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DEALING WITH LEGAL TERMINOLOGY IN THE TRANSLATION OF BUSINESS DOCUMENTS

Galina Koteva[1]
e-mail:kotevag@uctm.edu

Abstract

It is commonly acknowledged that one distinctive feature of legal language is the complex and unique legal vocabulary. Legal terminology is the most prominent and noticeable linguistic feature of legal language and it is one of the major sources of difficulty in translating legal documents.

When we translate a term from one language into a term from another language, we should find out if the relevant concepts associated with both terms correspond. Hence, legal translation is not automatic transfer of a concept from one language into another, but it requires thorough knowledge of the two legal systems in contact as well as a comparative analysis of the text and the terms to be translated.

Keywords: terminology, legal concepts, parallel texts

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Introduction

The aim of this work is to present a classification of the problems encountered by translators as a result of the different ways of conceptualization of the legal terms and to analyze examples with appropriate solutions. The paper exposes some of the systemic and conceptual differences between Continental law upon which Bulgarian law is based and Common law, one of the main sources of the Anglo-American system of law.

Translators must find solutions to the problems arising out of translating a text produced in one specific language and legal context and received in a different language and legal context. Translators need to have knowledge of the language pairs and the two legal systems involved plus awareness of the translation context and characteristics of the communicative situation.

The expertise of translators must also include knowledge of the terminology, register, collocations used in the source text that should be used by the translator in the target text to meet intended readers' expectations. Moreover, knowledge of the textual characteristics of legal documents (both source and target texts) is also needed, including the branch of law to which the document pertains (com-

[1] Senior Lecturer, Department of Humanities, Faculty of Metallurgy and Materials Science, University of Chemical Technologies and Metallurgy

pany law, case law, etc.); the genre of the text (macrostructure, format); and the function of the text (both legal and communicative). Finally, translators should know the agents involved in the translation setting and whether the translated text is legally valid in the target legal system, or the translation is done for informative purposes only. All these considerations affect the way in which a text is translated.

What is special about legal translation?

Translation of legal texts and documents in particular is not a mere "process of linguistic transcoding" but "an act of communication in the mechanism of law" (Šarčevič 2000, p. 55). Thus, a legal translator must be able to use language effectively to express legal actions and achieve the desired effect. The translator's goals should not be confined to lexical or syntactic precision, but, more importantly, he/she should strive to integrate pragmatic considerations into the overall communicative process.

Crystal and Davy (1986, p. 112) wrote that "of all the uses of language, legal language is perhaps the least communicative, in that it is designed not so much to enlighten language-users at large as to allow one expert to register information for scrutiny by another". Hence, legal texts are formulaic and may be laden with legalese.

Šarčevič also defined legal translation as special purpose communication between specialists, including communication between lawyers and non-lawyers which is especially true for business documents. Legal texts refer to the texts produced or used for legal purposes in legal setting. She indicated that "While lawyers cannot expect translators to produce parallel texts which are equal in meaning, they do expect them to produce parallel texts which are equal in legal effect. Thus the translator's main task is to produce a text that will lead to the same legal effects in practice" (Šarčevič, 2000, p. 71). Hence, the basic unit of legal translation is the text, not the word.

Problems facing the legal translator

There are different types of problems facing legal translators which have been discussed at length in the literature. The aim of this work is to present a classification of the problems encountered by translators as a result of the different ways of conceptualization of the legal terms and to analyze the options available to them when seeking appropriate solutions. The problems identified below are taken from business documents such as contacts, agreements and certificates related to company law.

Translators must find solutions to the problems arising out of translating a text produced in one specific language and legal context and received in a different language and legal context. Translators need to have knowledge of the language pairs and the two legal systems involved plus awareness of the translation context and characteristics of the communicative situation. Also, the translated text may be legally valid in the target legal system, or the translation may be done for informative purposes only. All these considerations affect the way in which a text is translated.

