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## TEACHING LAW STUDENTS PRE-TRANSLATION TEXT ANALYSIS

**Abstract.** This paper deals with stages of pre-translation text analysis and examines typical difficulties of legal text translation. Students are taught to analyze the style, genre, translational type of the text, theme, goal, tone, author's intention and source and recipient of the text. The order of text introduction is important beginning with legal correspondence, continuing with contracts and finally presenting different newspaper texts. However, there are universal lexical, grammatical, syntactic, and cultural difficulties of translation which appear in the same genre from text to text. When distinguished once the patterns may be kept in mind and simplify and speed up the translation of analogical texts.

*Keywords:* translantology, genre, translation technique, cliché, translation

Today many Russian higher educational establishments provide teaching of ESP within the framework of a minor program "Translator in the sphere of professional communication". One of the purposes of the program is to develop one of the basic competences of language usage – communicative competence, being among the most important ones. (Vyushkina, 2014). Communicative competence includes such types of competences as linguistic, sociolinguistic, sociocultural, social, strategic, and discourse ones. Linguistic competence presupposes good knowledge of a foreign language system. Sociolinguistic competence is acquisition of a skill to formulate, to use and respond to language appropriately. Sociocultural competence is connected with understanding national and cultural aspects of social behavior and speech patterns of native speakers. Social or pragmatic competence deals with relationships among communicating people. Strategic or compensatory competence demonstrates the ability to correct one's own speech, to improve other types of competences and to repair breakdowns of communication. Discourse communication is the knowledge of mechanisms to create and interpret texts (Litvinov, 2005).

Communicative skills are acquired by law students beginning with the first year of studies. The students of the first and second years of study are taught not only general English aspects like lexicology, grammar, phraseology, communication but also special legal English aspects like legal terminology, legal text style features, differences of Russian, British and American legal systems. Thus the third year students are prepared to deal with negotiations and legal translation. In this paper we would like to present the method of teaching legal translation using profound pre-translation analysis, drawn from the experience of the author. Pre-translation analysis includes stylistic text information and translational text characteristics.

### Stylistic and translational analysis

We start teaching pre-translation text analysis at the third year of studies. It is connected with the period when students of Saratov State Law Academy have lectures and take exams in the theory of translation so that during the third and fourth years of study they could apply the translation theory at practical classes.

While planning the work at practical classes it is important to introduce and practice theory step-by-step, i.e. on the one hand to start working with simple legal genres, on the other hand, to work separately and gradually with different translation strategies and techniques (Kalmazova, 2012). The simplest legal texts for translation are business letters and legal correspondence. It is the first step of teaching pre-translation analysis. Usually there are no translation difficulties in grammar or terminology of business letters and legal correspondence. The main skill to acquire is to find and learn a representative variant of cliché translation (the key translation techniques are holistic transformation and functional replacement: *I am writing to inform you that* – *настоящим сообщая, following your letter / our meeting / our telephone conversation / further to our recent correspondence* – *как указывалось ранее / как обсуждалось ранее, please find enclosed / I am pleased to enclose* – *прилагаем, if you have any questions please do not hesitate to give me a call* – *если возникнут вопросы – звоните в любое время, yours sincerely, yours faithfully* – *с уважением*). It is necessary to note that there are some typical words and phrases which have zero translation (*please, we look forward to hearing from you / we are looking forward to hearing from you*). Professional Russian style of formal letters avoids “extra” politeness.

The second step of teaching pre-translation analysis is to introduce texts of contracts. The translation of contracts is more standardized than the translation of official letters. The main difficulty of contract translation is correct translation of terminology. Representative variants of contract term translation are rather often not obvious due to four reasons. The first reason to mention is vagueness of legal term definitions (in Russian the definition of the term *intent* is “one of the forms of guilt” and the definition of the term *negligence* is “one of the forms of guilt”) (Khizhnyak, 2008). The second reason is cultural diversities of terminologies in the source and target languages. Anastasia Ignatkina (2005: 11) indicates at “presence or lack of terms having similar notion within the national worldview, the notion being absent”. Halina Sierocka (2014: 190) writes that “some concepts, notions or institutions may exist in the source culture but not in the target culture”. This can be illustrated by several examples of English-Russian and Russian-English translations. The tort law notion *duty of care* does not exist in Russian legal terminology and it is translated descriptively *обязанность соблюдать осторожность*. Another complicated example is connected with court systems. The system of Russian courts differs from the one in Great Britain or the USA, namely, both the titles and functions of institutions differ. Moreover such type of courts as *Арбитражный суд* presupposes court proceeding in Russia while in common law system *arbitrary* is a method for resolution of disputes outside the courts. The term is the same but the notions differ. It is even more difficult to suggest representative translation not to get confused. Some translators are prone to use *state arbitration court* – to make target culture recipients think it over and distinguish. Another translation technique in this case is practical transcription – *arbitrazh* – to sound “foreign” in the target culture. One more translation technique is descriptive translation – *commercial court* – to explain the main function of the institution (Nekrasova, 2008). The third reason is connected with distinguishing different language structures (codes): a typical situation of Russian – English translation is that there are a lot of synonyms in Russian to one English term: *юрист, адвокат, законовед, правовед* – *lawyer*. The fourth reason is existence of linguistic tradition of using a particular term in a particular context (the term *неосторожность* may be translated like *recklessness, carelessness, negligence*, but contract law terminology is connected only with *negligence*).

