

# TRANSLATION STRATEGIES OF ENGLISH LEGAL TERMS IN THE BILINGUAL LITHUANIAN AND NORWEGIAN LAW DICTIONARIES

Violeta Janulevičienė, Sigita Rackevičienė

Mykolas Romeris University, Institute of Humanities,  
Department of Foreign Languages  
Ateities g. 20, LT-08303 Vilnius, Lithuania  
Telephone (+370 5) 271 4613  
E-mail: vjanul@mruni.eu; sigita.rackeviciene@mruni.eu

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**Abstract.** *The aim of the article is twofold: to investigate the legal terminology translation strategies suggested by contemporary researchers and then to perform comparative analysis of the translation strategies employed by the compilers of two English-Lithuanian and one English-Norwegian law dictionaries in translating the English-Welsh legal system terms". The first part of the article deals with the characteristic features of legal terminology and the issue of equivalency in legal translation. It also weighs the advantages and disadvantages of the four main translation strategies. The second part of the article presents a detailed translation analysis of twelve English-Welsh law terms defining abstract common law terms, specific English-Welsh legal professions and the English-Welsh court names, revealing that different translation strategies were employed in the examined dictionaries.*

**Keywords:** *legal terminology, culture-bound terms, legal translation, translation strategies, equivalence.*

## Introduction

*The topicality of the article.* Due to the recent developments in international economic and political relations the role of contrastive analysis in different legal languages and of methods/techniques in translating legal documents has increased. One of the primary reference sources for legal translators is bilingual law dictionaries which provide equivalent terms in a target language. Most legal terms are to be ascribed to the category of “culture bound-terms” and do not have straightforward equivalents in a target language, therefore, their translation poses special challenges to the dictionary compilers. Even a brisk glimpse at some well-renowned bilingual law dictionaries reveals different strategies employed for translation of the same legal terms. This is also the case with the two widely used modern English-Lithuanian law dictionaries. Therefore, it is of particular importance to investigate the ways in which legal substance intersects with language description in them. This field has been hardly ever studied in Lithuania before. The validity of such a study is believed to be increased by a comparative analysis of the English-Lithuanian and English-Norwegian law dictionaries material, thus being the first research attempt of its kind in Lithuania.

*The aim of the research.* The research has two main aims: 1) to examine contemporary research in the legal terminology translation strategies; 2) to analyse and compare the translation strategies employed by the compilers of two English-Lithuanian and one English-Norwegian law dictionaries in translation of the English-Welsh law terms.

*The object of the research.* The research is targeted at: 1) recent theoretical works on legal terminology translation strategies; 2) translations of the English-Welsh legal system terms in the following dictionaries:

- Vita Bitinaitė „Mokomasis anglų-lietuvių kalbų teisės terminų žodynas“, 2008 (onwards “The Lithuanian Dictionary1”);
- Olimpija Armalytė, Lionginas Pažūsis „Anglų-lietuvių kalbų teisės žodynas“, 1998 (onwards “The Lithuanian Dictionary2”);
- Åge Lind “Engelsk-norsk juridisk ordbok,” 2001 (onwards “The Norwegian Dictionary”).

These main reference dictionaries provide term meanings in the English-Welsh and other Anglo-American legal systems. However, the analysis offered in the article focuses solely on translations of the term meanings in the English-Welsh legal system. The translation of each term is presented in exactly the same way as it is given in the dictionary - equivalents, explanatory notes, abbreviations and special signs “Back” translations of the terms, as well as translations of the explanatory notes are also given in the paper (the Lithuanian explanatory notes are translated into English by the article authors while English translations of the Norwegian explanatory notes are taken from the Norwegian dictionary).

*The applied research methods.* The analysis was performed using descriptive and contrastive methods which allowed describing and comparing the translation strategies used for legal terminology in general and the ones employed in the examined dictionaries.

*Prior coverage of the issue.* The characteristics of legal terminology, comparative research principles and translation strategies of legal terms are widely discussed in the works of terminologists and translation researchers abroad. The scope of their studies encompasses the analysis of various legal languages and legal terminology used in different legal systems,<sup>1</sup> principles for comparative legal terminology,<sup>2</sup> the role of legal translation in intercultural communication,<sup>3</sup> the factors determining difficulties of legal translation<sup>4</sup>, translation strategies used for legal terminology,<sup>5</sup> modern legal terminology mining methods<sup>6</sup>, assessment of bilingual law dictionaries<sup>7</sup> and other legal translation issues. In Lithuania, however, comparative research on legal terms of different legal systems is just taking its first steps,<sup>8</sup> concentrating on semantics and formation of terms in different legal systems so far. Legal terminology translation strategies are only occasionally discussed alongside. This article is an attempt to compare the solutions of problematic translations in the bilingual Lithuanian and the Norwegian law dictionaries and thus to encourage discussions on legal translation strategies and issues which arise when translating legal terms into and from Lithuanian.