As Stolze (2013) claimed legal texts are meant for jurists. Hence, law as a specialist knowledge in its concepts functions with an exclusive, fixed technical terminology. However, there are documents such as codes, certificates, trade agreements which regulate the lives and business activities of lay people. So legal language has two kinds of addresses: the lawyer and the general public. As Stolze (2013, p. 61) pointed legal terms may have "double coding", i.e. not only a specialist concept but also a lay meaning. This is the reason why sometimes terms designating legal concepts can be misleading when they are interpreted by merely their linguistic appearance.

Theoretical considerations

Terminology is the most visible part of specialized vocabulary. What makes some lexical units terms is their usage and social recognition within a given domain, subject or vocation. Generally, terms should be accurate, concise, easy to spell and pronounce. Ideally a term consists of one word and has one meaning (monosemous). A definition of a term according to Chromá (2004, p. 17) must contain three major characteristics:

1) it is a special word (or phrase) accepted in a professional activity and used under specific circumstances;

2) an expression denoting a concept as part of the system of concepts of a specific subject-field;

3) a basic conceptual element of a language for specific purposes.

Terms have different degrees of syntactic and semantic fixedness. Gläser (1994/95, p. 45) gave the following description of terms: "they have a syntactic and semantic stability, may be idiomatized, may carry connotations, may have an emphatic or intensifying function in a text and are used in the discourse community of a particular subject field".

Below we will present two different classifications of terms, the first one describing terms according to their function in the legal text and the second one related to the different semantic and conceptual meanings of terms.

The first classification is according to Biel (2014) who takes into account the nature of legal genres and proposes five functional categories of terms. She divides them into

1) Text-organizing patterns: genre-dependent repetitive structures that build up the framework of the legal text, e.g. titles or closing formulas as *whereas* or *acting in accordance with.*

2) Grammatical patterns: genre-dependent repetitive grammatical structures, e.g. conditional clauses *(in the event that*) or passive voice (*shall be deemed*).

3) Term-forming patterns (or multi-word terms): structures comprised of terms that are specified by different collocates to create subtypes of such term; they usually follow the pattern Adj+Noun or Noun+Noun and are transparent in meaning, e.g. *public limited-liability company.*

4) Term-embedding collocations: verb-based structures, mostly Noun+Verb, that express actions related to terms, e.g. *to hold shares*.

5) Lexical collocations: important repetitive formulae that do not revolve around terms and are identified through recurrence, e.g. *subject to this Regulation*.

We will also consider another classification which takes into account the relations between terms and concepts and the problems that may arise in legal translation.

Cao (2007) proposes that a legal concept has three dimensions: linguistic, referential and conceptual. In order to translate a concept into another language, the translator has to consider whether the two concepts are equivalent or similar in these three dimensions. According to Sandrini (1996) legal concepts are much dependent on culture-specific criteria and hence in translation, terms from different languages are rarely exact equivalents in all three dimensions. So the translator is faced with two possibilities: if no equivalent concepts and terms exist in the target language, then new words must be created or new meanings introduced. Provided that such words exist in the target language, they are linguistic equivalents to the source language. However, these words in the two languages may have only partially equivalent meanings in law or sometimes may not be functionally equivalent in law at all. It depends on how the term is realized in the legal system.

Since legal language is system-bound, legal thoughts and rules within the system are expressed by legal concepts. They play an important role in describing each branch of law, such as criminal law, property law, contract law, etc. Hence, legal translation involves much of specialized language which is a sequence of the extensive use of concepts. Consequently, the greatest challenge in translation of legal texts is the translation of legal concepts.

The terminological comparison between two languages shows the differences between the concept and the terms in the compared languages. This is especially

true for the systematic nature of legal language. There is a slight difference between concepts and terms, namely, a concept is "a unit of thought that combines within itself the properties and relationships (characteristics) of things (i.e. material and immaterial objects, situations and circumstances, events, actions, procedures, etc)" (Cao, 2007, p. 55) while in the language, a concept is presented with a term that may consist of a single word or of a group of words.

When we translate a term from one language into a term from another language, we should find out if the relevant concepts associated with both terms correspond. Hence, legal translation is not automatic transfer of a concept from one language into another, but it requires thorough knowledge of the two legal systems in contact as well as a comparative analysis of the text and the terms to be translated.