Another thing to remember is that English contracts still have a lot of archaic legal terms like *aforesaid, aforementioned, hereby, hereinafter, quazi* etc. while Russian ones have much less. Thus, it is wrong to pre-

serve all archaisms translating from English into Russian and it is correct to add archaisms translating from Russian into English (... *в которых компания может быть заинтересована...* – ... *in which company is or may hereinafter be interested...*, Генеральный директор принимает это назначение – *The CEO hereby accepts this appointment*). There are typical cases of zero translation of English absolute synonyms (doublets and triplets) like *остаются в силе* – *remain in full force and effect*, *условия* – *terms and conditions*, *готовить отчёты* – *to prepare, execute and file reports*. Modal verbs (especially *shall*) are numerous in English to compare with zero usage in Russian (... *условия, которые адвокат сочтёт ...* – ... *such terms as Attorney may think ..., ... условиях, которые определит генеральный директор* – ... *terms and conditions, as CEO shall determine*). There are typical cases of rheme initial position (communicative structure of the sentence) in English when the sentence is followed by enumeration (*Confidentiality agreement: ...In connection with the consideration of a Transaction, the Parties will make available to each other information concerning a transaction... Such information, whether obtained from written materials ... is collectively referred to as the “Evaluation Material”... The term “Representatives” ... means the parent companies, ... The Parties agree as follows with respect to the Evaluation Material: 1) All references herein to Harvest, \_\_\_\_\_, Receiving Party, and Party or Parties include their respective Representatives. 2) \_\_\_\_\_ and Harvest understand that each party considers the Evaluation Material to be confidential and proprietary and retains title thereto. 3) Receiving Party agrees that ...*). In Russian the rule is that rheme follows theme, so in translation word order should be changed.

The third step of teaching pre-translation analysis is connected with introduction of newspaper texts. The order of introduction depends on the genre, beginning with the simple ones like *news* then coming to *features*, and, finally, *essays*. At the beginning pre-translation analysis should be done with students together during practical classes. Traditionally pre-translation analysis includes defining the style (fiction, official, newspaper, scientific, oratory) and genre (poetry, business letter, features etc.) of the text, defining translational type of the text (primary-cognitive, primary-operative, primary-emotional, primary-aesthetic), defining theme, purpose, tone and author's attitude to the text and defining source and recipient of the text. (Alekseeva, 2008). As a rule if it is newspaper style, genre – news, feature or essay then the translational type of the text is either primary-cognitive or primary-emotional (essay). The theme is interconnected with the headline or the lead, the purpose is broad formulation of the theme, the tone may be

either neutral (if the text is primary-cognitive) or emotional (if the text is primary-emotional), author's attitude is personal attitude to the described facts or events. The source and the recipient may be individual (essay), group (features) or collective (news).

### **Typical difficulties of legal text translation**

After the stylistic part of pre-translation analysis has been completed, we start to analyze difficulties of translation of the text. We have chosen ten texts of different genres, size and difficulty and distinguished the difficulties of translation when it is necessary to apply some translation techniques. The texts are from popular English and American sources.

