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**ANALYSIS OF THE USE OF ENGLISH LEGAL TERMINOLOGY
BY JUDGES DURING THE JUDICIAL SESSION****ПОРІВНЯЛЬНИЙ АНАЛІЗ ВЖИВАННЯ АНГЛІЙСЬКОЇ
ТА УКРАЇНСЬКОЇ ЮРИДИЧНОЇ ТЕРМІНОЛОГІЇ СУДДЯМИ
ПІД ЧАС СУДОВОГО ЗАСІДАННЯ**

The article highlights a thorough comparative analysis of the legal terminology in English and Ukrainian languages, and within this research we compared the court systems of the USA, Great Britain and Ukraine, the legal vocabulary of English and Ukrainian judges during the court session, the use of legal terms by English and Ukrainian lawyers.

In order to provide the reader with quality translation, we need to know and understand the judicial systems of the English-speaking countries, and this will also help in finding an equivalent and in general the actual translation, because various systems have different mentalities, different uses of words in possibly completely opposite meanings. Even in order to explain one or another term, if there is no equivalent in the translation language.

In the course of comparing the vocabulary of judges, we compared the most used phrases and terms of non-multilingual English judges for the presence of Ukrainian equivalents i.e. this showed that the difference in judicial systems affects the understanding of concepts. Most of the judges' phrases have Ukrainian equivalents, but still there are some terms without equivalents. We found that the best translation of such terms would be their thorough explanation.

We also analysed the common and distinctive features between English and Ukrainian lawyers, and on the basis of these comparisons, we conducted vocabulary analysis. Although both Ukrainian and English lawyers use special forms of cliches, some of them have similar meanings, and some can be understood only in a certain country. In the Ukrainian legal language, idioms and emotionally and stylistically coloured expressions are not used, because the judicial jurisdiction in Ukraine is clearly and strictly regulated, especially the norms of behaviour and language, and on the contrary in English where idioms are the norm.

During the research of the vocabulary of judges, we compared the most used phrases and terms of non-multilingual English judges for the presence of Ukrainian equivalents, this showed that the difference in judicial systems affects the understanding of concepts.

Key words: legal discourse, comparative analysis, judicial system, non-equivalent units.

Ми провели порівняльний аналіз юридичної термінології англійської та української мов, і в рамках цього порівняли: судові системи США, Великобританії та України, юридична лексика англійських та українських суддів під час судового засідання, вживання юридичних термінів англійськими та українськими адвокатами.

Задля якісного перекладу потрібно знати і розуміти судові системи країн перекладу, а також це допоможе при пошуку еквіваленту та взагалі власне перекладу, адже різні системи – це різні менталітети, різні використання слів у можливо абсолютно протилежних значеннях. Або навіть задля того, щоб пояснити той чи інший термін, якщо еквіваленту у мові перекладу немає.

У ході зрівняння лексики суддів, ми порівняли найбільш вживані фрази та терміни англійських небагатомовних суддів на наявність українських еквівалентів – це і показало, що відмінність у судових системах впливає на розуміння понять. Більшість фраз суддів мають українські еквіваленти, але все ж таки є частина безеквівалентних термінів. Ми встановили, що кращим перекладом таких термінів буде їх пояснення із доповненням.

Також ми проаналізували спільні та відмінні риси між англійськими та українськими адвокатами, і вже на основі цих порівнянь проводили аналіз лексики. Хоча як українські так і англійські адвокати використовують спеціальні форми кліше, частина з них мають аналогічні значення, а частина розуміється лише у певній країні. В українській юридичній мові не використовуються ідіоми та емоційно і стилістично забарвлені вирази, адже судова юрисдикція в Україні чітко регламентована, в особливості норми поведінки та мови, а в англійській – ідіоми це норма.

Під час дослідження лексики суддів, ми порівняли найбільш вживані фрази та терміни англійських небагатомовних суддів на наявність українських еквівалентів – це і показало, що відмінність у судових системах впливає на розуміння понять. Більшість фраз суддів мають українські еквіваленти, але все ж таки є частина безеквівалентних термінів.

Ключові слова: юридичний дискурс, порівняльний аналіз, судові системи, безеквівалентні терміни.

Problem relevance. The relevance of the research lies in the fact that the legal discourse in general is not enough researched, and in particular the comparative nature of the two languages. But the constant development of international relations, trade, etc. is the reason that this issue is actively researched even nowadays. The relevance of the research is also determined by the fact that within this work legal translation is considered in the framework of the modern film industry.

The work examines the specifics of legal discourse, as well as the main characteristics of English and Ukrainian legal languages, a comparative analysis of two legal languages based on the series, and the presence of equivalent and non-equivalent legal units.