According to Cao (2007), there are four major terminological areas that may cause problems in legal translation applicable to most languages. These are

1) legal conceptual issues and the question of equivalence or non-equivalence;
2) legal terms that are bound to law and legal institutions;
3) legal language in terms of ordinary vs legal meaning and legal synonyms;
4) terminological difficulties arising from vagueness and ambiguity of terms.

Each of these will be exemplified below.

The lack of terms or concepts is very common when translation is done between Common law and Civil law texts because the concepts in the two systems developed in separate legal traditions. Hence, they are unique for the respective legal system and may not have exact translation in the other legal system. Such terms enter the other languages by way of lexical or semantic loans such as, for instance, the English legal terms "precedent", "good faith", "public policy", etc.

According to Tiersma (1999) the opposite process took place during the Norman Conquest and for a substantial period after that when a great amount of French and Latin vocabulary entered the English language and they are still widely used today, such as *agreement, arrest, assault, crime, damage, heir, misdemeanor, money, profit, slander and tort*. Also, many words related to court have French origin such as *action, appeal, attorney, bar, claim, complaint, court, evidence, judge, justice, process, sentence, suit, verdict,* etc. Finally, the English law of real property is also filled with French terminology: *chattel, estate, lease, licence, profit a prendre, property, rent, tenant, tenure, trespass*, among others.

The second scenario in translating legal concepts is when similar words exist in the SL and the TL, then the corresponding existing terms in the target language are used in the translation, even though they may not be completely identical. According to Šarčevič (2000) there are close equivalents, partial equivalents or non-equivalents. Hence, there are many examples of words that are linguistic equivalents but conceptually and referentially may be non-equivalents or partial

equivalents in different languages. As an example we may consider the English term 'good faith' as a Common law term and the French/Latin 'bona fide' used in the Civil law, which are not entirely the same. They both contain the notion of fair dealing but according to De Cruz (1999) they differ on some important points, namely, the English notion excludes negligence while the continental view is quite opposite; secondly, the civil law concept covers a wider field than the English one, since it includes confidential relationships expected of parties in commercial transactions.

Next are the words associated with the legal profession. In English, there are several terms denoting a person with legal education. Thus, a legal practitioner who assists clients with legal advice, drafts and prepares various legal documents such as wills, documents for business transactions and negotiates terms of commercial contracts is called a solicitor. When specialist legal advice is required or when representation in court is needed then clients hire a barrister. Barristers often specialize in particular areas of law such as criminal law or company law and are sometimes called counsels. In Bulgaria, a person who possesses a degree in law is called a lawyer and can act both as a barrister and solicitor. Hence in the translation of the terms 'counsel', 'attorney', 'solicitor', 'barrister', and even 'advocate' the Bulgarian term could be a 'lawyer' or sometimes 'jurist', or sometimes some explanatory words may be added to describe the legal distinctions between them. However, the term 'jurist' has some other connotations, namely, of a person who is academically qualified in the law and who is as likely to be a scholar as to be a practitioner. There is a word 'jurist' in English as well but it is often used to refer to judges but still it can be used to refer to a person who has thorough knowledge of law.

Also, if we compare the legal institutions and domains of law of the Common law and the Civil law we will find many conceptual and structural differences. For instance, the Common law concepts of *consideration or estoppel* are absent in the Civil law of contract, while the concept of *'law of obligations'* in the Civil law, which is a fundamental category in the laws of the Romano-Germanic family, is non-existent in the Common law.

So the translation between the two legal systems is not a simple mechanical process. The legal translator must have knowledge and understanding of the relevant legal systems and their structure and a high degree of proficiency in the two legal languages.

Next issue is with the ordinary vs legal meaning. There are many words in legal texts that have an ordinary meaning and a specific legal meaning. This is true not only for English but for other languages as well. Hence the role of the translator is to identify the legal meaning and distinguish it from its ordinary meaning before rendering it appropriately it the target language. For instance,

in translating English contracts there are terms such as 'offer', 'consideration', 'remedy' and 'assignment'. They have one meaning in non-legal setting and special legal significance in contract law. Thus in legal English, 'offer' refers to a promise which when accepted constitutes an agreement. 'Consideration' refers to the price paid and 'remedy' is not just a way of solving a problem but a legal means whereby breach of a right is prevented or redress is given, e.g. damages and/or injunction. 'Assignment' in contract law means transfer of property or right.

