

# SPECIFIC PECULIARITIES OF TRANSLATION IN LEGAL DOCUMENTS

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## ABSTRACT

*Professional-oriented approach in learning a foreign language in modern education is relevant not only for specialized specialties, but also for basic linguistic areas in which students can acquire additional professional competencies. Primarily lawyers and law students traditionally study legal translation, which is understandable due to the fact that legal translation requires deep expertise for the interpretation of legal texts and their adequate transfer to another language. At the same time, the recent period has been characterized by a double-edged interest in legal translation on the part of both legal professionals and translators without legal education. The legal field in some aspects covers all professional areas. Elements of legal language are found in the texts of contracts, instructions, certificates and other General-purpose texts that translators have to deal with in their professional activities. Awareness of the peculiarities of legal translation is crucial for the competent transfer of elements of the legal text from language to language, without violating the existing correspondences between the legal systems of the countries of the original and translated languages.*

**Keywords:** *pre-translation analysis, authentic documents, terminology, Interlingua correspondence, theory and practice, legal linguistics, prescriptive functions, frequency of verb tenses, the imperative mood, normative prescriptions, linguistic clarity, simplicity, reliability, juridization, specificity of legal translation.*

## INTRODUCTION

The article is devoted to the peculiarities of the legal text, which should be paid attention to during the pre-translation analysis and in the process of legal translation. The author interprets linguistic peculiarities of legal texts translation from the point of view of modern researches in the field of legal linguistics and linguistics, reveals extra-linguistic specificity of legal translation.

The main difficulties in the translation of legal texts are usually associated with the interpretation of professional legal terminology. It is the interpretation of the terms and the legal concepts behind them in this particular system of law that is the obstacle for novice translators. Existing bilingual dictionaries of legal terms cannot solve the problem of translation, as different contexts require knowledge of which translation option to choose in each case. Difficulties can be overcome in the course of consultation and even joint work with legal experts, as well as by referring to a large volume of authentic documents, where the desired terminology is found, to clarify the linguistic environment of the term and its compatibility.

According to T.Nekrasova, legal terminology is one of the most complex and popular areas in which scientific understanding of the theory and practice of searching for interlingua correspondences is necessary [10]. In a number of papers, we have considered the difficulties of translating legal terminology and demonstrated the need for a thorough analysis of cross-cultural correspondences of legal terms [12; 13; 8; 7]. Agreeing with the opinion of D. N. Shlepnev and Yu. Parkhaev, noting that the legal translation is not reduced in its basis to the translation of terms [15], consider other features of the legal text, which should pay attention to the translator.

I. S. Alekseeva notes, "the legal text has features of similarity both with the scientific text, and with the text of the instruction as carries out both cognitive, and prescriptive functions" [1, page 216]. Based on the types of information contained in the legal text, I. S. Alexeyev allocates important for translation especially legal text [1, p. 216-219]. We will try to interpret the

author's dominant legal translation, based on the latest research in the field of legal linguistics and linguistics.

The legal text conveys mainly cognitive information. According to I. S. Alekseeva, along with specific standard terms, there are other ways of transmitting cognitive information in the legal text. Thus, the author notes such a feature of the legal text as tautological cohesion, when the same noun is repeated in each subsequent phrase [1, p. 218], that is, nouns in subsequent uses are not replaced by contextual synonyms. This feature of the legal text, according to the author, is connected with the need for the most transparent transfer of information, with overcoming multiple subjective interpretations.

The objectivity of the information in the legal text is provided as the "absolute predominance of the present tense and passive structures" [1, p. 217], "a form of ascertaining the present time in actual and passive voice" [14, p.10]. The present tense of verbs conveys the meaning of objectivity, the meaning of constant action. As for passive constructions, they are used for generalizing statements, prescriptions and allow the reader to focus on the legal text of the action or fact, abstracting from the «figure».<sup>1</sup>

N. B. Isolakhti [6], considering some aspects of the asymmetry of the language of law and journalism and referring to the works of T. V. Gubaeva (2007) and T. V. Kashanina (2007), writes that according to the normative traditions of Uzbek legislation, normative statements are formed in the form of common narrative sentences containing a direct or implicit indication of the proper state of things. Thus, normative prescriptions are drawn up according to certain standards developed and fixed in society: in the language of law, the use of verbs in the present and future tenses dominates over verbs in the past tense. This provision and the assumption of the author is confirmed, according to him, the study of the frequency of verb tenses in the Civil code of Uzbekistan [6, p.89-100].

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<sup>1</sup> Alekseeva I.S. Training professional translators.

<sup>2</sup> Shlepnev D.N., Parhaeva Ju.A. Problems of selecting teaching materials for the course of legal translation.

