

PROBLEMATIC ASPECTS OF TRANSLATING INTERNATIONAL LEGAL TEXTS INTO UKRAINIAN

ПРОБЛЕМНІ АСПЕКТИ ПЕРЕКЛАДУ МІЖНАРОДНО-ПРАВОВИХ ТЕКСТІВ УКРАЇНСЬКОЮ МОВОЮ

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The article examines the problematic aspects of translating international legal texts into Ukrainian, focusing on how lexical, grammatical, and syntactic transformations affect the pragmatic and modal features of the target text compared to the source. The purpose of the study is to identify and systematize the main translation difficulties in reproducing international legal texts in Ukrainian, offering some recommendations for overcoming them. The article employs methods of comparative translation analysis and contextual analysis.

The key findings suggest that, apart from challenges in accurately conveying the meaning of international legal terminology, a problematic aspect of translations may be the reproduction of the source document's modality and its speech-act pragmatics, as well as the unbalanced application of translation transformations – particularly generalization, omission, addition, and transposition – which influence the increase or decrease in the categorical nature of the normative requirements in the target text compared to the source, and indirectly, the legal force of the target document. When reproducing modality and its underlying illocutionary force, translators should pay special attention to the translation of modal verbs, which are often performative, marking the directive illocutionary force. Omitting such a verb or replacing it with one lacking the obligatory aspect transforms the directive of the original text into an assertive, which directly affects the de-intensification of the directive deontic modality of the target text or its fragment.

Future research prospects include analyzing grammatical transformations used in Ukrainian translations of international legal texts concerning their impact on the modality of the target text compared to the original.

Key words: international legal texts, translation difficulties, modality, speech-act pragmatics, translation transformations.

У статті досліджено проблемні аспекти перекладу міжнародно-правових текстів українською мовою з огляду на те, як лексичні, граматичні та синтаксичні трансформації впливають на прагматичні та модальні особливості цільового тексту порівняно з вихідним. Мета дослідження – виявити та систематизувати основні перекладацькі труднощі при відтворенні міжнародно-правових текстів українською мовою і запропонувати деякі рекомендації щодо їх подолання. У статті використано методи зіставного перекладацького аналізу та контекстуального аналізу.

Ключові висновки дослідження свідчать про те, що, окрім труднощів у точній передачі значення міжнародно-правової термінології, проблематичним аспектом перекладу може бути відтворення модальності вихідного документа та його актомовленнєвої прагматики. Іншою виявленою проблемою є незбалансоване застосування перекладацьких трансформацій – зокрема генералізації, опущення, додавання та транспозиції, що може впливати на збільшення або зменшення категоричності нормативних вимог у цільовому тексті порівняно з джерельним, і опосередковано, на юридичну силу цільового документа. При відтворенні модальності міжнародно-правового тексту та асоційованої з нею іллокутивної сили мовленнєвих актів перекладачі повинні звертати особливу увагу на значення модальних дієслів оригіналу, які часто є перформативними, позначаючи директивну іллокутивну силу. Пропуск такого дієслова або його заміна лексею, позбавленою семи зобов'язання, перетворює директивний акт оригінального тексту на асертивний, що безпосередньо впливає на де-інтенсифікацію директивної деонтичної модальності цільового тексту або його фрагменту.

Перспективи подальших досліджень вбачаємо у аналізові граматичних трансформацій, які використовуються в українських перекладах міжнародно-правових текстів з огляду на вплив таких трансформацій на модальність цільового тексту порівняно з оригіналом.

Ключові слова: міжнародно-правові тексти, перекладацькі труднощі, модальність, актомовленнєва прагматика, перекладацькі трансформації.

Problem statement. The problem of translating international legal discourse remains one of the contentious issues in contemporary translation studies. Several reasons can be formulated that have led to this state of affairs. Firstly, some genres of international legal discourse exhibit a hybrid nature, combining characteristics of legal and political discourses [20], thereby complicating the translator's choice of

stylistic register. Secondly, one of the constitutive strategies of international legal discourse is achieving consensus among the signatory states of documents, which vary in their levels of development and pursue different goals and interests in legal regulation of international issues. Consequently, international legal texts allow significant variations in their mandatory legal force due to the inclusion of a wide range

of lexical and grammatical mitigators and hedges, reducing the performative and prescriptive nature of the entire document or its individual articles in favor of ensuring consensus among signatory states. Accordingly, the translator must balance reproducing the institutional normativity of the text while conveying the pragmatic nuances that allow for softening its excessive directiveness [19; 21]. The third factor complicating the reproduction of international legal texts in translation is linguistic in nature – the differences in systemic-structural characteristics between the source and target languages.

Given the challenging and debatable issue of translating English-language international legal texts into Ukrainian, this article focuses on analyzing studies by Ukrainian authors dedicated to the translation of international legal discourse, identifying a range of problems faced by translators, and offering recommendations on how to avoid these problems.

