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FUNCTIONING OF LATINISMS IN ENGLISH AND UKRAINIAN LEGAL TEXTS

This study aimed to describe the importance of Latin terminology in the legal field and to investigate the use of Latinisms in the legal vocabulary of English and Ukrainian languages. One of the most important peculiarities of the use of Latin borrowings in English is that Latinisms are mostly originally English morphemes, which is the reason for the high productivity of Latin words and the constant emergence of new terms and definitions. The linguo-conceptual approach to the study of terminology in legal discourse at different stages of English vocabulary formation allowed us to trace the evolution of the term as a lexical unit. The concept and essence of legal terminology are defined in the study, it is possible to explore the possibility of avoiding surplus ambiguity and providing more accuracy of the word. Since foreign words are a kind of system-forming factor of modern jurisprudence and by systemizing, it helps on a theoretical level to understand the issues of legal practice, and correctly fill the legal terminology.

In the process of research the concept of «legal term», which means elements of legal discourse, verbal designations of state, and legal concepts is investigated. The polysemantic nature of the legal term, which may be caused by its functioning in various branches of law, has also been discovered. The most significant for the study are the problems of the Latin borrowing meaning, the peculiarities of foreign words systematization, and ways to adapt them in English and Ukrainian languages.

The study identifies the inaccurate translation of borrowings, which is one of the main problems of the translation of legal texts. The analysis of lexical and semantic processes in modern terminology of Ukrainian and English contributes to streamlining the terminology base and elimination of the most common mistakes when translating foreign texts in the field of legal discourse.

Key words: latinisms, term, borrowing, legal text, lexical unit, translation, discourse.

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ФУНКЦІОНУВАННЯ ЛАТИНІЗМІВ В АНГЛІЙСЬКИХ ТА УКРАЇНСЬКИХ ЮРИДИЧНИХ ТЕКСТАХ

Дослідження спрямоване на те, щоб описати значення латинської термінології в юридичній сфері та дослідити використання латинізмів у юридичній лексичній англійській та українській мов. Однією з найважливіших особливостей використання латинських запозичень в англійській мові є те, що латинізми є споконвічно англійськими морфемами, що і є причиною високої продуктивності латинських слів та постійної появи нових термінів. Лінгвоконцептуальний підхід до вивчення термінології юридичного дискурсу на різних етапах формування словникового складу англійської мови дозволяє простежити еволюцію терміна як лексичної одиниці. У статті проаналізовано поняття та сутність юридичної термінології, досліджено можливість уникнення зайвої двозначності та збереження точності слова. Оскільки іношомовні слова є своєрідним системоутворюючим фактором сучасної юриспруденції, їх систематизація допоможе на теоретичному рівні зрозуміти питання юридичної практики та правильно наповнити юридичну термінологію.

У процесі дослідження визначено поняття «юридичний термін», що означає елементи юридичного дискурсу, словесні позначення державно-правових понять. Також досліджено багатозначність юридичного терміна, що зумовлене його функціонуванням у різних галузях права. Найбільш значущими для дослідження є проблеми значення латинського запозичення, особливості систематизації іношомовних слів та способи їх адаптації в англійській та українській мовах.

У статті висвітлено одну з основних проблем перекладу юридичних текстів – неточне відтворення запозиченого слова. Аналіз лексико-семантичних процесів у сучасній термінології української та англійської мови сприяє впорядкуванню термінологічної бази та усуненню найбільш поширених помилок при перекладі іноземних текстів у сфері правового дискурсу.

Ключові слова: латинізми, термін, запозичення, юридичний текст, лексична одиниця, переклад, дискурс.

Introduction. The study of the variability of legal terms and other lexical units of the legal discourse, which indicate the legal realities of national legal systems, allows more efficient translation of these terms and increases the effectiveness of international communication in the field of jurisprudence. According to the analysis of modern branch terminological systems, about 40% of them are words borrowed from other languages. This is indispensable proof of the importance of research, and analysis of borrowings in legal discourse. Proper

translation and definition of the semantics of terms, accurate legal qualification of legal concepts and realities are important in translation practice.