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- 1 Mattila, H. E. S. *Comparative Legal Linguistics*. Ashgate Publishing, 2006.
  - 2 Sandrini, P. *Comparative Analysis of Legal Terms: Equivalence Revisited* [interactive]. 1996 [accessed 06-04-2011]. <<http://homepage.uibk.ac.at/%7Ec61302//publik/tke96.pdf>>; Sandrini, P. *Legal Terminology. Some Aspects for a New Methodology* [interactive]. 1999 [accessed 06-04-2011]. <<http://homepage.uibk.ac.at/%7Ec61302//publik/legal.pdf>>.
  - 3 Kocbek, A. Language and Culture in International Legal Communication [interactive]. *Managing Global Transitions*. 2006, 4(3) [accessed 2011-04-06]. <[http://www.fmkp.si/zalozba/ISSN/1581-6311/4\\_231-247.pdf](http://www.fmkp.si/zalozba/ISSN/1581-6311/4_231-247.pdf)>; Pommer, S. E. Translation as Intercultural Transfer: The Case of Law [interactive]. *SKASE Journal of Translation and Interpretation*. 2008, 3(1) [accessed 06-04-2011]. <[http://www.pulib.sk/skase/Volumes/JTI03/pdf\\_doc/Pommer.pdf](http://www.pulib.sk/skase/Volumes/JTI03/pdf_doc/Pommer.pdf)>.
  - 4 Harvey, M. What's so Special about Legal Translation? [interactive]. *Meta: Translators' Journal*. 2002, 47(2) [accessed 06-04-2011]. <<http://www.erudit.org/revue/meta/2002/v47/n2/008007ar.pdf>>.
  - 5 Harvey, M. A Beginner's Course in Legal Translation: the Case of Culture-bound Terms [interactive]. *ASSTI/ETI, La traduction juridique: histoire, théorie(s) et pratique*. 2000 [accessed 15-11-2010]. <<http://www.tradulex.org/Actes2000/sommaire.htm>>; Biel, Ł. Incongruity of Company Law Terms: Categorization of Polish Business Entities and their English Equivalents [interactive]. *Translation Journal*. 2006, 10(4) [accessed 06-04-2011]. <<http://translationjournal.net/journal//38legal.htm>>.
  - 6 Biel, Ł. Legal Terminology in Translation Practice: Dictionaries, Googling or Discussion Forums? [interactive]. *SKASE Journal of Translation and Interpretation*. 2008, 3(1) [accessed 06-04-2011]. <[http://www.pulib.sk/skase/Volumes/JTI03/pdf\\_doc/BielLucja.pdf](http://www.pulib.sk/skase/Volumes/JTI03/pdf_doc/BielLucja.pdf)>.
  - 7 de Groot, G.-R.; van Laer, C. J. P. The Dubious Quality of Legal Dictionaries [interactive]. *Translation and Meaning*. 2007, 7 [accessed 06-04-2011]. <<http://arno.unimaas.nl/show.cgi?fid=9112>>.
  - 8 Janulevičienė, V.; Liuolienė, A. Pagrindinių teisinių terminų leksinės semantikos skirtybės anglų ir lietuvių kalbose. *Kalbos vienetų semantika ir struktūra*. 2006, p. 65–72; Rackevičienė, S. Nusikalstamą veiką ir jos rūšis pagal pavojingumą įvardijantys terminai lietuvių ir anglų kalbomis. *Jurisprudencija*. 2008, 5(107): 98–104; Rackevičienė, S. Teisės terminijos vertimo ir mokymo problemos. *Naujas kalbų mokymas; naujas kalbų mokymasis = New language teaching: new language learning*. 2008, p. 118–123; Janulevičienė, V.; Rackevičienė, S. Nusikalstamų veikų pavadinimai lietuvių ir anglų kalbomis. *Socialinių mokslų studijos*. 2009, 4(4): 357–381; Janulevičienė, V.; Rackevičienė, S. Lietuvių, anglų ir norvegų kalbų baudžiamosios teisės terminai. *Kalbų studijos*. 2010, 17: 19–28.

## 1. Equivalency in Legal Translation

Legal translation poses special challenges to translators as legal language is “very much a system-bound language, i.e. a language related to a specific legal system.”<sup>9</sup> Translation of legal texts is characterized by the researchers as “combining the inventiveness of literary translation with the terminological precision of technical translation.”<sup>10</sup> One of the biggest challenges that the legal translators have to cope with is translation of legal terminology.

Legal terms denote the concepts which are created for a particular legal system. Their creation is based on values and experience of a given nation, so they are closely related to the culture of the nation. Most of them are to be ascribed to the category of “culture-bound terms.” Furthermore, legal terms are embedded in the documents of the national legal system - the statutes and case law which shape their meaning and determine their functioning. Thus a legal term may be defined as a “title given to a set of facts and circumstances which satisfies certain legal requirements and has certain legal consequences.”<sup>11</sup> Hence, legal terms will hardly ever contain the same semantic content in both source and target legal systems. In order to understand a legal concept, the translator has to analyse the source legal system - the legal setting the concepts are used in, their functions and purposes and relations with each other, etc. In order to present the concept in a way understandable to a recipient, the translator has to possess sufficient knowledge of the target legal system as well. There is a widely acknowledged statement by translation researchers that “translators of legal terminology are obliged therefore to practice comparative law.”<sup>12</sup>

The nature of legal terms, and culture-bound terms in general, made translation researchers reassess the conception of equivalence in terminology. It is no longer regarded as relationship between identical terms, but as a continuum ranging from absolute equivalence to indirect relationship between concepts.<sup>13</sup> According to P. Sandrini, absolute equivalence is possible only when the terms of different languages refer to the same concept.<sup>14</sup> Such full equivalence between legal concepts in different legal systems is possible only in exceptional cases. G.-R. de Groot and C. J. P. van Laer single out two cases in which “near full equivalence” might occur: “a) there is partial unification of legal areas, relevant to the translation, of the legal systems related to the source language and the target language; b) in the past, a concept of the one legal system has been adopted by the other and still functions in that system in the same way, not

9 de Groot, G.-R.; van Laer, C. J. P., *supra* note 7, p. 173.

10 Harvey, M., *supra* note 5, p. 177.

11 Walker, D. *The Scottish Legal System. An Introduction to the Study of Scots Law*. Edinburgh: W. Green/Sweet & Maxwell, 2001, p. 93.

12 de Groot, G.-R.; van Laer, C. J. P., *supra* note 7, p. 173.

13 Sandrini, P., *supra* note 2; Biel, L., *supra* note 6, p. 24.

14 Sandrini, P., *op. cit.*, p. 1–3.

influenced by the remainder of that legal system.”<sup>15</sup> In all the other cases “virtual full equivalence proves to be a problem.”<sup>16</sup>

Legal translation requires both cognitive and communicative approach to the material - the knowledge of source and target legal systems and the assessment of the recipient and the function of the target text. Different translation strategies should be used for lay readers and for lawyers, as well as for the texts to be used for information purposes and for the texts to be used as legal documents in the target language.<sup>17</sup> Though dictionaries are intended for much wider and multi-interest reading audience than a single coherent text, their compilers also have to define their main target group and its possible needs.

