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**What causes a headache to Slovak teachers of Legal  
English? -  
A Teacher of Legal English in Europe is not more only  
a teacher of ESP**

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# Legal English



- ▶ Legal language and legal terminology are characterized by semantic precision, clarity, consistency, briefness and non-expressivity. However, legal practice and translation work point to the fact that in practice these characteristics do not apply, especially in the translation of legal terms from the source to the target language. This problem is more acute if a conflict of legal systems occurs - such as the Roman-Germanic and Anglo-American ones, which differ not only in their bases but also in spirit. The study attempts to clarify this fact by providing translation solutions. The problem with translation of legal lexemes is not caused only by characteristics of the terms, but also by non-equivalency of terms or by the transition of legal branches, change of the term due to lapse of time and finally by the culture differences and the language itself. The paper deals with the concept of the term with which Legal English operates as well as with its characteristics that legal English breaks.
- ▶ Since the late 20th century, people speak of the teaching as an expert profession. All the above mentioned facts about Legal English require from a teacher of legal English to be not only a language teacher but also a translator as well as professional in the field of law.



# Legal term

"The legal terms name legal facts and their meanings can be precisely defined." (Tomášek, M. 1998, p. 25).

The basic features of the term by the above mentioned authors are:

- ▶ • semantic accuracy
- ▶ • clarity
- ▶ • briefness
- ▶ • comprehensibility
- ▶ • determinateness



# Vehicle v. clarity

- ▶ Let us compare the features of term with legal language. The first features of the term in accordance with the above definitions are clarity and accuracy. Let's have a look at the word "vehicle". The English word "vehicle" means in translation even in the definition of this word in the English vocabulary vehicle, respectively, means of transport. Right. However, it is not right, if we take into account the generally binding regulation of towns and villages saying: "No vehicles in the park!" This means that the enter into the park will be forbidden also to a garbage truck, police car, ambulance, mother with stroller or a child on a bike? Moreover, can a tank, as a monument recalling the horrors and might fighters in the First, Second World Wars, be placed there?



# Civil law and clarity

- ▶ Another example of clarity, in our case, can be a basic concept of law - "civil law". In the Anglo-American legal system, this word means continental law, but also a civil law.



# Government and prosecutor

- ▶ We would like to mention also the term "government". We translate this word in state law as a government, even a power, but in criminal law as a party in criminal proceedings- i.e. representative of the State - the prosecutor.



# The accused

- ▶ When we want to mention other examples that are contrary to the stated properties of the term we may mention e.g. the issue of the word "accused". It can be translated into Slovak language as the accused or to be in charge of - in Slovak language these are 2 completely different meanings - obžalovaný a obvinený). How can we talk about accuracy or clarity when we mean 2 different stages of criminal proceedings?





# "determinateness"

- ▶ Another feature of the term is "determinateness". Even by the experience gained by our existence we can support the falsity of this term's property. The law that changes and evolves with the dynamics of social development has nothing to do with this property. We are referring to the words as "Law of European Communities", which was earlier understood as European law. They were basically synonymous. Today, however, we must strictly distinguish the term "European law" that is an umbrella term and Law of European Communities and Law of European Union that are its components.





# "briefness"

- ▶ The last disputed property of the term, in our opinion, represents the "briefness". Translation of the English word "child support" to the Slovak is expressed as follows: "maintenance obligation to a child after divorce proceedings realized as a part of a property settlement." = („vyživovacia povinnosť na dieťa, realizovaná po rozvodovom konaní ako súčasť majetkového vysporiadania“). As you can see, it is not short at all. This is probably the result of non-equivalence of terms as well as the contents of the terms because of 2 different legal systems.



# A law v. some law

- ▶ The problem with translation of legal lexemes is not caused only by characteristics of the terms, but also by non - equivalency of terms or by the transition of legal branches, change of the term due to lapse of time and finally by the culture differences and the language itself.
- ▶ In English, the term "law" can deter even a soulful interpreter - beginner as it hides in itself two key concepts: law and the law. Uncountable "some law" translator must translate as law (právo), but countable "the law" as the act (zákon). A very interesting example is the word "damage" which means damage, injury but in the plural form, the word "damages" means the exact negation- i.e. compensation (odškodné).





# Súhrnný and úhrnný trest

- ▶ Another problem may be for the translator the typing error (e.g. leaving of a letter "s") or in other words ignorance of two completely different terms - and i.e. a multiple sentence or cummulative sentence ( in Slovak language it is more obvious - súhrnný a úhrnný trest).



# Enoch Arden laws

- ▶ When speaking about the ignorance, we can speak about the ignorance of terms arising not from legal content but from history and literature. Tomasek speaks about "Enoch Arden Laws" (Tomasek, 1995, p. 85) - these are the laws that come from Tennyson's poem. Enoch Arden hides his existence from his wife. She considers him being dead and therefore she gets married again. The US laws that allow conclusion of a new marriage, if one of the couple made him/herself not known for a certain period of time, follow from this poem - (e.g. in State of New York this period is five years). This is a special pronouncement for being dead. If the translator does not know the historical - literary context, he can skip (leave) this fact or even s/he may believe that it is the law that are associated with a certain local name.



# Law of property

- ▶ Another example of solving the translation problem can be a problem with the translation of the term "law of property". This is a property law, but the content of this term is different in the Slovak and English legal systems. English property law is concerned only with the real estate.





# Legal lexis

- ▶ So far we have taken in to consideration only the terms, phrases and templates, but the English legal language comprises also words that come from ancient and medieval English- so called archaisms : "Here words" (hereafter Herein, hereof, herewith) called. "There words" (thereabout, thereafter, Thereby, Therefore), or "Where words" (whereas, whereby). Further it includes Latin phrases (alibi, habeas corpus, force majeure) and finally even words from Old French, which were later taken over by English (demurrer). These are the additional language pitfalls that cause headaches to Slovak translators and teachers of Legal English.





# Legal English

- ▶ In addition, we provide some overall information about the Legal English from the linguistic point of view:
- ▶
- ▶ Frequent use of common words with uncommon meanings – action (law suit), party (person contracting or litigating)
- ▶ Frequent use of Old and middle English words – whereas, hereby
- ▶ Frequent use of Latin words and phrases – affidavit, alias, alibi
- ▶ Use of Old French and Anglo – Norman words – esquire, demurrer
- ▶ Terms of art – plaintiff, injunction, defendant
- ▶ Argot – issues of facts and issues of law
- ▶ Formal words – whereas, before me a notary public
- ▶ Perhaps these are the reasons why the English legal language is not in a united Europe, neither official nor working language of the European Court of Justice.
- ▶



# Since the late 20th century, people speak of the teaching as an expert profession.

- ▶ The teacher of legal English as we could see from the analysis of the Legal English must be an expert in the field of law, not only a teacher of English, because he teaches 2 legal systems simultaneously. In Europe, we work on approximation of law but we still have problems with translation of the legal terms because they merely do not exist in European language as the legal systems of European nations are built on Napoleonic Codex and therefore are different from common law systems. The translator and interpreters have problems, so does the teacher because students want to know what this word mean in target or source language. As the Legal English is taught at the faculties of art (for students of translation studies) as well as the faculties of law, students from our experience are not satisfied if they are taught just English legal system, because they want to be prepared to switch from one system to another, using the right vocabulary and grammar. If we taught just English legal system or Legal English, we would be teachers of English for Specific Purpose. In our opinion and on the basis of the above mentioned facts, we are not teachers of ESP anymore.



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