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LEGAL TERMINOLOGY AT ARM'S LENGTH – THE MULTIPLE DIMENSIONS OF LEGAL TERMS

1 INTRODUCTION

This paper proposes to examine legal terminology from multiple angles to get a thorough understanding of its multi-layered nature. The process of terminology mining carried out to this end involves extracting, analysing, comparing and structuring terms. Hence, Temmerman's sociocognitive approach (2000) is expanded to provide an interdisciplinary perspective which combines terminological insights with translation science, comparative law and legal linguistics. For translation purposes legal terminology in different areas of law is compared and explored to find suitable equivalents for source language terms in the target language or solutions to cases of non-equivalence, while taking into account the findings of comparative legal linguistics regarding differences between legal systems and their expression in the corresponding legal languages. In line with Temmerman's sociocognitive approach (2000), terms are perceived as expressing *units of understanding* based on cognitive frames rather than clear-cut concepts in their traditional definition. As pointed out by Temmerman (ibid.: 225), units of understanding more often than not have prototype structure and thus the status of categories. Moreover, terms rendering units of understanding need to be studied in discourse (ibid.: 224), i.e. legal terms should be observed in the context of the text types in which they occur. For the purpose of this paper simple terms, multiple elements terms and phraseology (i.e. phenomena such as word pairs and/or strings, idiomatic expressions, etc.) are viewed as representations of specific units of understanding which upon closer examination reveal their multiple aspects and facets (ibid.: 74).

In line with this approach, my proposed model for translating legal texts as culturemes (Kocbek 2012a) foresees addressing the terminological level of the source and target text as a crucial phase of the translation process, in which the various verbal and non-verbal aspects of the text need to be dealt with systematically. At this stage, terminology is examined in order to identify terms which function as signposts indicating the legal text type and the area of law in which they are embedded, but also pointing to extra-verbal aspects (such as the legal system) and providing deeper insights into the legal culture underlying the text. While discussing the complexity of this aspect of translation, Biel (2008: 22–23) points out that the process of terminology mining takes up as much as 75 percent of the time needed for translation. She also

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suggests viewing terms (i.e. *units of understanding*) as *depositories of knowledge*, embedded in complex knowledge structures. Her view leans on the cognitive perspective proposed by Langacker (2000: 4), according to which "a lexical item is not thought as incorporating a fixed, limited and uniquely linguistic semantic representation, but rather as providing access to indefinitely many conceptions and conceptual systems, which it evokes in a flexible, open-ended context-dependant manner", thus stressing that terminology can function as the key to linguistic and extra-linguistic knowledge. Biel's view, namely that legal terms function as "points of access and prompts for conceptual operations that activate relevant background knowledge" (Biel 2008: 23), where knowledge is to be understood as having an encyclopaedic structure, corresponds to my own interpretation of units of understanding seen as signposts and alert signals revealing dimensions of terminology which transcend the verbal level (Kocbek 2012b). In this paper we will attempt to describe some of the verbal and extra-verbal dimensions of legal terms that can be brought to light in the process of terminology mining. For this purpose we will analyse particular aspects of the English, German and Slovene legal terminology that on the one hand reveal some common traits, and on the other several legal-culture specific facets.

2 THE MULTIPLE EMBEDDEDNESS OF LEGAL TERMS

In terminology mining translators first need to scan the source text to identify terms with high denotative power which function as signposts and help us to allocate the text to a specific text type category, but also to the relevant area of law of the source legal system. These terms elicit knowledge concerning different legal text types. In this respect Busse (2000) in his text typology distinguishes 9 categories of text types as to their function and the area of law in which they are used:

a) text types with normative power including the constitution, statutes, acts, etc.;
b) text types used for interpreting texts with normative power, e.g. commentaries, legal expert opinions;
c) text types pertaining to legal practice, e.g. judgements, sentences, judicial decisions;
d) text types used in proceedings for finding justice, e.g. indictments, lawyers' motions, pleadings, appeals;
e) text types used for asserting or claiming justice, e.g. claims, testaments, different applications;
f) text types for implementing legal provisions and exercising the law, e.g. complaints, charges, court and out-of-court settlements, arrest warrants, etc.;
g) text types of contractual nature, e.g. notarial contracts, commercial agreements, Articles of Association, General Terms of Trade;
h) text types used for certification, authentication and/or notarisation, e.g. notarial deeds or official documents, e.g. entries into land registers, registers of births/marriages/deaths, company registers;
i) text types pertaining to legal science and legal education, e.g. legal textbooks, dictionaries, academic papers.