Translation strategies for legal terms, as other culture-bound terms, range from target language (onwards TL) oriented strategies to source language (SL) oriented strategies.<sup>18</sup> However, the same language may have several variants of legal languages as “a language has as many legal languages as there are systems using this language as a legal language.”<sup>19</sup> For example, legal English is used in different legal systems (the legal system of England and Wales, the legal system of Scotland, the legal system of the US, etc.) which employ quite different legal languages with different systems of legal concepts. Therefore, TL and SL in legal translation do not refer to discussed languages in general, but to legal languages of specific legal systems. The TL-oriented strategies try to assimilate the terms of a source legal system both into the target language and the target legal system by using equivalents similar in their meaning and function to those in a source legal system. The SL-oriented strategies, on the other hand, seek to preserve the semantic content of the terms of a source legal system intact and often present them in a maximum close form to the source language.

Translation researchers suggest several strategies for translation of legal terminology; the most common of them are functional equivalence, formal equivalence, borrowing and description (paraphrasing).<sup>20</sup> Each of the strategies has its advantages and disadvantages which are discussed below.

### 1.1. Functional Equivalence

This strategy uses the TL legal concept, the function of which is similar to that of the SL legal concept. Some researchers regard this strategy as an ideal strategy for translation, others - as misleading. Functional equivalence allows the readers to relate the source legal system with their own legal system and to “access the unfamiliar through familiar,” but it may confuse the recipient by creating an impression of identity of legal concepts in the source and target legal systems though in most cases their equivalence

15 de Groot, G.-R.; van Laer, C. J. P., *supra* note 7, p. 174–175.

16 *Ibid.*, p. 175.

17 Harvey, M., *supra* note 5, p. 1–2.

18 *Ibid.*, p. 2; Biel, L., *supra* note 5; Biel, L., *supra* note 6, p. 24.

19 de Groot, G.-R.; van Laer, C. J. P., *supra* note 7, p. 174.

20 Harvey, M., *supra* note 5, p. 2–6; de Groot, G.-R.; van Laer, C. J. P., *op. cit.*, p. 174–178.

is only partial.<sup>21</sup> This strategy should be especially reassessed before being used for specific culture-bound terms such as the names of institutions, personnel and the like. In such cases, M. Harvey recommends functional equivalence only for the text intended for lay readers for whom “scrupulous accuracy is less important than fluency and clarity.”<sup>22</sup> Specialised readers should be provided with more accurate translations. This translation strategy is the most TL-oriented one as it uses the TL terms as equivalents for the SL terms and thus assimilates them into the target language and legal system.

### 1.2. Formal Equivalence

The core of this strategy is linguistic equivalence or literal (“verbum pro verbo”) translation. It allows to preserve the semantic content of the SL term intact and to present it in a form natural for the TL users. The main advantages of this strategy are that the equivalents are unambiguous and presented in the TL usual lexemes. But, if used too often, this strategy may obscure the text, especially to lay readers.<sup>23</sup> Formal equivalents become neologisms in the TL legal system, therefore, they have to fulfil the requirements for neologism creation. One of them requires checking whether the created term does not already exist in the TL legal system with a different meaning; such a neologism might be more confusing than useful to a text reader.<sup>24</sup> The neologisms should also meet the linguistic requirements of the TL. Thus, they must be carefully reassessed before being given life as new terms in the target language.

### 1.3. Borrowing

The strategy of borrowing uses a transcribed (transliterated, if necessary) or an original form of the SL term. Transcription is usually done together with naturalisation - the linguistic adaptation of the SL term to the rules of the TL. Linguistically adapted terms become neologisms in the TL. The main advantage of this translation technique is again unambiguity of the equivalent. However, such equivalents should be accompanied by explanations and that might make the translation clumsy. Original forms of the SL terms disrupt the linguistic system of the target language. M. Harvey recommends using this strategy “sparingly in texts targeted at the lay reader,” but states that it “can be appropriate for the specialized reader who requires a high degree of precision and for whom clarity takes precedence over fluency and conciseness.”<sup>25</sup> De Groot and Van Laer warn against using this strategy where the SL and TL have little or no etymological correspondence. The translator should always assess whether the SL term is “somewhat transparent to the reader of the target text.”<sup>26</sup> Compared with other translation strategies,

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21 Biel, L., *supra* note 6, p. 25–26.

22 Harvey, M., *supra* note 5, p. 3.

23 *Ibid.*, p. 4.

24 de Groot, G.-R.; van Laer, C. J. P., *supra* note 7, p. 177.

25 Harvey, M., *supra* note 5, p. 5.

26 de Groot, G.-R.; van Laer, C. J. P., *supra* note 7, p. 176.

this strategy is the most SL-oriented one, it preserves the semantic meaning of the SL terms intact, but, at times, ignores the TL linguistic system and a lay reader needs.

#### 1.4. Description

This strategy constitutes paraphrasing - short explanation of the meaning of the term. Concise paraphrases may become term equivalents consisting of several words. The main advantage of this strategy is transparency of the terms - the reader can perceive their meaning at once without consulting any other sources. But longer paraphrases might make a translated text complicated. M. Harvey assesses this strategy as “a compromise solution avoiding the extremes of both SL- and TL-oriented strategies.”<sup>27</sup>

The analysis of the theoretical material shows that translation of legal terms requires special preparation, both knowledge of law and translation theory, which would enable the translator to perceive the meaning of the term and choose the most suitable strategy for its translation.

## 2. Analysis of Translations of English Legal Terms in the Bilingual Lithuanian and Norwegian Law Dictionaries

Legal English is directly affected by the Anglo-American legal system, based essentially on common law. It differs substantially from continental law, which is predominant in most of the European countries. Therefore, most legal concepts of the Anglo-American legal system are specific to this system and have no equivalents in continental law systems. The translator has to look for partial functional equivalents or employ other translation strategies. The analysis of the term translations below is aimed at revealing which strategies the Lithuanian and Norwegian terminologists use for translation of a chosen group of English legal terms. The chosen group comprises three types of terms: 1) the terms defining abstract concepts; 2) the terms defining legal professions; 3) the court names. The analysis concentrates only on the meaning of the terms in the English-Welsh legal system.

### 2.1. Translations of the Terms Defining Abstract Concepts

Four specific concepts of the English-Welsh legal system are chosen to illustrate the different types of translation strategies used by the compilers of the Lithuanian and the Norwegian dictionaries - *common law*, *case law*, *statute/statutory law* and *equity*.

