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# MASTER'S DEGREE PAPER

A CONTRASTIVE ANALYSIS OF LEGAL TERMINOLOGY IN  
ENGLISH, ROMANIAN AND POLISH.  
LEGAL TERMINOLOGY INNOVATIONS IN  
THE REPUBLIC OF MOLDOVA

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Chișinău 2011

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## ANNOTATION

Terms are vehicles of information and knowledge, consequently they are the linguistic representation of concepts. Therefore, all the domains activated by a given concept (term) build up the matrix of a term or the term-tree. The more information is required to define a concept, the more terminological a lexeme is. With respect to legal concepts, the supraindividual semantic potential of terms is specified in legislation and case-law. Namely this approach was examined in this master's degree paper.

Today, the study of terminology, i.e. the theoretical and applied study of terms as coherent systems of lexical items endowed with a singular creative dynamism, is as yet neither clearly defined nor is there a general agreement about its scope. A related problem is the fact that, while work concerning what is traditionally known as the theory or principles of terminology is pursued simultaneously, little effort is being devoted to theories underlying the descriptive analysis of terms, on the base of the following criteria: morphological (derivation), morpho-syntactic (conversion), morpho-semantic (borrowings, calque, neonyms, etc) and morpho-pragmatic (metaphorization, metonymization, terminologization, reterminologization, etc). Moreover, there is no research or even attempt to define and classify terms according to the field they belong to. This aspect needs a special consideration, since the terminology of the legal field is not similar in peculiarities and classifications with the medical terminology. We consider that such a distinction between the terminology of different domains is absolutely necessary. All we have today is a multidimensional approach and investigation on legal terminology while terminology needs a unidimensional study. This study has to be performed in the field of law and not in the field of linguistics, or at least in the field of a "specialized linguistics".

Therefore, we consider our research an ambitious one because we plan to study in depth the phenomenon of legal terminology within Romanian, English and Polish legal systems, the shifts of terms within the legal field and legal systems, the etymology of legal terms, the pro- and contra-arguments regarding the process of standardization of legal terms, the equivalence or incongruity of legal terms, and of course the techniques of rendering legal terms.

*Keywords:* terminology, term, borrowings, onometrics, legalese, terminological record, terminologization, determinologization, reterminologization, metonymization, terminological innovations, legal doublets, concept, terminological standardization, term domesticating, terminological equivalence, precision of terms, legal compoundings, legal clichés, legal metaphor, legal terminology, incongruity of legal terms.

## ADNOTARE

Termenii sunt niște purtători de informații și cunoștințe, prin urmare ei întruchipează reprezentarea lingvistică și pragmatică a conceptelor. De aceea, toate domeniile care sunt activate în procesul de definire a unui concept, alcătuiesc la un loc, matricea termenului sau arborele terminologic. Cu cât mai multă informație este concentrată în definirea conceptului, cu atât lexemul este mai terminologizat. În ceea ce privește spectrul de căutare a definițiilor pentru juridisme, cercetarea trebuie să se efectueze în limitele actelor normative și în jurisprudență. Anume aceste aspecte au fost supuse investigației în prezenta teză de master.

Astăzi, studiul terminologiei, în aspect teoretic și aplicativ, asupra termenilor ca sisteme de unități lexicale dinamice, încă nu a fost sistematizat. Problema constă în faptul că abordarea terminologică are loc doar la nivel lingvistic, evitându-se analiza descriptivă a termenilor, în baza următoarelor criterii, și anume: morfologic (particularitățile derivaționale), morfo-sintactic (schimbarea categoriei gramaticale), morfo-semantic (la nivel de împrumuturi, neologisme, calcuri, etc) și desigur, morfo-pragmatic (metaforizarea, metonimizarea, terminologizarea, reterminologizarea, etc). Mai mult decât atât, nu există nici un studiu sau încercare de definire și clasificare a termenilor conform domeniului căruia îi aparțin. Acest aspect necesită o abordare specială, întrucât nu putem vorbi despre terminologia juridică și cea medicală, sau despre particularitățile și clasificările acestora într-un studiu unic, în mod unificat. Considerăm că aceste terminologii trebuie abordate separat, iar domeniul terminologic trebuie luat ca criteriu de bază în tratarea termenilor. Astăzi, avem o abordare și o investigație multidimensională a terminologiei, deși termenii trebuie tratați unidimensional. Astfel, cercetarea ar trebui efectuată în mare măsură în domeniul juridic, și nu în cel lingvistic, sau cel puțin, într-un domeniu al „lingvisticii specializate”.

Considerăm că studiul nostru este unul ambițios, întrucât ne-am planificat să studiem în detaliu fenomenul terminologiei juridice (juridismele) în cadrul sistemelor juridice român, englez și polonez, transferul termenilor în cadrul domeniului și sistemelor juridice, etimologia juridismelor, fenomenul de standardizare a juridismelor, echivalența și non-echivalența termenilor juridici, și desigur, tehnicile de traducere a juridismelor.

Termeni cheie: terminologie, termen, împrumut, onometria, juridisme, fișă terminologică, terminologizare, determinologizare, reterminologizare, metonimizare, inovații terminologice, dublete juridice, concept, standardizare terminologică, „term domesticating”, echivalență terminologică, precizia termenilor, expresii juridice, clișee juridice, metafora juridică, terminologia juridică, non-echivalența juridismelor .

### *List of abbreviations*

**SL** - source language

**TL** – target language

**RM** – Republic of Moldova

**ISO** - International Organization for Standardization

**ECHR** - The European Court of Human Rights

**L.** – Latin

**Fr.** – French

**O.Fr.** – Old French

**M.Fr.** – Medieval French

**Ph.d.** - Philosophiae Doctor (doctor of philosophy)

**N.** – noun

**Adj.** – adjective

**V.** – verb

**Prep.** – preposition

**LGP** – language for general purpose

**LSP** – language for special purpose

**Art.** - article

**DEX** – Romanian explanatory dictionary

**Prof.** – professor

**No.** – number

**Vs.** - versus

**Sg.** – singular

**Pl.** - plural

## INTRODUCTION

We liked very much the approach of Benveniste on terminology, and therefore, I shall dare reproduce it entirely here: *“The establishment of its own terminology is a milestone in each and every science. It is the advent or the development of a new conceptualization, then, highlighting a decisive moment in its history. One might even say that the particular history of a science is summarized in its specific terminology. A science only comes into being or starts to impose itself as long as it maintains and imposes its concepts through its denominative field. It has no other resource to establish its legitimacy but to specify its object by naming it, while this may be a set of phenomena, a new domain or a new interaction process between specific data. The mental apparatus comprises mainly an inventory of terms that list, configure or analyze the reality. The act of naming, that is, the coinage of a term is at the same time the first and the last operation of a science”*.

Today, terminology develops on the ground of the scientific progress and globalization. Therefore, it became the center of the world, it became the Babel of scientists, linguists and professionals all around the world. In other words, it became the headquarters of global knowledge. Terminology became an instrument of communication and decodification of cultures, languages and concepts. Needless to say that terminology is the most dynamic and mobile organism, because it interacts with the progress, with the permanent changes of the society, with the languages. And finally, terminology and terms represent the matrix of knowledge. Consequently, it is due to this fact that linguists and scholars try to give terminology the status of science, since it cannot swing *ad infinitum* between the status of science or art.

The study of terminology is actually narrow, even today, in the XXI<sup>st</sup> century. There are few who had the courage to leap in the dark, since terminology, as a science, is still a new-born. It is undoubtedly that the merits of Eugen Wüster, the founder of the General Theory of Terminology, Teresa Cabré, Rita Temerman, Gaudin, F., Robert Dubuc, Sager J, Thelen M., D.S.Lotte, are of great importance, but this is not enough, because languages, and therefore their terminologies, are evolving every day. These researchers made just an introductory study on terminology. Today, we need separate terminological approaches for such fields as economy, law, technology, informatics, politics, medical field, because it would be a huge mistake to mix all these domains and formulate common terminological rules for all of them. The language of economy is different from that of law and pharmaceuticals, and viceversa, that is why we should consider seriously this fact, and personalize the terminological approaches. Consequently, those who deal with terms must know

how first to decode the term in the source language and then reconstruct its meaning in the target language. And this is often an incomprehensible and difficult process.