Identifying the source text type may ease the search for equivalents in the target language, as it is highly probable that an equivalent target term will be found in the same text type category in the target language.

Some terms actually serve as titles marking text type categories (e.g. *judgement/Urteil/sodba; contract/Vertrag/pogodba*) and thus define the background against which the terminology used in the given text type has to be interpreted. Most legal terms can only be fully understood when viewed in the context of a given text type which provides the relevant context (cf. Sager 1990: 58–59; Temmerman 2000: 224). For example, the term *to execute* used in the context of a contract will be interpreted as 'to sign in a legally binding way', in a court order as 'to seize property', while in the context of a sentence imposing capital punishment it should be understood as 'to put to death pursuant to a court sentence'.

Moreover, some terms have to be interpreted as landmarks allocating terms to the relevant area of law. The term *consideration* for instance indicates one of the fundamental notions of Anglo-American Contract Law and will hence help the translator to identify the text as an agreement or contract. Similarly, terms such as *equitable remedies/rights* function as a signpost for *equity* as one of the fundamental areas of Anglo-American Law, while the term *Prokurist* in a German or Slovene text will help allocating the text to company law (*Gesellschaftsrecht/statusno pravo*).

Terms which define the text type and direct us to the relevant area of law may at the same time express units of understanding specific to a legal system which have the status of *memes* according to Chesterman (1997). They should thus be interpreted as alert signals, making the translator aware of specific legal concepts and categories, such as areas of law, institutes, etc., which, due to differences between legal families may have no counterpart in the target legal system and require focused solutions in order to be conveyed across the boundaries of legal cultures through translation.

Terms that indicate *memes* of a given legal system should elicit the translator's knowledge regarding differences and similarities between legal families and systems and their impact on legal languages, i.e. the basic notions of comparative law and comparative legal linguistics. These terms clearly illustrate the system-boundedness of legal terminology, i.e. how it is embedded in the respective legal system. When translating legal terms it thus needs to be considered that it is the relatedness of the legal systems, rather than the affinity of the corresponding languages that defines the translatability of terms (Sandrini 1999b: 17). Translators therefore need to be able to identify the legal family to which the legal systems involved in a translation belong and establish their degree of relatedness by recognizing highly system-bound terms and thus be able to anticipate potential pitfalls resulting from the (un)relatedness of legal systems. System-bound terminology should evoke notions of comparative law regarding the categorisation of legal systems as to their historical development, the specific mode of legal thinking, the distinctive legal institutions, the sources of law and their treatment, as well as the underlying ideology, which results in the existence of eight major legal families: the Romanistic, Germanic, Nordic, Common Law, Socialist, Far Eastern Law, Islamic and Hindu Laws (Zweigert/Kötz 1992: 68–72). In this respect it has to be considered that the legal systems pertaining

to the so-called Civil or Continental Law, which includes the Romanic, the German and the Nordic legal systems, are relatively related. They have common foundations in the Roman legal tradition and are characterized by codification and when dealing with the corresponding terminology a considerable closeness with respect to the legal concepts applied can be expected. On the other hand, the legal systems derived from different traditions such as the Common Law (i.e. Anglo-American) legal family, based on common law, equity and statute law are difficult to compare.

As noted by Cao (2007: 60–63) the dichotomy between the two major legal families of the contemporary world, i.e. Continental Law (to which both the Slovene and German legal system belong) and Common Law (of which Anglo-American Law is the main representative), mainly affects three terminological areas, i.e. the terms used to define different types of legal professions, various court structures and the terminology referring to particular areas of law and institutions and may result in the lack of equivalence. For example, within the continental legal family, the same major branches of law with corresponding terminology are found in all countries: constitutional law, administrative law, public international law, criminal law, the law of procedure, civil law, commercial law and labour law. If these domains of law and institutes are compared to those of the Common Law, many conceptual and structural differences affecting the translatability of the corresponding terms come to the fore. There are institutes in Continental Law which are completely alien to Common Law, such as *cause, abuse of right, the direct/oblique action*, etc. On the other hand, there are Common Law concepts which do not exist in the continental legal systems, such as *consideration* or *estoppel* in contract law, or the notion of *privity* in different legal contexts. Similarly, *the law of obligations*, a broad and extremely significant concept especially in the Romano-Germanic legal systems (and thus in the German and Slovene legal system), which has been developed over the centuries on the basis of Roman law, has no equivalent in Common Law. Furthermore, a part of the English legal structure, i.e. *equity,* has no exact counterpart in Continental Law, as most of its concepts and legal rules are unique and have no parallels in any other legal system.