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27 Harvey, M., *supra* note 5, p. 6.

<i>Common law</i>	
Lith. Dictionary <sup>1,2</sup> <b><i>bendroji teisė</i></b> “common law”	Norw. Dictionary <b><i>sedvanerett</i></b> (dvs. det omfattende anglo-amerikanske rettsystemet basert på presedens, rettsprakis, osv.) “customary law” (i.e. the comprehensive Anglo-American system of law based on precedent, case law, etc)

The term *common law* refers to the system of law developed in England and later adopted by English colonies in which legal decisions are based on judicial precedents and customs, rather than government-made laws (statutes).<sup>28</sup> The Lithuanian dictionary compilers translate this term by using formal equivalents which are literal translations of the term – *bendroji teisė*. The compiler of the Norwegian dictionary, on the other hand, has chosen a functional equivalent which has only partly similar meaning to the English term - *sedvanerett* “customary law.”<sup>29</sup> In addition to the equivalent, the Norwegian dictionary gives an explanation of the term.

<i>Case law</i>	
Lith. Dictionary 1 <b><i>precedentinė teisė</i></b> “precedent law” <b><i>teismų praktika</i></b> “judicial practice” Lith. Dictionary 2 <b><i>precedentų teisė</i></b> “precedent law”	Norw. Dictionary <b><i>rettspraksis</i></b> “judicial practice”

The term *case law* refers to the body of law set out in judicial decisions, as distinct from government-made (statute) law.<sup>30</sup> The Lithuanian translators use two different strategies to translate the term. The first equivalent given in the dictionaries is *precedentinė/precedentų teisė* “precedent law.” This equivalent might be called descriptive as the most usual meaning of the term *case* is “a court action” and only in special collocations it may acquire the meaning “precedent.” The Lithuanian equivalent explains this special meaning of the term and therefore is to be regarded as the descriptive one. In addition to this equivalent, the Lithuanian dictionary presents a partial functional equivalent *teismų praktika* “judicial practice”. The same functional equivalent is chosen by the compiler of the Norwegian dictionary - *rettspraksis* “judicial practice”. So, the Lithuanian compilers present descriptive and functional equivalents while the Norwegian dictionary - only a functional equivalent.

28 Martin, J. *The English Legal System*. London: Hodder Arnold, 2005, p. 15–16.

29 *Store norske leksikon* [interactive]. [accessed 06-04-2011]. <<http://www.sn.no/>>.

30 Martin, E. A.; Law, J. *A Dictionary of Law*. Oxford University Press, 2006.

<i>Statute/statutory law</i>	
Lith. Dictionary 1 <b><i>įstatymais nustatyta teisė</i></b> “law established by statutes” Lith. Dictionary 2 <b><i>įstatymais įtvirtinta teisė</i></b> “law enshrined in statutes”	Norw. Dictionary <b><i>lovfestet rett, vedtatt lov</i></b> <b><i>(dvs. vedtatt av et lands lovgivende forsamling)</i></b> “law established by statutes, adopted law” (i.e. adopted by a country’s legislative assembly)

In the English legal system, the term *statute/statutory law* defines the law which is based on Acts of Parliament as opposite to case law which is based on judicial precedents.<sup>31</sup> The term is translated into both Lithuanian and Norwegian languages by descriptive equivalents which explain the meaning of the English term - *Lith. įstatymais nustatyta/įtvirtinta teisė* “law established by/enshrined in statutes”, *Norw. lovfestet rett* “law established by statutes”, *vedtatt lov* “adopted law”. In addition, the Norwegian dictionary gives an explanatory note which specifies the institution which adopts the described law.

<i>Equity</i>	
Lith. Dictionary 1 <b><i>teisingumas</i></b> <b><i>(specifiñė bendrosios teisės sistemos kategorija)</i></b> “justice” (specific category of common law system) Lith. Dictionary 2 <b><i>teisingumas, teisingumu paremta teisė</i></b> “justice, law based on justice”	Norw. Dictionary <b><i>billighet</i></b> <b><i>(dvs. doktrine om at retten også bør ta rimelighetshensyn, ikke bare følge lovens bokstav)</i></b> “reasonableness” (i.e. doctrine stating that the court should also take into consideration what is reasonable and fair, not just follow the letter of the law)

The term *equity* defines a special system of law developed in England and other Common law countries to supplement the existing common law where it seemed inadequate and unfair. Equity was administered by the Courts of Chancery, as distinct from common law which was administered by the courts of common law. The two systems have now merged and principles of both systems are applied by the same courts.<sup>32</sup> The Lithuanian translators have chosen a formal equivalent (literal translation) of this specific term - *teisingas* “justice.” The Lithuanian Dictionary also gives a partly descriptive equivalent *teisingumu paremta teisė* “law based on justice.” These equivalents, however, may be misleading to a lay reader as the word *teisingumas*

31 Martin, E. A.; Law, J., *supra* note 30.

32 Martin, J., *supra* note 28, p. 16–17.

is associated with its usual meaning “justice” and not with a special system of law. Therefore, the explanatory note, given by the compiler of the Lithuanian Dictionary<sup>1</sup>, is absolutely necessary there and might be even more specific. The Norwegian translator has chosen a partial functional equivalent - *billighet* “reasonableness” which is used in the Norwegian justice system and means that in certain situations a court may exercise discretion in its decisions and consider what would be most reasonable under given circumstances.<sup>33</sup> In addition to the functional equivalent, the Norwegian dictionary gives an explanatory note on the meaning of the term.

## 2.2. Translations of the Terms Defining Legal Professions

The analysis below deals with the terms defining two types of English lawyers (*barristers* and *solicitors*) and the terms defining two types of English judges (*magistrates* and *stipendiary magistrates*).

A *barrister* and a *solicitor* are two specific types of English lawyers with different functions. Barristers represent the clients in courts while solicitors’ main functions are to advise the clients on legal issues, to draft legal documents and to negotiate on the clients’ behalf. Solicitors usually represent their clients only in first-instance courts and hire barristers for their clients if the case goes to a superior court. Barristers act, with certain exceptions, only upon instructions of solicitors who are also responsible for the payment of barristers’ fees.<sup>34</sup> The analysed dictionaries present different translations to reveal this specific English tandem.