Analysis of recent research and publications.

The study of translation approaches, strategies, and models for international legal discourse is a part of modern legal translation studies, which focus on examining “the high variability of legal communicative conditions and conventions according to the legal orders, settings, branches, genres, and themes involved in translation. This multi-faceted legal dimension explains the marked interdisciplinarity of LTS (Legal Translation Studies), as it straddles TS (Translation Studies), Law and Legal Linguistics” [23, p. 175; 24; 26].

Without exception, all studies dedicated to legal translation emphasize the primary importance of the issue of reproducing the legal force and the performativity of the source text in target texts [12; 13; 14; 22]. The resolution of this issue is, to a large extent, achieved through the necessity of fulfilling two tasks: on the one hand, reproducing the “most accurate terminology” to preserve the legal force of the document, and on the other hand, conveying complex legal matters to the target audience, as they are “very often vague and ambiguous” [25, p. 38].

Studies by Ukrainian scholars are dedicated to the grammatical, lexical, terminological, and communicative-pragmatic features [1; 2; 6; 7; 8; 9; 11] of translating international legal texts. Certain works focus on the general issues of the theory and practice of international law translation [10; 20], highlighting such relevant topics as: term equivalence, cultural features (consideration of cultural differences between various jurisdictions and countries to convey the meaning and context of legal texts), the specificity of international law, which has its own unique concepts, terms, and ideas that can be difficult to translate; legal precision; and legal style.

At the same time, as far as we know, there are no investigations in Ukrainian translation studies that focus on the complex nature of the problem of translating international legal texts, in particular, in terms of the influence of lexical, grammatical and syntactic transformations on the pragmatic and modal features of the target text compared to the source text.

The purpose of this article is to identify and systematize the main translation challenges in reproducing international legal texts in Ukrainian.

Research methods include comparative translation analysis and contextual analysis.

Presentation of the main material. The analysis of Ukrainian research on the challenges of translating international legal discourse has allowed the identification and systematization of key aspects related to translation difficulties:

- 1) equivalent or adequate reproduction of international legal terms;
- 2) the correct choice of translation transformations used in rendering texts of international legal – in the sense that the transformations should not affect the strengthening or reduction of the normative categorical nature of the normative document and its legal force;
- 3) reproducing the modality of the source document in translation – given that international legal texts of various genres differ in terms of deontic modality, ranging from obligation to recommendation;
- 4) reproducing the speech-act pragmatics of the source text – considering that changes in the illocutionary force of a speech act can affect the degree of obligation modality and the associated legal force of the target text [19];
- 5) the issue of sociocultural and pragmatic adaptation [6];
- 6) selecting the most appropriate model of translation analysis and translation transformations [20].

Let us consider the main aspects mentioned.

Reproduction of international legal terms: Scholars believe that “legal translation requires particular caution from the translator, as it primarily consists of abstract terms deeply rooted in domestic cultures and intellectual traditions, to which the text of both the source and target languages belongs” [15, p. 48]. Depending on the context and translation needs, researchers distinguish several methods of translating legal terms: literal translation, calquing, paraphrasing, explanation, descriptive translation, choosing an analogous term in the target language, and adaptation [10, c. p. 227].

Here are some examples of translations illustrating various types of term reproduction in international law texts: (1) Literal / Direct translation: natural resources – природні ресурси; biodiversity – біо-

різноманіття; natural lake – природне озеро; marine protected areas – захищені морські території; (2) Choosing an analogous term in the target language: sustainability – сталий розвиток; waste management facilities – інфраструктура для поводження з відходами; (3) Paraphrasing: environmental damage – «забруднення навколишнього середовища» or «деградація ґрунтів/водних ресурсів»; (4) Calquing: lawgiver – законодавець; prohibition of torture – заборона катування; (5) Descriptive translation: detention – тримання в умовах позбавлення свободи; (6) Antonymic translation: security – недоторканність.

Translation strategies: problematic aspect. Among the translation strategies used in rendering international legal texts, researchers identify the following key types: Transposition – part-of-speech substitution (e.g., replacing a noun with a verb): *efforts to the search for and identification (...) and to the restitution of the children* [17, art. 20 (1) – *прагнуть знайти, встановити особу та повернути цих дітей* [4, ст. 20 (1)]; Modulation – logical-semantic development of meaning, such as translating void patent as патент, що втратив силу; Calquing and borrowing: migration – міграція; mobility – мобільність; Generalization and specification – expanding or narrowing the meaning of a word or phrase; Addition and omission – adding new elements to the text or omitting insignificant units.

A translation problem arises when these transformations affect the level of categoricalness in regulatory requirements, which can indirectly impact the legal force of the document. Consider an example where omissions influence the target text:

Original: *States shall (...) devote their efforts to the search for and identification of such children and to the restitution of the children to their families of origin* [17, art. 20 (1)].