Speaking of legal terminology, the research in this very field caused the introduction of new disciplines, such as the legal or juridical linguistics which is based on the study of legal terminology and legal discourse. The first researches in this very field were performed by Jean-Claude G emar, G erard Cornu, Barbu Berceanu and Teodora Irinescu.

**Actuality of investigation.** When we were thinking about a suitable topic for the master's degree paper, we decided to combine English, Romanian and Polish with law, as we live in an era of globalization and internationalization of law, and elucidating the mechanisms of cross-cultural understanding would be a major concern for both translation studies and the legal field. The internationalization of law is a phenomenon linked both to the universalism of values proclaimed by the Universal Declaration of Human Rights and the globalisation of trade promoted by the establishment of the World Trade Organization (WTO). That is why, we believe that in the context of globalization at social, economic, political and cultural levels, the question of translating legal texts and rendering legal terms is fundamental, since it requires new attitudes, new rules in the new era. Our scope of debate on terminology of legal texts is characterized by an increasing amount of questions related to terminological and pragmatic aspects of legal language.

In the context of European integration of the Republic of Moldova, the knowledge related to the communitary legal terminology is absolutely necessary. For example, neither the White House of the Republic of Moldova, nor the Parliament, the Ministry of Foreign Affairs, the Academy of Science of the RM, the Information Office of the Council of Europe in the RM, and many other institutions do not dispose of terminological databases. Mainly because of this fact the study of legal terminology is primordial, here in the Republic of Moldova

The cooperation with other countries in any field means an extension of law which requires good translators and interpreters, who will handle the legal terminology, both in the source and target language. This paper, therefore, aims to analyse ECHR decisions as a case study, combining linguistic theories with terminological practices.

**Aims and objectives.** In the present study, we are going to focus on the area of legal terminology of the English, Romanian and Polish languages, especially on the myriad of peculiarities and classifications of legal terminology, using European Court for Human Rights decisions as a case study. Therefore, we shall identify and systematize them in different groups and typologies. The classifications and peculiarities shall be established on the base of morphological, morpho-syntactical, morpho-semantic and morho-pragmatic approaches.

It may astonish many people to know that contemporary linguistics has concluded that legal translation between languages is theoretically impossible, and this because of the “linguistic untranslatability” and “cultural untranslatability”. We will, therefore, try to find arguments whether this is possible or not, by applying the multitude of translation techniques and just observing the shifts of meaning between languages and even legal systems..

However, since law is a vast area that regulates every aspect of human activity, the language of the law is polymorphic. Thus, we have outlined the following objectives:

1) theoretical objectives:

- to achieve high levels of reliability of the subject of research;
- to demystify the concept of *terminology, term, word, legal terms* and explain the relation between these entities;
- to investigate the topic in very specific, definable and set terms;
- to analyse the definition of terminology and the controversy upon terminology
- to survey the English, Romanian and Polish legal systems;
- to identify and define the peculiarities and classifications of legal terms, as well as the principles of term formation;

2) pragmatic objectives:

- to provide a deep research on the origin and etymology of legal terms in English, Romanian and Polish;
- to establish the semantic peculiarities of English, Romanian and Polish legal terms;
- to create a terminological record;
- to assess the terminological value of terminologization, determinologization and reterminologization as term formation strategies;
- to evaluate which of the translation techniques is the most relevant in rendering legal terms;
- to provide an analysis of the most recent legal term innovations in the Republic of Moldova and to establish their causes;
- to analyse the phenomenon of incongruity of legal terms and to outline the causes;
- to apply in practice the determined characteristics, and finally
- to give an appreciation towards the value and importance of these aspects.

We will support our ideas and views by providing examples from the ECHR decisions, because the goal of this paper is to make progress in the field of legal terminology. So, our aim is to demystify the legal terminology without oversimplifying the complex and interdisciplinary nature of the problems involved.

***Structure of the thesis.*** As we have already mentioned, this paper outlines a theoretical and practical approach on legal terminology, based on the contrastive analysis of Moldova cases at European Court for Human Rights. The paper consists of: two annotations (in English and Romanian), a list of abbreviations, the introduction, two chapters, one theoretical and another practical, the conclusions and recommendations, the bibliography, a glossary of linguistic terms, the appendix and the declaration of assumption of responsibility.

The *annotations* are provided in the Romanian and English languages and give a brief summary upon the terminological research

The *introduction* comprises the objectives of the research, the actuality and novelty of the topic under investigation.

The first chapter, *Linguistic approach on legal terminology* basically outlines and describes the general and specific peculiarities and definitions of terminology, term, concept and word, the relation between these entities. It consists of seven subchapters: *1.1 Introduction in terminology. Definitions and controversy upon terminology; 1.2 Term versus word versus concept; 1.3 Semantics of legal terminology; 1.4 Recent trends in terminology; 1.5 Multilingual term creation within the EU conceptual system; 1.6 Characteristics of terms, and 1.7 Legal terminology.* The subchapter 1.6 comprises two topics: *1.6.1 Different classifications of terms* and *1.6.2. The process of terminologization, determinologization and reterminologization.* The subchapter 1.7 defines the specific nature of legal terminology in English, Romanian and Polish, since most legal concepts are the product of an international legal system, which is conceptually congruent with the rest of the legal systems, therefore, the aim is to present legal language in the relevance-theoretic perspective.

The second chapter, *A contrastive analysis of English, Romanian and Polish legal terminology (based on the contrastive analysis of Moldova cases at ECHR)* contains a practical analysis of the theoretical material on English, Romanian and Polish legal terminology based on ECHR decisions. In its turn, Chapter 2 consists of 5 subchapters: *2.1. Description and structural organisation of European Court for Human Rights Decisions; 2.2. A terminological analysis of legal terms; 2.3 Principles of term creation; 2.4 Precision of legal terms; 2.5 Terminological record.* The conclusions outlined in the second chapter are scientifically proved through eloquent examples and are accompanied by deep and thorough linguistic analysis.

The *conclusions* comprise the results of the research, both theoretical and practical.

The *bibliography* reflects the myriad of scientific books, articles, websites and dictionaries that were used during our research.

The *glossary* comprises linguistic terms that were used in the paper and that reflect the theoretical approach.

The *appendix* contains a list of Romanian, English and Polish terms that undergone the terminological investigation.

***Scientific novelty.*** The scientific novelty of this paper is closely connected with two facts. First, it refers to the European Court for Human Rights and its huge number of decisions where the Republic of Moldova is directly involved. Second, it refers to legal terminology, legal language and legal term standardization in the light of globalization and the aspiration of our country to become part of the European Union. These two aspects are mutually complementary.

The consideration of these two aspects has an essential value for linguistics, translation theory and law, since it means discovering, developing and formulating of new theories and approaches. Thus, our research has the aim to show that legal terminology doesn't mean just terminology, but a language for special purposes, a technical language that need special consideration.

The scientific novelty is achieved through detailed analysis of ECHR decisions on the research subject, new considerations of the existing points of view, critical analysis and comparison between the English, Romanian and Polish legal languages, and new target settings towards legal text translation. Thus, we deal with new interpretations and new evidence concerning the linguistic dimensions of legal language and legal text translation.

***Practical value.*** This research offers a large number of theoretically efficient algorithms for translating and understanding legal terms. Consequently, this paper aims at rectifying this situation through the development and implementation of practical algorithms.

These algorithms refer to the translation of legal terms, the creation of terminological records, understanding and applying terminologization, determinologization and reterminologization as term formation strategies, the notion of shift in meanings, rendering terms that belong to different legal systems, foreignizing and domesticating legal terms, etc. In other words, the practical value of this paper lies in the semantic and pragmatic implications of legal terms.

***Methods and methodology.*** For achieving the goals and objectives of this paper we shall use different innovative methods of analysis.

***Bibliographical method.*** We shall use this method to get necessary knowledge on theory of terminology and legal terms. This will allow us to acknowledge the contributions of other researchers, linguists, theorists, translators towards this topic.

***Qualitative research*** – is concerned with attempting to accurately describe, decode, and interpret the meanings of the theoretical material in the legal terminology. We will focus on

investigating the complexity, authenticity, contextualization, tradition and scientific novelty of legal language.