The term *barrister* is translated into Lithuanian using two types of equivalents - an English borrowing and descriptions. The spelling and the morphological form of the English borrowing is adapted linguistically to the Lithuanian language so that the borrowing may be used as a neologism in Lithuanian - *baristeris*. This equivalent is unambiguous, short and convenient to use, but only in a text which explains its meaning or with an explanatory note. The descriptive equivalents, on the other hand, are longer, but clearer to a lay reader as they define in short the main function of barristers - *teismo byly advokatas* “advocate of court cases,” *teismų advokatas* “advocate in court.” Both Lithuanian dictionaries also give explanations with more detailed descriptions of barristers’ functions. The Norwegian translator has chosen a specific translation technique for this term - he presents a compound (*skrankeadvokat*: *skranke* “bar/railing” + *advokat* “lawyer”) which is a usual word in general Norwegian, but is not a legal term. Thus, the translator proposes a general Norwegian word to be used as a neologism for the description of the specific type of English lawyers. However, he does not use himself this equivalent in the Norwegian explanations of other English terms, but prefers an English borrowing in its original form, e.g. the explanation of the term *solicitor*: “*dvs. fører saker for lavere rettsinstanser og forbereder saker for «barristers»*”.

33 *Store norske leksikon*, *supra* note 29.

34 Martin, J., *supra* note 28, p. 198–210.

<i>Barrister</i>	
<p>Lith. Dictionary1  <i>teismo bylų advokatas</i> “advocate of court cases”  <i>baristeris</i>  <i>(turintis teisę kalbėti aukštesnės instancijos teisme)</i>            (who has the right to speak in higher courts)</p> <p>Lith. Dictionary2  <i>(DB) baristeris,</i>  <i>teismų advokatas</i> “advocate in court”  <i>(Anglijos teismuose kliento interesams atstovaujantis advokatas, kurio darbas – žodinis bylos vedimas teisme)</i>            (advocate who represents the client’s interests in the English courts and whose main function – to argue cases in court)</p>	<p>Norw. Dictionary  <i>/skrankeadvokat/*</i>            “bar lawyer”</p>

\* In the Norwegian Dictionary, a term placed within // means that the term has been coined by the compiler as there is no concept equivalent in Norwegian.

<i>Solicitor</i>	
<p>Lith. Dictionary1  <i>advokatas, solisitorius (rengiantis bylas, bet ppr. nedalyvaujantis teismo procese)</i>            “advocate” (who prepares cases, but usually does not participate in legal proceedings)</p> <p>Lith. Dictionary2  <i>(Anglijoje ir Velse) advokatas</i>  <i>(kaip atestuotas teisininkas rengiantis teisinius dokumentus, teikiantis klientams teisinę pagalbą ir jiems atstovaujantis kai kuriuose žemesniuose teismuose)</i>            “(in England and Wales) advocate (a qualified lawyer who prepares legal documents, gives legal advice to the clients and represents them in some lower courts)”  <i>reikalų patikėtinis; notaras; juriskonsultas</i>            “attorney; notary public; jurisconsult”</p>	<p>Norw. Dictionary  <i>(allmennpraktiserende / rådgivende) advokat</i>  <i>(dvs. fører saker for lavere rettsinstanser og forbereder saker for «barristers»); (foreløpig) med begrenset møterett i høyere rettsinstanser, på visse betingelser)</i></p> <p>“advocate (general practitioner, legal adviser)”            (i.e. appears for clients in the lower courts and prepares cases for barristers; has (for the time being) restricted rights of audience in the higher courts, subject to certain conditions)</p>

The term *solicitor* is translated into Lithuanian using an English borrowing (only in the Lithuanian dictionary1) and partial functional equivalents. The English borrowing *solisitorius*, as the borrowing *baristeris*, is adapted linguistically to the Lithuanian language and may be used as a neologism in Lithuanian. Both Lithuanian dictionaries

present the functional equivalent *advokatas* which defines a lawyer in general and can actually be used for both barristers and solicitors. So, the added explanatory notes are absolutely necessary there to specify the type of the described lawyer. The Lithuanian Dictionary 2 also gives some more functional equivalents (*reikalų patikėtinis, notaras, juriskonsultas*) indicating the different functions of solicitors. The Norwegian compiler gives only a partial functional equivalent *advokat* with a detailed explanation. One may notice again that the proposed Norwegian functional equivalent is not used by the compiler himself in the Norwegian explanations of other English terms where an English borrowing in its original form is preferred, e.g. the explanation of the term *stipendiary magistrate*: “*dvs. i større byer, «solicitor» eller «barrister» lønnet som dommer*”.

<i>Magistrate</i>	
<p>Lith. Dictionary1 <b><i>magistrato (teismo) teisėjas, magistratas</i></b> “judge of a magistrates’ court, magistrate”</p> <p>Lith. Dictionary2 <b><i>magistratas, magistratų teismo teisėjas (nagrinėjantis smulkias baudžiamąsias ir civilines bylas)</i></b> “magistrate, a judge of a magistrates’ court (who hears minor criminal and civil cases)”</p>	<p>Norw. dictionary <b><i>(Eng) lekdommer, fredsdommer (i magistrates’ court)</i></b></p> <p>“lay judge, justice of peace (in a magistrates’ court)”</p>

<i>Stipendiary magistrate</i>	
<p>Lith. Dictionary1 <b><i>profesionalus magistrato teisėjas (JK pakeistas district judge)</i></b> “professional judge of a magistrates’ court (UK changed to <i>district judge</i>)”</p> <p>Lith. Dictionary2 <b><i>magistratas stipendininkas (gaunatis atlyginimą ir turintis teisinį išsilavinimą magistratų teismo teisėjas)</i></b> “stipendiary magistrate (judge in a magistrates’ court who gets salary and has legal education)”</p>	<p>Norw. dictionary <b><i>embetsdommer i magistrates’ court, (tilsv. ca) dommer i forhørsrett (dvs. i større byer, «solicitor» eller «barrister» lønnet som dommer)</i></b></p> <p>“a state official judge in a magistrates’ court, (ca equivalent to) judge in a first instance court” (i.e. in large cities, a solicitor or barrister who sits as a magistrate on a full-time and full-salaried basis)</p>

