

# CHALLENGES OF LEGAL TERMS TRANSLATION: NATIVE RUSSIAN TRANSLATORS' PERCEPTIONS IN THE FOCUS

<sup>1</sup>Nataliya Belenkova, <sup>2</sup>Irina Kruse

***Abstract-**The current research has the following goal: to compare and analyze the translations of various legal terms and concepts that have been already generally accepted in the theory and practice of legal translation. During the research, a great scope of theoretical and practical materials is examined. The experimental comparative analysis was held mainly on the basis of the open-access documents of the European Union and the Federal and Regional laws of the Russian Federation. The methods of the research included the study of the contemporary research on the issue, the comparative analysis of the legal terminology used in English and Russian legal setting, a translators' survey and a statistical method of processing research results. The output of the research identified modern challenges of legal translation within Russian-English working language pairs. The research findings can be used in the practical activity of the translators working in the legal domain as well as in training translators-to-be in Higher Education Institutions*

***Keywords-** legal setting, terminology, legal translation, comparative analysis.*

**JEL Classification:** A 200, K 390, Y 800, Z 130.

## I INTRODUCTION

The contemporary social, economic and political global situation causes the fast growth of crimes in the international environment. Cybercrimes, hacking, cyber terrorism, economic and organized crimes cross the national borders. The international anticriminal organizations and legal community tend to unite and coordinate criminal policy in counteracting the global international crimes and work out the special norms of international criminal law. Apparently, the international legal norms are to be translated into the national languages and integrated in the national legal systems. At the same time, new legal domains are developing and the original concepts and terms are created. These concepts are to be realized and aware by the specialists speaking other languages and consequently they should be translated into another language. The fundamental translation theories, translation tools and technologies should be used.

The following factors should be taken into consideration when dealing with the legal terms' translation:

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<sup>1</sup> Department of Foreign Languages, Law Institute, Peoples' Friendship University of Russia

<sup>2</sup> Department of Foreign Languages, Law Institute, Peoples' Friendship University of Russia

- some terms/concepts are specific for a certain cultural and linguistic community;
- various cultural and linguistic communities apply the same categories but assume different connotation;
- the common practical phenomena are viewed, identified and distinguished in different linguistic ways

(Zykova 2008).

Specific translation challenges can occur on the linguistic level i.e. between the source and target languages, and on the cultural level considering the discrepancy between the cultural backgrounds of different social communities. In this connection, legal translation can be assumed as the translation of terms and concepts of the source legal system into the target legal system. In Susan Šarčević's opinion, "Each legal system has its own language and its own system of reference" (Šarčević 2016). So, each legal system creates its own conceptual system with its specific mechanisms and tools. And on the contrary, legal languages of different nations reflect various conceptual systems.

Evidently, legal terms of a source legal system being transferred into a target legal system do not always correlate to the latter and as a result cause many challenges. Consequently, the legal terminology of various legal systems is not absolutely compatible. And the issue how to translate legal "terms linked to a particular legal system" (Filho et al. 2010) remains quite topical. This is true for major UNO languages and their working pairs. There is a considerable bulk of publications on the issue, however, comparative analysis of dictionaries' versions regarding legal terms translation and practicing legal translators' perceptions hereon have not become subject to research so far, at least with the native Russian translators' engagement. The above confirms *the present research relevance*.

Bearing in mind the above, *the research statement* argues that dictionaries' versions of legal terms translations should be subject to constant check with practicing legal translators' involvement

*The research goal* is to consider legal translators' observations on major challenges regarding existing translation of legal terminology. The goal required a number of tasks to be implemented:

- analysis of relevant literature
- comparative analysis of legal terminology translation offered by contemporary lexicography sources
- translators' engagement in the analysis of the legal terminology translation offered by lexicographic sources.

## II LITERATURE REVIEW

Terminology as a research subject is observed in a number of dictionaries (The online dictionaries ...). Various aspects of legal translation are described by Deborah Cao (Cao 2010). The diversity of legal translation strategies and tools are stated by Marcus Galdia (Galdia 2013). Translation errors in up-to-date translators' activities are analyzed by Anastasia Atabekova and Rimma Gorbatenko (Atabekova and Gorbatenko 2017). Modern computer technologies can be used in evaluating legal terms translation (Kockaert and Segers 2012).

The language of legal setting is quite expressive, many phraseological units and set expressions are used in legal texts. Moreover, each language has the specific phraseological units that do not match the units in the other language. Legal phraseology and the challenges of its translation are thoroughly observed by some research works (Barros and Castro, 2017; Goźdz-Roszkowski and Pontrandolfo, 2017).

One of the approaches to translating legal terms was suggested by G.R. de Groot who states that the best way to transfer the concepts from one legal system into another is to match adequate equivalents in the source and target languages. However, the researchers argue that there are no absolute equivalents (de Groot and Vonk 2016).