Moreover, legal synonyms may cause terminological problems. A legal term may have several synonyms, and some of the synonyms may have similar meaning in some situations but differ in law. For instance, in English contract law, there the synonyms of 'warranty' 'term', and 'condition'. A 'warranty' or a 'term' of a contract means a contractual undertaking. Usually 'terms of the contract' refer to every clause in the document and in this sense the word is synonymous to stipulation, clause or provision. 'Warranty' is used to describe any contractually binding promise. It is not to be confused with the 'warranty' found in the commercial contracts or 'warranty' used by a manufacturer of goods to express their duty to repair defects in the goods. 'Condition' refers to an event the occurrence or non-occurrence of which has been agreed by the parties to have a particular result. The second meaning describes any term of a contract, and a third meaning an important term (promise), the breach of which could a cause to terminate the contract.

So, the translator must be aware of the conceptual difference in the synonymous terms and not mistranslate or confuse the terms. Sometimes it may be difficult to find sufficient synonyms of a given term in the target language. This is quite challenging for the translator who needs to be resourceful in order to find appropriate synonyms or there may be cases such as the triplet 'rights, titles and interests' where the three synonymous terms are rendered with the phrase 'any such rights'.

Finally, another terminological difficulty may arise from linguistic uncertainty. Cao (2007) defines linguistic uncertainty as synonymous to linguistic vagueness, generality and ambiguity. What she means is that sometimes the unclarity in the application of linguistic expressions may lead to legal indeterminacy. For instance, expressions of the kind of '*slight negligence'* or *'serious consequences*'. The difficulty here is not so much with the translation but how the recipient of the text will interpret or react to such phrases and eventually such linguistic uncertainty may be the reason for legal disputes to arise. Of course, such uncertainty is implicit in the language itself and the translator's job is to translate, not to explain any ambiguities.

Looking for equivalents during the translation process

Another way of looking at terminology is at the different levels of text. Knowledge of the genre conventions of drafting particular documents can be used as a compass in orientating in their structure, which in turn will create expectations about the purpose, the content and form (including expectations about structuring devices and linguistic elements) of the whole text.

(1) So let's consider the macrotextual level first. Translators will choose to reproduce the specific characteristics of the macrostructure of the source text in the target text whilst at the same time considering the possibility of having to adapt it to the particular characteristics of the same genre in the target legal system, when necessary. We should bear in mind that a genre is defined as "a class of communicative events which possess features of stability, name and recognition" (Swales, 1990, p. 9). Exemplars of a genre are similar in terms of structure, style, content and intended audience.

Documents such as agreements have both a specific form and content. Translators need to adapt the functional parts of the agreement so they work in the target language and preserve the content of the agreement so it can do its job and remain true to its origins. To make this distinction, translators should separate formulaic language (form) from agreement information (content). Distinguishing between form and content saves the translator time (in decoding) and tells them how they should translate different parts of the document.

What is formulaic language? This is the dressing of a document including set formulas, phrases laden with legalese and structural elements. e.g., clause numbering. Also, the so called boilerplate clauses. While these include details of the agreement, we can class them as formulaic because they often differ greatly in form from one language to another. They usually contain more legalese and set phrases than other clauses. Headings (of clauses, sections) are also important part of the formulaic language and finally style and syntax. Although less visible, the verbs, tenses and sentence structure in the operative clauses are the most important element of formulaic language.

Translating formulaic language equivalently means translating the function of the words rather than the words themselves. We translate equivalently in three ways: Following target-language conventions – consult drafting style guides to see the target conventions for translating the function of just about all formulaic language and the style and syntax. Using models involves examining authentic contracts to see how the functions we want to translate usually appear in English or Bulgarian.

Creating 'authentic concessions' which means to preserve a part from the SL into the TL. In the introductory clauses, Bulgarian contracts (unlike their English counterparts) state both the representatives or agents of the parties and the parties

themselves. The rest should be translated transparently, i.e everything else being the details of the contract (e.g., the price, term and any other details relevant to the agreement) should be translated literally.