1. *The Guardian*. Russia: 3 Are Charged Over Protest Violence. By Andrew Roth. May 28, 2012.
2. *The Guardian*. Britain: Judge Denies Bail for Radical Cleric. By the Associated Press. May 28, 2012.
3. *International Herald Tribune*. Ukrainian Lawmakers Debate with Their Fists. By J. David Goodman. May 25, 2012.
4. *International Herald Tribune*. Police Make Fresh Appeal after Pensioner Dies of Injuries Following Recent Brutal Attack. By Jack Simon. January 17, 2011.
5. *International Herald Tribune*. Journalists and Police officers Avoid Phone Hacking Prosecution. By Samantha Oliver. April 22, 2010.
6. *International Herald Tribune*. Phone Hacking: List of Arrest so far. By Andrew Mockey. September 4, 2011.
7. *International Herald Tribune*. Millionaire's Daughter Laura Johnson Jailed for two Years after Being Caught by "Thrill" of London Riots. By Arthur Jones. November 13, 2011.
8. *International Herald Tribune*. The Japanese Crisis and World Energy Prices. By Catherine Rampell. March 15, 2011.
9. *New York Law Journal*. Plaintiff, Attorney Fined in Facebook Litigation. By John Carter. August 16, 2012.
10. *The New Yorker*. Prisons, Colleges and the Private-Sector Delusion. By Margaret Talbot. June 14, 2012.

The analysis of newspaper texts data has revealed general difficulties of translation. Firstly, the texts had at least one sentence (the first one as a rule) in which the communicative structure was broken (rheme occupied the initial position in the English sentence and such word order never occurs in Russian).

Russia's Investigative Committee charged three people Sunday and Monday with inciting unrest and attaching riot police officers during clashes between the police and antigovernment protesters earlier this month. (1)

A British immigration judge on Monday denied bail to Abu Quatada, saying he could not risk having the radical cleric on the streets during the London Olympic Games, which take place from July 27 to August 12. (2)

Tensions were high in Ukraine on Friday as opposition lawmakers blocked a session of Parliament and the speaker called for new elections after a violent bout on the floor of the legislature that some observers have dubbed the "Rumble in the Rada". (3)

Police have stepped up their investigation after 93-year-old Emma Winall died as a result of injuries suffered in a brutal attack at her home one month ago. (4)

Miss Hill, 37, the Guardian's special investigations correspondent was questioned under caution last September by detectives investigating alleged leaks about the phone hacking inquiry. (5)

A Millionaire's Daughter was yesterday jailed for her "pivotal" role in last year's summer riots after a judge said she was caught up by the "excitement" and "thrill" of the mayhem lawlessness. (7)

Oil prices have fallen in the last few days, apparently because investors expect Japan's damaged factories to consume less energy in the immediate aftermath of the earthquake. (8)

Republicans have been touting the inherent superiority of the private sector over the public at least since the Reagan era, but in the past few years it seems to have congealed into an unassailable mantra... (10)

Secondly, there was a difficulty concerning the translation of proper names, geographical names, names of official institutions and organizations and titles and positions of employers and employees. Traditionally, there are three techniques to translate proper names – transliteration, transcription (or practical transcription) and tradition. However, it is sometimes difficult to decide which technique to use in a concrete situation (for example, the proper name *Ceglia* from article 9 was translated differently by different students: *Сеглия, Сиглия, Кеглия, Киглия, Цеглия, Циглия*, all the variants are possible). Geographical names should be translated only following tradition (*Middle East – Ближний восток* (*Close East* is the back translation)). As for the translation of the names of official institutions and organizations the situation is the most difficult. It is a rare occasion that there is a similar institution or organization in target culture (*Russia's Investigative Committee – Следственный комитет России*) and the translation is traditional and fixed in the dictionary. If not, the rule is ei-

ther to transliterate the name of the organisation (*Sun*; *Wasps*; *News of the World* – *Сан*; *Васпс*; *Ньюз оф зе уорлд*), or to leave it in the original form (*HSBC* – is left in the Russian text as *HSBC*). The same situation concerns the translation of the titles and positions of employers and employees because they are not identical to the titles and positions in target culture (*News International Head of Security*, *The Sun's newspaper's royal editor*). The translation technique here is connected with changing the word order and explaining new and unknown (transformation with descriptive translation): *Sun deputy editor* – *заместитель главного редактора газеты Сан* (deputy of the chief editor of the newspaper Sun is the back translation). To preserve correct meaning it is often necessary to find out the exact full name of the organization and the sphere of activity, for example, *News of the World* is *the Guardian* new website and *Sun* is a newspaper.