As the legal environment is constantly developing, new terms come into existence. Moreover, when cultural, social and economic conditions change, legal terminology also varies and is considered as a special tool of expressing the rule of law (Ralli 2009). In many cases, neither translations nor equivalents can be matched to these terms in any language and as a result, these terms become international and start circulating in all languages (Krapp 2006; Zhmurov and Poklad 2015).

The comparative analysis of legal terms translation was held on various materials e.g. civil law (Grzybek 2014), company contracts (Orozco and Sánchez-Gijón 2010); international law (Felici 2010).

Matching legal terms in the source and target languages is correlated not only with the linguistic knowledge, but with the cultural awareness and understanding of the source and target legal systems (Chiocchetti and Ralli 2011).

Specific issues of translating legal terms in various language pairs and countries are often examined by researchers e.g. the experience of extracting legal terms from the corpora in Belgium (Kockaert et al.,2015); the correlation of such legal concepts as obligation, prohibition and permission in Polish and Spanish civil codes (Nowak-Michalska 2013), translation challenges of legal English and Italian (Grasso 2014).

Much attention is paid to legal translation into and from the Russian language (Stepanova et al. 2018; Skadiņš et al. 2007), the use of the machine translation in relation to the Russian language in the legal setting (Seljan and Dunder 2015), various issues of Russian – Chinese legal translation (Lee 2016).

The research in legal terms translation is of crucial importance. However, not all aspects of this issue have got a complete examination so the current research can be of great interest and importance for the legal terms' translation studies.

### **III MATERIALS AND METHODS**

The research stood on the *qualitative analysis background*. It combined theoretical analysis and empirical observations.

*The theoretical analysis* included the investigation of literature with reference to the research subject.

*The empirical analysis* rested on the comparative approach to the research materials. The analysis focused on the examination of legal terms translated from English into Russian and vice versa.

*The empirical studies* included two stages. First, the authors conducted the comparative analysis of the legal terms translation that was offered by official materials. Second, practicing legal translators were invited to evaluate the offered translation variants and to rate the translation quality and challenges.

*The research materials* included the examination of 8 000 legal terms translated from English into Russian and 8 000 terms translated from Russian into English.

*The sources for the materials* selection incorporated the following data:

- the materials of European Commission (Translation Memory by the Directorate-General for Translation - <https://data.europa.eu/euodp/data/dataset/dgt-translation-memory>); Court of Justice of the European Union (EU CASE LAW CORPUS (EUCLCORP - [https://cordis.europa.eu/project/rcn/202645\\_en.html](https://cordis.europa.eu/project/rcn/202645_en.html) )); ECPAT International (Terminology Guidelines concerning the issue of «Sexual Exploitation of Children” - <http://cf.cdn.unwto.org/sites/all/files/docpdf/terminologyguidelines.pdf>); Glossaries from EU institutions and bodies. Terminology Coordinated Unit of the European Parliament <http://termcoord.eu/discover/glossaries-by-eu-institutions-and-bodies/?q=&archive-dropdown=&cat=-1>
- on and off-line dictionaries and thesauri, e.g. Burton’s Legal Thesaurus (Burton, 2013); Brian Craig ‘s "Beyond Black’s and Webster’s ...” (Craig 2003); Bryan A. Garner’s Black’s Law Dictionary (Garner 2018); Merriam Webster Online thesaurus and dictionary (Merriam Webster ...).

As the goal of the current research was to compare the validity of English-Russian translation of the specific terms of the legal setting, the following Russian sources or the sources observing the Russian law were examined, inter alia:

- Federal and regional laws, statutes, rules and regulations of the Russian Federation. A complete list of all legal tools and documents can be found at the website Consultant Plus: Reliable Legal Support (<https://www.consultant.ru/popular/>).
- Research works by William Elliott Butler who has studied and translated the Russian Federation Codes and Laws from Russian into English (Butler 2001, 2003, 2009, 2011).
- Academic data on the legal terminology usage from the lawyers (Kozochkin 2006).

*Research participants pool* was formed by 45 native Russian translators with the practical experience of not less than five years. They were asked to analyze the terms under study, rate them in accordance with the translation difficulties and clarify the challenges of translation. The participants were invited via e-mail call explaining the purposes of the survey and the requirements to the job experience and via direct invitations to those whom the authors have known as practicing legal translators.

The authors conducted the initial analysis of terminology during September- December 2017 and worked with translators during January–May 2018. SPSS soft was applied for data processing.

#### **IV RESULTS AND DISCUSSION**

Statistical and empirical processing of the research data prompted the following findings. The translation from the native (in our case it is Russian) into a foreign (English) language is more complicated and time consuming. Focusing on this fact the translators participating in the survey explained it first, by not complete awareness of the specific features of the target legal system. It should be noted that the respondents of the survey were trained as linguists but not as lawyers and could not realize the details of the legal systems. The second reason was of a linguistic character, the participants of the survey highlighted the fact that some terms in English have many synonyms.