Typical signpost legalese at the beginning and end of the contract, e.g., *whereas* (to introduce each recitals); *now, therefore* [...] *the parties hereto now agree as follows* (in the lead-in to the operative clauses); *in witness whereof* (start of the signature clause). Lots of pronominal adverbs, e.g., *hereby, thereof, whereby* and *hereinafter*. Words like *same, said, such, notwithstanding, pursuant to and foregoing*. Doublets and triplets, e.g., *due and payable*.

For instance, in a typical agreement in English, the date is usually found at the beginning of the document: 'This agreement is made and entered by and between… on this… day of ..'. In Bulgarian texts, however, the date is usually placed at the very end of the agreement, just before the signature of the parties involved. Thus, if an agreement translated into Bulgarian is to be signed and used in Bulgaria, and the brief includes adapting it to the Bulgarian legal system, the date should be placed at the end of the agreement.

Generally speaking, words and formulas in legal documents in English not always have the dictionary meaning. They are markers that announce which block of contract or legal document comes next. In principle, there are three ways of translating these formulas:

• Omitting them: being only markers of the structure of the document their disappearance does not cause any loss of value or legal significance. Simply, the document is not structured with the same force.

• Translating them literally: Eg. NOW THEREFORE, Assignor and Assignee agree as follows…rendered as *И така, Праводателят и Правоприемникът се споразумяха както следва*.

• Looking for the equivalent in the language of the translation (if it exists) for that formula: (IN WITNESS THEREOF → В потвърждение на горното; WHEREAS → Като).

(2) Next is the microtextual level, but first at the sentence level. In this case, translators will choose collocations and functional equivalences in order to produce a target text that satisfies reader expectations with regard to syntax and style conventions. Words do not exist in isolation but cluster together in particular ways to make larger meaningful units of language and such a selection does not occur randomly, but is formulaic in nature. Some linguists call these pattern formulaic sequences, lexical chunks, lexical bundles or phraseological units/ phrases. Thus, the phrase "С грижата на добър търговец" is rendered correctly as "with due diligence" (meaning the reasonable steps taken by a person to avoid committing a tort or offence).

(3) At the microtextual lexical level. For every legal term or USM, the translator has four different options: (i) to find a legal equivalent, i.e. using a term

in the target text legal system that represents a similar concept in the source text legal system. Legal equivalents, however, are not commonplace, especially when translating between legal systems which belong to different law families, such as Common Law and Civil Law. Where a legal equivalent exists, this is clearly the best solution;

(4) or a contextual equivalent, i.e. when the term in the source text language has different possible equivalents in the target language, depending on the context in which it is used. This would be the case of the term "Attorney". It may be used to describe a lawyer, a specific legal document "Power of Attorney", or even a position, as in "Attorney General";

(5) to use a lexical translation or calque when no equivalent term exists in the target legal system. The translators opt for a lexical translation because they want the target text reader to clearly understand the term which does not belong to the target text legal system. For instance, one important difference in English contracts lies in the habit of English legal drafters of giving a name to each type of clause (Term, Choice of Law, Representations and Warranties ...), while in Bulgarian there is (rarely) a name for that type of clauses (applicable law, Force Majeure, etc). According to Mayoral Asencio (2003) "baptizing" the unnamed clauses in Bulgarian can be one of the most difficult tasks for the translator. Thus, the severance clause is translated *разделност на клаузите*, a non-severability clause could be translated *цялостност на договора*;

(6) a periphrastic translation, i.e. explaining a source text term in the target text language. For example, the term "joint venture" which does not have an equivalent in the Bulgarian legal system so that a translator may decide to use a phrase such as 'a cooperative partnership between two individuals or businesses' (translated as '*съвместно предприятие*') to ensure that the meaning of the term is made quite clear to readers.

Apart from these tools let's also look at some other problems which may arise at microtextual level and stem from the nature of legal language. With regards to the latter, Pearson (1998) lists six features to characterize a formalized and codified variety of a language for special purposes such as law:

1) Limited subject matter;
2) Lexical, semantic and syntactic restrictions;
3) Deviant rules of grammar;
4) High frequency of certain constructions;
5) Text structure (such as legislation or contracts);
6) The use of special symbols.

