans l'océan Indien le 8 mars a intenté une action en justice contre la compagnie.* (in French); *Il padre di un passeggero del volo MH370 della Malaysia Airlines, precipitato nell'Oceano Indiano l'8 marzo, ha avviato un'azione legale contro la compagnia aerea.* (in French) – *Батько пасажера рейсу MH370 Малайзійських авіаліній, що впа в Індійський океан 8 березня, подав до суду на авіакомпанію* (in Ukrainian).

When translating, attention should be paid to the context in which the word is used. Depending on which judicial body issues the judgement, the French *jugement* (m) (judgement of first instance tribunals in civil cases), *sentence* (f) (sentence of criminal tribunals) and *arrêt* (m) (judgement of courts of second instance) correspond to the Ukrainian *судове рішення*, *ухвала* (n). It should be noted that legal translation is not only a translation from one language to another, but also from one legal system to another legal system. Taking into account the fact that the legal system of the states is also a part of the culture of the learnt language, it is necessary to take into account the existing difference in the legal systems of different languages. Differences do not exist by themselves, only contact with others, comparison of one's own with others gives those or other elements the status of a differential, national-specific feature [7]. The lack of precise and permanent lexical correspondences for a word does not mean that its meaning cannot be conveyed in context or that it cannot be translated in the future, but there is a constant need to convey new words or new meanings of existing words. Any word can be translated into another language at least descriptively. What is not possible with respect to a single element is possible with respect to a complex whole, i.e. at the level of contextual translation. Therefore, the question is not whether or not it is possible to translate a foreign lexical unit, but how to translate it. The ability to correctly convey non-equivalent vocabulary and the concepts associated with it presupposes a certain knowledge of the reality in which this vocabulary functions. When translating an unequivocal unit, it is possible to create an occasional correspondence. Thus, in the field of translation of non-equivalent legal vocabulary, in the absence of an equivalent or variant correspondence to a French or Italian word in Ukrainian, it is possible to resort to the following types of occasional correspondences.

1. Correspondences-borrowings that reproduce the form of a foreign word in the target language. Such correspondences are created by means of translation transcription or transliteration [5]. Such are, for example, Ukrainian correspondences to French and Italian words: *assesseur* (m) in French, *assessore* (m) in Italian – *радник* (m) in Ukrainian, *ordonnance* (f) in French, *ordinanza* (f) in Ital-

ian – *постанова, наказ (m)* in Ukrainian, *cour (f) d'assises* in French, *la Corte d'Assise (f)* in Italian – *Суд присяжних* in Ukrainian.

2. Correspondences-calques, reproducing the morphemic composition of a word or the constituent parts of a stable word-combination in the source language [5]. Such correspondences include: *tribunal (m) de police* in French, *tribunale (m) di polizia* in Italian – *поліцейський суд* in Ukrainian; *avocat (m) general* in French, *avvocato generale* in Italian – *юридичний радник* in Ukrainian; *tribunal (m) de commerce* in French, *tribunale (m) di commercio* in Italian – *комерційний суд* in Ukrainian; *tribunal (m) de grande instance* in French, *tribunale (m) distrettuale* in Italian – *Вищий суд* in Ukrainian.

3. Correspondences – lexical substitutions. In case of impossibility to create a correspondence by the above mentioned methods, the method of description is used to convey the meaning of the non-equivalent lexicon [5]; e.g.: *requisitoire (m)* in French / *requisitoria (f)* in Italian – final demand of the prosecutor to terminate the investigation and transfer the case to the court; *sommation (f)* in French / *sommatoria (f)* in Italian – warning of the debtor about fulfilment of debt obligations; *trouble (m) illicite* in French, *disturbo (m) illecito* in Italian – an unlawful challenge of the owner's right to use a good or property; *mise (f) en accusation* in French / *rinvio (m) a giudizio* in Italian – trial by jury of the accused by the investigating judge; *jurisdiction (f) de renvoi* in French / *giudice (m) del rinvio* in Italian – judicial or investigative body to which the case is sent for a new consideration or for a new investigation.