The terms *magistrate* and *stipendiary magistrate* define two specific types of judges in the UK. The latter term was replaced by the term *district judge* in 2000,<sup>35</sup> but is still important as it was used (and sometimes still used) in numerous legal texts. Both magistrates and stipendiary magistrates hear cases in magistrates' courts, but their qualifications are different. Magistrates (they are also called *justices of the peace*) are lay judges with no formal legal qualifications. They receive no payment for their services and give their time and expertise voluntarily performing public service for their community. Stipendiary magistrates/district judges, on the other hand, are professional judges who are paid for their work. They are only appointed to courts in London and other major cities. The magistrates' court consists of either 2-3 lay magistrates or 1 stipendiary magistrate/district judge.<sup>36</sup> In the analysed dictionaries, the terms are translated using formal, descriptive and functional equivalents.

The term *magistrate* is translated into Lithuanian by a formal equivalent - literal translation of the English word *magistrate* into the Lithuanian word *magistratas*. This translation strategy, however, poses some semantic problems - the international word *magistrate/magistratas* is used differently in English and Lithuanian. In Lithuanian, this term has several meanings.<sup>37</sup> Though it may describe a person (a state official with certain powers in some foreign countries), it is mostly used to define a municipality council in Grand Duchy of Lithuania in the Middle Ages. The municipality council had some judicial functions at that time, but its main role was to administer city affairs.<sup>38</sup> Thus, the equivalent *magistratas* may be misleading to a lay reader who does not know much about the English judicial system and needs explanation. That is partly done by descriptive equivalents given in the dictionaries (*magistrato/magistratų (teismo) teisėjas* "judge of a magistrates' court") which indicate that a magistrate is a judge of a court. The explanatory note helps the reader even more by specifying the powers of a magistrate (only in the Lithuanian Dictionary2). The Norwegian translator presents two equivalents as well. The first one (*lekdommer* "lay judge") is functional - lay judges are used for certain trials in Norway, but they work only together with a professional judge.<sup>39</sup> This equivalent might also be called a descriptive one as it reveals the legal qualification of magistrates. Another Norwegian equivalent is a literal translation of the historical title of a magistrate *justice of the peace* (Norw. *fredsdommer*). It is to be ascribed to the category of descriptive equivalents as it reveals another title of the profession. The term is constructed in Norwegian especially for this special type of judges in England and other common law countries.<sup>40</sup>

35 *Her Majesty's Courts and Tribunals Service* [interactive]. [accessed 06-04-2011]. <<http://www.hmcourts-service.gov.uk/>>.

36 Martin, J., *supra* note 28, p. 230–242.

37 *Interleksis. Kompiuterinis tarptautinių žodžių žodynas*. Alma littera, Fotonija, 2003.

38 Streikuvienė, D., *et al.* Lietuvos nacionaliniame muziejuje – senasis Vilnius [interactive]. Bernardinai.lt 2009-08-11 [accessed 2011-04-06]. <<http://archyvas.bernardinai.lt/index.php?url=articles/98347>>.

39 *Domstol.no* [interactive]. [accessed 06-04-2011]. <<http://www.domstol.no/>>.

40 *Store norske leksikon*, *supra* note 29.

Translations of the term *stipendiary magistrate* are different in the analysed Lithuanian dictionaries. The Lithuanian Dictionary<sup>1</sup> gives a descriptive equivalent of the term - *profesionalus magistrato teisėjas* “professional judge of a magistrates’ court.” The compiler of the Lithuanian Dictionary<sup>2</sup>, on the other hand, has chosen a formal equivalent *magistratas stipendininkas* with an explanatory note. The Norwegian translator gives two types of equivalents - descriptive and functional. The descriptive equivalent *embetsdommer i magistrates’ court* defines the stipendiary magistrate as a state official permanently appointed by the government. The functional equivalent *dommer i forhørsrett* refers to the judge in the first instance court in Norway. The translator indicates that it is only a partial equivalent and gives an explanatory note with more detailed information about stipendiary magistrates in England.

### 2.3. Translations of the Court Names

In this section, the translations of the names of four English courts (*Magistrates’ Court*, *County Court*, *Crown Court*, *High Court of Justice*) are analysed.

<i>Magistrates’ court</i>	
Lith. Dictionaries 1, 2 <i>magistratų teismas</i> “magistrates’ court”	Norw. dictionary « <i>magistratrett</i> » “magistrates’ court” <i>(tilsv. delvis) forhørsrett</i> “(ca equivalent to) interrogation court”

Magistrates’ court is the first instance court with limited criminal and civil jurisdiction composed of lay magistrates or a single district judge (formerly called stipendiary magistrate).<sup>41</sup> The court name is translated into Lithuanian and Norwegian by using formal equivalents - *Lith. magistratų teismas*, *Norw. magistratrett*. In addition to the formal equivalent, the Norwegian dictionary gives a partial functional equivalent (*forhørsrett*) which defines a Norwegian court with similar functions (this type of courts does not exist anymore in Norway). So, the Lithuanian dictionaries present only a formal equivalent of the court name which gives no information about the functions of the court while the Norwegian dictionary supplements the formal translation with the functional equivalent, thus providing the reader with some information on the court jurisdiction.

41 Martin, J., *supra* note 28, p. 157–163.

<i>County Court</i>	
Lith. Dictionary1 <b>(JK) grafystės teismas</b> “(UK) county court”	Norw. dictionary <b>/fylkesrett/</b> <b>(dvs. (Eng) behandler (mindre kompliserte) sivile saker)</b>
Lith. Dictionary2 <b>grafystės teismas</b> “county court”	“county court” (i.e. (Eng) hears (less complicated) civil cases)

A County Court is the first-instance court with limited civil jurisdiction.<sup>42</sup> Both Lithuanian and Norwegian translators give formal equivalents of the court name (*Lith. grafystės teismas*, *Norw. fylkesrett*) by translating literally *county* into *Lith. grafystė*, *Norw. fylke* and *court* into *Lith. teismas*, *Norw. rett*. However, the Lithuanian and Norwegian equivalents differ in their stylistics. The Lithuanian equivalent *grafystė* is a historical term which means “the domain of an earl/count” and refers exclusively to the foreign countries. The Norwegian equivalent *fylke*, on the other hand, is a modern term used for an administrative division in Norway. So, the Lithuanian equivalent reflects the historical meaning of the English word while the Norwegian equivalent - the modern one. In addition to the formal equivalent, the Norwegian dictionary gives an explanatory note which helps the reader to understand the court jurisdiction.