The **purpose** of the research is the study of legal vocabulary based on the series “How to Get Away with Murder”, its translation and comparative analysis of English and Ukrainian legal vocabulary.

Analysis of recent research and publications.

The aspect of legal lexicon translation was investigated in various works of scholars, such as A. Fedoriv, V. Karaban, L. Chernovaty, G. Zorivchak, M. Korzhansky, D. Kasyanenko, T. Bessarab, T. Kiyak, M. Poluzhyn and others.

The main material of research. The judicial system is a set of judicial bodies of a certain state. The judicial system is a part of the state apparatus, which should be independent from other state bodies [3].

In order to proceed to the analysis, it is necessary to highlight the main concepts that we will operate in the course of our research. The judicial system in different countries differs because it depends on the stages of historical development and the peculiarities of the legal system.

Usually, the judicial system of countries provides for the division of courts into general and specialized jurisdiction (depending on the severity of the case). As a rule, the system is headed by the Supreme Court.

Comparing judicial systems is necessary first of all in order to understand the difference between the legal systems of different countries. And on the basis of this, we will be able to analyse the vocabulary. As we have already mentioned, the search for an equivalent and translation is possible only with good knowledge of not only the language, but also the legal system of the countries.

So, we offer to consider and analyse the judicial systems of Ukraine, Great Britain and the USA.

First of all, it is worth highlighting that the judicial systems of the United States and Great Britain are very similar. The reason for their similarity is that they have the same historical roots in the development of common law. Therefore, we will start with them.

There are two centralized federal bodies in the US legislature: the House of Representatives and the Senate (which together form Congress), similar to the Houses of Parliament in Great Britain.

The differences in this regard lie in the fact that the judicial systems in the United Kingdom are different and are divided into two parties i.e. England, Wales, Northern Ireland with the same judicial system, and Scotland with a completely different one [7]. Instead, in the United States, the judiciary is divided into federal and state courts; the work of the courts varies in each state.

The court systems are very similar i.e. minor criminal and civil offenses are heard in magistrates' court, which are often called state courts in the US. For more serious crimes, these cases will be heard by the Crown Court in the UK or the District Court in the US before they go to the Courts of Appeal or the Supreme Court.

One of the main differences between the court systems is the fact that the US does not have a tribunal system like the UK. Instead, the US has special bankruptcy courts.

There is also a difference between jurors. In the UK, jurors are chosen at random, as residents between the ages of 18 and 70 are included in the electoral rolls and are therefore eligible for a jury trial. But American juries are chosen in advance, and then agree with the defence and the prosecution.

We can also emphasize the difference in terminology: in the UK, professional lawyers are called *solicitors* and *barristers*, while in the US they are usually called attorneys.

In the US legal system, a judge can completely expunge or seal a particular court case. This means that after this process, the case data will not be available. Even the court or prosecutor will not be able to access this information. But according to UK law, deleting cases is impossible and prohibited. This means that the case will be kept for at least 30 years.

Also, an interesting discrepancy is clothing. In the UK, judges, Queen's Counsel and senior

barristers wear wigs to command respect in court and to show everyone that they represent the entire legal system of England and Wales. In contrast, American judges do not wear wigs, but wear unique robes like their British counterparts.

So now we try to do the comparison of the Anglo-American judicial system with our Ukrainian one.

First of all, the characteristic features of the Ukrainian judicial system are appeal and cassation, but in the Anglo-American system, the concept of cassation is absent, unlike appeal.

A distinctive feature of the American court system is that courts are divided into categories and consider cases according to the purpose and name of the court, that is, they have a narrow sphere of influence (for example, the traffic court considers cases of traffic accidents). And in Ukraine, local courts are not specialized, in other words, they consider both administrative and civil and criminal offenses according to the instance [4].

A similar feature is the three-level system: first, second and third instances. The division of courts into instances, including the appellate one, makes it possible to appeal court decisions. We also consider the courts territorial division to be a common feature, that is, each court has a territorial jurisdiction.

We offer a concluded list of similarities and differences of judicial systems:

Unified judicial system for both Ukraine and the USA

Three-level court system for Ukraine, the USA and the UK

Availability of special courts only for the USA

Availability of the Court of Cassation only for Ukraine

Availability of the Court of Appeal for Ukraine, the USA and the UK

Availability of a system of tribunals only for the UK

The possibility of deleting the case only for the USA

Competitive party system for both the UK and the USA

The voice of the jury for both the UK and the USA

Territorial jurisdiction of the court for Ukraine, the USA and the UK

Narrow sphere of influence of courts for both the UK and the USA

Now we try to understand the most used phrases and terms and their equivalents in the translation language, it can show how the difference in judicial systems varies in different countries.