The so-called "false friends of the translator" often cause certain difficulties in translation. The most complete definition of the concept of "false friends of the translator" is the following: a false equivalent is a word that fully or partially coincides (or is close to it) in sound or graphic form with a foreign-language word in the presence of full etymological commonality between them, but has a different meaning (or other meanings) with known semantic proximity (referring to the same sphere of application) [5].

Thus, the French and Italian terms *jurisprudence (f)*, *giurisprudenza (f)* does not always correspond to the Ukrainian term *юриспруденція*, as the basic meaning of this word is translated as "judicial practice", "judicial decisions", "precedents". The French term *personne (f) juridique* is translated not as a legal person, but as a subject of law *суб'єкт права* in Ukrainian. At the same time, the French equivalent of the word combination legal person *юридична особа* in Ukrainian is *personne (f) morale*. The French word *article (m)* and Italian *articolo (m)* means not only an article, but also – as a legal term – an article of law, a clause, or a commodity or object; the French word *mediation (f)* and Italian *mediazione (f)* are translated into Ukrainian *посередництво* (a way of conflict resolution), and the French word *mediateur (m)* and Italian *mediatore (m)* are translated as *посередник* in Ukrainian. The French word *communication (f)* and Italian *comunicazione (f)*, known to many people, are often translated as communication, and in legal texts it means the transmission of a judgement *повідомлення про рішення (n)* in Ukrainian. The French word *instrument (m)* and in Italian *strumento (m)* are translated as a document or legal act *юридичний документ* in Ukrainian, not as a tool (instrument of production).

All translation techniques are used and well-known. The question is what, where and when is possible and appropriate, how to get to it and where to get the necessary information from, you need to be able to assess all this. And not to be limited to just a list of transformations. Moreover, techniques are capable of overlapping: functional equivalence of used concepts, terms can be established by means of different techniques. Some (basic) of the possible solutions: functional analogue; calque (literal translation); transcription/transliteration; semantic neologism; descriptive translation / periphrasis; generalisation; concretisation; other, including mixed and transitional cases, in particular using semantic development, addition of information, etc.

On the one hand, the translator needs to have an idea of the set of possible solutions, i.e. the purely technical aspect of the job. But on the other hand, the choice of a particular solution will always depend on the text, the purpose, the recipient, the situation. Here are individual words out of context.

But the translator is not working with individual words. It is impossible to say that one or another option should always be resorted to. All these options are not interchangeable. Somewhere it will be necessary to translate a word, and somewhere the context will allow it to be omitted altogether.

Summarising, we note that the problem of choosing an adequate correspondence when translating legal terms from one language into another, in particular, from French or Italian into Ukrainian and from Ukrainian into French and Italian, remains one of the problems of translation theory, which requires detailed study. The examples we have given clearly demonstrate the complexity of the problem, which requires, in addition to knowledge of two languages and familiarity with the subject (jurisprudential competence), preparation in the field of translation theory and practical translation skills. The considered examples allow us to conclude that the choice of an acceptable translation variant is determined by the presence or absence of an equivalent in the target language. If there is one, the procedure is reduced to simple substitution of the selected variant (taking into account lexical and grammatical combinability), and if there is no such variant, to a careful selection of one of the variant correspondences, taking into account the linguistic context. Legal systems differ from each other (even when they belong to the same legal family) – this is the main problem of legal translation. Accordingly, legal translation necessarily involves comparative legal analysis, not narrow linguistic analysis, not taken from the dictionary. The translator interprets the text in order to establish and convey its meaning in legally correct language: adherence to legal style and professional usage. Obviously, a translator needs appropriate knowledge of the subject matter. Appropriate preparation for translation, study of sources is necessary, not just dictionaries, study of the legal framework: the legislative framework, legal dictionaries, law textbooks, commentaries on laws, parallel texts, and expert (and fellow translators) advice. It is necessary to understand what law is, how legal texts function, how they are written (rules of legal technique), etc., this should be discussed separately [1].