<i>Crown Court</i>	
Lith. Dictionary1 <b>(JK) Karūnos teismas</b> “(UK) Crown court”	Norw. dictionary <b>/kriminalrett/</b> <b>(dvs. behandler alvorligere straffbare forhold som førsteinstansrett og anker fra «magistrates’ court»)</b>
Lith. Dictionary2 <b>Karūnos teismas</b> “Crown court”	“criminal court” (hears serious offences as a court of first instance and appeals from the magistrates’ courts)

A Crown Court is the first instance and appellate court which hears criminal cases tried by jury and deals with appeals from magistrates’ courts.<sup>43</sup> The Lithuanian and Norwegian translators use different strategies for translation of this court name. The Lithuanian translators give a formal equivalent of the name (*Karūnos teismas*) by translating literally *crown* into *Lith. karūna* and *court* into *Lith. teismas*. The Norwegian compiler has chosen another solution – he presents a descriptive equivalent (*kriminalrett* “criminal court”) which indicates the jurisdiction of the court. In addition, the Norwegian dictionary gives an explanatory note with more detailed information about the functions of the court.

42 Martin, J., *supra* note 28, p. 100–101.

43 *Ibid.*, p. 165–168.

The High Court of Justice exercises original and appellate jurisdiction, it hears first instance civil cases assigned to its jurisdiction and appeals on civil and criminal cases from lower courts.<sup>44</sup> The Lithuanian translators give again a formal equivalent of the court name - *Aukštasis (teisingumo) teismas*. The Lithuanian Dictionary<sup>2</sup> also adds an explanatory note on the court functions. The Norwegian translator, on the other hand, presents the original name of the court and gives detailed explanation of the jurisdiction it exercises.

<i>High Court (of Justice)</i>	
<p>Lith. Dictionary1 <b><i>JK Aukštasis (teisingumo) teismas</i></b> “High Court (of Justice)”</p> <p>Lith. Dictionary2 <b><i>(DB) Aukštasis Teisingumo teismas</i></b> <b><i>(aukščiausiasis civilinių bylų teismas</i></b> <b><i>Anglijoje ir Velse)</i></b> “High Court of Justice” (the highest court for civil cases in England and Wales)</p>	<p>Norw. dictionary <b><i>/High Court/</i></b> <b><i>(dvs. behandler sivile saker som</i></b> <b><i>førsteinstansrett; behandler anker i sivile</i></b> <b><i>saker fra «magistrates’ court» og «county</i></b> <b><i>court», og anker over lovanvendelsen i</i></b> <b><i>straffesaker fra «magistrates’ court» og</i></b> <b><i>«crown court».)</i></b></p> <p>“High Court” (i.e. hears civil actions as a court of first instance; hears appeals in civil cases from the magistrates’ court and county court, and in criminal cases from the magistrates’ court and crown court on points of law)</p>

Although the Norwegian translator gives constructed equivalents to three of the analysed court names (*magistrates’ court* - Norw. *magistratrett, forhørsrett; county court* - Norw. *fylkesrett, Crown court* – Norw. *kriminalrett*), he does not use them himself in the Norwegian explanations of the other terms, but prefers the original English names of the courts, e.g. the explanation of the High Court: “*dvs. behandler sivile saker som førsteinstansrett; behandler anker i sivile saker fra «magistrates’ court» og «county court», og anker over lovanvendelsen i straffesaker fra «magistrates’ court» og «crown court».*”

## Conclusions

The results of the analysis of the theoretical material lead to the following conclusions:

1) Legal terms are created for a particular legal system and are closely related to the culture, values and law traditions of the nation. Their meaning is shaped by the legal documents of the national legal system. Therefore, absolute equivalence between legal concepts from different legal systems is hardly possible as most legal concepts will have only partly similar functions in a source and target legal systems.

2) Legal translation requires cognitive and communicative approach to the material - knowledge of law and assessment of the translation recipient and the text function. This approach enables the translator to perceive the meaning of the terms and to choose the most suitable translation strategies.

3) The translation strategies used for legal terminology translation range from TL-oriented to SL-oriented ones. The TL-oriented strategies try to assimilate the SL legal terms into the target language and legal system while the SL-oriented strategies seek to preserve the semantic content (and sometimes the linguistic form) of the SL legal terms intact. The most usual legal terminology translation strategies are functional equivalence, formal equivalence, borrowing and description. Each of them has its advantages and disadvantages; therefore, the translator has to assess every term and decide which of the strategies is to be preferred for its translation.

The detailed analysis of 12 specific English-Welsh law terms translations in 2 English-Lithuanian and 1 English-Norwegian law dictionaries leads to the following conclusions:

1) The Lithuanian translators use formal or descriptive equivalents for the translation of the terms defining the specific English-Welsh law concepts (*common law, case law, statute law, equity*). Only one of the equivalents is partial functional. The Norwegian translator, on the other hand, uses mostly partial functional equivalents which are accompanied by explanatory notes.

2) Linguistically adapted borrowings and formal and descriptive equivalents. One of the equivalents is partial functional. The Norwegian translator again prefers partial functional equivalents with explanatory notes. However, he does use the suggested equivalents himself in the Norwegian explanations of other legal terms, but prefers English borrowings in their original form.

3) The Lithuanian dictionaries give formal equivalents for all analysed English-Welsh court names (*Magistrates' Court, County Court, Crown Court, High Court of Justice*). The Norwegian dictionary, on the other hand, presents more types of equivalents - formal, partial functional, descriptive equivalents and a borrowing in original form. One may notice again that the translator himself does not use the proposed constructed equivalents in the Norwegian explanations of other legal terms, but prefers English borrowings in their original form.

