SEMANTIC ANALYSIS OF LEGAL TERMINOLOGY FROM A TRANSLATION PERSPECTIVE SEMANTIC DIMENSION OF LEGAL TERMINOLOGY

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The article focuses on the semantic relations of the legal terms pointing out the semantic difficulties encountered by the legal translators. Taking into account the complexity and the variety of terms in the legal terminology, a particular role is dedicated to semantic relations. Semantic relations in the legal language are well-recognised, because the translators dealing with legal language face a wide range of synonymous, polysemous, or homonymous words. We believe that semantic relations play an important role in translating the legal language and terminology. Synonymy and polysemy are factors of ambiguity, they exist in the legal language and their identification and analysis contributes to the description of the legal terminology. Despite the number of terms expressing one concept, it is important to preserve consistency within a document, i.e. out if all synonyms, one term should be chosen. The decisions issued by the European Court of Human Rights and by the Supreme Court of Justice of the Republic of Moldova will serve as a source for our examples.

Key words: *legal terms, semantic relation, monosemy, polysemy, synonymy, antonymy, homonymy.*

The legal language is among the most used specialised languages both by professionals in this field and by laymen. It is used by lawyers, government officials, and the others in the fields related to the legal profession dealing with the court documents, contracts etc. A particular role in the legal field is held by courts. In a society, courts have a variety of functions, from enforcing the criminal law and resolving civil dispute amongst citizens to ensuring the good functioning of government agencies within the established law. Courts are a significant cornerstone in democracy ensuring the stability in our society. These are the reasons that influenced our decision to analyse the legal language used in the court decisions.

We focused mainly on decisions issued by the European Court of Human Rights and by the Supreme Court of Justice of the Republic of Moldova. A large number of applications are filed in the ECtHR each year and many applications are resolved by the Moldovan courts as well. In this way, we decided to analyse the language used in the respective court decisions and their translation into Romanian and English.

Taking into account its complexity and the variety of terms in the legal terminology, a particular role is dedicated to the semantic relations. Semantic relations in the legal language are well-recognised, because translators dealing with the legal language face a wide range of synonymous, polysemous, or homonymous words. We believe that semantic relations play an important role in translating the legal language and terminology. This idea is justified by D. Cao stating that "the autonomy of legal language resides in the semantic relations of the lexicon. Once constituted as a system, the language of law represents an entire universe of legal meanings, the choice of any of which reflects the exclusion or absence of the other available legal meanings [2, p.16-17]. We will further demonstrate that words can be related to each other in different ways forming interesting relationships in the legal language.

For legal terms, it is important to be characterised by unicity in meaning, because the optimal situation in terminology is one term designating one concept. A great majority of legal terms are monosemantic. Among them, we can enlist the following terms: *accomplice* designating a person who contributes to the commission or attempted commission of a crime in a major way so as to be held accountable for the same crime; *claimant* – a person who asserts a claim; *bailiff* - an officer of the court whose duties are to keep order in the court; could be a sheriff, deputy, or government official; *litigation* - an action brought in court to enforce a particular right; *parole* - early supervised release from prison; *tort* - the breach of a duty that results in an injury for which there is a remedy at law [8].

Another advantage of monosemy is that monosemantic terms can be easily translated thanks to the existing total equivalence. Examples of monosemantic terms in the legal language that have exact equivalents in Romanian include *perjury – sperjur*, *to acquit – a achita*, *extradition – extrădare*, *felony – crimă, to remand – a reîntemniţa*, *subpoena – citaţie*, *criminal record – cazier judiciar*.

An example extracted from the *Case of Dragostea copiilor - Petrovschi - Nagornii v. Moldova* shows the Romanian equivalent of the term *fair trial*, which designates a trial that is conducted fairly, justly, and with procedural regularity by an impartial judge and in which the defendant is afforded his or her rights under the Constitution or the appropriate law.

*The applicant company alleged, in particular, a breach of the right to a **fair trial** by a "tribunal established by law" on the ground that the judge rapporteur had been changed in disregard of the provisions of the law. Compania reclamantă a pretins, în special, încălcarea dreptului la un **proces echitabil** de către o „instanţă instituită de lege" ca urmare a înlocuirii judecătorului raportor cu încălcarea prevederilor legale.*

The monosemantic terms have an important role in preserving unicity and clarity within a specialised language. Nevertheless, there is no way of preventing terms from acquiring new meanings, this process leading to polysemy.

H. Matilla made an important observation regarding the legal terminology stating that "legal terms are characterised by polysemy: depending on the context, a single term can express several concepts" [3, p.109]. In the legal language, the phenomenon of polysemy is quite often met constituting a rule rather that an exception. According to L. Solan, "the frequency of polysemy can be explained by the fact that legal systems are in a constant state of change, and they also influence each other [4, p. 30]. The author also brings an example of polysemy, the term *jus civile* that has had several meanings during the time. First, it referred to the classical core of the Roman law, and later it referred to the Roman law in general, but now it refers to the Continental law.