Let's start from the last one. A different feature between Bulgarian law and British law is the use of the symbol "§". Whereas this symbol is used in Bulgarian legislation to subdivide statutes into sections together with the respective

Arabic number, it is not used in British laws although they are also subdivided into sections. Sections in both systems are further subdivided into subsections, paragraphs and subparagraphs.

A translational problem refers to terminology when it relates to terms, i.e. the lexical units with a precise meaning in a given special field. A terminological problem may be related to the comprehension and the pragmatic properties of the term in the source text or to the search of equivalent in the target text. Cabrè (2010) defines the following situations the translator may come up with:

- Not knowing all or part of a term, its meaning, its grammatical use or pragmatic value in the source language.
- Not knowing if in the target language there is a lexicalized unit semantically and pragmatically equivalent to the term used in the original text.
- Doubting whether a given unit of the target language is the most appropriate equivalent among the alternatives found.
- Ignoring or having doubts about the phraseology used in a particular field of specialty.

In order to solve the problems in understanding the source text, translators use dictionaries and reference books to check the meaning of terms and their grammatical and pragmatic conditions of use.

Here are some issues to be considered when translating legal documents:

The English agent noun suffix –or

The English agent noun suffix –or in legal terms denoting the person acting as opposed to the person acted upon suffixed with –ee. In most cases the said suffixes are appended to a verb stem differentiating between the people involved in a business situation. Thus, *assignor* is a person transferring over property rights while *assignee* is a person to whom a right or property is legally transferred. *Assignee* has a shorter variant *assign* used mainly in doublets such as *successors and assigns* and almost always appears in plural.

Another example is *lesser*, a person granting a lease and *lessee* meaning a person to whom the lease has been granted. One should be careful, however, with the translation of the nominal agents into Bulgarian. For instance, *obligor* is the person who binds himself to another by contractual obligation while *obligee* is the one to whom another is bound by contractual obligations. The endings –or and –ee can be easily transposed by mistake and while *obligor* is synonymous with *debtor* (длъжник), *obligee* means *creditor* (кредитор). This is the reason why in contracts legal drafters prefer to use buyer and seller over vendee and vendor, or borrower and lender over mortgagor and mortgagee.

Sometimes terminological adaptation is needed to render the relations as in a Legal Service Agreement where the Bulgarian agents *довереник и доверител* are translated as *client and attorney*.

Terminology and grammatical categories

Grammatical categories play a significant role in the translation of legal terminology. One such example is when the countable and uncountable varieties have different legal meanings. Thus, the English uncountable term liability denotes legal responsibility while the plural form liabilities means primarily the debts or pecuniary obligations of a person or company.

Another issue is the so called lexical negation which is frequently used in legal English. The verb *fail + infinitive* and its nominal derivative *failure + infinitive* have a semi-auxiliary meaning. The syntactical function of the verb *fail* is to suggest the negative form of the following infinitive thus replacing the auxiliary not constructions. Legal Bulgarian equivalents use grammatical negation, for example, *fail to provide* is translated with *not to provide* while the noun phrase *failure to fulfill* is translated as the negative form of the respective noun (*неизпълнение)* which literally is backtranslated as 'non-fulfillment'.

It is important for the legal translator to be aware of the difference in meaning of the conjunct *rather than* in legal context. Its common meaning of 'with more propriety or advantage or more properly or justly' will not be correct in legal texts. The meaning of the contrastive conjunct *rather than* should be translated with negation. For instance, the phrase '*Protection of collective rather than individual interests'* is rendered into Bulgarian as '*защита на общите, а не на частните/личните интереси*'.