4) The results show that the Norwegian translator uses much more functional equivalents though they only partly reveal the meaning of the English terms. The Lithuanian translators prefer formal and descriptive equivalents. These choices may be determined by the differences between the legal systems (the Norwegian legal system has more in common with the English-Welsh legal system than the Lithuanian one) and by the translation traditions in the countries.

5) Both the Lithuanian and Norwegian translators use explanations, but not in all cases. The analysis proves that, whichever translation strategy is used, the explanatory notes are very important supplementary translation means as they highlight some semantic aspects of the terms which cannot be revealed by equivalents. Therefore, the use of explanatory notes should be extended to all specific legal terms, thus enabling the readers to understand the peculiarities of the source legal system better.

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## ANGLŲ KALBOS TEISĖS TERMINŲ VERTIMO STRATEGIJOS DVIKALBIUOSE LIETUVIŲ IR NORVEGŲ KALBŲ TEISĖS TERMINŲ ŽODYNUOSE

Violeta Janulevičienė, Sigita Rackevičienė

Mykolo Romerio universitetas, Lietuva

**Santrauka.** Dėl pastaruoju metu sparčiai augančių teisinių tekstų vertimų apimčių padidėjo lingvistų dėmesys lyginamajai teisės kalbos analizei. Teisės sąvokos ir jas įvardijantys terminai glaudžiai susiję su šalies tradicijomis. Dažnai keliuose skirtingose teisės sistemose neįmanoma rasti absoliučiai teisės terminų atitikmenų, todėl tenka ieškoti dalinių jų atitikmenų, panašių savo funkcijomis ir tikslais. Be to, kiekviena sistema turi tik jai būdingų terminų, neturinčių net ir dalinių ekvivalentų kitose teisės sistemose. Šio straipsnio tikslas

– apžvelgti teisės kalbai būdingų terminų vertimo strategijas ir išanalizuoti, kurias iš jų renka si lietuvių ir norvegų žodynų autoriai, versdami specifinius Anglijos-Velso teisės terminus. Analizei pasirinkti V. Bitinaitės „Mokomas is anglų-lietuvių kalbų teisės terminų žodynas“, O. Armalytės, L. Pažusio „Anglų-lietuvių kalbų teisės žodynas“ ir Å. Lind „Engelsk-norsk juridisk ordbok“.

Plačiausiai tarpkultūrinėje komunikacijoje vartojama teisės anglų kalba glaudžiai susijusi su anglosaksų teisės sistema ir jai būdingomis sąvokomis, kurios dažnai neturi atitikmenų romanų-germanų teisės šalyse, pvz. *binding precedent*, *persuasive precedent*, *ratio decidendi*, *obiter dicta*, *equity*, *equitable remedies*, *barrister*, *solicitor*, *magistrate*, *stipendiary magistrate* ir kiti. Terminams, įvardijantiems tokias sąvokas, vertimo tyrėjai siūlo įvairias vertimo strategijas, svarbiausios iš jų yra šios: 1) funkcinio atitikmens pateikimas; 2) formalaus atitikmens (pažodinio vertimo) pateikimas; 3) skolinio pateikimas (termino pavartojimas originalo arba adaptuota forma); 4) aprašomojo atitikmens (trumpo termino paaiškinimo) pateikimas.

Tyrimo rezultatai atskleidė, kokias vertimo strategijas renka si anglų-lietuvių ir anglų-norvegų teisės terminų žodynų autoriai. Anglų-lietuvių kalbos žodynuose pirmenybė teikiama formaliesiems ir aprašomiesiems angliškujų terminų atitikmenims, pvz., *equity* – teisingumas; *stipendiary magistrate* – liet. profesionalus magistratų teismo teisėjas. Anglų-norvegų kalbų žodyno sudarytojais daugiausia vartoja funkcinis ekvivalentus – Norvegijos teisės sistemos terminus, kurių reikšmės tik iš dalies atitinka angliškujų teisės terminų reikšmes, pvz., *magistrate* – norv. *lekdommer* (neprofesionalus teisėjas). Tiek anglų-lietuvių, tiek anglų-norvegų žodynuose taip pat vartojami skoliniai, tačiau skirtingomis formomis. Lietuvių žodynų sudarytojais skolinius visuomet pateikia adaptuota forma, o norvegų žodynų autoriai juos dažniausiai pateikia originalia anglų kalbos forma, pvz., *barrister* – liet. *baristeris*; *High Court* – „*High Court*“.

Žodynų autoriai neretai prie terminų atitikmenų pateikia ir paaiškinimus. Atlikta analizė rodo, kad tokie paaiškinimai labai informatyvūs, nes jie nusako terminų semantikos aspektus, kurių negali atskleisti atitikmenys. Todėl tokie paaiškinimai, straipsnio autorių nuomone, turėtų papildyti visų specifinių terminų vertimus, taip padėdami skaitytojui geriau suprasti teisės sistemos, kurioje vartojamas terminas, ypatumus.

**Reikšminiai žodžiai:** teisės terminologija, terminų vertimo strategijos, ekvivalentiškumas.

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**Violeta Janulevičienė**, Mykolo Romerio universiteto Humanitarinių mokslų instituto Užsienio kalbų katedros docentė. Mokslinių tyrimų kryptys: anglų profesinės kalbos mokymas/mokymasis, kognityvinė lingvistika ir leksikologija.

**Violeta Janulevičienė**, Mykolas Romeris University, Institute of Humanities, Department of Foreign Languages, Associate Professor. Research interests: ESP teaching/learning, cognitive linguistics and lexicology.

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**Sigita Rackevičienė**, Mykolo Romerio universiteto Humanitarinių mokslų instituto Užsienio kalbų katedros docentė. Mokslinių tyrimų kryptys: anglų profesinės kalbos mokymas/mokymasis, kognityvinė lingvistika ir leksikologija.

**Sigita Rackevičienė**, Mykolas Romeris University, Institute of Humanities, Department of Foreign Languages, Associate Professor. Research interests: comparative lexicology/terminology, bilingual lexicography/terminography.