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**Issues of linguistic and legal features of translation of international documents**

**Abstract**

The article is addressed to the discussion of the problems of translation of international documents into English.

The relevance of the work is confirmed by the trends towards globalization and, subsequently, the internationalization of law, which may contribute to the active rule-making and implementation of international law. The authors provide a brief overview of the problems resulting from interpretation of normative texts written in the Russian language, and against this context, a devastatingly serious problem associated with the interpretation of English-language texts translated into Russian can be identified.

The study has resulted in the discovery of some inaccuracies in the translation of fundamentally important provisions of individual documents, which may lead to improper implementation of international law.

The authors conclude that translation errors are a small phenomenon. Nevertheless, these slight inaccuracies serve as an indicator of the need to improve the existing technology for translating international documents into Russian.

**Key words:** translation, international documents, international treaties, international organizations, legal translation.

**Түйін**

Бұл мақалада ағылшын тіліне аударылған халықаралық құжаттарды түсіндіру мәселелері қарастырылады.

Осы жұмыстың өзектілігі жаһандану тенденцияларымен және нәтижесінде халықаралық құқықтың нормаларын белсенді жасауға және қолдануға ықпал ететін құқықтың интернационализациясымен расталады. Авторлар орыс тіліндегі нормативтік мәтіндерді түсіндіру мәселелерінің қысқаша сипаттамасын ұсынады, және осыған байланысты орыс тіліне аударылған ағылшын тіліндегі мәтіндерді түсіндіруге байланысты екі есе күрделі мәселе көрсетілген.

Жүргізілген талдаудың нәтижесі жеке алынған құжаттардың қағидатты маңызды ережелерін аудару кезінде халықаралық құқық нормаларын дұрыс қолданбауға әкеп соғуы мүмкін кейбір дәлсіздіктердің анықталуы болды.

Авторлар аударма қателері көп емес құбылыс деп тұжырымдайды, бірақ соған қарамастан халықаралық құжаттарды орыс тіліне аударудың қолданыстағы техникасын жетілдіру қажеттілігінің көрсеткіші болып табылады.

**Түйін/кілт сөздері:** аударма, халықаралық құжаттар, халықаралық шарттар, халықаралық ұйымдар, заңды аударма.

**Резюме**

В статье рассматриваются проблемы толкования международных документов, переведенных на английский язык.

Актуальность работы подтверждается тенденциями к глобализации и, как следствие, к интернационализации права, которые способствуют активному нормотворчеству и применению норм международного права. Авторами предлагается краткая характеристика проблем толкования русскоязычных нормативных текстов, и на этом фоне обозначается вдвойне серьезная проблема, связанная с толкованием англоязычных текстов, переведенных на русский язык.

Результатом проведенного анализа стало обнаружение некоторых неточностей при переводе принципиально важных положений отдельно взятых документов, которые могут повлечь неверное применение норм международного права.

Авторы приходят к выводу о том, что ошибки перевода — явление немногочисленное, но, тем не менее, служащее показателем необходимости совершенствования существующей техники перевода международных документов на русский язык.

**Ключевые слова:** перевод, международные документы, международные договоры, международные организации, юридический перевод.

**Introduction**

There is an opinion that in order to become a translator it is enough to have a philological education and the slightest knowledge of the language, but that is not the case. Translator’s work is thought to be a complicated and creative process. The translator’s knowledge and expertise are accumulated over the years, the vocabulary is updated and revised on a daily basis, and the future translator spends a significant amount of time acquiring translation skills.

It is widely accepted that an interpreter is much like a service staff, hence, there is a lack of comprehension of the essence of the occupation itself. Most people generally perceive a translator as an inevitable evil, as a simple employee who can be unjustifiably treated. Such an attitude towards this arduous profession may lead to low payment and unsatisfactory working conditions.

To debunk this misconception, it is sufficient to mention that beneficial outcome of negotiations, disputes, and international meetings belongs to the interpreters’ thorough and diligent work who are able to smooth out certain negative points or harsh statements of opponents. On the contrary, it is in their capacity to aggravate the hostility of the contacting parties.