The need for the study of legal *usus* must be separately emphasised. What a lawyer will say quite naturally does not come naturally to the mind of any ordinary citizen. Having a legal education, of course, makes the job easier. But even here it should be remembered that if a domestic specialist has an idea of the *usus*, it is only in his native language, whereas in practice certain types of texts often require translation not into his native language, but into a foreign language (for example, contracts, powers of attorney, various certificates). In addition, as we have already seen, it is necessary to understand where the line is, beyond which the normal, correct aspiration to naturalness of speech can be excessive and turn against the text (the example of bringing a case by the parties or the court). For example, customary usual formulations may be simply impossible to use: either they are simply not available due to differences between documents, or they will lead to a gross mistake – a cultural (here – legal) substitution. The very view of the sender (e.g., the legislator), the perspective, the legal assessment, the procedural nuances may be distorted [5].

Conclusions. Some of the terms are represented to a greater or lesser extent in both systems. However, the question is to what extent they coincide, overlap: where their functional equivalence begins and where it ends. The situation in the legal translation sphere is far from homogeneous. Terms may overlap with varying degrees of completeness, and it is important to see and assess where the boundary beyond which an unacceptable distortion begins. A particular and curious case: terms exist in both legal cultures, but in one of them they are more widespread and better known, in particular by the general public, while in the other they are known and understood only by specialists; different degrees of differentiation of phenomena and hence of terms. In particular, this can lead to lacunarity; the development and variation of terminology: over time, terms may change meaning in the direction of expansion or contraction, become obsolete, acquire new meanings, new terms may appear. And all these processes may not coincide in different cultures – and even less so at different stages. Obsolescence can occur literally in one moment – with the cancellation of this or that legal institution, its change, etc. Law is not only conservative, what many people like to write about, concentrating only on linguistic aspects, it is extremely dynamic. In different legal orders using the same language,

terminology may also differ, including for the same or similar phenomena; the presence of realities proper; lacunarity – not to be confused with realities: the phenomenon as such in its essence may not be specific only to a given legal culture, it may not be a reality in its pure form. But differences in systemic organisation can lead to lacunas: one of the cultures being compared reveals a gaping hole where something is present in the other culture, where the other legal culture is accustomed to see something, to single out, to isolate. In a broad sense we can talk about legal realities; terminological asymmetry between languages; false friends of the translator; polysemy of terms. Polysemy can still be removed by context. The question is whether the translator or any recipient of a given text is prepared to correctly assess the context and the problem at hand, or whether the context is sufficient. It is probably more correct to say that these phenomena do not exist in their pure form, but as complex and transitional cases, precisely because of the difference in legal systems. We are entitled to speak about the instability of legal terminology in translation. This problem should be understood in two ways: the instability of equivalents; the development of terminology, the emergence of new terms, changes in the meanings of existing terms, which in turn contributes to the instability of equivalents. The instability of equivalents, high probability of different translators using different variants for a given term is also explained by the lack of practice of constant use. The situation with the background knowledge of the recipient can be quite interesting. The mention of a certain concept or phenomenon evokes various associations among lawyers from different countries. A lawyer perceives a legal term in a systematic way, a picture immediately appears in his brain: how this concept is embedded in the system of law, what procedural actions are envisaged, etc. In other words, in this situation, a specialist – but a specialist only in the domestic system of law – is naturally able to extrapolate knowledge of his own legal system to another system. He is far from always able to foresee where, at what moment he should be wary. An inaccurate interpretation based solely on one's own cultural experience can lead either to embarrassment (at best) or to extremely undesirable consequences. Even close concepts, which do not involve any translation difficulties of their own, paint different pictures in different systems. Law, among other things, is a very philological, very linguistic science, it deals with words, with interpretation, with nuance and it is extremely concerned with accuracy.

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