Analysis of recent researches and publications. The specifics of legal discourse are studied by both linguists and lawyers. Studies of such scholars as Ristikivi Merike, Tomilenko L. M., Astapenko P. N., Glinskaya N. P., Libinson M., Vilchynska T. V. devoted to the peculiarities of the functioning of Latinisms in English legal texts.

The aim of the article – is to determine the peculiarities of the functioning of Latinism in legal discourse.

Results. The historical role of Latin as an international language of science significantly distinguishes it from many constructed languages used for international communication – from those that were in the limited spread, and from the incomparably larger part of them that remained stillborn projects (Vilchynska, 2012: 55).

Undoubtedly, Latin is one of the languages that influenced the formation of English vocabulary. A large share of borrowings come from French, which, like Latin, belongs to the Romance group of languages; it should be noted that English would be incomplete without the Latin contribution and influence on its development.

The majority of legal terms in English are those of French-Latin origin – 81% (Old French – 12%, Latin – 20%, French-Latin – 49%). The presence in English legal terminology 20% of direct borrowings from Latin is a natural phenomenon, because of the colonial policy of the Romans in the first century BC. Latin influenced the Gothic language, from which Old English and other Germanic languages later emerged (Actual problems of philology and translation studies, 2016: 131).

Most language units belonging to the early days of the borrowing process are grammatically and phonetically assimilated. Later borrowings have retained their grammatical and phonetic features and are used in scientific terminology, in medicine and biology, in jurisprudence.

Borrowing depends on many factors, both linguistic and extralinguistic. The first is the level of development of language that adapts borrowing and whether it is open to the “invasion” of foreign constructions and words (whether society is ready to introduce new realities, which causes the emergence of new words in the language). Second, whether there is a need for new lexical items, the mobility of society also plays a key role in this process.

Borrowing is a sound, morpheme, word or its separate meaning, syntactic construction, transferred from one language to another.

According to the degree of adaptation, the following borrowings are distinguished:

1) assimilated words that are fully lexically and grammatically adapted to the language;

2) words in which the process of phonetic and grammatical adaptation is not yet complete: *bureau*, *jury* (French). Such words have uncharacteristic combinations of sounds and forms;

3) words borrowed not the material form of the lexical unit, but only its meaning or structure (calque) (Glinskaya, 2002: 20).

It is known that Latin vocabulary is borrowed both orally and in writing, however, most words borrowed from Latin are written borrowings that have entered the language through various documents and books. Borrowing can also be done through an intermediary language. It is known that Latin was often the intermediary language for the Greek language, which gave rise to words such as *thema*, *physics*, *paper*; which are still used in English.

Scholars distinguish three periods of Latin borrowings in Old English:

1) Latin continental borrowings before the Anglo-Saxons immigrated to England (zero-period borrowings);

2) early borrowings during settlement (colonization period) – Latin words that penetrated into English from Celtic (borrowing of the first period);

3) borrowings associated with the Christianization of the Anglo-Saxons about 600-650 y. (borrowings of the second period).

The topic of Latin borrowings at different stages of development of the English language has been studied by both foreign and domestic scholars. Among them is American researcher Linda Mugglestone. She does not pay much attention to Latin borrowings in Old English but describes the historical conditions that contributed to the consolidation of Latin vocabulary in British territory.

Borrowing a foreign language unit is a time-consuming, multifaceted process, the study of which implies the formation and solution of such issues as:

- the essence of borrowing;
- prerequisites for borrowing;
- variations of foreign language elements;
- properties of the borrowed word;

The most significant for the study are the problems of the essence of Latin borrowing, the peculiarities of the systematization of foreign words (in our case, Latinisms), and ways to adapt them in English.

The marker of legal discourse is the situation of communication in the legal field, and the main component is the text of the legal document. There is no doubt that the language of legal discourse is not only complicated and hard to understand even for native speakers, but also not always clear to professionals.

Legal language is used primarily to implement some conventional socially meaningful actions in the system of institutional relations. Legal discourse belongs to the type of institutional discourse, which belongs to the sphere of settlement of social relations, and is characterized by rigid organization and hierarchical structure. It should be noted that the term

“discourse” comes from the Latin word *discursus*, which means “the act of running about”. In scientific literature, discourse is mainly used as a synonym for the text. The following types of legal discourse are usually distinguished: oral and written.