When such cases of non-equivalence resulting from differences between legal systems have to be dealt with several solutions are applied: using the source-language term in its original or transcribed version, using a paraphrase, creating a neologism (cf. de Groot 1998: 25) or building calques and/or borrowed meanings (Mattila 2006: 119–121). This can also be noted when legal terminology has to be coined anew as in the case of the Slovene legal language which was mostly created through translations of German legal texts in the period of the Austro-Hungarian monarchy (Kocbek 2011: 139–145).

By applying one of these solutions new concepts and categories are transferred into the target culture through the process of so-called *secondary term formation* (Sager 1990: 80).

3 THE HISTORICAL DIMENSIONS OF LEGAL TERMINOLOGY

Upon close scrutiny some legal terms may provide significant insights into the history of a legal system, its development and evolution. This aspect of terminology mining which, to extend the metaphor, could also be termed terminological archaeology,

as it involves unearthing layers of meaning, exploring the dynamics of term creation by recognizing traces of historical developments in language and therefore reconstructing the etymological background of a given term. As pointed out in Sandrini (1999a: 104) legal concepts expressed through terms reflect the moral values predominant in a particular society and the way in which specific real life situations were managed by regulating the interaction of humans and controlling people's behaviour at a particular point of time. These extra-linguistic aspects modify the meaning of terms and add new elements to the knowledge depository accessed through the relevant term. Hence, to fully grasp the evolution of legal terms they need to be studied in a diachronic perspective (Temmerman 2000: 230). As shown below legal terminology often holds the mirror to history in a very eloquent way.

3.1 English legal terms through history

The rich history of legal English undoubtedly offers plenty of opportunities for such research, since influences from different cultures and languages can be traced in it. As pointed out by Mattila (2006: 225–232), legal English is the result of the interaction between Old English (Anglo-Saxon with Scandinavian elements), Medieval Latin and Old French. All these influences are traceable in the terminology, but also in the language structure. For instance, a legal term still in use, i.e. *writ* (e.g. 'writ of summons'), was used in Anglo-Saxon to refer to a document adorned with seals regulating the sale of real estate or some other act of transfer. Some fundamental legal terms were adopted from Scandinavian languages during the Viking occupation, such as *law, gift, loan, sale* and *trust.* Following the spread of Christianity some words of Latin origin were taken into English, such as *convict, admit, mediate*. Surprisingly, in the period of the Norman occupation (which saw a general supremacy of the French language as the language of the ruling class), French did not immediately rise to the position of dominant legal language and Latin enjoyed absolute supremacy in legal settings and completely ousted Anglo-Saxon. Latin was used by Normans in important circumstances and consequently legal documents drafted in the period following the Norman Conquest were in Latin. Since the foundations of the common law were laid in this period, many basic terms were formulated in Latin (e.g. *amicus curiae, stare decisis, habeas corpus*). Nevertheless, the terminology of common law Latin was not directly derived from classical Latin, in some cases it is the result of the Latinisation of French or English words (e.g. *murdrum* for 'murder). In some cases the original form or part of speech of the word was changed (e.g. *affidavit* – literally 'he affirmed'). The Latin language used to express common law concepts was modified to such an extent that it is ironically referred to as Dog Latin.

There is a large number of legal terms of French origin at the core of English legal terminology which testify of specific historical developments. As mentioned above French was not immediately introduced as the language of the law by the Normans. It was only at the end of the 13th century that Latin was ousted by French. As of the beginning of the 14th century French prevailed as the language of legal drafting and in the courts and maintained its position (as Law French) even after French started to disappear as the language of communication from other walks of life. Law French was

a dead language, its vocabulary was only used with legal meanings and as such it was particularly suitable for terminological use. Countless English legal terms prove that a large part of the legal technical vocabulary is originally derived from Law French (in many cases modern legal French uses words derived from different roots for more or less equivalent concepts), e.g. *agreement, arrest, assault, damage, felony, bailiff, bar, judge, jury, suit, summons, verdict, etc.* A further influence of Law French is traceable in terms ending in *-ee* (to denote the person obtaining something or being the object of an action), e.g. *arrestee, condemnee*, or in *-or* (denoting the doer), e.g. *vendor, trustor*.