*Quantitative research* - based upon formulating the research hypotheses, classifications, definitions and categories and verifying them through examples of ECHR decisions. This will be achieved through an analysis of the relation law - legal terms.

*Comparative method.* We will use this method in our practical part of the work for comparing the English, Romanian and Polish versions of translation of the European Court for Human Rights decisions. This will help us to implement the theories, to fill the linguistic and translation gaps between English, Romanian and Polish languages, to confirm or refute the classifications and hypothesized peculiarities of legal terminology, and finally to establish the validity and importance of these peculiarities.

*Sources.* We had to go through a range of theoretical materials, such as books, dictionaries, websites, scientific articles, to be able to handle the subject of this paper. The theoretical part quotes the works of such great linguists and translators as *Theresa Cabre, Deborah Cao, Juan Sager, Judith L. Holdsworth, Peter Newmark, Barbara Child, Peter Tiersma, Rita Temmerman* since their works, researches and ideas are vital in the field of legal terminology.

The practical part has as an analysis support the European Court for Human Rights decisions towards the Republic of Moldova, the English, Romanian and Polish versions. These decisions are available on the website of the Ministry of Justice of the Republic of Moldova <http://www.justice.md/md/cedo> while the Polish ones, on the website of the Ministry of Justice of the Republic of Poland, <http://bip.ms.gov.pl/pl/prawa-czlowieka/europejski-trybunal-praw-czlowieka/orzecznictwo-europejskiego-trybunalu-praw-czlowieka/orzeczenia-w-sprawach-dotyczacych-polski/>. We shall mention that these decisions are translated with the support of the Joint Programme between the Council of Europe and the European Commission on Increased independence, transparency and efficiency of the justice system of the Republic of Moldova, which aims at strengthening the judicial system and provides for a number of complex activities targeting strategic priorities and specific actions resulting from mentioned agreements.

*And finally, I would like to say that I owe a debt of gratitude to my scientific advisor, Mrs. Gabriela Şaganean, Ph. of Philology, who has been generous and very helpful with her recommendations, support, and had a major role in shapping this work. It was a pleasure and great experience to have Mrs. Gabriela Şaganean as a scientific advisor.*

## CHAPTER I. LINGUISTIC APPROACH ON LEGAL TERMINOLOGY

### 1.1 Introduction in terminology. Definitions and controversy upon terminology

“Since it is semantically-based terminology can be studied from three different points of view, i.e. from the point of view of the referent, from the point of view of the designation given the referent, and finally from the point of view of the use, the equation of referent and designation can be put to. Consequently, we identify three dimensions of a theory of terminology: a cognitive one which relates the linguistic forms to conceptual content, i.e. the referents in the real world; a linguistic one which examines the existing and potential forms of the representation of terminologies; a communicative one which looks at the use of terminologies and has to justify the human activity of terminology compilation and processing”. (Sager)

Today, the study of terminology, i.e. the theoretical and applied study of terms as coherent systems of lexical items endowed with a singular creative dynamism, is as yet neither clearly defined nor is there general agreement about its scope. A related problem is the fact that, while work concerning what is traditionally known as the theory or principles of terminology is pursued simultaneously, little effort is being devoted to theories underlying the descriptive analysis of terms. Besides, most of what currently passes for a theoretical foundation of terminology amounts to little more than a simplified, *a priori* theory of conceptual structures supported by largely prescriptive principles of what should be rather than what is the actual usage of terms. This situation seems to reflect basic characteristics of terms, i.e. terms manifest themselves as concrete linguistic objects within a specialised discourse and their number is constantly growing. Kyo Kageura considers that “the fact that terms are first and foremost concrete linguistic objects makes it difficult to define the theory of terms at a proper level of abstraction.” Many so-called theories about terms are really only theories of something – for instance, of concepts – that can be used to describe terms. In addition, many studies treat only a very limited number of terms, mostly for exemplification. The fact that terminology (and the number of terms) is constantly growing, on the other hand, fosters application-oriented studies of the computational treatment of terms, but without satisfactory theoretical and/or descriptive foundations.

The traditional theory of terminology was established by the “Vienna school of terminology”. It is undeniable that this school, originally based on the work of Wuster contributed to opening the research field of terminology. The Vienna school has also strongly asserted claims for the independence of terminology as a separate discipline, with its own theory and methods.

According to Felber, there are three characteristics specific to the theory of terminology: (1) “Any terminology work starts with concepts. The sphere of concepts is independent of the sphere of terms”; (2) “Only the terms of concepts, i.e. the terminologies, are of relevance to the terminologist, not the rules of inflections and the syntax”; (3) “The terminological view of language is a synchronic one, i.e. for terminology the present meanings of terms are important. For terminology

the system of concepts is what matters in language”. In short, the traditional theory of terminology addresses the relation between concepts and terms, starting from concepts and focusing on the present state of the conceptual structure and its representation. In this framework, it is “concept” that takes a crucial role. The “concept” – the cornerstone of the general theory of terminology and the starting point of any terminology work – is defined as an element of thinking which consists of an aggregate of characteristics, which themselves are concept” (Felber). In support of these claims, Felber points out that “terminologies are deliberate creations. In common language the standard is the usage of language... In terminology, the free play of language would lead to chaos. Therefore, the standardisation of single terms requires unified translanguistic guidelines”. [36:105]

Terminology is the science or art of labeling concepts. But, is it a science or an art? In as much as it is based on a logical methodology, it is a science. Over the past ten years its working methods have been so greatly refined that such a claim may be justified. But terminology is also an art, relying as it does on the creative process. Certainly, some new objects or activities can easily be named by analogy, that is, by modeling their names on existing names of related objects or activities. Others are named by affixing prefixes or suffixes to Greek or Latin roots. In some instances, however, terminologists must be creative in finding an appropriate term that reflects the distinctive character of the language in which they are working, thereby contributing to the development of language in general.

Robert Dubuc, a terminologist highly regarded in North America, defines terminology as the “art of identifying, analyzing and, when necessary, creating the vocabulary for a given technical field, in a real working situation, in order to meet the communication needs of the user.” [55:23]

Terminology, whether art or science or both, can be practiced in a single language or in two or more languages simultaneously. Unilingual terminology is the study of specialized terms in a single language. In comparative terminology, also known as bilingual or multilingual terminology, the focus of the terminologist’s work is the identification of equivalence between terms of two or more languages in a given subject field. It is evident that, to practice the profession, terminologists must have a basic understanding of the field in which they are called upon to work, which involves both mastery of terminology research methods and a good command of the terminology of the field in question. “The seemingly confusing use of the term terminology, doubtless disconcerting to the uninitiated, simply signifies the *process* by which the term belonging to a given field or discipline are identified, in the first instance, and the *vocabulary* relating to that field, in the second”. [Strehlow R.A., 1993:24]

As a rule, people think that terminology studies the terms. In fact, terminology studies the meaning of linguistic expressions, or more precise – the concepts. These units are never used

independently, but in connection with a group of realities. *Terminology, terminologist and terminological* – few people understand any of these terms when they first encounter them. Instinctively, they are associated with “*terminal*” – *a device by which data can enter or leave a communication network*, or the adjective “*terminal*” – *of or relating to an end, extremity, boundary or terminus*. They are rarely recognized as consisting of the prefix *term-* meaning “word or expression”, and the combining form *-logy*, meaning “the study or science of”. Thus, terminology has been defined as the “science of terms, the art of analyzing terms in context and the systematic study of naming or labeling concepts. By studying the way in which words are used and the significance attached to them, terminologists decide upon the correct term to express a given concept. By repeating this process, they can develop the entire vocabulary for a given field. The terminological process can be carried out unilingually, bilingually, or even multilingually, that is, in one, two or more than two languages at a time.” [Strehlow R.A., 1993:22] In other words, terminology, the science of terms, arose from the need to name and identify.