Thirdly, it is a general difficulty of translation of newspaper texts that a headline or a banner headline should be translated emotionally and attractively. The first thing to discuss with students is that the headline should be translated only after the full understanding and translation of the article. Another special feature of English newspaper headlines or banner headlines is that they are short and often they do not manifest the theme of the article. According to the headline what will be described in the article is often not clear. The function of the theme manifestation of the article is often performed by the lead in British and American newspaper style. Russian newspaper style does not have leads so it is necessary to translate the headline attractively, briefly and insert the theme components from the lead to the headline. While translating English and American newspaper headlines one more thing should be kept in mind, the verbs and verbals prevail in English. It is not true with Russian headlines, they are more nominative. (*KABUL POLICE BOSS QUILTS AMID ATTACKS* *Kabul police chief Zahir (right on the phone) was the target of an attack earlier this month which killed his deputy*; *SWISS "REJECT IMMIGRATION CURBS"* *Voters in Switzerland have decisively rejected a proposal to cut net immigration to no more than 0,2% of the population, partial results suggest*; *GERMANS HONOUR SLAIN "ROLE MODEL"* *Tributes are paid in Germany to student Tugce Albayrak who died after defending two teenage girls reportedly being harassed by a group of men*; *BEATLEMANIA BEHIND THE IRON CURTAIN* *Excerpts from Leslie Woodhead's "How the Beatles Rocked the Kremlin: the untold story of a noisy revolution"*; *НАСТОЯЩИЙ ПРИЗРАК ЮКОСа*; *ТАЙНЫЕ РАССТРЕЛЬНЫЕ СПИСКИ СТАЛИНА*; *ИСЧЕЗНУВШЕЕ*

*ЕВРЕЙСКОЕ ГЕТТО МОСКВЫ; КОМИТЕТ ГОСДУМЫ ПРОТИВ СОКРАЩЕНИЯ ПРАЗДНИКОВ*). Obviously there are exceptions, firstly, when it is necessary to preserve the verb in Russian headline. There are at least two cases, first, when the headline is very long (*РОССИЯ БУДЕТ ПОКУПАТЬ ИРАНСКУЮ НЕФТЬ В ОБМЕН НА ЗЕРНО И ПРОМЫШЛЕННЫЕ ТОВАРЫ, СООБЩИЛ УЛЮКАЕВ; ЖИТЕЛИ ШОТЛАНДИИ СЧИТАЮТ, ЧТО ВЕСТМИНСТЕР ОБВЁЛ ИХ ВОКРУГ ПАЛЬЦА; БЕЗРАБОТИЦА В ИТАЛИИ ВЫНУЖДАЕТ ЛЮДЕЙ ИЗОБРЕТАТЬ НОВЫЕ ПРОФЕССИИ*) and secondly, when the headline is based on the question (*WHAT'S IN A NAME? Publicity rights lawyers are finding there's plenty of value in a growing practice*).

As a rule, English headlines are emotional. It is necessary to preserve emotionality in translation. For this purpose it is possible to use different techniques. If the headline was ironical one should use the technique of functional replacement to create similar ironical combinations in the target language (*Ukrainian Lawmakers Debate with Their Fists*). If there was used rhyme one should use the technique of functional replacement again and to create some rhyme representative variant in the target language culture (*The Japanese Crisis and World Energy Prices*). If there was used irony one should use the technique of functional replacement again and to use some metaphor representative variant in the target language culture (*Millionaire's Daughter Laura Johnson Jailed for two Years after Being Caught up by "Thrill" of London Riots*).

However, other difficulties of translation occurred occasionally. They are connected with terminology translation (*carer (caregiver), caution, phone hacking, mayhem, inquiry, unsolicited*), culture specific concepts (*Rada*), conversational formulas (used as emotional components) (*I just like the fact that...*), emotional words and informal words (*spree, rampage*), *phraseological units and idioms (at the heart of smth.)*, polysemic words (to create representative translation it is necessary to understand the context very well and to use the translation technique of functional replacement) (*shibboleth – 1) a belief, principle, or practice which is commonly adhered to but which is thought by some people to be inappropriate or out of date 2) a custom, phrase, or use of language that acts as a test of belonging to, or as a stumbling block to becoming a member of, a particular social class, profession, etc., delusion – 1) обман, введение в заблуждение, ложь 2) мания; галлюцинация 3) заблуждение, иллюзия, ложное представление*).

## Conclusions

In concluding this paper it is necessary to note that while teaching law students pre-translation analysis one should know the theory of pre-translation analysis, to introduce the texts step-by-step, to discuss difficulties of translation and suggest appropriate translation techniques. Universal difficulties of business and legal correspondence translation are clichés and extra politeness. Universal difficulties of contract translation are legal terms, archaisms, doublets and triplets, modal verb shall and different accents of rheme in Russian, English and American traditions. Universal difficulties of newspaper texts translation are rheme sentence accents, proper names, geographical names, names of official institutions and organizations and titles and positions of employers and employees and headlines. Pre-translation analysis facilitates translation and allows to improve the quality and spare time as well as to prove oneself correctness and representativeness of the translation.

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