Legal language as the language of the public institute of law and science is characterized by the following main features:

- a large number of complex contracted sentences;
- a lack of punctuation marks;
- use of graphic tools for logical separation of text components in writing;
- use of archaisms;
- misuse of the conjunction *of*;
- use of borrowings from Latin and French;
- use of numerous synonyms.

Legal terminology is the most important and informative part of the language of the law. The written language of law was originally Latin and English, Latin prevailed and gradually it gained new positions. It was not Classical or Medieval Latin, but it was a form of Latin, legal Latin, which contained many Latinized English and Old French words. For instance, the Old English “*morder*” – a secret murder, became “*murdrum*”, and later – modern “*murder*”.

Numerous Latin terms (*mens rea*, *ab initio*, *certiorari*, *versus*) and French borrowings (*lien*, *plaintiff*, *tort*, *esquire*, *plead*), Anglo-Saxon archaisms (*writ*, *ordeal*, *witness*, *deem*, *moot*) in judicial communication, legal clichés, symbols and realities that express the authority of law has existed for centuries in legal discourse, combining past and present, expressing the continuity of experience and traditions.

Legal terminology is the oldest layer of the Ukrainian language in the field of terminology. The genesis and development of Ukrainian legal terminology are closely connected with the emergence of national law, national legislation of Ukraine, and the history of the Ukrainian scientific language.

According to L.M. Tomilenko, the terminological structure of language is a complex formation, the structure of which contains subsystems that are distinguished by different criteria. Under the legal term we understand, the language unit to denote the professional concept of the jurisprudence field.

Most legal terms are borrowed words, namely internationalism, which are used in many languages and have one common source. For example, the Latin language, which has been actively penetrating our language since ancient times, has included in the terminology such words as *алибі*, *архів*, *агент*, *адвокат*, *референдум*, *акцент*; (*alibi*, *archive*,

agent, *lawyer*, *referendum*, *acceptation*). However, along with borrowed terms in jurisprudence, Ukrainian ones are also commonly used: *донум*, *злочин*, *свідок*, *позивач*, *позов*, *відповідач*, *очевидець*; (*interrogation*, *crime*, *witness*, *plaintiff*, *lawsuit*, *defendant*, *eyewitness*).

The terminological vocabulary of modern English consists of proper words and borrowed lexical units. In particular, legal terminological elements are predominantly of Latin origin. Elements of the legal terminology, its forms and models originate in the English socio-economic vocabulary of the Middle Ages. In some parts, they have become common legal concepts. For instance, *Dura lex, sed lex* (The law is harsh, but it is the law). But this postulate is not only relevant to Roman law, it is also applied in the modern law of different countries.

Astapenko P.M. states that all Latin legal terminology can be classified into several main groups (Astapenko, Derbycheva, 2009).

1. The first group includes terms that have ideological and socio-cultural functions and meanings. These include universal and singular terms. The first reveals the content of other independent concepts, and the second consists of concepts characterized by individual features.

2. The second group consists of terms that can be defined as attributive. The terms of this group do not have an independent meaning, their meaning is revealed through concepts that are not legal, but under their influence are formed the actual legal norms.

3. The terminology of the third group is the most specific, as its creator is an individual person – a lawyer, philosopher, judge, and others.

4. The fourth group includes purely legal terminology.

The use of terms borrowed from other languages in treaties is an integral feature that conveys all the legal uniqueness and content that has been used for centuries in legal discourse.

In addition to direct and indirect Latin borrowings, English legal terminology includes a large number of Latin calque, because after Edward III issued an order that English obtain a status of the state language, consequently, to conduct all court proceedings in English, all legal documents began to be translated from Latin such as: *in forma pauperis* – legal aid, *corpus delicti* – facts of a crime, *ultra vires* – beyond powers, *lis* – lawsuit, *ex post facto* – after the event (post-factum), *en banc* – full bench.

In addition, in modern English legal terminology, there are complex combined terms, one part of which is a direct Latin borrowing, and the other assimilated borrowing: *pro forma letter* – standard letter,

ad valorem duty – ad valorem tax, *writ of habeas corpus* – law on individual freedom, *action in rem* – litigation on a property claim, *guardian ad litem* – guardian appointed by the court.