The phenomenon of polysemy occurs in the English-Romanian translations, too. There are many polysemant words and the danger with these is to mistakenly translate the word into Romanian, directly and keeping the suggested inferred meaning, while the context would imply one of the other meanings. This situation may happen with the word *abuse*, which depending on the context may take one of the following meanings: (1) immoderate or improper use; (2) to do

physical, sexual, or psychological harm to someone [8]. Thus, *abuse* is translated into Romanian as *abuz*, but in translating the text, one should specify in the context the meaning of the word (e.g. *abuz de putere*, *abuz sexual*, *abuz de încredere*).

A polysemous term has several meanings, more or less clearly separable but with a point of similarity. For instance, the term *warrant* has several meanings: 1. a judicial writ authorising the search or seizure of property, arrest of person, or execution of a legal judgment; 2. justification for an action or a belief; grounds; 3.authorization or certification; sanction, as given by a superior [8].

The translation of the term into Romanian also depends on the sense used in the context. Thus, *warrant* would be translated as *mandat*, or *mandat de arrest*, *justificare*, *împuternicire*.

We noticed that without a sufficient knowledge of the legal system and the respective context of the case, it is difficult to identify the polysemous terms. A relevant example of such a situation is the term *disposition* that has three meanings in the common law: 1. the act of transferring something to another´s possession (e.g. testamentary disposition); 2. a final settlement of a case by court (in this sense it is more widely used in the USA; in the UK this term is usually confined to decisions of juvenile courts); 3. a provision in a statute (e.g. general dispositions) [8].

In this case, the translator should find the appropriate equivalent for the necessary sense that would reflect the principles of the target language law. Thus, the relevant Romanian translation for the above situations might be *dispoziție*, *provizie*, *prevedere*.

According to L. Solan, the legal system of the European Union has a great number of polysemous terms "due to the fact that legal terms often acquire specific Union law meanings. This means that traditional terms of legal English are acquiring new meanings which are unique to the European Law of the Continental tradition" [4, p.30]. A translator should pay attention while dealing with the legal language as legal terms can have more meanings than those already known.

Synonymy is the opposite phenomenon of polysemy, representing the situation when several terms express one and the same concept. Synonymy is frequently encountered in the legal English due to the historical Latin and French influence over the legal language. Thus, there is a large amount of synonyms such as *plaintiff – claimant – applicant*, *in camera hearing – in private hearing*, *ex parte – without notice*, *pleading – statement of case, delinquent – criminal*. According to H. Matilla "linguists find that synonymy is a common enough feature of legal terms" [3, p.111]. In this way, one and the same legal concept can be expressed by an Anglo-Saxon term, a French term, and a Latin term.

As in the general lexicon, terms can have partial synonyms in the legal language. These can cause mistakes and misunderstandings, but H. Matilla argues that partial synonymy is a useful phenomenon in legal language "giving the possibility to draft a legal provision or a clause in a contract without leaving gaps" [3, p. 112]. Examples of partial synonyms in the legal terminology include *judge – magistrate*, *advocate – barrister*, *lessee – tenant*, etc.

Despite the number of terms expressing one concept, it is important to preserve consistency within a document, i.e. one term should be chosen out if all synonyms. However, throughout the time, the use of synonyms generated the appearance of idioms like *able and willing*, *act and deed*, *legal and valid*, *null and void*, *custody and control*, *true and correct*, etc. M. Stanojevic claims that this is a prominent feature in the legal English, "most common types of synonym pairs, which are also named doublets and triplets, being binominals" [5, p. 71]. The author argues that in the legal English, these consist of two words with the same conceptual meaning, providing examples such as *pains and penalties*, *object and purpose*, *leave and licence*, *custom and deed*.

Moreover, synonymy may occur within two different languages, this process being called interlanguage synonymy. Interlanguage synonyms are words that coincide in one or more

meanings and the process due to which false friends occur is called *synonymy*. However, beside similar meanings, they have some special meanings. For example, we refer to the pair of interlanguage synonyms *accessory - accesoriu*. Both words have the meaning of "a small article or item of clothing carried or worn to complement a garment or outfit" [8], but the English word has the second meaning related to the language of law: "someone who gives assistance to the perpetrator of a crime without taking part in it" [8]. The Romanian translation of the accessory as a legal term is *complice*. Thus, they can be equivalents in only the first meaning and somewhat erroneous in their second meaning.

A relevant example of interlanguage synonyms can be often found in case decisions. Thus, in the decision of ECtHR on the case of *Tănase v. Moldova*, the term *violation* is translated in two was into Romanian as *încălcare* and *violare*.