The International Centre for Terminology (Infoterm) claims a separate status for “terminology science”, firstly, because three so-called schools of terminology exist: the Vienna, the Prague and the Soviet school; secondly, because there are a number of universities which started to carry out basic research in terminology in the last two decades. [56:2] Temmerman established that for the three traditional schools of terminology, the concept is the starting point of terminological analysis. It is a unit or element of thought which expresses the intrinsic characteristics of an object. The Vienna school (Wüster) explicitly claims that the concept can exist without language. In the Canadian school, the term is the starting point in terminological analysis. Whereas the Prague and the Soviet schools support the Saussurian view that the term is the totality of content (concept) and form (name), for Wüster the “sign” has an abstract level and a number of possible realizations, a trivial observation which is not denied by others. For the Canadians the term is the starting point in terminological analysis. [56:12] Following Saussure’s ideas, the concept and term system are the two sides of the theory of the linguistic sign. Wüster stresses that the concept system should come first. The ideal term should be assigned and needs to be transparent and as international as possible. Thus, the outcome of all these directions is that the scientific study of terminology is confounded with the pragmatic activity of *standardisation*.

| <b>The similarity between Saussurian structuralist semantics and traditional terminology</b> |   |
|--|---|
| <i>Saussurian structuralist semantics</i>  | <i>Traditional terminology</i>  |
| The belief that words have meanings that can be clearly delineated                           | The European terminology model starts from the belief that concepts which will be given the status of the “meaning” of the term that will be assigned to them, can and should be clearly delineated |

|   |   |
|---|---|
| The belief that the best way to describe meaning is to describe the mutual delimitation of concepts (semantic relations)  | The belief that the best way to describe concepts is to determine their position in a concept system which visualises logical and ontological relationships   |
| The belief that the best way to describe meaning is to concentrate on denotational meaning (as opposed to connotational meaning) and on the literal meaning (and not the figurative meaning) of words | The belief that the concept system is to be seen as independent from the term system, and that consequently, unlike words, terms are context independent: the meaning of the term is the concept        |
| The belief that meaning is to be described synchronically   | The belief that terminology should choose not to study language development and language evolution as the emphasis is on the concept system. Therefore, terminology takes a synchronic approach [56:20] |

Another dispute regarding terminology refers to the place of this domain within the humanitarian studies. In his book “A practical course in terminology processing”, **Sager** states: “There is no substantial body of literature which could support the proclamation of terminology as a separate discipline and there is no likely to be. Everything of importance that can be said about terminology is more appropriately said in the context of linguistics or information science or computational linguistics”. [56:23] Sager denies terminology the status of a discipline but he does not add that the discipline of terminology might study the vocabulary of special language communication for the sake of contributing to the understanding of the nature of scientific thinking, creative thinking in science and the role language plays in this. If one manages to break away from the limiting context of standardisation practice and its reductionist approach, terminology could contribute to the development of the cognitive sciences and to sociolinguistics.

**Peter Weissenhofer** in his book, “Conceptology in terminology theory, semantics and word formation”, points out the distinction which has to be made between the use of *concept* in terminology theory and in semantics and proposes an extension of Wüster’s four-field concept model. He also considers that in contradiction to “the assumption that term meanings are relatively clear-cut and consists of a number of discrete features that make up a sign’s semantic content” linguists and psychologists have pointed out recently “that meanings are often quite vague and that many categories seem to be mentally represented in terms of prototypes rather than as sets of critical features”. [56:26] Weissenhofer believes that a theory of terminology has to deal with problems of indeterminacy and prototype phenomena. The evaluative aspect of terminology is illustrated by the fact that subject-field specialists in humanities and social sciences tend to hold different ideas about the concepts central to their subject fields. Weissenhofer explains that those fields where definiteness and determinacy are often the main objective for their terminology are supposed to include many subject fields in the scientific and technological areas. The subject fields might be pictured on a scale varying from high requirements for definiteness and determinacy.

Thus, subjects like mathematics, chemistry or law require and press for standardisation of terminology. [56:26]

**Britta Zawada and Piet Swanepoel**, in their paper demonstrate that even though the natural and the pure sciences may be more precise than the humanities and the social sciences, classical concept theory is inadequate to account for the conceptual structure of these domains. They show that specialists themselves do not conceptualise their categories according to the classical concept theory which imposes the requirement that definitions have to take the form of binary, necessary and sufficient conditions for membership. They believe that a) concepts are no more than replicas or mirror representations of the objective structure of the world, and b) concepts reflect the “essence” of the entities, relations, processes, that make up this world. [56:28]

**Ingrid Mayer** highlights that terminology has both a linguistic and a conceptual dimension. Also, she questions whether terminology can optimize special language communication by promoting unambiguous communication and points out that alternatively the diversity and the possibilities for creativity and imagination in scientific research and thinking might become the object of study. [56:31]

**Kyo Kageura** considers terminology a discipline separate from linguistics. He concedes that the emphasis on concepts repeated by those who claim the independence of terminology seems inherently right, because meaning is frequently understood as a property of the language system. He argues that if one agrees to replace concept by meaning in the term-concept relation, there is no reason for the independence of terminology from linguistics. Kageura believes that terminology should be placed within the broader framework of linguistics, instead of being a separate discipline. Empirical studies of the terminology of different special languages could contribute to a better understanding of semantic principles in language. Instead of insisting on the fact that *conceptology* (a new word for *terminology*) is an independent discipline which wants to distinguish itself, Kageura believes that “the relative status of terms, concepts and their relationships in conceptual descriptions on terminological phenomena is exactly the same as that of words, meanings and their relationships in semantic descriptions of words”. Although, a concept is not really recognized as such nor taken seriously unless it is named by a term. Grasping a concept, or understanding it, is close to naming it. [Kageura Kyo, 2000:33]

The theoretical distinction proclaimed by terminology between the conceptual aspect and the linguistic aspect of the communication frame in which terminology functions is artificial. “If terminology is not an aim in itself but wants to study how concepts develop and are referred to in special language communication, then a re-evaluation of its principles is essential. [56:34]

As a science, terminology has: a) a specific subject matter – the vocabulary of specialized (spoken and written) discourse; b) an objective – namely the identification, collection and description of terms which can then be applied to the purpose of qualitatively enhancing communication; however, this basic objective has, from the beginning, been subordinated to the demands of standardization; c) a theoretical framework. [56:11]

Traditional terminology, represented by the Vienna School of terminology, claims as its main basic tenets the following five principles: 1) terminology studies concepts before terms (the onomasiological perspective) – according to Wüster, terminology begins with the concept and aims to clearly delineate each concept. Thus, the onomasiological perspective starts from the content aspect of the sign, i.e. the meaning; 2) concepts are clear-cut and can be attributed a place in a concepts system – this principle states that concepts should not be studied in isolation, but rather as elements in a concept system that can be drawn up based on a close study of the characteristics of concepts, which bring out the existing relationships between the concepts; 3) concepts should be defined in a traditional definition – for the Vienna school, a terminological definition can be of three types: (a) intensional → a definition by intension consists of a specification of the characteristics of the concept to be defined, i.e. the description of the intension of the concept (b) extensional → a definition by extension consists of the enumeration of all species, which are at the same level of abstraction, or of all individual objects belonging to the concept defined, and (c) part-whole → a part-whole definition describes a superordinate concept in a partitive concept system by listing all the parts that make up the whole. This is in line with ISO standard; 4) a term is assigned permanently to a concept; 5) terms and concepts are studied synchronically. In the world of Wüster, *standardization of terminology “has the purpose to unify concepts and systems of concepts, to define concepts, to reduce homonymy, to eliminate synonymy and to create if necessary new terms in line with terminological principles”*. We can therefore establish that terminology work embraces the following activities: identifying concepts and concept relations, establishing concept systems on the basis of identified concepts and concept relations, defining concepts on the basis of concept systems, assigning a preferred term to each concept, recording terms and their definitions in vocabularies and terminology databases. [56:13] Thus, the terminological principles and methods laid down in this standard are supported by the theory of science (epistemology), logic, linguistics and cognitive psychology.

|   |  |
|---|--|
| <i><b>Contrast between the principles of traditional terminology and the reality of the terminology we have been studying in the special language of the life sciences.</b></i> |  |
| <b>Principles of traditional terminology</b>  | <b>Our observations concerning the terminology of special language</b> |
| <b>First principle:</b> terminology starts from the   | Language plays a role in the conception and                            |

|   |   |
|---|---|
| concept without considering language  | communication of categories   |
| <b>Second principle:</b> a concept is clear-cut and can be assigned a place in a logically or ontologically structured concept system | Many categories are fuzzy and can not be absolutely classified by logical and ontological means |
| <b>Third principle:</b> a concept is ideally defined in an intensional definition   | An intensional definition is often neither possible nor desirable                               |
| <b>Fourth principle:</b> a concept is referred to by one term and one term only designates one concept                                | Polysemy, synonymy and figurative language occur and are functional in special language         |
| <b>Fifth principle:</b> the assignment concept/term is permanent  | Categories evolve, terms change in meaning, understanding develops [56:16]                      |

Thus, the need for clear descriptions of terminological principles and theories is increasingly recognized by the subject specialists who are engaged in terminology work for specialized fields.