English is a recognized mode of communication in the business world, but the breadth of its use does not entirely eliminate the problem of translation. If one person does not speak the other representative’s language perfectly, this will unreservedly lead to misunderstandings and deterioration of relationships.

We can capture the general meaning of a document in a foreign language by translating it using a machine translation tool. However, this method does not necessarily convey the exact meaning of the text, since this task can only be solved by a person.

Here, it is also necessary to remember translation process in order to prove that translation process is a demanding work.

**Significance of the study**

The translation process invariably falls into two parts: one must first understand, examine, analyze, and critically and objectively evaluate what they have heard. Next, it is important to find and select appropriate means of translating the text in the target language (words, combinations, grammatical forms).

Therefore, translator’s work should be treated with respect, empathy and patience, because in order to translate the simplest text, a translator requires some effort, mental strain, sometimes even inspiration, which deserves our praise.

Nowadays, most of the recommendations and guidelines on document translation techniques are purely linguistic in nature. It seems appropriate to equip the existing recommendations for the translation of international documents with legal requirements. It is also critical that linguists and lawyers work together to develop rules so that they could collaboratively translate international documents.

The practical significance of the study is that this research can be used by translators and other specialists who deal with official documents in order to find solutions to problems related to vocabulary.

**Objectives of the study:**

* reacquaint with the fundamental principles of translation theory, including the unit of translation, adequacy and equivalence of translation;
* identify the main characteristics of the official style;
* discover the major lexical difficulties that arise official documents are translated;
* define the salient ways of addressing lexical problems that may occur during the process of translation of official documents.

**Methodology of the study**

Several methods and techniques have been used in the descriptive analysis.

In the article, contextual, component, comparative analyses, method of definitional analysis have been adopted to address the issues, which may arise in the process of translation of international documents. Moreover, the deductive research method has been applied to fulfill the intended objectives.

**Discussion/Results**

**Peculiarities of translation of official style.** In this regard, it is crucial to improve the technique of translation of international documents into Russian. When translating a legal term from one language to another, not only linguistic translation should be rendered, but also a legal one in order to fill the verbal shell with a standardized legal content.

The documentary text is characterized by a particularly pronounced attitude to book-written speech. It uses stable phrases and terms for one or another of its varieties that reflect the field of activity with which it is associated. This commonality of function is due to a large degree of commonality in the style of documentary texts in different languages. This commonality is most clearly manifested in international diplomatic documents, treaties and agreements between countries.

Translation of official and business materials, including diplomatic documents (statutes, texts of international agreements, treaties, communiques, statements), government resolutions, materials of various conferences, requires translators to know specific features of their construction and transmission.

Official documents are distinguished by clarity of construction, providing a logical sequence of presentation, limiting one thought from another.

Large documents are usually divided into:

* “sections” – «разделы»;
* “subsections” – «подразделы»;
* “chapters” – «главы»;
* “articles” – «статьи»;
* “clauses”, “items”, “points”, “counts”, “paragraphs” – «пункты», «параграфы»;
* “subparagraphs” – «подпункты».

Such terms as **“clause”, “item”, “point”, “count”, “paragraph”** do not often have a clear differentiation of meanings and when translating a particular document, translators only need to ensure that the same English term always corresponds to the same Russian version.

That is why, before starting to translate an official document, translators must write out all the English terms for the division of the text, choose the best Russian correspondences for them, and adhere to them firmly during the process of translation.

When working with official documents, translators bear a considerable responsibility for the accuracy of translation, since important political decisions are often made on the basis of their translation, and the authenticity of the texts of contracts and agreements is ensured. This rule applies equally not only to the exact transmission of the document content, but also to the precise transmission of certain points that may at first glance seem trivial and not of great importance. For instance, it is obligatory to make sure that translation clearly matches the official names used in both Russian and English.