<sup>3</sup> Shirobokova L.P. Legal texts: grammatical-typological research. Summary Dis., Candidate of Philology.

The legal text performs not only cognitive but also prescriptive functions. I. S. Alekseeva notes that the prescriptive nature<sup>2</sup> of the information of the legal text is transmitted by means of<sup>3</sup>verbal structures with the meaning of the modality of necessity and the modality of possibility ("cannot", "must be", etc.) [1, p. 217]. Here we note that the modal-intentional factor is decisive in the distinction between natural and legal language. Specialists in legal linguistics consider the main function of law - the function of duty [2, p. 27], "a legal norm by its nature is a team" [5, p. 66]. N. D. Golev asserts the following: "the Right proceeds from the need to compel individual members of society to obey General social norms, and all its components, including language, are subordinated to this function. It follows that the leading intentionality of legal texts is the will of the legislator, and the leading modality is imperative (command) [3, p. 6-37]. The author writes about the obvious imperative of the texts of the law: "for them, the modality of the subjunctive mood in any of its shades (desirability, assumptions, doubts, assumptions) is unacceptable." N. D. Golev also notes that in the texts of the law at the level of the external form verbs in the imperative mood are not used: "the imperative of the text of the law is implicit, hidden. Most often it is hidden in the semantics of the context with verbs in the form of the indicative mood. The invariant mode of the texts of the law is an order: Each of the co-authors retains his copyright to the part of the collective work created by him...; part of the collective work is recognized as having an independent value... - the meaning of statements of this kind that citizens are required to consider the legitimate right of the co-author of that that right through the law vested (in first statement) and to recognize vested through the law the legal status of one of the parts of the collective work (in the second statement)" [3, p. 6-37].

Among the dominant systemic features of the legal text of I. S. Alexeyev allocates "the fullness and diversity of syntactic structures, types of logical connections, the predominance of structures with a value of conditions and reasons, the abundance of homogeneous parts of the sentence and homogeneous subordinate clauses", the author notes that in the translation all the

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Golev N.D. Issues on the interfaces between language and law // *Jurislingvistika-1*. Barnaul: Altai University, 1999. Pp. 4-11.

Golev N.D. Legal communication in the mirror of natural language // *Jurislingvistika-7*. Barnaul: Altai University, 2006. Pp. 6-37.

*Jurislingvistika-2*. Barnaul: Altai University, 2000. Pp. 65-80.

rules of formal logic when building structures should be observed [1, p. 219]. Legal language, as noted by V. B. Isakov, simplicity and reliability of grammatical structures, eliminating ambiguity [5, p. 65-80]. Thus, the diversity of syntactic structures should be subordinated to the linguistic clarity of expression in all legal documents. The abundance of homogeneous parts of the sentence and homogeneous subordinate clauses, as noted by I. S. Alexeyeva, resulting in "the need to fully and uniquely express each position, avoiding ambiguous interpretation" [1, p. 217-218].

The absence of abbreviations is also a feature of the legal text associated with the task of conveying information as fully as possible. I. S. Alekseeva: "The oppressiveness of the legal text is not peculiar. It is not characterized by abbreviations, brackets, digital symbols. Numerals, as a rule, passed with the words" [1, p. 218]. It is obvious that the author here has in mind traditionally used in the legal texts of the reduction of regulatory acts (the civil code - the Civil code of Uzbekistan, criminal code - criminal code of Uzbekistan, etc.) and official publications (e.g. Collection of laws of Uzbekistan), are treated uniformly, without ambiguity.

The legal text contains more than just cognitive information. I. S. Alekseeva draws attention to the fact that the legal text conveys emotional information, which consists in legal terms with archaic coloring. The use in the legal text of terms with archaic coloring "creates a flavor of high style ("removal from office", "home inviolable", etc.)". According to the author, "emotional nuance of a legal text is associated with its high status in society and reflects the attitude of people" [1, p. 218]. It should be noted here that the emotional connotation of vocabulary is found in standard constructions, in established verbal formulas, stamps. Emotionality in a legal text does not extend to syntax. V. B. Isakov writes: "one of the important qualities of legal language is its emotional neutrality. Even the most extraordinary events and facts from a moral point of view, a lawyer should describe in neutral terms, without exerting emotional pressure and without revealing his legal assessment. Thus, legal language is dramatically different from the language of journalism, for which, on the contrary, the characteristic "emotional load" of the dictionary, initially revealing the position of the author" [5, p. 65-80].

The listed features of the legal text that convey cognitive and emotional information in the legal text are the dominant systemic features that should be paid attention to in translation. Pre-translation analysis will reveal the representation of these features in each specific text.