There are a number of classical treatments of terminology as a field of study. It thus can be argued that together, these constitute *prima facie* evidence of terminology as “a reasonable discipline in its own right”. Against that, Sager argues that “terminology as a field of activity consists of a number of practices that have evolved around the creation of terms, their collection and explication, and finally their presentation in various printed or electronic media.” [54:9] However, he asserts that the field fails to establish itself as a potential discipline involving knowledge about things and their relationships which is justified in its own right. For Sager, terminology is primarily an example of a “methodology” – how to do things. [Strehlow R.A., 1993:10]

In France and French-speaking Canada several researchers have been moving from structuralist, Wüsterian, prescriptive types of terminological activities to questioning some of the traditional terminological principles in a new trend which took the name *socioterminology*. [56:31] Socioterminology, as its name implies, tries to get the study of real language usage. A descriptive approach to terminology is promoted to replace the prescriptive objective of the traditional terminology schools’ approach.

First of all, the descriptive approach incorporates the study of synonymy and polysemy which goes against the traditional schools’ idea of monosemy. As a consequence, terminology becomes part of general semantics as it studies the general and specialised language. Secondly, socioterminology questions the existence of clear-cut fields or domains. Thus, terminologists and linguists no longer want to cut up knowledge into homogeneous parts which are clear-cut and well-

protected from all exogenous influences. Thirdly, socioterminology wants to get away from the synchronic structuralist and Wüsterian approach to the vocabulary of special language. If sciences are networks of inherited nodes, instead of monolithic blocks, then the diachronic study of the history of conceptualisation and naming should be taken up. [Temmerman R., 2000:32]

## **1.2 Term versus word versus concept**

Any discussion about the basic status, nature and function of terms within language must start with a provisional definition of the “term” and immediately related concepts. According to Besse and Sager define “term” and “terminology” as follows: “term – a lexical unit consisting of one or more than one word which represents a concept inside a domain”, while terminology – as “the vocabulary of a subject field”. It is unfortunate that in the definition of term, the authors use “word” instead of “lexical item” since the whole purpose of a glossary of terminology is to distinguish terms from words. Similarly, the authors could have avoided using the ambivalent “vocabulary” by simply stating “the set of terms of a subject field. From a different point of view, however, the above definition of “term” reflects the essential ambivalence in the relation between “term” and “word”. In one sense, “word” is used as equivalent to “lexical item”, in which case terms are a subset of words. In other sense, word and term are used in mutually exclusive sense. Thus, “term” refers to an individual item and “terminology” refers to the collective object, in accordance with the distinction between lexical unit and vocabulary. [36:12]

In fact, the definition and characterisation of “term” in itself has been one of the main topics among terminologists. We can speak of, for instance, the syntagmatic patterns of terms, on condition that terms are recognised at the level of language facts, but we cannot talk about the “term” taking an independent position at the syntactic level. According to Chomsky, “the contrast between “word” and “term” can be illustrated using the distinction of language competence and performance.” [36:12] In the case of words or lexical units in general, we can, for instance, speak of word formation at the level of language competence, discarding real-world factors and focusing on the possible forms of theoretically infinite complex words, analogous to Chomsky’s syntactic theory. It would be nonsense to speak of the formation of terms in analogous way, because, by their very essence, terms have a concrete social existence as a functional class of lexical units which manifests itself in the actual communication activity or performance in a domain.

From a very different point of view, Sager, Dungworth and McDonald point out the essential difference of the theoretical perspective in which “word” or “term” are recognised by means of the different importance given to the phenomenon of “lexicalisation” in the studies of “term” and of “word”. In other words, when terminology becomes the focus of research, the

question of lexicalisation, or more specifically, terminologization, should be considered essential; by contrast, when the research is centred on the word, the question of lexicalisation need not be essential. [Kyo Kageura, 2002:14)

In traditional terminology the *concept* and not the *term* or the *word* is taken as the starting point for meaning description. The concept is considered the meaning of the term. Terms are the linguistic representation of terms. Traditional terminologists believe one can know the concept which exists objectively, define it, and name it with a term. [Temmerman R., 2000:40] Therefore, it is on that basis that the meaning of a term can be said to be the concept.

### 1.3 Semantics of legal terminology

Translation is frequently regarded as an act of communication and legal translation is defined by Šarčević as a special type of act of communication which takes place “in the mechanism of the law”.

Terms, as argued by Sager, are “depositories of knowledge” and units with specific reference in that they “refer to discrete conceptual entities, properties, activities or relations which constitute the knowledge space of particular subject field”. Although the discreteness of concepts may be questioned, the claim that concepts are embedded in complex knowledge structures is in line with the approach to semantics proposed by cognitive linguistics. In Langacker’s subjectivist theory of semantics, meaning is understood as a dynamic process involving conceptualization (mental experience) rather than a static bundle of features. As argued by Evans, during conceptualization “linguistic units serve as prompts for an array of conceptual operations and the recruitment of background knowledge”. This claim also extends to terms, which function as prompts or points of access to vast knowledge structure rather than as containers for knowledge. The connection between a term and its knowledge structures may be seen as a mental routine. Sometimes, people know only “linguistic labels” but have not built the mental path which activates relevant knowledge: you may know the term constructive trust, but may have difficulties in explaining what it means.

This dynamic approach is based on Haiman’s claim that meaning resembles an encyclopedia rather than a dictionary. [8] Therefore, to characterize a concept it is necessary to refer to other cognitive domains presupposed and incorporated by it. To understand a *tort of negligence*, the following domains should be activated: *tort law*, *court*, *duty of care* and *breach of duty of care*, *civil liability*, *loss* and *remedies*. All the domains activated by a given concept are called its matrix. Since meaning is a mental process it invites idiosyncrasy: the domains activated by conceptualizers will differ depending on their experience and knowledge. The defendant may activate the domain of

defences with more detail focusing on the voluntary assumption of risk, contributory negligence or illegality while the claimant may focus on the domains of loss and remedies. A judge is expected to have a more structured knowledge and activate more domains than a lay magistrate from the magistrates' court or a working class tortfeasor aged 19. For this reason it may be difficult to specify how many domains have to be evoked to understand a legal term. According to Shelov's degrees of terminologicality, "the more information is required, the more terminological a lexeme is." [8] In the case of legal concepts the supra-individual semantic potential of terms is specified in legislation and case law. A substantial part of this knowledge is expected to be internalised and intersubjectively shared by members of the legal profession.

As emphasized by Clausner and Croft, the structure of domains "is more than a list of experientially associated concepts". [8] Sager believes that knowledge is arranged not only in terms of relevance and salience; concepts form complex interrelated networks and such vertical and horizontal interrelations are part of their meaning. A concept is understood fully when the conceptualizer knows its exact place in the network. First of all, concepts are organised in terms of their level of specificity along taxonomic vertical hierarchies. For example, *a legal person* is more schematic than a *company*; hence, the image it evokes is less rich in detail. Secondly, legal concepts are frequently organised along horizontal causal scripts/scenarios.