Table 1 – Generally accepted translations of the names of countries and main organizations

|  |  |  |
| --- | --- | --- |
| **English version** | | **Russian translation** |
| 1. | CIS | СНГ |
| 2. | Commonwealth of Independent Countries | Содружество независимых государств |
| 3. | Britain | Англия |
| 4. | Great Britain | Великобритания |
| 5. | The United Kingdom of Great Britain and Northern Ireland | Соединенное Королевство Великобритании и Северной Ирландии |
| 6. | OSCE | ОБСЕ |
| 7. | Organization for Security and Cooperation in Europe | Организация по безопасности и сотрудничеству в Европе |
| 8. | Conference on Disarmament | Конференция по разоружению |
| 9. | Non-Nuclear Weapon States | Государства, не обладающие ядерным оружием |
| 10. | Non-Aligned Countries | Неприсоединившиеся страны |

One of the main features of the introductory part of the official documents, the preamble, is the desire to present the content of the document in the most concise form, which leads to the fact that a wide variety of provisions are set out in one sentence. In turn, it causes the appearance of the inside of a single sentence numerous infinitive and participial word combinations.

It is recommended to use literal translation when translating into Russian.

Table 2 – Generally accepted examples of literal translation

|  |  |  |
| --- | --- | --- |
| **English version** | | **Russian translation** |
| 1. | Treaty on the Non-Proliferation of Nuclear Weapons | Договор о нераспространении ядерного оружия |
| 2. | The states, concluding this Treaty hereinafter referred to as the “Parties to the Treaty” | Государства, заключающие настоящий Договор, ниже именуемые «Сторонами Договора». |

When translating official materials (especially statutes, treaties, and international agreements), translators often use a literal translation of the wording of the text in order to exclude the possibility of discrepancies or misinterpretation of translation of the text. This leads to the creation of a vast number of stamps, which quickly become traditional and are extensively used in the translation of official documents.

Translation facilitates the exchange of information that is extremely important in the modern world owing to the constantly updating corpse of vocabulary. In other words, information is the base of human progress. At the present stage of development of civilization, people are striving for rapid enrichment of information, which is what the translation process is aimed at.

Thus, we can conclude that the informative translation function is of the utmost importance.

Since ancient times, translation has helped people to establish contact, better understand each other, and overcome the cultural barrier, i.e. in this case we are talking about the overcoming function. Translators are assigned the function of consultants on cross-cultural communication. Any translator seeks to provide the most comprehensive explanation of aspects of foreign culture that are unclear to communicants.

**Problems of translation of official international documents.** There are many terms that already have existing equivalents in the target language. All translation options are fixed in bilingual dictionaries. The main difficulty in translating these terms into another language is finding a suitable equivalent.

The term **“protocol”** has quite a significant range of equivalents in English. The new Big Russian-English dictionary gives meanings such as **“report”**, **“minutes”**, and **“protocol”**. The word **“report”** means a kind of a paper document, and **“protocol”** is a diplomatic term that means the rules of official ceremonies, or an act of some violation.

The word **“charter”** was used as a translation of the word **«устав»**, since this word, among many other equivalent translations, means a statute of an organization or firm, whereas, for example, the word **“regulations”** has a broader meaning and simply means a certain set of rules, and the word “rules” is the charter of a political party.

In English, the term **«ценные бумаги»** has well-established equivalents, such as **“securities”, “capital issues”, “issues”**, and many others. As in the previous case, the choice for the word **“securities”** is at the discretion of the translator.

The word **«доверенность»** can be translated into English in the following ways: **“warrant”** and **“power of attorney”**. The difference between these equivalents is that “warrant” stands for any power of attorney, while “power of attorney” is often understood as a legal, notarized power of attorney. This difference was crucial in choosing this translation option.

**Legal texts.** Legal language refers to the language of and related to law and judicial procedure. It is a set of language suitable to the legal circumstances of use. Due to its features, it can also be perceived to be a completely distinct language that is different from common speech. Linguistic difficulties in legal language arise from the differences found in the various legal cultures and legal systems.