Translation: *Держави (...) прагнуть знайти, встановити особу та повернути цих дітей у сім'ї їхнього походження* [4, ст. 20 (1)].

In this example, the verb phrase ‘devote their efforts’ and the word ‘children’ are omitted. Two distinct approaches to omission can be highlighted here. The omission of “children” is stylistically motivated, avoiding repetition of the lexical unit.

The omission of ‘devote their efforts’ increases the categoricalness and specificity of the target text compared to the source text. This is further reinforced by the lexical-semantic transformation, where *search* (a process) is translated as *знайти* (a result), as well as the grammatical transformation of transposition, turning the nouns *search, identification, and restitution* into the verbs *знайти, встановити та повернути*.

Transformations of addition may influence the reduction of categoricalness in a document, as in the example below:

Original: *Tolerance at the State level requires just and impartial legislation, law enforcement, and judicial and administrative process* [16, art. 2 (2.1)].

Translation: *На державному рівні реалізація принципу толерантності передбачає існування справедливого та неупередженого законодавства, дотримання правопорядку, судово-процесуальних та адміністративних норм* [3, ст. 2 (2.1)].

In this translation, the reduction in the degree of categoricalness in the Ukrainian version is influenced by such transformations as permutation (a grammatical transformation that changes the order of words in a phrase or sentence) combined with modulation through addition. The lexeme *Tolerance* loses its role as the phrasal subject and is replaced by the phrase *реалізація принципу толерантності* (‘the implementation of the principle of tolerance’). Additionally, the categorical modality of the target document is affected by the transformation of generalization, where the verb *requires*, which contains the sense of obligation, with the verb *передбачає* (‘presupposes’).

Reproduction of modality and speech pragmatics. An equally important issue in the translation of international legal texts is the reproduction of the modality of the source document in the target text. Specifically, the modality of international legal texts may vary depending on their affiliation with ‘soft’ [19] or ‘hard’ law. The latter includes Treaties or Conventions, which have a high level of obligatory modality. ‘Soft’ law encompasses genres such as Declarations, Principles, Appeals, and Framework Conventions, which also differ in terms of their legal force and underlying deontic modality. For instance, Framework Conventions tend to be more obligatory than Declarations and other soft law texts, which are characterized by recommendation or declarative modality.

In this regard, an important translation task is to accurately convey the speech-act pragmatics of documents, upon which the modality is based. For example, if in the Ukrainian translation, the modal verb of obligation or recommendation is omitted, the directive speech act of the source text, marked by this modal verb, is transformed into an assertive or declarative, significantly reducing the obligatory modality and the associated legal force of the target text compared to the original. Let's consider some examples.

Original: *States should, where appropriate, take measures in the field of education, in order to encourage knowledge of the history, traditions, language and culture of the minorities existing within their territory* [18, art. 4 (4)].

Translation: *Держави при необхідності вживають заходів у галузі освіти з метою стимулювання вивчення історії, традицій, мови і культури меншин, що проживають на їхній території* [5, ст. 4 (4)].

Original: *States should take appropriate measures so that, wherever possible, persons belonging to minorities may have adequate opportunities to learn their mother tongue or to have instruction in their mother tongue* [18, art. 4 (3)].

Translation: *Держави вживають відповідних заходів на те, щоб там, де це здійснимо, особи, що належать до меншин, мали належні можливості для вивчення своєї рідної мови або навчання своїй рідній мові* [5, ст. 4 (4)].

In both of the given examples, the syntactic transformations involve the omission of the modal verb 'should' in the Ukrainian translation, which serves as a marker of the illocutionary force of a direct directive. In turn, such a transformation leads to the loss of the performative meaning of the speech act, de-intensifying the deontic modality of the 'strong' recommendation or obligation in the target text – up to the point of transforming the directive into a statement of intentions, that is, into an assertive speech act.

Conclusions. Thus, the main challenges in translating English-based international legal texts into Ukrainian lie in the difficulty of the accurate reproduction of international legal terminology; the imbalanced use of translation transformations, particularly generalization, omission, addition, and transposition, which affect the increase or decrease in the categorical nature of normative requirements in the target text compared to the source, and indirectly, the legal force of the target document; the reproduction of the modality of the source document and its speech-act pragmatics, on which the modality is based. In the latter case, translators should exercise particular caution when dealing with modal verbs, which are often performative and mark the directive illocutionary force. If such a verb is omitted or replaced with a verb lacking the obligatory aspect, the directive in the original text is transformed into an assertive, which significantly reduces the directive deontic modality of the target text fragment.

Future research prospects include analyzing grammatical transformations used in Ukrainian translations of international legal texts concerning their impact on the modality of the target text compared to the original.

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