A further historically conditioned feature of English legal terminology are word pairs (e.g. *bind and obligate, deemed and consider*) and word strings (e.g. *all taxes, levies, duties, imposts, charges and withholdings of any nature whatsoever*). Word pairs represent a special case of synonymy or semi-synonymy which originates in ancient Anglo-Saxon legal formulae and consists of two words with closely related meanings, often alliterative, used in specific legal rituals. In medieval English law this doubling continued as Law French was introduced and it often involved paring an English word with its French equivalent (e.g. *acknowledge and confess*). This tradition was later expanded into word strings (lists of near-synonyms) which are also a clear manifestation of the striving for *all-inclusiveness*, a prominent feature of Anglo-American legal drafting, i.e. the need to cover every possible situation, every conceivable event, especially in documents of contractual nature. When translated into a target language which may lack a similar variety of corresponding terms with similar meanings, word pairs/strings are often rendered by a single term or shorter structures.

3.2 German legal terms through history

When tracing historical influences in German legal terminology, again a powerful influence of Latin can be established. The laws of the German tribes (*leges barbarorum*), which were compiled after the fall of the Roman empire, were drafted in Latin and when they were translated they provided the foundation for the creation of the German legal terminology, a large part of which is actually still represented by loanwords from Latin, as a result of secondary term formation. During the period of the Holy Roman Empire (962–1806) both Latin and German were used as official languages, but from the 13th century German gradually ousted Latin, as the first laws were drafted in German (e.g. *Mainzer Reichslandfrieden*). Terms like *bescheinigen, erweisen, verantworten* and similar, originate from the old legal German used in those documents (which included several dialects and social variants). The end of the Middle Ages was the period of the Reception of Roman law, which influenced legal German in that it developed a more abstract and conceptual character. As a consequence of this development many learned words and loanwords of Latin origin entered the German vocabulary (e.g. the word *Recht* acquired a broader meaning to become the equivalent of the Latin *jus*) and from the end of 15th century German terminology underwent systematical Latinisation. In the late Middle Ages and early modern era it was common to adapt the language of a legal text to the intended recipients. Criminal legislation and texts on public order were thus drafted in German. In the period of the Enlightenment, in line with the belief that legal language should be simple

and understandable, Latin was gradually abandoned, first in the courts and later also in legal science. Legal language was systematically Germanised in the process of the so-called *Eindeutschung*, which also involved the formulation of new pure German legal terms. A special role in the development of German legal terminology is held by the codifications, especially the Civil Code (*Bürgerliches Gesetzbuch – BGB*, 1900), which laid the foundations for the modern German legal language. The language of this Code is characterized by conceptual hierarchisation and its highly abstract nature, relying on some basic concepts expressed by terms such as *Rechtsgeschäft* ('legal transaction'), *Willenserklärung* ('declaration of intent'), *Schuldverhältnis* ('obligation') and similar.

In the course of these developments, words of foreign origin were substituted with German terms, such as *Unterhalt* instead of *Alimentation*, or *Ladung* instead of *Citation*, Abschrift instead of *Kopie.* The terminology used in the Code was highly abstract and somehow artificial, what earned this language the name of *Papierdeutsch*, but nevertheless it was gradually accepted and setting the standard for legal communication. Nowadays, German terminology is characterized by its lexical richness, the ease of creating terms in the form of sometimes extremely complex compound words, their often highly condensed meaning and the high level of abstractness it implies (cf. Gruntar Jermol 2009: 214–231).

Unlike the legal language of the German legal system, its variety used in the Austrian Empire did not undergo any systematic linguistic cleansing (*Eindeutschung*) and even nowadays uses a great number of terms of foreign origin (cf. Lohaus 2000). Similary, in the legal German used in Switzerland, the percentage of terms of foreign origin is considerably higher than in German (e.g. the Swiss Civil Code is called *Zivilgesetzbuch*). Legal terms of foreign origin may thus serve as a sign for allocating the text to Austrian or Swiss law.

Words of foreign origin that survived Germanisation and are commonly used in modern legal German originate from Renaissance Italian (especially in the field of commerce), e.g. *Konto, Risiko, Giro*. In international law some terms adopted from French as the language of diplomacy are used, e.g. *Konvention, Intervention*. Nowadays, the majority of loanwords come from English (e.g. *Franchise, Joint-Venture*) and often refer to new or technical branches of laws such as information technology law (*Provider, Blog*, etc.).