Legal language has developed its features to meet the demands of the legal framework in which it is expressed. It differs from other types of technical languages that convey standard data. In this sense, legal language is sui generis. Each legal language is regarded the product of a special history and culture. One of the main reasons why the language of the law is difficult to understand is that it is often very different from ordinary language. In legal language, writing conventions are different, like:

– sentences often have peculiar structures;

– punctuation is used insufficiently;

– foreign phrases are sometimes used instead of ordinary phrases (e.g. inter alia instead of among others);

– unusual pronouns are employed (the same, the aforesaid, etc.);

– unusual set phrases are to be found (null and void, all and sundry);

– technical vocabulary;

– unusual and archaic words, impersonal constructions, use of modal like “shall”;

– multiple negation;

– long and complex sentences and poor organization are all problematic.

Translation is a communication activity between text producers and text recipients and the translator is considered a mediator between the two. Translators of legal texts should not only translate materials from one language into another language but also from one legal language into another legal language. The translation of law has been serving a crucial component in the contact between different nations and cultures in history and is playing an even more significant role in the contemporary century. A specific and advanced field of translational practice is legal translation. It is legal translation that requires law and often produces not just linguistic but also legal influence and consequence because of the special essence of law and judicial language.

Legal translation is a dynamic process that involves translator’s unique abilities, expertise and experience on the part of the translator to create such type of translation. It is a cross-cultural and inter-lingual communicative act and as a complex human and social behavior. Legal translation refers to the rendering of legal texts from the source language into the target language. In the light of the purposes of the target language texts, legal translation can be classified into following categories: there is legal translation for normative purpose. It refers to the development of equally authentic legal texts in bilingual and multilingual jurisdictions of domestic laws, international legal instruments and other laws. Often such bilingual or multilingual texts are first drafted in one language and then translated into another language or languages. They may also be drafted simultaneously in both or all languages. In either case, the different language texts have equal legal force and one is not superior to another irrespective of their original status. Examples of these are the legislation in the bilingual jurisdictions of Canada and Hong Kong, the multilingual legal instruments of the UN and the multilingual laws of the EU.

This category of legal translation may also include private documents such as contracts, the bilingual texts of which are equally authentic in a bilingual or monolingual jurisdiction. For instance, non-English speaking country contracts sometimes may stipulate that the versions of the contract in the official language of the country and English are both authentic, even though the language of the court and the country does not include English.

In this category of legal translation, the communicative purposes of the source language and target language texts are identical. Then, there is legal translation for informative purpose, with constative or descriptive functions. This includes translation of statutes, court decisions, scholarly works and other types of legal documents if the translation is intended to provide information to the target readers. This is most often found in monolingual jurisdictions. Such translations are different from the first category where the translated law is legally binding. In this category, the source language is the only legally enforceable language while the target language is not. For instance, a statute written in Russian translated into English for informative purpose for the benefit of foreign lawyers or other English readers is not legally enforceable.

In addition, there is legal translation for general legal or judicial purpose. These translations are mostly designed for provision of information and usually have descriptive characteristics. The previous type of interpreted document can be applied in legal cases as a part of documentary testimony.

Judicial documentation such as declarations of claims or pleadings, treaties, settlements and ordinary texts such as corporate or personal communications, records and credentials, witness statements and professional opinions can be found in original source language texts of this type.

The translated texts under analysis have legal ramifications added to them thanks to their use in the legal proceedings. Thereupon, we can assume that legal translation relates to the translation of texts used in law and legal settings. Legal translation can be employed as a general term to cover both the translation of law and other communications in the legal setting. For the translator of legal documents, it is considerably crucial to determine the status and communicative aims of both the source text and the translation. Due to high requirements of legal documentation and system-bound structure of the corpus of legal terminological apparatus, linguists may regard legal translation as one of the most sophisticated types of translation of international documents.