Gizbert-Studnicki sees legal terms as shortcuts that connect a certain set of facts with a certain set of legal consequences. He notes that the sets of facts and consequences are unlikely to be identical in two legal systems and goes as far as to suggest that the connecting concepts known as "legal institutions" are proper names and as such are untranslatable. These assumptions can be illustrated by *tort of negligence* which evokes the following scenario: if the defendant owes a duty of care to the claimant and breaches it, the claimant suffers a loss, the loss is not time-barred and the tort-feasor is not able to raise any defences, then the claimant may bring a civil action and claim damages. This generic scenario forms part of the meaning of tort of negligence and is filled with details in a usage event. [8]

Besides causal relations, concepts are embedded in various cultural models that organise a given field, which is clearly visible from the cross-linguistic perspective. For example, *Board of Directors* evokes the one-tier corporate governance model, where the board has both supervisory and management functions. By contrast, the Polish term *Zarząd*, which is provided in 5 out of 6 legal and business dictionaries as an equivalent of the Board of Directors, automatically activates the two-tier corporate governance model, which clearly separates management functions (*Zarząd*) from supervisory functions (*Rada Nadzorcza*). The incongruity between *Board of Directors* and *Zarząd* results from their entrenchment in different cultural models. [5]

It may be supposed that concepts are embedded in a number of overlapping, larger structures called *frames*. A frame is defined by Fillmore as a system of interrelated concepts that form a coherent script-like structure. Ungerer and Schmidt see frames as “a type of cognitive models which include scenarios, domains, interactive networks; it represent a “cognitive, basically psychological view of the stored knowledge about a certain field”. The most important frame is the *metaframe* formed by the legal system itself. It provides organising principles, rules of legal reasoning, approaches to statutory or contractual interpretation. [Biel Łucja, 2006:5]

“The *macroframe* consists of a number of microframes which function as a narrow context. Some frames may be shared by legal systems, especially those that stem from the same legal traditions, such as the continental legal systems. Polish frames will show more similarity to French or German frames than to English ones. Owing to the harmonization of law in the EU, the incongruity of frames between the continental systems and the UK (common law) system will decrease in time. The incongruity applies not only to the boundaries of concepts underlying terms but, above all, is connected with the complex organization of knowledge structures in the SL and the TL. Concepts are embedded in different macro- and microframes, cognitive models, scripts, scenarios and domains, and it is very unlikely that these structures will be organised in the same way in two languages/legal systems.” [Biel Łucja, 2006:5] In most cases terms will not have the same semantic potential in the SL and the TL.

In respect of legal translation, the translator should know both the SL and TL legal macroframes: the more specific and detailed the frames, the higher the quality of translation and the lower the risk of mistranslation. In particular, the translator should be able to distinguish a term from a mere word and select the right equivalent from a dictionary entry. For example, the term *spółka akcyjna* has 16 equivalents in English, however, some of them are incorrect. This happens, because in most cases terms will not have identical semantic potential in the SL and the TL. Furthermore, the translator may be able to replace the SL concept with a relatively similar concept from the TL legal system, but the TL will not be able to evoke the same knowledge structures.

There are several degrees of terminological incongruity, ranging from identical concepts (very rare) or near equivalence to conceptual voids without equivalents in the TL. The techniques of dealing with incongruous concepts may be placed along the continuum between two extremes: domesticating and foreignizing strategies. As noted by Venuti, “the debate between domesticating and foreignizing is longstanding in translation practice. *Domesticating* involves assimilation to the TL culture and is intended to ensure immediate comprehension; hence it is also referred to as the TL-oriented strategy. By contrast, *foreignizing* “seeks to evoke a sense of the foreign“ by ”sending the reader abroad”; as a result, it may pose a risk of incomprehension. It is also known as the SL-

oriented strategy. Chesterman proposes to reserve the term strategy for macro-level problem-solving, a cognitive plan, e.g. “the initial choice of source or target orientation, decisions about foreignizing or domesticating”, while the term technique should be used for “routine, micro-level, textual procedures”. Weston and Harvey propose the following micro-level techniques of dealing with terms:

| <b>Foreignizing<br/>SL-oriented</b> | <b>STRATEGIES</b>             |                                   | <b>Domesticating<br/>TL-oriented</b> |
|-------------------------------------|-------------------------------|-----------------------------------|--------------------------------------|
| <i>Transcription</i>                | <i>Literal<br/>equivalent</i> | <i>Descriptive<br/>equivalent</i> | <i>Functional<br/>equivalent</i>     |

The first technique is *transcription* (borrowing), including naturalization (adaptation of spelling). It is the most foreignizing strategy, the use of which is usually motivated by a large incongruity or untranslatability of TL concepts. As Weston notes, “inevitably, there will be a number of SL expressions which defy translation in the strict, narrow sense because nothing truly comparable to the corresponding concept exist in the TL culture and a literal translation makes no sense”. Prominent examples include *common law*, *equity* and *trust*. The advantage of using a transcription is that it provides a clear and accurate reference to the external source frame. [Biel Łucja, 2006:8] As emphasized by Šarčević, it specifies “the law according to which national terms and institutions are to be interpreted”. From the translator’s point of view, a borrowing is a “safe” equivalent as it allows him or her to avoid liability for inaccuracy. On the other hand, accuracy is achieved at the expense of comprehension. Some researchers emphasize that this technique “admits defeat”. The meaning is opaque and has low analysability; it does not capitalise on the TL knowledge. This technique is more appropriate for translation from well-known languages, e.g. from English to Polish and Romanian than vice versa.

Another technique, *literal equivalence*, may be regarded as a special type of borrowing. It is also known as formal equivalence, word-for-word translation, calque or loan translation. As noted by Weston, the acceptability of literal equivalents depends on their type. Some do not correspond to any TL concept (neologism) but are sufficiently transparent in meaning; in some cases, it is possible that a literal equivalent will also be functional equivalent. Literal equivalents are not accepted when they are false friends (refer to a different TL concept) or a virtually meaningless.

The *descriptive equivalent*, as a technique, is more TL-oriented than the previous ones as it takes into account the recipient’s knowledge gaps. It is based on explicitation, i.e. making explicit in the TT what may be implicit in the ST. It is worth noting that explicitation is not so infrequent in translation practice: it is regarded as one of the translation universals. The descriptive equivalent may provide more (but not complete) information than the literal equivalent and is certainly more comprehensible. The major disadvantage of descriptive equivalent is its length. Since a term

functions as a shortcut and may be repeated frequently in a text, one of its main properties should be brevity of form. The longer the equivalent, the more inconvenient it is. A descriptive equivalent is frequently based on a legal term known in the TL but which undergoes some modification to signal the difference. It is argued that foreign-sounding equivalents make recipients realize the incongruity of terms and refer them to the proper legal system. They may also allow recipients to map some TL knowledge by activating generic scenarios; for example, when *spółka partnerska* is translated as a professional partnership, the translator activates the general knowledge connected with partnership (personal liability of partners, etc.). [Biel Łucja, 2006:5]

Šarčević defines a *functional equivalent* as a “term designating a concept or institution of the target legal system having the same function as a particular concept of the source legal system”. This cross-systemic mechanism seems to resemble the intralinguistic mechanism behind conceptual metaphors where one concept that is usually more abstract, novel or complex is accessed through a more basic, concrete or well-known concept. Weston considers it to be “the ideal method of translation”. [Łucja Biel, 2009:8]

#### **1.4 Recent trends in terminology**

A growing number of researchers have recognised the limitations of the traditional theory of terminology. For instance, Sager regards three dimensions, i.e. cognitive, linguistic and communicative, as relevant to terminology. For instance, Daille, Jaquemin and Tartier observe the morphological and/or syntactic variation of terms in relation to the automatic processing of terms and their variants. Tsuji shows that the actual survival of rival synonymous terms is correlated to the length as counted by phonemes.

Today, for instance, we may observe the dynamic interaction between ordinary language and scientific terminologies, thus effectively contradicting the strong proposition concerning the nature and status of “concept” in the traditional theory. Budin talks of the historical evolution of terminology, thus introducing the diachronic viewpoint into the study of terms. Some linguists (Cabre, Temmerman) have argued that some terminological phenomena can be better described by using more flexible and powerful structures of concepts such as prototype theory. They emphasise the flexible relationship between concepts and terms as well as the difficulty of defining the borderline of a concept. With this development, there are at present different perceptions of the nature of concepts represented by terms. On the one hand, there are researchers who emphasising the artificial nomenclatural aspect of terminology, regard terms as systematic and deliberate creations reflecting the systematic nature of concepts. On the other hand, there are

researchers who, emphasising the natural language aspect of terminology, apply a more flexible framework of concepts to the description of terminological phenomena. [36: 21]

The current strong interest in terminological activity arises from the increasing participation of “non-terminologists”, i.e. persons not academically trained in terminological methodologies and who therefore are coming to the field from professional necessity rather than from scholastic choice. While many of the concepts and foundations of terminology have been developed by linguists, lexicographers, philosophers, classification experts, language translators, the recent concern, particularly in terminology for technical subjects, is the result of technical people being motivated to develop glossaries, improved controlled vocabularies, indexes and nomenclatures which are useful for populations from widely differing technical backgrounds. Hence the name “terminological practitioners”.