1. **Direct contempt** – in the literal translation it means “direct contempt”, but there is no

equivalent in the Ukrainian language, the translation is solved by explanation i.e. *contempt for the court, shown in the courtroom*. Here we have an explanation with the addition that disrespect was shown directly to the court during the session.

2. **Speedy and public trial** – the translation states “urgent and public trial”, but such a translation is not meaningful enough, so an addition is used to understand another judicial system, and it sounds as follows *urgent consideration of criminal cases by a jury in an open session*. In this example, it was worth adding which cases are considered urgently, and by whom, due to the difference in court systems, namely the absence of a jury trial as such in the Ukrainian judicial system.

3. **Subpoena of a witness / summons for the witness** – this time we have an equivalent in our judicial system – *summoning a witness*. Here is an example from the series: “The judge issued a summons” – “The judge issued an order to summon witnesses.”

4. **Probation officer** - there is no such concept in the Ukrainian judicial system, so we resort to explanations again – an inspector who monitors the behavior of conditionally sentenced criminals. In Ukraine, these functions are performed by a prison warden or a bailiff.

5. **Prison sentencing** – a sentence of imprisonment.

6. **Acquittal of crime** – justification of a crime. “*The trial ended in acquittal*”.

7. **Blanket pardon** is rather professionalism, because we are used to the term “*amnesty*”, and therefore it is full amnesty. In order to find the appropriate equivalent, first of all it is necessary to analyse the term according to its meaning in order to give the final result.

8. **To plead guilty**. First of all, it occurs at the beginning of the hearing, when the judge asks “*Prisoner, do you plead guilty?*”. “I plead guilty, Your Honor”.

9. **Adjourn the case** – *postpone the case*. “The court announced a break.”

Regarding the translation of Ukrainian legal vocabulary, it can be said that almost all terms have their equivalents in English legal vocabulary, since the Anglo-American judicial system is more developed than the Ukrainian one:

1. **Closed court hearing** – closed-door court hearing, i.e., hearing “behind closed doors”.

2. **Abuse of power** “The judge doesn’t admit his abuses of power” – “The judge does not admit that he abuses power”.

So, due to the difference in the Anglo-American and Ukrainian court systems, the

question of translation and finding an equivalent arises. The examples clearly show that the Anglo-American judicial system is more developed than the Ukrainian one, which is why the Ukrainian translator needs to know the legal system of the country of translation in order to translate correctly and in full in an understandable language to the Ukrainian recipient. On the contrary, Ukrainian terms usually have a certain equivalent in English.

First of all, for an in-depth analysis, it is worth understanding what “*solicitor*”, “*barrister*” and “*advocate*” are and what is their difference. The difference in names, functions and terms is due to the difference in legal systems, traditions and history.

There is a single general term that means a *lawyer*, a legal adviser in any country. Such a lawyer can deal with various legal matters and specialize in a specific area of law, for example: criminal law, family law, etc.

Now we consider the difference between English, American and Ukrainian lawyers, names, types and functions of influence.

In Great Britain, lawyers are divided into two types: *solicitors* and *barristers*. The difference is only in the functions they perform [2].

Solicitors are considered lower in rank than barristers and spend most of their working time preparing documents. Their functions include legal consultations, questioning of witnesses, writing statements and working directly with clients. We can say that solicitors are intermediaries between barristers and the client. But they have the right to speak in lower courts.

Barristers are lawyers of the highest level, generally engaged in practical activities in courts. Their functions include representing their client in court. They went through a significant course of study and training to become real lawyers. Very often they work together with their assistants (solicitors), who in turn keep in touch with the client. Such lawyers do not work in the office, but in the House of Commons and the House of Lords.

Barristers, and sometimes solicitors, can also be called counsel. There is also the concept of “*counselor-at-law*”, but it is outdated and almost not used in the UK, but it can be heard in Ireland.

But we all know the well-known word “*advocate*”, but it is used only in Scotland and it means a lawyer who represents his client in court.

In the USA, lawyers are not divided into categories, they are called *attorney* or *attorney-at-law*, which means lawyer. In other words,

attorney is a single general term that designates any lawyer who may participate in the investigation of criminal cases or advise authorities on various legal issues [1].

In the USA, there is also the position of a free state defender – *public defender* - it is provided to the accused in case he/she cannot hire a lawyer on his/her own.

Lawyers hire *paralegals* to help them work with legal documentation. A university graduate who continues professional training on special preparatory courses can become a lawyer’s assistant.

An interesting fact is that in America, paralegals are considered a separate profession, while in the UK they do not have official recognition, because they appeared there relatively recently.

In Ukraine, this profession is divided into *lawyers* and *attorney*, and they differ in functionality and knowledge [3].