Although correlations and equivalents to the terms related to different spheres may be found in the language systems of many languages as these terms exist in these languages and are generally accepted, the situation with legal terms seems more complex. Because of the discrepancies in the court systems and, consequently, legal vocabulary of different countries, it becomes challenging to choose the best appropriate law term to correctly transmit the meaning of this very term.

It is known that culture and social behaviour are responsible for creation of the first rules which later have been altered into laws. Each nation has their own peculiar traditions and customs which has served as a basis for the earliest legislation system. As time passed by, each legal concept had been codified with a unique lexical meaning recognized in this or that particular country. For instance, Common Law in English is difficult to translate into Kazakh or Russian. It is connected with contrasts in our legal system. Common Law legal system is characterized by case law, which is law developed by judges through decisions of courts. The body of precedent is called Common Law and it binds future decisions. In cases where the parties disagree on what the law is, a common law court looks to past precedential decisions of relevant courts. If a similar dispute has been resolved in the past, the court is bound to follow the reasoning used in the prior decision. If the court finds that the dispute is fundamentally distinct from all previous cases, judges have the authority and duty to make law by creating precedent. On the other side, Kazakhstani legal system written in two languages is different.

As shown above, an advanced professionalism and deep knowledge of linguistics and law are mainly required for the work of the translator, as it does not seem possible to simply render the meaning of legal terms using just a word-for-word translation. Moreover, as noted, translation of legal texts of any kind, from statute laws, contracts to courtroom testimony, is a practice that stands at the crossroads of legal theory, language theory and translation theory. Therefore, it is essential that the legal translator has a basic understanding of the nature of law and legal language and the impact it has on legal translation.

However, Schroth suggests that “in order to produce a text that leads to the same results in practice, the translator must be able to understand not only what the words and sentence mean, but also what legal effect it is supposed to have and how to achieve that legal effect in other language” [Schroth, 2010, p. 71]. The key prerequisite for the translator is to understand the given text within an adequate legal perspective. For this purpose, one needs a well-founded understanding based on subject knowledge by doing some research. Specialist translation in the field of law requires the formulation of communicatively adequate technical texts in the other language. Legal translator’s task is to convey what is said in the source text and not what he/she believes it ought to say. In other words, a legal translator should not provide legal advice and solve legal problems, but translate and facilitate communication across linguistic, cultural and legal barriers through the medium of language. He/she should produce a text that preserves its meaning, legal effect and intend. Lawyers should not expect translators to produce parallel texts that are identical in form. Yet, they should expect them to produce parallel texts that are identical in their legal meaning and effect. Therefore, the translator’s main task is to create a text that will produce the same legal effect in practice. To do so, the translator must be able to understand not only what the words mean and what a sentence means, but also what legal effect it is supposed to have and how to achieve that legal effect in the other language. Translators must be able to use legal language effectively to express legal concepts in order to achieve the desired effect. They must be familiar with the conventional rules and styles of legal texts in every field of the individual legal systems. A legal translator must not forget that even a ‘Will’ is not valid if not written in the correct style.

Translation of ambiguous legal texts. Translation of any ambiguous text is difficult. In legal translation it is even more difficult and problematic. This is due to linguistic uncertainties like vagueness, generality and ambiguity. Legal disputes often arise from linguistic uncertainties found or allegedly found in contracts and statutes. An important point for the legal translator with regard to linguistic uncertainties is that one should always bear in mind the task of the translator. A legal translator is not a lawyer. The central task of the translator is to translate, not to solve legal problems. Thus, one of the tasks for the translator in such situations is to recognize the linguistic uncertainty that may have occurred, intentionally or unintentionally, in the original text and whenever possible, the translator should always try to clarify or make the word more precise or less ambiguous. The best way to avoid different interpretations of your writing is to replace the ambiguous words with concrete language. Alimi, [Alimi, 2013, p. 18] suggests that “ambiguous words should be avoided and substituted with another word which is tantamount and monosemic”. He rightfully provides that: “any time a translator faces a word that would seem or sound even a little ambiguous, with no hesitation or indolence, it is appropriate that he/she looks for and necessarily finds the adequate word for the concrete situation that eliminates possible and tiresome dilemma for the reader affiliated with different social environment” [Alimi, 2013, p. 21]. Then he finishes by asserting that: “the clearer the text is in the translated language, the closer the translator is in performing his/her task” [Alimi, 2013, p. 22].