Such word as “murder” has 21 synonyms in Burton’s legal dictionary (Burton 2013) and 26 synonyms Merriam-Webster Online Thesaurus. After the extraction of the most frequently used and common terms we still

have four terms (homicide, killing, manslaughter, murder) that can be confused by an unexperienced translator. What is more, the terms have different collocation the word expressions and texts. In the Russian language three terms mentioned above mean “убийство” and only the word “manslaughter” is associated with “непредумышленноеубийство”.

Translating synonyms was distinguished as the greatest challenge in content and sense transference by 35% of the respondents. 27% of the translators considered the absence of the Russian equivalents to the English terms as the most complicated problem in their activity.

Very often, it happens when new terms appear. Nowadays the most rapidly developing setting is connected with information communication technologies and cybernetics. As a result, such words as Spoofing, Swatting, Doxing, Vishing, Smishing, Node, Biohacking etc. In fact, such words do not have any Russian translation yet and are referred to by means of transliteration i.e. Спуфинг, Сваттинг, Доксинг, Вишинг, Смишинг. Here, though the target text is in Russian, but the semantics of these terms is still vague and expanded explanations are of crucial importance. Спуфин is described as “ситуация, в которой один человек или программа успешно маскируется под другую путём фальсификации данных и позволяет получить незаконные преимущества” (<https://ru.wikipedia.org/wiki/Спуфинг>). In English it is explained as “the practice of inundating online networks with bogus or incomplete files of the same name in an effort to reduce copyright infringement on file sharing networks” ([https://en.wikipedia.org/wiki/Spoofing\\_\(anti-piracy\\_measure\)](https://en.wikipedia.org/wiki/Spoofing_(anti-piracy_measure))) or “a disruptive algorithmic-trading tactic designed to manipulate markets” (<https://en.wikipedia.org/wiki/Spoof>). The definitions are very complicated and they can hardly help an unexperienced translator in the professional activity. Therefore, to find the adequate way of the meaning transference is of crucial importance.

About 18% of the respondents mentioned searching for the term collocations as a most time and efforts consuming task. E.g., the term “homicide” is not or very seldom used with the adjectives “first-degree”, “second-degree”. Instead, we have “first/ second-degree murder”. On the contrary, “negligent homicide” is a more frequent word-combination.

Only 20% of the translators insisted on the fact that there are no problems in legal terms translation. These specialists have not only much practical experience but also deep and profound knowledge of the legal systems they are working with. Besides the professional training in linguistics they got formal (Master in Law) or informal/nonformal training in law (Translator in Legal Setting). Apparently, such professional training provides the translators with much information about the source and target legal systems, the history and the background of the legal system development.

Though the current research concentrated on the legal terms’ translation from Russian into English, it should also be mentioned that Russian speaking translators make some errors in the English into Russian translation. Studying the translation of the Penal Code of the State of Texas made by Kozochkin I. D., in 2006 (Kozochkin 2006), the authors identified the unreasonable use of the word-by-word translation.

Article. 2.01. “Proof beyond a reasonable doubt” states that “All persons are *presumed* to be innocent...” The translator refers the verb “presume” as “презюмируются”. In fact, for the first time this verb was used in 1941 by the former state prosecutor of the Soviet Union A.Y. Vyshinsky (Vyshinsky, 1941) and since that time it is sometimes used by professionals. On the other hand, the Criminal Code of the Russian Federation has Article 14

that states “Обвиняемый *считается* невиновным...” i.e. instead of transliteration a Russian equivalent from the legal document should be used.

Another example is. Article 6.03. “Definitions of culpable mental states” (b) ascertains “A person acts ...with *knowledge* with respect to the nature of his conduct ...” The Russian translation preserves the structure and the wording of the original “Лицо действует ...*сознанием* в отношении характера своего поведения...” The nominative construction is not typical in this context. Instead, the use of an adverb is more preferable. “Лицо действует *сознательно*.”

## V CONCLUSIONS

The research findings and discussion confirmed the initial statement regarding the need to engage translators in the process of revisiting and reconsidering the lexicographic data regarding legal terminology. Taking into consideration the above said it can be stated that the translation of legal terms depends on the context, the purpose of the translation, the character of the document and other factors. It is important to carry out an analysis of legal systems and be aware of the national specific features in law, to match the common concepts and to find the language equivalents.

The diversity of translation methods and tools is immense and it is a translator’s responsibility to choose the best one and get the appropriate meaning interaction of the source and target legal systems. Translators’ errors or the use of a wrong, inaccurate legal term can result in confusion and negative legal consequences.

The existing off and online thesauri and dictionaries are of great help to the translators. However, as the economics and society develop rapidly new concepts evolve. The translation of these concepts needs much study, analysis and research.

The issues mentioned in the paper can enhance the quality of the translators’ practical output and serve as a stimulus to the legal translators-to-be.

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