

DOI <https://doi.org/10.32689/maup.philol.2021.1.7>

UDC 8.81'25

Anzhelika CHERNIUK

1-st year Master student of Department of Foreign Philology and Translation,
Interregional Academy of Personnel Management, Frometivska str., 2, Kyiv, Ukraine, 03039

Tatiana VOYTKO

Candidate of Philological Sciences, Associate Professor of the Department of Foreign Language,
National Aviation University, Lubomyr Husar Avenue, 1, Kyiv, Ukraine, 03058
ORCID: 0000-0003-4097-9260

Анжеліка ЧЕРНІУК

студентка 1-го курсу магістратури кафедри іноземної філології та перекладу,
Міжрегіональна академія управління персоналом, вул. Фромівська, 2, Київ, Україна, 03039

Тетяна ВОЙТКО

кандидат філологічних наук, доцент кафедри іноземної мови
Національного авіаційного університету, проспект Любомира Гузара, 1, Київ, Україна, 03058
ORCID: 0000-0003-4097-9260

**ENGLISH LEGAL DISCOURSE
IN THE ASPECT OF TRANSLATION****АНГЛОМОВНИЙ ЮРИДИЧНИЙ ДИСКУРС
В АСПЕКТІ ПЕРЕКЛАДУ**

*Since law has an international character and any official world relations require a legal basis, the question of the translation of legal discourse arises. The problem of translating terminology is one of the main problems of translating legal texts. Translation of a legal discourse text must be accurate, brief, clear; meet generally accepted norms of literariness language and not contain ambiguous formulations. Particular attention is required by the fact that a source language term may be conveyed by several terms in the target language, so the translator must address the challenges of an adequate translation of the term, given the scope of the estimated equivalents in the target language. Furthermore, the use of translation techniques, such as loan translation, transcoding and lexical-semantic substitution play an important role in the translation of a legal text. **The aim** of the article is to study the specifics of translation of English-language legal discourse. The realization of the aim implies solving a number of tasks, such as: 1) definition of characteristic features and types of legal discourse; 2) analysis of difficulties arising for the translator in the translation of legal terminology and ways to prevent them; 3) study of the specifics of legal language and translation techniques that can be used in the absence of an equivalent in the target language. **Scientific novelty.** In the article the English-language legal discourse is considered the English-language legal discourse as normative, scientific, and educational legal texts, legal documents, judicial decisions, scholarly commentaries, speeches of lawyers, judges, testimonies of trial participants, the correct translation of which depends on the knowledge of legal terminology and expertise in the field of law. **As a conclusion,** the article emphasizes that the study of English-language legal discourse requires further research, as there are many difficulties during its translation, which are associated with the specificity of terminology.*

Keywords: legal discourse, legal translation, terminology, legal text.

*Оскільки право має міжнародний характер і будь-які офіційні світові відносини вимагають правової основи, постає питання про переклад юридичного дискурсу. Проблема перекладу термінології є однією з основних проблем перекладу юридичних текстів. Переклад тексту юридичного дискурсу повинен бути точним, стислим, ясним, відповідати загальноприйнятим нормам літературної мови і не містити двозначних формулювань. Особливої уваги потребує те, що термін вихідної мови може передаватися кількома термінами в мові перекладу, тому перекладач повинен вирішувати завдання адекватного перекладу терміна, враховуючи сферу застосування передбачуваних відповідників у мові перекладу. Крім того, важливу роль в перекладі юридичного тексту відіграє використання таких перекладацьких прийомів як калькування, транскодування і лексико-семантична заміна. **Метою статті** є дослідження специфіки перекладу англomовного юридичного дискурсу. Реалізація поставленої мети передбачає вирішення низки завдань, таких як: 1) визначення характерних рис та типів юридичного дискурсу; 2) аналіз труднощів, які виникають у перекладача під час перекладу юридичної термінології та способи їх уникнення; 3) дослідження специфіки юридичної мови та прийомів перекладу, які можна використати за відсутності еквівалентного відповідника у мові перекладу. **Наукова новизна.** У статті англomовний юридичний дискурс розглядають як нормативні, наукові та навчальні юридичні тексти, юридичні документи, судові рішення, наукові коментарі, промови адвокатів,*

суддів, свідчення учасників процесу, правильний переклад яких залежить від знань юридичної термінології і компетенції в галузі права. Як **висновок**, в статті підкреслюється, що вивчення англomовного юридичного дискурсу вимагає подальшого дослідження, так як при його перекладі виникає безліч труднощів, пов'язаних зі специфікою юридичної термінології.