The language of law is heterogeneous; it combines several sub-languages: the language of legislation, the language of by-laws, the language of law enforcement practice (also divided into several types), the language of legal science, the language of legal education, the language of legal journalism, etc. [5]. Thus, when analyzing the original text, it seems necessary to determine the subgenre of the legal text, this will determine the choice of strategy for the translation of the legal text. The degree to which a legal text is legalized will also affect the translation process. N. D. Golev distinguishes four degrees of legalisation of different types of text [4].<sup>4</sup>

The highest degree of juridization, as the author writes, create the most terminologically texts (primarily texts of the law<sup>5</sup>, in which "ordinary" words from a natural language constitute a kind of junk the periphery, often regarded as an inevitable limitation necessary specialization of legal language).

The average degree is found in texts related to law enforcement, for example, in the texts of official correspondence created by professional lawyers. According to N. D. Golev, in such texts manifestations of natural language are more regular.

The third degree is in texts created by non-specialists, but having a legal purpose. These texts "reflect the ordinary ideas of ordinary native speakers about the legal language (its style and vocabulary) and are often the result of its peculiar intuitive imitation." Here "naturalness" may

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<sup>4</sup> Alekseeva I.S. Training professional translators. S.-Petersbourg: Sojuz, 2008.

Golev N.D. Juridicalisation of natural language as linguistic problem // *Jurislingvistika-2*. Barnaul: Altai University, 2000. Pp. 8-40.

*Jurislingvistika-2*. Barnaul: Altai University, 2000. Pp. 65-80

<sup>5</sup>Mushchinina M.M. Juridical linguistics in Germany and Austria // *Jurislingvistika-5*. Barnaul: Altai University, 2004. Pp. 19-32.

Nekrasova T.P. Specificity of translating legal terms from Russian into English. Dissertation, Candidate of Philology. Moscow, 2013.

Sologub O.P. Bill of complaint: genre analysis // *Jurislingvistika-7*. Barnaul: Altai University, 2006. Pp. 118-127.

refer not only to units of natural language, but also to the terms themselves, "which may be very subjectively semanticized."

The fourth degree - in texts that are created outside the installation on the legal functioning, but got into it for objective reasons, for example, in texts with vocabulary subject to linguistic expertise, in connection with cases of verbal abuse of the person. Here, as N. D. Golev notes, only the "points of contact" of such texts with the law are subjected to legalisation; it is necessary for the "translation" of natural language into the scope of the law for its implementation.

The specificity of the translation of legal texts is determined not only by the degree of legalisation of the text, but also depends on the category and type of the translated text. The definition of the genre composition of speech works of the legal sphere, as noted by O. p. Sologub, is one of the urgent tasks of legal linguistics [11]. Within the genre of legal text there are many subgenres: contracts, statutes, laws, orders, judgments, testimony, expertise, claims, statements, administrative texts (departmental correspondence), educational literature, etc. (the classification of legal texts are widely represented in the work of M. M. Mashinini [9]). Each category of texts has its own peculiarities, which should be preserved in the translation if possible.

The type of legal text, its functions and the addressee will determine the main characteristics of the translation of the legal text. Considering the issues of legal translation, M. M. Asinine notes that such qualities as precision, clarity and good style, can often exclude each other. For example, "when translating legal discussions intended to familiarize a wide range of readers with certain legal issues, clarity and style may be more important than the accuracy of information transmission", and "when translating a sentence to be executed in another country, accuracy is an essential requirement" [9, p.29].

Texts of different legal fields have their own translation specifics. M. M. Muschinina writes the following: "difficulties of translation arise more often if the translated text belongs to the sphere in which national and regional features of the legal system are more pronounced (for

example, procedural law, family law, administrative structure). On the contrary, texts from legal areas based on international exchange and cooperation are easier to translate (e.g. trade law, banking law, consumer protection). The latter can be said about some areas of law, equally developing and emerging in States that are at approximately the same level of socio-economic development (for example, environmental law)" [9, p.28].

As you can see, when translating a legal text is necessary to consider different linguistic and extralinguistic factors affecting the specificity of legal translation: legal terminology, its interpretation and use; "tautological cohesion" (the term I. S. Alexeyeva), manifested in the impossibility of replacing contextual synonyms nouns; form and present valid and the passive voice; verb structures modals of necessity and the modality of possibility; a variety of syntactic structures, clearly and unambiguously convey the content; the truncated compressively text; emotional language in established verbal formulae and the emotional neutrality of the syntax; the degree of juridization text; the type and sub-genre of legal text; legal area of operation text. The identification of the characteristic features of the legal text as the features of legal translation is necessary for the implementation of pre-translation analysis and competent translation by both legal specialists and linguists-translators.

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