In our modern increasingly interdependent, technological society, a given social activity affects more people than previously and in technical subject areas this is reflected both in the increasing numbers involved and also in the concomitant increase in diversity of backgrounds of persons interacting. Controlled vocabularies of working terms each with its own broadly accepted meaning, represent the only way to conduct intelligible and meaningful discourse in such circumstances. Arriving at such vocabularies, often having to consider equivalents in other languages, is becoming a recognized task preparatory to serious scientific and technical interaction. The identification of new and different concepts and the coining of new terms may occur informally and be beneficially available to individual researchers or schools of investigation, but the achievement of broad acceptance of concept identification and meaning along with term assignment still requires a consensus arrived at by well-grounded terminological procedures. [54:11] The interest of technical persons from other nations in the terminology work illustrates the importance of seeking to conform with international terminological practices and to recognize the longer range implications of the work, which may need to accommodate multinational aspects of concept identification and delineation, including internationally accepted definitions and multilingual translations. Thus, the development of multilanguage terminology standards for a technical subject area emphasizes further the need for multidisciplinary participation. [Strehlow R.A., 1993:54]

Today, the standardization of national and international terminologies is not only more comprehensive, in keeping with technological developments, but is also better coordinated. Thus, when national standards are created for fields in which ISO has not yet produced a standardized terminology, they are developed with a future international standard in mind. Once adopted by ISO, the international terms and definitions are in turn considered by national committees and may eventually be included in their updated standards. The coordination of work methods for the

preparation of such standards is insured through consistent application of regularly updated ISO guidelines such as: ISO-704 Principles and methods of terminology; ISO-639 Representation of names of languages; ISO-31 General principles concerning quantities, units and symbols; ISO-1951 Lexicographical symbols for use in vocabularies; ISO-860 International harmonization of concepts and terms; ISO-1087 Vocabulary of terminology; ISO-3166 Representation of names of countries; ISO-7154 Documentation. Bibliographic filing principles. [Strehlow R.A., 1993:54]

One of the main objectives of *terminology standardization* is to ensure comprehension of the entire text. This activity evolves out of the requirement for unambiguous understanding of terms used in standard documents. As a result, the specific nature of standardization activity leads us to consider problems that are normally treated in linguistics, logic, semiotics and information science, all of which are disciplines from the humanities area and are not normally viewed as pertinent to standardization. It is nonetheless necessary to take these disciplines into account because terms serve as a subject of investigation in these disciplines.

Activity in the field of standardization consists of formulating, issuing and implementing standards. Important benefits derived from standardization include improving the reliability of products, processes and services, as well as eliminating trade barriers and facilitating cooperation throughout the technical field. Only the use of systematic terminology permits an unambiguous, noncontradictory understanding of the requirements and recommendations specified by the standardization process. Also, standardization offers the best way of systematizing the terminology currently used in normative and technical documents. It is desirable for experts in various branches of industry and specialists in the field of terminology to participate in the standardization of terminology based on the principle of consensus. [54:38]

### **1.5 Multilingual term creation within the EU conceptual system**

As we know, primary term creation may be both monolingual and multilingual. Within the EU conceptual system the equality of official languages would, in theory, presuppose that primary terms are created in all official languages (23) in parallel. In other words, for one EU concept, twenty-three designations should be given simultaneously. In reality, similarly to the drafting of texts, the creation of terms is carried out in two steps: terms are first *created* in the dominating languages (mainly in the procedural languages of English, French and German) and then *translated* into all other languages. This means that, in most languages, target terms (secondary terms) are created on the basis of a source term (primary term), by translation.

Turning to the conceptual dimension of terminology translation, it is important to emphasize that this process, whether by or without translation, is still an *intra-conceptual* activity, since the

terminology has to be created within one (the EU) conceptual system. As a result, the creation of EU terminology can be described as a two-step process: (1) *multilingual primary term creation* for the dominant languages followed by (2) a secondary activity, *intra-conceptual term transfer* for most other languages.

Marcel Thelen considers that “the importance of translation in term creation at EU level is also underlined by the participants taking part in the process. Whilst, for primary terms, the process of conceptual thinking and designation is carried out by politicians, experts and civil servants, secondary terms are created by the translators/terminologists in the EU institutions. As a result, although the approach still has to be onomasiological (starting from the concept), the choice is already influenced by the presence of a primary term and by the fact that the term has to be translated. The fact that, for most languages, terms are created by translation makes a mere onomasiological approach questionable. Translators depart from a primary term which inevitably influences their choice of the target language designation of the same concept.” [57:29]

In addition, developments and needs at national level may also influence the translator’s choice. Eurocrats may not have the same preferences as translators and linguists. They tend to accept a “foreign-sounding” term in the national language, on the basis of which the original term may easily be deduced. This aspect is all the more important since, as mentioned before, citizens rather need ordinary, non-technical terms that are easy to understand. The translator has, therefore, to balance the different needs. Another challenge the translator may face is when the professional community at national level starts using a term long before a document is to be translated. It becomes even more challenging if there is no consensus on a specific term in the target language. “Secondary term formation at national level usually takes place within the professional community among experts who have the time to discuss the *integration of a foreign term into the national conceptual and linguistic system*. If this has not been achieved, the translator has to produce a term – and usually within a very short period of time. As a result, EU translations may accelerate (or even put an end to) consensus seeking at home. Nevertheless, the creation of a term at EU level does not mean its automatic acceptance in the professional community, which in turn may result in parallel designations of the same concept: an example of the linguistic variability of terms. If, at a national level, no authority has the power to decide which term to adopt, the translator is left alone with the choice.” [Thelen Marcel, 2010:57]

## 1.6 Characteristics of terms

The creation of a new term involves a number of stages and a series of iterative processes. It is recommended that the first step in the process is *to identify a set of terms appropriate to the subject area*. Arriving at this set of term names immediately raises questions regarding the detailed delineation of the field to be covered. The listing of possible terms can be an inside-outside way of reaching this delineation. Criteria for possible term types can be raised along with possible synonyms and preferred terms.

The second stage is *the creation or adoption of definitions for the cited terms*. Socrates is reputed to have said “the beginning of wisdom is the definition of terms”. This stage may necessitate detailed consideration of the associated definitions being proposed. There is great value at this time in having access to definitions from related subject areas. The creation and development of terminological definitions seems itself to be a two-step process. The first is to identify the scope and content to be covered and the second is to formulate the definition according to terminological principles.

The third stage involves *identifying and characterizing the relationships between terms, term types and concepts*. Underlying the question of term inclusion or exclusion in a given subject area are the meaning and relationships of the concept associated with each term name as well as relationships between term names and between concepts. At this stage, it is very important to correctly and fully identify the basic concepts of the subject area in a consistent and exhaustive set and to ensure that the terms chosen represent completely the meaning and interrelations of the field. [54:17]

The final stage is then *to revisit the term names and associated definitions* within the relationship networks that have been established. Additional term names will have arisen from the exercise and these will require definitions as per stage I. Thus, examination, particularly for consistency, parallelism and recommended structure would be the principal emphasis. [54:19]

Recent work in terminology shows an increasing interest in a large variety of relationships between terms (qualified by authors as semantic, terminological or conceptual). Hyperonymy and meronymy remain central in most terminological descriptions, but other non-hierarchical and lexical relationships are being considered by terminographers and other specialists using specialized corpora.