**Conclusion**

Language analysis has recently become increasingly important in terms of its connection with society. The development of the language and cultural direction can be determined by the desire and need to understand the phenomenon of culture as a specific type of human and social existence in the world.

Translation is an intermediary in the process of understanding and appreciation of various cultures, making contacts and communication between them. Consideration of the factors of translation of any document in the context of intercultural communication is based on the key features of language community, type and mechanism of social coding of native (Russian) and foreign (English) languages.

This approach allows us to identify a new point of view on the solution of practical problems related to translation issues, in particular legal documents.

The main role in this respect lies not only in the possession of social knowledge of legal principles, legal terms, judicial and procedural systems, but also in the personal attributes of the translator, since the translation of any text involves the interaction of sovereign national languages, and, accordingly, cultural concepts. To achieve an adequate translation, it is necessary to know the specifics of images and related programs of activity of the types of cultures between which communication is being conducted.

In the light of findings of this study, the following conclusion is provided: initially, this paper has been discussing the legal language and supplied that it is the language of and related to law and legal process, that it is considered as a distinct language – different from the common language. It has also been given that each legal language is the product of a special history and culture. Moreover, the importance of legal translation in the contact between different people and different cultures in the history has been highlighted. What is more, legal translation is still continuing to hold its leading positions in the globally changing society.

It must be noted that legal translation can be defined as a complicated process for which special skills, knowledge and experience are thought to be of the highest demand. Any legal translator ought to perform functions that will allow him/her to ensure a cross-cultural and communicative act as a complex human and social behavior. Eventually, it has provided the role of a translator in the translation process by highlighting that the central task of the translator is to translate, not to solve legal problems and that he/she should produce a text that preserves its meaning, legal effect and intentions.

**List of References:**

1. English Oxford living Dictionaries. URL: <https://en.oxforddictionaries.com/>

2. European Convention on Human. URL: <https://www.echr.coe.int/Pages/home.aspx?p=basictexts&c=#n1359128122487_pointer> Retrieved: Novermber 3, 2020.

3. Statistics by State. URL: <https://www.echr.coe.int/Pages/home.aspx?p=reports&c=#n1347956587550_pointer> Retrieved: November 4, 2020.

4. U.S. Code. URL: <https://www.law.cornell.edu/uscode/text> Retrieved: November 4, 2020.

5. Alexeyeva I.S. Introduction to translation studies: manual for students of philology and linguistics of higher educational settings. – Saint-Petersburg: Philological faculty of St. Petersburg State University: M.: Publishing center “Academy”, 2004. – 352 p.

6. Конвенция о защите прав человека и основных свобод от 04.11.1950 г. URL: http: //www.consultant.ru/ Retrieved: November 5, 2020.

7. Ожегов С. И. Толковый словарь русского языка. М., 1997.

8. Чанышева З. З. Перевод как инструмент идеологической диверсии в межкультурной политической коммуникации. Политическая лингвистика. 2017. № 5 (65). С. 60-65.

9. Алимов В.В., Артьемьева Ю.В. Специальный перевод. Практический курс. –2-е издание. – М.: Ленанд, 2017. – 208 с.

10. Alimi, D. 10 Orders of the Translation Theory. SUT Press. – 2013.

11. Joseph, A. Natural Law and its History. Concilium 5. – 1986.

12. Mellinkoff, D. The Language of the Law. Little, Brown Publishing House. – 1963.

13. Smith, S. A. Culture Clash: AngloAmerican Case Law and German Civil Law in Translation. John Benjamins Publishing Company. – 1995.

14. Schroth, P. Legal Translation. The American Journal of Comparative Law. – 2010.