What unites lawyers and advocates is that both activities are related to the provision of legal assistance to clients. The main differences are that the activities of lawyers are not regulated by any special law, and therefore there are no fixed requirements for lawyers.

Unlike lawyers, the activity of a attorneys is regulated by special legal acts [6]. The law defines the list of lawyer’s duties, among them it is observance of the lawyer’s oath and rules of lawyer’s ethics, observance of lawyer’s secrecy, continuous professional improvement and others. Lawyers can be prosecuted for violating their statutory duties and even be deprived of the right to practice law.

Clients rely on both attorneys and paralegals for legal assistance, but the law defines a lawyer’s scope more broadly.

So, the difference between lawyers of different countries is not only in their names, but also in the functions they perform, and in some cases even in their education.

It is worth noting that legal vocabulary in both English and Ukrainian languages has clichéd forms, because the court hearing is strictly regulated, which is expressed in the use of clichéd forms in legal language. Among them there are similar forms of clichés to Ukrainian ones, which are widely used by English and Ukrainian lawyers [4]:

- *Objection, Your Honor* – I protest, Your Honor;
- *Sustained/Overruled* – Supported/Rejected;
- *Jurors may be excused* – Jurors may be excused;
- *To poll the jury* – Interrogation of the jury;
- *To cross-examine* – Cross-examination;

- *Do you swear to tell the truth, the whole truth and nothing but the truth?*

- *Would you like to say anything on your own behalf?*

- *May it please the court ...* – Honourable court...

- *Move to strike, Your Honor* – I protest, Your Honor;

- *You have the right against self-incrimination* – You have the right not to testify against yourself;

- *At this time the defence rests* – Nothing to add to the defence side.

This is the case with clichés that are identical in Ukrainian and English. And there are those that have no equivalent, among them:

- *My learned friend* – a free lawyer in the British court. Often this appeal is used as a mocking form.

- *No bill / no further proceedings* – when the jury declares that there is not enough evidence to bring charges – and closes the case.

- *Beyond reasonable doubt* – beyond reasoned doubt. Such a standard is widespread in legal systems with a competitive nature. Under this standard, the prosecutor must bear the burden of guilt and must prove his version of events.

- *Fruit of the poisonous tree* – evidence obtained illegally.

There is also a big difference between the legal vocabulary of both languages i.e., it is the use of idioms in the English language, and in the Ukrainian language it is the prohibited use of idioms, artistic means and emotionally coloured words, because the judicial jurisdiction in Ukraine is clearly regulated, in particular the norms of behaviour and language.

We would like to cite several interesting examples of idioms that we heard in the series [8]:

- *Legal age* is the age of acquisition of legal rights and obligations;

- *Open-and-shut case* – a simple, obvious case;

- *Bend the law* – cheat, but without breaking the law;

- *Bring someone to book* - bring to justice;

- *Jury's out* – means that the jury is still deliberating;

- *Murphy's law* - has a vague meaning, but it is implied: if something can go wrong, it will at the worst possible moment.

Conclusions and prospects of further research.

Thus, Ukrainian and English lawyers differ in their functions, types and names, as well as in accordance with the country's judicial system that is training. In Ukraine, lawyers are divided into lawyers and attorneys: the former have obligations regulated by law, and the latter perform the function of consultants without having legal grounds. In the UK, lawyers are divided into solicitors and barristers: the former are lower in rank, generally work with documentation and provide legal advice, the latter are higher in rank, represent the client in court and take part in investigations, most often hire the former as assistants. In the USA, there is no division of lawyers, all of them are attorneys, and they perform all the functions assigned to lawyers: representation in court, investigation, documentation, etc.

In terms of education, internships and training, acquisition of practical skills, as well as passing qualifying exams are mandatory. But in Great Britain it is not mandatory to study at a law school to become a lawyer, for this there are courses that last a year.

Vocabulary also differs, although both Ukrainian and English lawyers use special forms of clichés, some of them have similar meanings, and some are understood only in a certain country. In the Ukrainian legal language, idioms and emotionally and stylistically coloured expressions are not used, and in English, idioms are the norm.

During the comparison of judicial systems, we came to the conclusion that the US judicial system is more developed than the Ukrainian and British ones. Similar features are the three-level judicial system: first, second and third instances. But the difference is that in Great Britain there are different judicial systems, which are divided into two groups; and in the USA it is divided into federal and state laws, federal laws are the same for all states, but state laws differ in each of the 50 states; in Ukraine we noticed that everything is the same.

A distinctive feature of the Ukrainian judiciary is the presence of Cassation and Appeal Courts whereas there is no concept of cassation in the American and British judiciary.

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