Ключові слова: юридичний дискурс, юридичний переклад, термінологія, юридичний текст.

Problem relevance. In the context of Ukraine's integration into the European Union, establishing relations with foreign countries, institutions and organizations, the translation of legal documents is becoming increasingly important. When translating a legal text there are usually certain difficulties, sometimes there are no constructions in the target language that could describe the terms of the source language accurately enough, because the legal system of Ukraine differs from the system of Great Britain (and the USA of course). Therefore, the purpose of the article is to study the specifics of translation of English-language legal discourse.

Analysis of recent research and publications. The aspect of legal document translation was explored in the works of scholars, such as V. Vinogradov, V. Slepovich, A. Fedorov, V. Komissarov, V. Karaban, L. Chernovaty, G. Zorivchak, M. Korzhansky, D. Kasyanenko, T. Bessarab, T. Kiyak, M. Poluzhin and others.

The main material of research. In the professional activity (in the process of creating, justifying and applying legal norms), a lawyer works with a set of oral and written texts - the legal discourse (Ponomareva, 2010). Legal discourse represents normative, scientific and educational legal texts, legal documents, judicial decisions, scholarly commentaries, speeches of lawyers, judges, testimonies of trial participants, etc.

Legal discourse is a type of institutional discourse, refers to the regulation of social relations and is characterized by a rigid organization and a hierarchical structure. It is aimed at all layers of society and is considered to be one of the most relevant discourses of these days. The law is not only a set of normative acts and laws, but also the most important cultural achievement of the entire civilization, which should be a solid foundation of life both society as a whole, and the individual (Semyonkina, 2010: 181).

I. Semyonkina (2010: 182) identifies the following main types of legal discourse:

- 1) legislative;
- 2) oral judicial;
- 3) written judicial;
- 4) legal-educational.

Semyonkina also notices in her work that Otto Walter structures legal discourse according to the relevant functional branches of law:

1) language of laws (legislative, abstract legal norms intended by the legislator for both specialists and non-lawyers);

2) language of legal science and expertise (comments and discussions of special issues by specialists for specialists);

3) language of departmental written communication (forms, notices, etc.);

4) administrative jargon (informal discussion of special issues by specialists).

As we know, the marker of the legal discourse is the situation of communication in the legal sphere, and the main component is the text of a legal document. There is no doubt that the speech of the legal discourse is not only extremely complex (even for native speakers who have no legal education), but sometimes incomprehensible to specialists as well (Khodakovska, 2014: 164). The legal language is characterized by the presence of a significant number of complex sentences with two or more subordinate clauses, the usage of archaisms and bureaucratic language (*whereby, therein, hereafter, etc.*), synonyms (*aid and abet, final and conclusive*), the absence of punctuation marks (except the dot), loan words from Latin and French (*habeas corpus, legislature*), the use of the conjunction «*of*». The present tense of the verb and passive constructions are mostly used to convey information objectively.

Translation of legal texts is deemed to be one of the most complex types of translation, so it, like any other specialized translation, requires a vast knowledge base of the translator. O. Khodakovska (2017: 58) notes: "This is due to the fact that the transformation of legal texts demands the use of knowledge in the relevant area of law and taking into account the specifics of a particular type of legal relations. Also the translator must know the current legislation, the special vocabulary and be aware of the peculiarities of using foreign legal terminology in a particular context".

Translation of terminology is one of the major problems of translating legal texts. All this is determined by a complex of reasons, among which we should highlight the difficulties associated with the specific characteristics of the legal term; difficulties arising from the mismatch of legal systems of states, hence, due to differences in the scope of concepts transferred by the terms-analogues, as well as difficulties caused by the existence of specific units that are specific to one system of terms, consequently,

their translation equivalent counterparts are not available in another legal system (Dudnik & Oryshych, 2019: 57).