Synonymy

As already mentioned above, another problem with terminology is synonymy. Generally, synonyms are words which have the same general sense but different shades of meaning which are more appropriate in certain contexts. Two aspects must be considered with synonyms: the intension of use which can be identical or variant and their distribution in various contexts. Let's take for example *fault* (something wrong done, culpability) and *blame* (responsibility for anything wrong, culpability). In general English they are interchangeable in most contexts. In legal English, however, 'fault' is defined in the dictionary as "any deviation from prudence or duty resulting from inattention, incapacity, perversity bad faith or mismanagement" while 'blame' is explained as "responsibility for something wrong" without any specification of reference. So '*fault*' is the legal term defined

by law and giving rise to liability/legal responsibility. '*Blame*' can be used as a synonym only in a wider legal context outside the scope of statutory or judicial writings.

Another issue is the difference among English speaking countries which might constitute a problem for translation. Thus, the British legal term '*company*', as defined in the Companies Act 1985, is identical in its legal meaning and effect to the US term '*corporation*' as defined by the Business Corporation Act 1984. Linguistically they seem to be synonymous terms, but they are not interchangeable in the British and US law system. The term '*company*' in the US law usually denotes an unincorporated entity while '*corporation*' in British legal texts regularly means an entity established primarily not for profit-making which is registered with the Companies House.

Faux amis

Another problem that may arise is with the so called false friends. The linguistic term is interference and it may affect various linguistic levels. The most widespread are lexemes or collocations of the source and target language which are similar in form and different in meaning. For instance, the Bulgarian term 'правен субект' is translated in English as *legal person*, while the English term 'subject' is translated into Bulgarian as *предмет*.

The issue of equivalence

Equivalence between legal English and Bulgarian is a major issue when we deal with legal translation since we have not only two different language systems but also two different legal systems. Equivalence is not only on the level of vocabulary, it may be found on the level of larger syntactic structures, texts, genres or even discourse (communicative situations or speech acts).

Finding the right functional equivalent of a term means to do a comparative semantic and genre analysis of both the source text and the corresponding target text in the target language. For Šarčevič (2000) a functional equivalent is a term in the target legal system designating a concept or institution, the function of which is the same as that of the source term. She also admits that the most functional equivalents are only partially equivalent and it is the conceptual analysis that can display the degree of actual equivalence. Concepts of different legal systems can be regarded as functional equivalents only if they are capable of solving the same factual problem.

For example, the English 'Incumbency certificate' may be translated into Bulgarian as 'удостоверение за актуално състояние' (back translated as 'Certificate of good standing') because it contains information about the current state

of a company such as its name, the registered office, main activity, the managers and their representation. The function of the incumbency certificate in the target culture is the same as the one of the certificate of good standing so the two may be translated equivalently.

Doublets and triplets

In contracts in English it is common for the same concept to be expressed two or more times, one with the Norman origin form and the other with the Saxon origin form. The need to do so at one point in the history of legal English disappeared, but the custom has remained in the writing. In legal Bulgarian its existence is much less frequent, although some forms can be found. Here are some forms of doublets and triplets collected from documents in English.

Table 1: Examples of doublets and triplets

Acts and things	Instruments and papers
Agree and guarantee	Intents and purposes
Aid, assist or permit	Liens, claims, charges and encumbrances
Any and all	Make, constitute and appoint
Assignees and transferees	Misuse, misoperation
Author‘s authorizations, approvals and consents	Modifications, changes or alterations
By and between	Name, place and stead
Charges, costs and expenses	Notices and statements
Circumvent, avoid, bypass or obviate	Notices, approvals or communications
Complete and ready	Obligate or bind
Confidential and privileged	Over and above
Consent or permission	Possession or control
Construed in accordance with and governed by	Power and authority
Conveys and confirms	Powers and discretions
Covenant and agree	Powers and provisions
Covenants, agreements	Provisions, terms and conditions
Create and constitute	Ratifying and confirming
Declared and contained	Relating to or connected with
Do and perform	Release, satisfaction or waiver
Due and payable	Revoke, discharge and supersede

Source: Mayoral Asencio (2003, p. 98).

Repetitions

The principles of clarity and consistency in English contract drafting require us to be specific and consistent with things like the party names, defined terms, legal terms and even verbs. English, particularly in contracts, is happy to use the same term again and again throughout a document. For some languages, the style dictates avoiding repetition, even at the expense of clarity. Being specific and consistent entails removing elements of variety and using the same term for the same thing all the time. In practice, when translating, this means doing two things: replacing synonyms and pronouns with the party names and defined terms (e.g., John Smith with the "Seller") and making the defined term or party name appear uniform throughout the translation (e.g., all capitalized in the same way).