3.2 Slovene legal terms through history

If we can argue that English and German legal terminology somehow mirror the development of the corresponding legal systems, this does not hold true for Slovene legal terms. As legal terminology is essentially system-bound, i.e. linked to a given legal system, what strikes our attention when examining Slovene legal language is that it has to a large extent been generated through secondary term formation, i.e. through translation. Many of its basic terms are recognizable as calques from German (which in turn were calqued from Latin), e.g. *pravni posel* (from *Rechtsgeschäft* – 'legal transaction'), *izjava volje* (from *Willenserklärung* – 'declaration of intent'), *predpis* (from *Vorschrift* – 'regulation'). Slovene law as an independent legal system has only existed since Slovenia gained its independence in 1991, while in the past the Slovene legal language was used to express concepts and contexts pertaining to legal systems in which Slovene was not

considered an official legal language. As discussed in Kocbek (2011: 137) some basic legal terms such as *pravo* ('law'), *soditi* ('to judge'), *sodba* ('judgement') stem from Old Slavonic, but there are no written records of a fully-fledged Slovene legal terminology, although for centuries the communication in courts did occur in Slovene. Of course, legal documents were drafted in German, a situation analogous to the parallel use of Latin and German in the Middle Ages in Germany. The Slovene legal terminology was only systematically created in the aftermath of 1848 as codes and statutes (e.g. the Austrian Civil Code – *Allgemeines Bürgerliches Gesetzbuch*) of the Austrian Empire began to be methodically translated into the various languages of the Empire, including Slovene. These organized translation activities culminated in the publication of the first German-Slovene legal dictionary (*Nemško-slovenska pravna terminologija – Deutsch-slowenische Rechtsterminologie*) in 1894. In 1918, the Slovene territory became part of the new Kingdom of Serbs, Croats and Slovenes (later renamed Kingdom of Yugoslavia) and as the Slovene legal terminology developed in the framework of this monarchy (but also in the period after the Second World War, which saw the emergence of the new Socialist Yugoslavia) it was exposed to the influence of Serbo-Croatian. Some loanwords from Serbo-Croatian were incorporated into Slovene terminology and are still in use, e.g. *zaključek* (‚conclusion/closure/discharge'), *tajnost* (‚secrecy/confidentiality'), while others were later abolished as Serbo-Croatisms (e.g. *glasom* – 'in line with/pursuant to', *potom* – 'through/by means of').

Similarly to the terminologies of other European legal systems Slovene terminology shows influences of Latin as it directly uses Latin terms (*bona fides, pro bono, ex aequo*), terms of Latin origin (*kodeks* – 'code', *derogacija* – 'derogation') or calques (*lastnoročno* – 'manu propria').

In contemporary Slovene legal terminology the most productive source of new terms of foreign origin is undoubtedly English (including Euro-English). Some terms are maintained in the original form, e.g. *know-how, goodwill, joint-venture, due diligence*, etc. while others are adapted to Slovene morphology and spelling, e.g. *franšiza* ('franchise'), *lizing* ('leasing').

4 THE IDEOLOGICAL DIMENSION OF LEGAL TERMINOLOGY

Legal terminology may undergo changes as a result of socio-political circumstances, it may be created anew to fulfil certain communication purposes, but it can also be abolished as a result of new political and socio-economic conditions. For example, the terms used in the company law in force in Slovenia were mainly resuscitated from the legal vocabulary used in the interwar period (e.g. *delniška družba* – 'joint stock company', *komanditna družba* – 'limited partnership') when Slovenia was part of the Kingdom of Serbs, Croats and Slovenes. In post-war Yugoslavia this terminology was abandoned (or only used to describe company forms existing in other countries) and then restored with minor changes (e.g. *družba z omejenim jamstvom* was changed into *družba z omejeno odgovornostjo*) when Slovenia became independent in 1991 and the continental type of company law (two-tier system) was introduced.