Frequently Latin tokens are borrowed in English by changing the ending of the Latin **-us** to the English ending **-e**: *magistrate* – *magistratus*; or the end part of the base together with the ending **-enti-a** on **-enc-e**: *evidence* – *evidentia*. Among a number of phraseological units, the notion of legal cliché that close to the notion of the legal term, but is determined by repetition in official speech: *audire querelam* – to hear a complaint; *capitalis plagueis* – the main guarantor; *casus delicti* – case of offense; *cautio judicatum solvi* – ensuring the execution of a court decision, etc. A characteristic feature of the legal terminology is also the use of standard prepositional constructions: *de lege lata* – in terms of current law; *de facto* – in fact, etc. (Libinson, 2018).

In addition to legal terms, in legal texts often used common Latin expressions and abbreviations: *opus citatum* or *opere citato* – quoted in the work, *expressis verbis* – clearly, *circa* – approximately, *sui generis* – a kind, *ibidem* – in the same place or there, *ad hoc ibidem* – for this purpose, *prima facie* – at first glance, and many others.

Since most legal terms and fixed Latin phrases were established more than two thousand years ago, it is clear that their meaning has been constantly changing over the centuries. For example, the term *ius civile* – civil law, has many meanings and interpretations. There is a contradiction even in Roman law itself. The *ius civile* refers to the law inherent in one state (*civitas*), in contrast to the common to all peoples, *ius gentium*.

Let's consider the example of the use of *ius gentium* in the agreement.

According to one view, the Commission should, in order to ensure the development of **ius gentium**, as provided for in the Charter, seek to go beyond existing rules, mechanisms and institutions: it should innovate (Responsibility of States for Internationally Wrongful Acts, with commentaries, 2001).

Partial synonymy, so-called quasi-synonymy, is also used in legal language. In this case, special attention should be taken if the meaning of the words is only partially the same, which can lead to misinterpretation. For instance, the term “agreement” can be expressed in Latin in the following words: *contractus*, *pactum*, *conventio*, *consensus* and *stipulatio* – all semantically the same, but according to their legal definitions, they are different concepts.

Let's consider one of the variants of the phrase *stipulatio alteri*.

So, nothing turns on the fact that the Trust was not in existence when the oral agreement was concluded. It appears that the agreement was a fairly typical **stipulatio alteri** (Stipulatio alteri: Valid third-party contracts, 2018).

Despite the general etymological basis of Latin parallels in Ukrainian and English, the processes of using borrowing give rise to differences in their semantics and pragmatics. Significant differences between Latinisms in Ukrainian and English include the following:

1. In English, Latinisms are much more often borrowed directly from the source language, while in Ukrainian the corresponding tokens are borrowed indirectly;

2. Tokens of Latin origin are often borrowed from the Ukrainian language in one sense, especially when it comes to terminological vocabulary (eg, *inflation*, *industry*, *population*, *capitalization*). English-language correspondences, as a rule, fully preserve the polysemy of Latin origin, due to the direct nature of borrowing;

3. Polysemy of English Latinisms determines their freer lexical connection in comparison with Ukrainian correspondences. The language material reveals a large number of English expressions that require translational equivalents;

4. Pragmatic differences of “parallax-Latinisms” may relate to changes in their functional and stylistic affiliation or the emergence of emotional and evaluative connotations.

5. In English legal discourse, Latinisms show a stronger word-forming activity, which is manifested in the presence of derivatives.

According to the results of our study, in modern English diplomatic documents, along with terms of English origin, use terms of foreign origin can be assimilated and non-assimilated. In English, there is a layer of unassimilated Latin and French borrowings, or xenisms, in diplomatic documents, which we define as special standardized linguistic units of English-language legal discourse that, together with standards and clichés, create a special style of archaic, traditional, and standardized document.

Conclusions. The linguo-conceptual approach to the study of terminology of English law at different stages of formation allowed us to trace the evolution of the term as a lexical unit. Research on the analysis of lexical and semantic processes in modern terminology of Ukrainian and English not only contributes to the development of the high culture of the language of the specialist or the text he works with but above all – streamlining the national terminology and its filling with borrowings.

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