Here- and there- compounds

English feels obliged to specify all the possible interpretations of the legal text in quite an excessive way. It uses hundreds of compound particles such as hereby, hereon, therein, thereof, hereinafter, etc. which are useless since the context reduces the possibilities of interpretation.

They can be deciphered according to a simple rule: whenever the particle begins with 'here', it refers to the document we are translating; when it begins with 'there', it refers to a former document previously mentioned. 'By the presents' means the same as 'hereby' and both of them can be omitted in translation as they do not add any new meaning.

Dealing with legalese

It is commonly acknowledged that one distinctive feature of legal language is the complex and unique legal vocabulary. Legal terminology is the most prominent and noticeable linguistic feature of legal language and it is one of the major sources of difficulty in translating legal documents. In translation, due to the systematic difference in law, many legal words in one language do not have ready equivalents in another, which may cause both linguistic and even legal complications.

Null and void

Mellinkoff (1963, p. 363) recognises the temptation for lawyers to use the phrase. He asks: "[h]ow is it possible to stop at "void" when so many lawyers have for so long plunged on into null and void]... And in this prideful vain, even more lawyerly, more precise, more emphatic, is "null and void and of no further force or effect!".

The phrase null and void is not necessary. The two words are interchangeable. It is recommended that one should replace null and void with a plain language equivalent that can readily be understood, such as 'without legal effect'.

Right, title and interest

The use of right, title and interest is found as early as 1450 in the Rolls of Parliament (UK). According to Mellinkoff (1963, p.120), this "may have once been rationalised as necessary translation [but it] soon became a fixed style". He also believes that the English tradition of rhythm, synonym, and alliteration helped preserve many legal phrases. The phrase 'right, title and interest' is tautologous. Either 'right' or 'interest' can be used in place of the composite phrase without loss of legal precision or effect.

Eg. '*Assignor and Assignee hereby agree that the Assignor shall assign all its right, title, and interest, and delegate all its obligations, responsibilities and duties, in and to the Contract, to Assignee'* is translated as *'Праводателят и Правоприемникът се споразумяха с настоящото Праводателят да предостави всички свои имуществени права и да прехвърли всички свои задължения по Договора на Правоприемника'.*

According to Alcaraz and Hughes (2002) agreements and contracts are among the most difficult documents to translate (and to read) because quite often their authors are not professional writers and often they are not native speakers of the language. There are very traditional style conventions and they abound of archaisms. Also, they are full of synonyms and quasi-synonyms and references repeating what has already been stated, that are quite unnecessary.

So the translation between the two legal systems is not a simple mechanical process. The legal translator must have knowledge and understanding of the relevant legal systems and their structure and a high degree of proficiency in the two legal languages. Also, one should be familiar with the legal terminology and aware of the concepts and the terms denoting these concepts. Competence in the TL specific legal style of writing and knowledge of genre classification of the texts is also necessary. Finally, knowing the skopos of the target legal text and the function of translation may serve as the main criterion for determining the translation strategy.

"What the Skopos states is that one must translate, consciously and consistently, in accordance with some principle respecting the target text. The theory does not state what this principle is: this must be decided separately in each specific case" (Vermeer, 1989, p. 228).

Conclusion

The paper is an attempt to illustrate the multifaceted and complex nature of legal language and the terminological problems that may arise in the translation of legal documents. To properly fulfill their tasks translators should be able to use terminology as well as the language of the specialist in the field which means they should have an extensive knowledge of the legal systems and familiarity with the relevant terminology.

It can be said that the ultimate goal of legal translation is to produce parallel texts that will function equally within the two legal cultures. In translation, however, absolute exactness or complete identity between the two languages is impossible. Translator's task becomes even harder, because law also is a subject of interpretation, so on the one hand law requires great precision and on the other hand, the meaning of words in different languages may have conceptual differences which can cause indeterminacy of expression. However, despite such differences, translators have to be able to find words and phrases that are considered equal or at least have equal legal effect in the target language.

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