In the times of Socialist Yugoslavia the Slovene economy was organised according to the system of self-management (*samoupravljanje*), which developed its own terminology. This terminology was originally generated in the languages of the SFRY and later translated for the purpose of international legal and business communication. For example, the most common organisational form of economic enterprises in that period was the *TOZD – Temeljna organizacija združenega dela*, translated into English as *BOAL, i.e. Basic Organisation of Associated Labour* and into German as *SOAA, Stammorganisation der assoziierten Arbeit*. The legal terminology related to this system appeared in 1967 in a specialized multi-lingual glossary (cf. Kocbek 2011: 147). All English and German terms were actually neologisms which could only be understood by receivers who were familiar with the socio-economic and political context underlying the terminology. As the self-management system was abolished and modern company law was introduced also the terms referring to concepts and structures of the self-management system disappeared from the Slovene legal lexicon (and are now only used to refer to historical circumstances). Similarly, the term VEB (*volkseigener Betrieb* – 'people-owned enterprise') denoting the prevailing organisational form of enterprises in the former German Democratic Republic, was abandoned after the German reunification.

Analysing legal terminology in the light of historical circumstances may sometimes reveal its darker side. Examples of usage of highly ideologically charged legal terms are found in German, in the case of terms used in Nazi Germany by the regime to denote unlawful acts under the Racial Laws such as *Rassenschande* ('racial defilement') or *Rassenverrat* ('racial betrayal') used to refer to sexual intercourse or resp. marriage between a citizen of pure German blood and a Jew or a member of any other impure race under the Nazi laws. A similarly negatively charged term is *verbal delict* which was used in ex-Yugoslavia to denote written or spoken criticism of the authorities, the system, of individual politicians or of the Yugoslav army and was prosecuted under criminal law.

In order to convey the information implied in such ideologically tainted terms through translation to target culture receivers who may not be familiar with the historical and political circumstances underlying such terms translators need to provide relevant explanations or comments (possibly in a footnote).

5 LATIN AS THE COMMON DENOMINATOR OF LEGAL TERMINOLOGIES

As illustrated above English, German and Slovene legal terminologies show clear influences of Latin. In legal texts belonging to these legal cultures translators will often encounter Latin words and phrases. Some such terms are universal, i.e. used in several legal systems with (prevailingly) the same meaning (e.g. *bona fides, pro bono, ex officio, onus probandi*), while others are strictly system-bound, as is the case with a number of Latin expressions used in Legal English (e.g. *affidavit, amicus curiae, stare decisis*, etc.), which are not genuine Roman legal terms and are only used in the context of Common Law.

A feature of legal Latin that demands particular attention is the polysemy of some Latin words, e.g. *exitus*, which in Continental Law (e.g. in German legal dictionaries)

is a term used to exclusively denote 'death', whereas in Common Law dictionaries it is interpreted as having meanings such as: 'children, offspring; rents, issues and profits of lands and tenements; an export duty; the conclusions of the pleadings' (Ristikivi 2005: 201). Such legal-system specific Latin expressions require special attention and have to be translated in accordance with the target culture norms.

6 METAPHORICALLY GENERATED LEGAL TERMINOLOGY

In terminology mining, a potential source of translation problems is represented by metaphorically generated legal vocabulary. Some metaphorically generated terms are universal to several (Western) legal cultures and are also found in English, German and Slovene (e.g. *small print*/*Kleindruck/drobni tisk*; *third parties/Dritte/tretje stranke*; *force majeure*/*höhere Gewalt/višja sila*), although as in the case of *bona fides* (*in good faith/v dobri veri/zum Treu und Glauben*) in spite of their apparent equivalence, they may not bear exactly the same meaning (cf. Cao 2007: 57–58).

When having to tackle metaphorically generated terms in translation the sociocognitive approach to terminology, which has shed new light on the use and culture-bound origins of metaphorically generated terms in specialised languages (cf. Temmerman 2011; Bratož 2010) may provide valuable insights. Although a generalised view would tend to banish the use of such terminology from legal communication as contrary to the general tendency for unambiguity and precision, different legal languages use a number of metaphorically generated terms, which (with the exception of the above mentioned universal expressions) are highly culture-specific, such as *lifting/piercing the corporate veil, yellow dog clause/contract,* transactions *made at arm's length* in English*, Faustpfandrecht* ('dead pledge')*, Rechtshängigkeit* ('pending lawsuit'*)* in German, *po črki zakona* ('following the letter of the law'), *visečnost pravde* ('pending lawsuit') in Slovene.

When searching for equivalents of culture-bound metaphorically generated terms target language terms which are not necessarily metaphorically motivated have to be identified. Only exceptionally does terminology mining lead us to analogous metaphorically generated terms in the target language (e.g. the English term *breach of contract* corresponds to the German term *Vertragsverletzung*, i.e. 'hurting/injuring the contract' and the Slovene *kršitev pogodbe*, i.e. 'violating the contract').