1) *In conclusion, the Romanian Government invited the Court to endorse the Chamber's conclusion that there had been a **violation** of that Article. În concluzie, Guvernul României a invitat Curtea să susţină concluzia Camerei, că a existat o **încălcare** a acestui articol.*

2) *If the Court finds that there has been a **violation** of the Convention or the Protocols thereto (...). Dacă Curtea declară că a avut loc o **violare** a Convenţiei sau protocoalelor sale (...).*

As being stated by numerous linguists, synonymy is frequently encountered in the legal vocabulary due to the vast number of Latin and French origin terms. Nevertheless, in some cases these can be of great help. The important thing is to avoid using synonyms within one document in order to avoid confusion and ambiguity.

Antonymy is the counterpart of synonymy, meaning that words are opposite to one another. H. Matilla notes that the phenomenon of antonymy a complex one being difficult to analyse. However, antonyms are present in the legal language. For instance, antonymic relations exist between the words *right* and *duty*, or as the author mentions, the terms *judicial decision* and *contract* can appear in the nature of antonyms [3, p. 112].

An interesting fact is revealed by P. Tiersma, who emphasizes that "in the legal usage many pairs of words are turned into antonyms, even though they have no such relationship in ordinary language". Such an example is represented by the words *speech* and *conduct*, which overlap in ordinary language, and thus, are not antonyms. In legal language, these are antonyms because the courts distinguish between activities that are *speech*, being protected by the Free Speech Clause, and *conduct*, which is not [6, p. 114].

Examples of antonyms can be found in case decisions as well, for instance, *plaintiff – defendant* or *applicant – respondent*, *trial – acquittal*, *liberation – confinement*, *preventive detention – parole*, etc. The above examples represent antonyms achieved by unrelated terms. But, antonymy formed by morphology with the help of prefixes is also often met. Examples include *legal – illegal*, *capacity – incapacity*, *competency – incompetency*. There are cases when antonyms are used within the same sentence.

*The Government challenged the significance accorded by the Chamber to **ratification** and **non-ratification** of the ECN. Guvernul a contestat semnificaţia acordată de Cameră **ratificării** şi **neratificării** a CEC.*

As we notice, the relationship of antonymy is preserved in the Romanian language, too. This denotes the frequency of antonyms in both languages of the legal sphere. Even though antonymy is declared as a difficult to analyse in legal language, we noticed that this is quite an often met phenomenon that plays its role in ensuring clear and effective understanding and communication within legal field.

Homonymy is of particular interest in the legal domain because many words belonging to legal language have an ordinary significance and are used in the legal vocabulary as well. P. Tiersma, in one of his books on legal language claims that "a great deal of legal vocabulary looks like ordinary language" and this is why the author calls them legal homonyms [6, p.111].

P. Tiersma illustrates his belief by giving some examples. Thus, legal homonyms can be the following terms: *action*, which is not a physical movement, but a lawsuit; *aggravation* represents, in terms of law, in death penalty law a reason to sentence someone to death, and not something that annoys you; *personal property* – property other that real property, including not only used clothing and furniture, but also automobile and large trucks; *strike* – to delete someone from record, usually without physical force [8].

However, these are not the only homonyms present in legal terminology. For example, in the court decisions of ECHR there is often used the term *party*, whose Romanian translation is *parte*.

The Court shall, if necessary, afford just satisfaction to the injured **party**. *Curtea acordă* **părţii** *lezate, dacă este cazul, o satisfacţie echitabilă.*

In the legal language, *party* denotes someone who is part of a lawsuit, but its homonym belonging to the general vocabulary has the meaning of a social gathering of invited guests. It should be mentioned that *party* has more meanings, for instance, it may denote a formally constituted political group or a group of people taking part in a particular activity.

A. Wagner says that homonymy, polysemy, and, we should mention that other semantic relations between words and terms, are "potential sources of real communication ambiguity, not so much because the language itself bears some deficiency, but rather because of the user of the language" [7, p.126] We can state that there can exist different semantic relations between terms. These are welcomed by legal professionals because these facilitate the communication, but reducing the comprehension by the general public.

To sum up, semantic relations between legal language terms and words differ from those of the ordinary language. The relationships among legal terms can take interesting forms. Firstly, we came to the conclusion that monosemy is the most important principle for legal terminology. The existence of monosemantic terms such as *accomplice*, *bailiff*, *litigation*, *to remand*, ensures the unicity and uniformity of legal language. Moreover, these terms in most of the cases have exact equivalents in other languages, this fact easing the process of translation. As a result of analysing other semantic relations between legal terms, we reached the conclusion that polysemy, synonymy, antonymy, and homonymy have their specific role in the legal language. Polysemy, for example, is characteristic of the legal language terminology as legal systems change constantly, this leading to the emergence of new concepts. In addition, polysemy can occur between legal terms from different languages as in the case of English and Romanian.

Although, some language experts argue that synonymy in legal language creates ambiguity, this is a common phenomenon of the legal terminology. The important thing is to use only one term in a document, avoiding its synonym in order to eliminate any confusion. The opposite of synonymy is antonymy that is encountered both in the English and Romanian languages. And finally, in the case of legal homonyms, one should be able to distinguish the legal meaning of a specific term, because numerous legal terms look like ordinary words.

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