According to the Encyclopedic Dictionary of Law, legal terms are divided into three varieties based on their “comprehensibility” to a particular segment of the population:

1) generalized terms are characterized by the fact that they are used in everyday life and are understood by everyone; this group of terms includes, for example: *evidence, verdict, license, conflict*;

2) special legal terms have a special legal meaning, for example: *a person under detention, to be released on bail, presumption of innocence*;

3) special-technical terms reflect the field of special knowledge – engineering, economics, medicine, etc. (probably, these terms should be understood by a lawyer, who is also a specialist in another field), for example: *stock company, shareholders* (Koroteeva & Gorban, 2012: 147).

A term can be formed on the basis of the native language or borrowed either from a neutral terminological bank (international Greek-Latin terminological elements) or from another language, it should reflect the features of the given concept; the meaning of the term for a specialist is equal to the meaning of the concept. All terms are divided by their structure into:

1) simple, consisting of one word: *seizure, body*;

2) complex, consisting of two words and written together or with a hyphen: *manslaughter, foolproof, stockbroker, the Secretary-General*;

3) collocation terms consisting of several components: *through your fault, to adopt a decision, woman confederate, the Commander of the Criminal Investigation Department* (Koroteeva & Gorban, 2012: 147).

Legal terms are dominated by collocation terms, which is why they sometimes cause problems when translating a legal text.

Correspondingly, legal terms may be viewed as points of access to concepts, they stimulate conceptual operations activating relevant knowledge. In order to characterize a legal concept, it is necessary to refer to other cognitive domains which are presupposed by and incorporated in such a concept. The translation of legal concepts from English into Russian represents one of three categories. The concept can have an identical equivalent in the target language, such as “theft” – “крадіжка”; “contract”, “agreement” – “договір”; “bankruptcy” – “банкрутство”. In the second category, the legal concept may have no easily identifiable equivalent, but a roughly similar concept can be found, such as “limited liability

company” – “товариство з обмеженою відповідальністю” (a society with limited liability). The third category is legal concepts with no near or rough equivalents in the target legal system. Words of the second and third categories require the translator to be careful when choosing terms to avoid distorting the message (Udina, 2015: 1136).

When translating a legal text, there is the problem of choosing an adequate equivalent in one language for another. The choice of a translation option is influenced by the presence or absence of an equivalent in the target language. If it exists, the procedure is reduced to the usual substitution of an equivalent, but otherwise – to the careful selection of one of the variant equivalents taking into account a number of linguistic and extralinguistic factors (Vagapov).

It is somewhat more difficult to select the necessary equivalent from several possible variants. The electronic dictionary “Lingvo” provides 16 variants of translation of “law” in Ukrainian and gives more than 100 collocations with this word (Shumylo & Snitsa, 2016: 269).

If there is no variant equivalents in the target language, the translator, depending on the context, may use the following translation techniques:

– loan translation (literal translation): *lawgiver* – *законодавець*, *householder* – *домовласник*, *tapwater* – *людські ресурси*;

– transcoding (transferring the sound and/or graphic form of the source language word by means of the alphabet of the target language): *beneficiary* – *бенефіціарій*, *securitization* – *сек'юритизація*, *New York* – *Нью-Йорк*; *acquirer* – *еквайер*, *General Assembly of the United Nations* – *Генеральна Асамблея ООН*. Transcoding is often used when translating surnames, names and names of various establishments, firms, brand names of cars, appliances, etc;

– lexico-semantic substitution (concretization, generalization, addition, deletion, replacement): *private staff* – *приватний обслуговуючий персонал*; *highly litigious prisoner* – *ув'язнений або обвинувачений, який утримується під вартою та активно захищає свої права в судовому порядку*; *premises and accommodations* – *приміщення*; *the Charter of the United Nations* – *Статут Організації Об'єднаних Націй*, *Criminal Justice Act* – *Закон «Про кримінальне правосуддя»*; *citizen's arrest* – *затримання правопорушника цивільною особою* (Shumylo & Snitsa, 2016: 269).

There are cases where these transformations are combined in the process of translating a single terminological unit. However, the translator

should use the above translation techniques only when equivalent or variant equivalents are not available and other translation techniques cannot be used.

The translator should pay special attention to lexical non-equivalence. Klyushina and Zdor (2016: 56) give several examples of non-equivalent vocabulary:

Primaries – *попередні вибори, що визначають кандидатів в президенти від двох політичних партій в США*: «Before voting every citizen must register in accordance with the laws of his state. This gives him the right of participating in primaries».