7 THE STATUS-CONFERRING NATURE OF LEGAL TERMINOLOGY

Legal terms are often used as a key feature of *legalese* by practising lawyers and legal scholars, but also by others, to display their professional knowledge and expertise and to strengthen their professional authority. Legal terms including Latin terms and archaisms are often used by lawyers to distinguish themself from other professionals and from non-initiated laypersons, or as stated by Lemmens (2012: 83), as a sign of distinction. Moreover, such use of legal terminology helps legal professionals to preserve the monopoly of the legal profession (Mellinkoff 1963: 101). As noted by Lemmens (op. cit: 88) in the era of globalisation English is replacing Latin not only

as the legal lingua franca, but also in its status-conferring role. Lawyers are extremely fond of using English "buzz words", e.g. *deal, due diligence, merger, takeover*, etc. emblematically as role markers to demonstrate their skills and underline the international dimension of their activities.

8 CONCLUSION

We have argued that in order to gain a full picture of the multiple dimensions of legal terms, legal terminology needs to be examined in the light of the socio-cognitive approach. In this view, terminology mining includes aspects which transcend the linguistic dimensions of terminology and open up an interdisciplinary perspective by taking into account the findings of translation science, comparative law and comparative legal linguistics, as well as historical, sociological, political factors involved in the creation and usage of terms. Terminology mining aimed at unearthing the multi-layered nature of legal terms can expand the horizons of terminological research and thus enhance the quality of translation by making it not only an effective means of communication, but also a valuable vehicle of knowledge transfer.

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Abstract

LEGAL TERMINOLOGY AT ARM’S LENGTH – THE MULTIPLE DIMENSIONS OF LEGAL TERMS

The paper is aimed at shedding new light on the multiple dimensions of legal terms which can be unearthed in the process of terminology mining as a crucial stage in translation. It proposes to view legal terminology from a sociocognitive perspective, according to which terms are perceived as expressing *units of understanding* based on cognitive frames rather than rendering concepts in their traditional definition. Upon closer scrutiny most of these units reveal significant information regarding their verbal

and extra-verbal dimensions. We therefore suggest analysing units of understanding expressed by simple terms, multiple elements terms and phraseology as *depositories of knowledge* providing information on the text type in which they occur, as well as on the relevant area of law, the legal system and the wider culture underlying the text. In this context, terminology mining is not intended merely as extraction of terms, but rather as their analysis, comparison and structuring which reveals aspects such as their multiple embeddedness, as well as their historical, ideological, metaphorical, status-conferring and common Latin dimension.

Keywords: legal terminology, terminology mining, sociocognitive approach, depositories of knowledge.

Povzetek

PRAVNA TERMINOLOGIJA Z DOLŽNE RAZDALJE – MNOGOVRSTNE RAZSEŽNOSTI PRAVNIH TERMINOV

Prispevek prinaša nov pogled na mnogovrstne razsežnosti pravnih terminov, ki jih lahko razkrije postopek terminološkega rudarjenja kot ključna faza prevajalskega procesa. V prispevku je predstavljen sociokognitivni pristop k preučevanju pravne terminologije, v okviru katerega termini niso obravnavani v skladu s tradicionalnim pojmovanjem kot izrazi konceptov, ampak kot *enote razumevanja*, ki temeljijo na kognitivnih okvirih. Podrobnejša analiza teh enot razodeva pomembne informacije o njihovih verbalnih in neverbalnih razsežnostih. V prispevku zato predlagamo pojmovanje enot razumevanja, ki poleg enobesednih vključujejo tudi večbesedne termine in frazeme, kot *zakladnic znanja*, v katerih najdemo informacije o besedilni vrsti, v kateri se termin pojavlja, pa tudi o področju prava, pravnem sistemu in širši kulturi, v katere je umeščeno besedilo. V tej luči terminološko rudarjenje ne pomeni zgolj luščenja terminov, temveč tudi njihovo preučevanje, primerjanje in urejanje, pri čemer nam razkriva lastnosti, kakršna je večvrstna vpetost terminov, kot tudi njihove zgodovinske, ideološke, metaforične in statusne razsežnosti ter skupne latinske osnove.

Ključne besede: pravna terminologija, terminološko rudarjenje, sociokognitivni pristop, zakladnice znanj.