



Traps & Mishaps in Legal Translation

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Reasons for Traps

- Differences between legal systems → system-specific terms & concepts, not always easy to grasp.
- Legal system traditions (ensure continuity but might entail terminology clashes).
- Phonetically similar words originating from the same source but differing in semantic scope.
- Overlappings and differences in the conceptual framework of phonetically similar terms.
- Borrowed words living a different life in the borrowing language → back translation difficulties.

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Differences between Legal Systems

- Cross legal system translation:
Common law jurisdictions (UK, USA) vs continental law jurisdictions (France, Germany, Russia).
- System-specific terms → tailor-made translation solutions needed.
Translation strategies:
 - descriptive translation
 - term coining
 - loan translation (with comments)
 - transliteration
 - combination approach

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Differences between Legal Systems

- Some English law terms that have no counterparts in Russian:
 - **covenant** – needs to be transliterated (too specific an obligation is meant, the target language just does not have enough words to express the idea of obligation with a variety of shades of meaning)
 - **gin and tonic clause** – an equivalent had to be coined in Russian.
- Need it be just as metaphoric? → General problem of translating figurative terms (e.g., cloud on a title)

Legal System Traditions

In Russia, state courts hearing commercial disputes between business entities are called, if translated literally, **arbitration courts**. A hold-over from the past. Ensures continuity in the legal system but entails a clash with the universal understanding of the term **arbitration** (dispute resolution outside the courts by a neutral third party).

Translation options: 1) **state arbitration court**

2) **arbitrazh court** (fancy word)

Asset: unusual spelling signals unusual meaning

Risk: confusion with **arbitrage** (fin. term) due to phonetic similarity

3) **commercial court** (translation driven by meaning)

Legal System Traditions

Russian legal community aware of the terminology problem.

Tendency to use the word **commercial** when translating the names of such type of courts into English: the highest Russian 'arbitration' court considering economic disputes calls itself the Supreme Commercial Court of the Russian Federation.

(official website <http://www.arbitr.ru/vas/>)

Legal System Traditions (linguistic aspect)

Legal systems also have purely linguistic traditions
→ translation problems

Legal English:

- strings of synonyms → problems: the target language may not have enough synonyms or a correctly and painstakingly translated string may look funny

- 'empty' expressions → problem: waste of time and effort on meaningless words (witnesseth; now therefore)

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Phonetically Similar Words Originating from the Same Source but Differing in Semantic Scope

'International' words that went different semantic paths.

The words **object** and **subject** overused (and misused) in unhappy translations from Russian into English.

Why: - legal Russian often uses their similar-sounding

'counterparts'

- translators do not bother to do research

Result: Mistakes and misunderstandings.

E.g., **Object of taxation** means purpose of imposing tax(es), while a similar-sounding noun in Russian means a *taxable item, item subject to taxation, anything (transaction, activity) giving rise to a tax liability.*

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Phonetically Similar Words Originating from the Same Source but Differing in Semantic Scope

In translations from Russian *subject* is often out of place too. In legal Russian the phonetic counterpart of this word means: *doer, party to a relationship or party involved in sth, participant, member.*

Solutions have to be sought on a case-by-case basis.

Risks posed by misuse (not only linguistic!):

- **Semantic, conceptual and legal:** **perpetrator of the crime / crime-doer** is not the same as **subject of the crime**, while in Russian a similar-sounding noun would mean *person committing a crime.*
- **'Political':** **constituent entity of the Russian Federation** is more appropriate than *subject of the Russian Federation* (*subject* would be OK for a monarchy).

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Overlappings and Differences in the Conceptual Framework of Phonetically Similar Terms

Novation vs *Новация (Novatsiya)*

Anglo-Saxon law:

Substitution of a new contract, debt, or obligation for an existing one, between the same or different parties (Black's Law Dictionary).

Russian Civil Code:

...an agreement of the parties on the replacement of the initial obligation existing between them by another obligation between the same persons providing for another subject or another means of performance.

Conclusion: English term is broader than its Russian 'counterpart' → special care should be taken in translation.

Borrowed Words Living a Different Life in the Borrowing Language

Semantic transformations undergone by borrowings:

- shift of meaning
- meaning becoming broader or narrower
- new meanings or shades of meaning developed

Result: back translation difficulties.

Borrowed Words Living a Different Life in the Borrowing Language

Borrowings becoming translator's false friends:

- **cottage** in English: a small, nice, modest house in the country. In Russian it has come to mean a single-family/detached house or residence, very often luxurious.

- **local** in English: relating to a particular location, place. In Russian labour law, when used with respect to documents, it means company-level documents and should be translated back into English as *internal* or *in-house* (regulations or policies).

- **adequate** in English: 1) sufficient to satisfy a requirement; 2) barely satisfactory. In Russian it has come to mean: appropriate, proper, normal, sane, reasonable, in touch with reality.

That's It!



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Questions



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