Venire – *категорія осіб, які здатні виконувати функції присяжних*: «The juries are selected from a larger panel of citizens, commonly known as the venire».

Vior dire – *допит присяжних для виявлення їх можливої упередженості*: «The prospective jurors are generally subject to further interrogation about their possible biases. This examination is known as vior dire».

Solicitor – *повірений, соліситор (веде справи клієнтів, готує справи для адвокатів)*: «A solicitor, acting under a general retainer, has an implied authority to accept service of process for his client...»

Bill – *білля, законопроект*: «...In certain circumstances a Bill may become law without the concurrence of all the component parts of Parliament».

Another type of difficulty that has gained considerable recent relevance is that a source language term may be conveyed by several terms in the target language, so the translator must address the challenges of an adequate translation of the term, given the scope of the estimated equivalents in the target language, their stylistic meaning, frequency of use, and so forth. For example, if we compare American and British legal terminology, we find that there are differences at the level of the national-cultural component, even among terms denoting universal concepts of law. Thus, the terminology «*ордер на арешт*» would be equivalent to the American “arrest warrant” and the British “bench warrant”. When translating these terms it is necessary to take into account the specifics of the law of Great Britain and the United States. Given the specificity of the legislative and legal systems of the countries, of course, assumes the translator’s ability to navigate the legal systems (Radetska, 2021: 144).

It is important to know when translating American legal texts that the terms "jail" and "prison" are incomplete synonyms. Their essential semantic distinction indicates the

length of imprisonment and, therefore, the severity of the committed crime. If this term does not exceed one year, then the penitentiary where the punishment is carried out is “jail”, and if the term is more than one year, then it is "prison". This distinction is due to the history of the development of correctional facilities in the United States (Dudnik & Oryshych, 2019: 57).

When faced with the dilemma of either a translation based on official translations of international treaties or a translation that takes into account the terminological realities of domestic law, the translator is forced to find a compromise. It is possible to solve such a dilemma by considering the pragmatic aspect of the translated text and extralinguistic factors. Terminological equivalents may have a narrow professional focus, so the translator faces a choice between using a term that may not always be understood or known to the recipients of the text, and a descriptive translation, which may be preferred given the pragmatic component of translation and should be as compact and transparent as possible, relying on the principles of Plain English. If there are shifts in the semantics of legal terms, not only in the lexical units themselves, but also in the minds of the users of terminology, in the perception and interpretation of the term by a fairly wide range of people, the translator must either create a new system, focusing exclusively on dictionary definitions and using dictionary equivalents, or use new interlingual terminological equivalents, since the necessary term for translation turns out to be “burdened” with another meaning (Khodakovska, 2017: 59).

Translation of a legal text, in addition to knowledge of legal terminology, requires the translator to be legally literate in both foreign and native languages.

The main feature of the legal discourse texts is a precise and clear presentation of the material in the complete absence of the emotional elements. They practically exclude the possibility of arbitrary interpretation of the essence of the issue. Therefore, the main requirements that a good translation of a legal discourse text must meet are:

- accuracy (all the provisions interpreted in the original must be stated in the translation);
- brevity (all the provisions of the original are briefly and concisely presented in the translation);
- clarity (the brevity and conciseness of the translation language should not affect the completeness of the transmission of the original vocabulary);
- literariness (the text of the translation must meet the generally accepted norms

of literariness language, without the use of syntactic constructions of the original language) (Klyushina & Zdor, 2016: 55).

Conclusions and prospects of further research. Hence, translation of legal discourse is increasingly becoming the subject of extensive discussion and research. Particular attention

deserves translation of legal terms, which has its own specifics, so research aspects of translation that will help avoid mistakes in translation are very relevant.

The prospect of further research we see in a thorough study of the peculiarities of the legal document translation.

Bibliography:

1. Вагапов А.С. Выбор адекватного лексико-фразеологического соответствия при переводе английских правоведческих текстов. URL: http://zhurnal.lib.ru/w/wagapow_a_s/my-art.shtml.
2. Дуднік Г.С., Оришич Д. Л. Проблеми перекладу юридичної лексики й термінології. *Науковий вісник Міжнародного гуманітарного університету. Сер.: Філологія*. 2019. № 43. Том 5. С. 56–58.
3. Ключина А., Здор А. Проблемы и способы перевода английских терминов в тексте юридического дискурса. *Поволжский педагогический вестник*. № 3 (12). С. 54–59.
4. Коротеєва Л., Горбань О. Особливості юридичного дискурсу в аспекті перекладу. *Англїстика та американїстика: збірник наукових праць*. Дніпропетровськ, 2012. С. 54–59.
5. Пономарева Л. Юридичний текст як офіційне вираження юридичного дискурсу. *Університетська наука: тези міжнародної науково-технічної конференції*. Маріуполь, 2010. С. 199.
6. Радецька С. Юридичний дискурс та переклад: вплив сучасних тенденцій на усталені норми. *Актуальні питання гуманітарних наук*. № 35. Т. 7. С. 142–147.
7. Семьонкіна І. Специфіка англійського законодавчого дискурсу в аспекті перекладу. *Вісник харківського національного університету ім. В.Н. Каразіна. Романо-германська філологія. Методика викладання іноземних мов*. Вип. 61. 2010. С. 181–185.
8. Ходаковська О. Еквівалентність перекладу англійського юридичного дискурсу. *Сучасні наукові дослідження представників філологічних наук та їхній вплив на розвиток мови та літератури: матеріали міжнародної науково-практичної конференції*. Львів. С. 57–60.
9. Шумило І., Сніца Т. Особливості перекладу юридичних текстів. *Філологічний дискурс*. Випуск 4. С. 266–272.
10. Удіна Н. Юридична освіта: Мовна та юридична перспективи перекладу. *Соціальні та поведінкові науки*. 2015. Вип. 7. С. 1134–1138.

References:

1. Vagapov, A. The Choice of Adequate Lexical-phraseological equivalents in the Translation of English Legal Texts. URL: http://zhurnal.lib.ru/w/wagapow_a_s/my-art.shtml [in Russian].
2. Dudnik, H., Oryshych, D. (2019). The Problems of Legal Vocabulary and Terminology Translation. *Naukovyj Visnyk Mizhnarodnogho Ghumanitarnogho Universytetu*, № 43 vol. 5, P. 56–58 [in Ukrainian].
3. Klyushina, A., Zdor, A. (2016). The Problems and the Ways of the Translation of the English Terms in the Legal Discourse Text. *Povolzhskij pedagogicheskij vestnik*, №3 (12), P. 54–59 [in Russian].
4. Koroteeva, L., Gorban, O. (2012). The Features of Legal Discourse in the Aspect of Translation. *Anghlistyka ta amerykanistyka: [zb. nauk. pr.]*. Dnipropetrovsk, P. 145–148 [in Ukrainian].
5. Ponomareva, L. (2010). Legal Text as a Formal Expression of the Legal Discourse. *Universitetskaja nauka: tez. dokl. mezhdunar. nauch.-tehn. konf. Mariupol*, P. 199 [in Ukrainian].
6. Radetska, S. (2021). Legal Discourse and Translation: the Influence of Current Trends on the Established Norms. *Aktualjni pytannja ghumanitarnykh nauk*, № 35 vol. 7, P. 142–147 [in Ukrainian].
7. Semyonkina, I. (2010). Specificity of English Legislative Discourse in the Aspect of Translation. *Visnyk Kharkivskogho nacionaljnogho universytetu im. V. N. Karazina*, P. 181–185 [in Ukrainian].
8. Khodakovska, O. (2017). Translation Equivalence of English-Language Legal Discourse. *Suchasni naukovi doslidzhennja predstavnykiv filologichnykh nauk ta jikhnij vplyv na rozvytok movy ta literatury : materialy mizhnar. nauk.-prakt. konf.* Lviv, P. 57–60 [in Ukrainian].
9. Khodakovska, O. (2014). Specificity of the English Legal Discourse and Peculiarities of its Translation. *Naukovyj visnyk Mizhnarodnogho ghumanitarnogho universytetu*, №10 (2), P. 164–167 [in Ukrainian].
10. Shumylo, I., Snitsa T. (2016). Peculiarities of Legal Texts Translation. *Philological Discourse*, Issue 4, P. 266–272 [in Ukrainian].
11. Udina, N. (2015). Law education: Language and Legal Translation Perspectives, *Procedia-Social and Behavioral Sciences*, P. 1134–1138.