When analyzing the meanings of terms that form the lexical structure in a field of knowledge, terminographers may be interested in various types of relationships. “It is widely recognized that the most important relationship is that of hyperonymy (eg. *peripheral* is the hyperonym for *mouse*). This relationship has generally been considered as the fundamental one for

developing knowledge structures since it allows for the construction of hierarchies linking generic domain concepts and their specifics. In addition, the generic is a key part of the classical Aristotelian definition, making its identification particularly important for terminographers.

While not always considered to be as fundamental as hyperonymy, meronymy as the semantic relation that holds between a part and the whole, is nevertheless of great value in classifying and structuring some types of concepts. Two additional, non-hierarchical conceptual relationships – that is, the relationships between an entity and its function and between a cause and an effect – had typically been set aside in favour of hyperonymy and meronymy which have begun to be explored in recent years.

In establishing the relations, contexts play a huge role. Contexts that are not appropriate for formulating definitions – because they do not indicate a given relationship or for other reasons – may still assist in the process of concept analysis, helping the terminographer to gain a better picture of how the concept fits into the knowledge structure of the domain.” [9:67]

As linguistic signs, terms are a functional class of lexical units (Sager) and the basic function of terms is to express more sharply delineated meanings identified as necessary within a particular domain by the complexity and number of concepts that have to be clearly distinguished. From the angle of specialised discourse, we can state that some meanings of lexical units are consolidated by clarification and narrower determination in order to satisfy the degree of specification required by the domain in which they are used. Roughly speaking, it is in this way that lexical units become the “terms” of the domain.

Thus, the division between general words and terms as empirical objects is not rigid. As Sager states: “it can happen that non-specialists consider a word to be a term which is, however, only a general word for the specialist; equally, it can happen that specialists use terms which their non-specialist audience take to be words in the general language”. What is more, “the possibility of many lexical units to function both as words and as terms may even be a question of individual choice and interpretation of the speaker and listener”. Lynne Bowker considers that individual terms constantly “interact and intersect with general words because they share the same linguistic forms.” [Lynne Bowker, 2007:14] So the particular range of terms representing a domain is fluid.

Dubuc defines six features of terms: a) *frequency* – the frequent use of terms is therefore considered to be an important criterium for their degree of reliability. In order to be able to achieve this aim, the terms to be coined will have to fit in the linguistic system, that is, the morphological, phonological and lexical rules governing the language in question; b) *manageability* – the functional character of terms is of the utmost importance, especially in scientific and technological fields. Communication between specialists needs to be as effective as possible, that is, convey as

much information by means of a few words as possible. Descriptions and definitions that tend to complicate and aggravate the expression or that present difficulties of pronunciation or orthography should be avoided; c) *adequacy* – unambiguous communication benefits from unique relations between concepts and terms, that is, term-concept assignment in which one concept only is assigned to one term and one term only to one concept, or, terminologically defined: monosemy and at the same time mononymy. Adequacy implies the connection between the concept and the reality that is represented; d) *motivation* – a term is motivated when a language user is able to deduce, at least partly, the meaning of the term from the analysis of its components. Words that respect the morphological laws are generally said to be motivated; e) *acceptability* – a newly coined word is nearly always considered suspiciously. It is therefore important not to emphasize psychological factors that might increase the user's resistance, such as unfavorable, negative meanings, unpleasant connotations; f) *derivation* – rapid developments in technology demand terms able to describe the many new concepts that are coming into existence. However, Richard Strehlow considers that for a subject field, the number of roots and affixes in each language that can be used as word elements for the formation of terms is very small in relation to the already existing and rapidly growing number of concepts. [Richard Strehlow, 1998:24]

*Synonymy and terminological variation* Today, synonymy is strictly forbidden in the terminology of legal field, since it creates ambiguity and lack of clarity. Thus, one of the main objective of terminology is the elimination of synonymic series in the benefit of univocity, by creating monoreferential terms. One of the cornerstones of traditional terminology is the so-called “univocity principle”, according to which only one term should be assigned to a concept and vice versa. The principle is thought to ensure effective and efficient communication, whereas its violation is perceived as a source of ambiguity. In the last decade, however, a number of scholars have started advocating the need to acknowledge that synonymy and variation do not belong exclusively to general language but also characterize specialized terminology; this would appear particularly true for domains which are subject to profound changes, where harmonization only occurs in ideal cases and concurrent terms continue to coexist. The high number of synonyms is due, above all, to the simultaneous presence of foreign and domestic terms designating the same concept. In addition, these are often paralleled by acronyms and abbreviations which further increase the range of available synonymic expressions for the same concept. The proliferation of synonyms may be linked to the appearance of multiple translations for the same English term, which then coexist with the original, for example: *court* – *curte, judecătorie, tribunal, instanță judecătorească*.

A deeper analysis of the above phenomenon has revealed the existence of two types of synonymy. More precisely, by adopting a socio-terminological point of view, i.e. by focusing on the actual uses of the language by different users, we distinguish “physiological” and “pathological” synonymy. The former consists of functional kind of synonymy originating in diastatic differences, whereas the latter, as its name suggests, is arbitrary and may cause confusion. Unjustified pathological synonymy is more frequent than functional synonymy. Pathological synonymy is often connected to the coexistence of foreign and native terms, which may be caused by different translation choices and gives rise to a wide range of equivalent expressions and acronyms/abbreviations. The arbitrary use of this type of synonyms may lead to an obstacle during the creation of a terminological database and puzzle non-expert users. [58:15]

*Cross linguistic equivalences* Different analyses has highlighted the existence of a network of relationships between the terminologies in the two languages, not only at the level of main terms, but also with respect to synonymous forms: in other words, when comparing the English, Romanian and Polish glossaries, cross linguistic equivalences are detected between synonyms and variants. Cross linguistic equivalences are key issues for terminological research, and particular attention is being given to the possible creation of new databases where users can perform cross-searches even between synonyms and variants in different languages.

Whether real equivalence can be found between synonyms and variants in different linguistic repertoires remains a matter of debate: there is hardly any equivalence between main terms, let alone at the level of variants. 100% correspondences may be rare between synonymous forms across languages, but examples of full equivalence do exist. [Marcel Thelen, 2010:17]

*Onometrics* Onometrics represents a new approach in terminology. As a definition, *onometrics* is the science and practice of term evaluation. It helps specialists to create, select and use better terminology. Onometrics can help unsettled terminologies toward standardization in two ways. First, it gives standards developers an effective tool for evaluating proposed terms. Second, standards implementation is fostered because users are more likely to accept terminology standards that are objectively justified.

Onometrics is useful for theoretical orientations involving the naming of new concepts or the standardizing of names for established concepts. However, its usefulness goes beyond these because naming is an everyday problem as well.

Fred W. Riggs has coined the word *onomantics* in reference to a terminological approach in which first a concept is given and then its name or names are sought. Onomantics then, is a naming or name-seeking approach. Thus, the name-seeker has to become name-selector and name-giver as well. If onomantics goes from concept to name, then onometrics goes from name to evaluated

name. Terminologists and linguists call the application onometrics, but it could be termetrics, metrics of terms, principles of naming, principles of term evaluation. [54:76]

The authors of the book “Standardizing terminology for better communication: practice, applied theory and results” propose some term-evaluating criteria or features of terms, such as: 1) *accuracy* – is the term quality determined by the absence or presence of misleading or incorrect elements. Thus, a term should reflect, as far as possible, the characteristics of the concept which are given in the definition. 2) *precision* – is relevant only when terms are accurate. As a definition, precision is the degree to which a term clearly delineates its concept. In a four-part graded scale the respective grades might be called highly precise, fairly precise, fairly imprecise and highly imprecise. Like accuracy, precision of a name can be judged only with reference to the intended concept. 3) *descriptiveness* – of a term is the degree to which the term’s elements (whole words or word parts) signify its intended meaning – in other words, the degree to which a term’s literal meaning matches its intended meaning. Although it is common to speak of the literal meaning of a term, it is often the case (due to polysemous elements) that terms have several literal meanings. Thus, it also may be defined as the quality of suggesting clearly and fully the essential characteristics of the referent. 4) *mononymy* – is the quality of a term which is the one and the only formal name for a given concept. By definition, mononymy have no synonyms, at least at the formal level. Although synonymy is sometimes deplored by terminologists, actually informal synonyms are indispensable (for certain terms) for avoiding monotonous diction in text or speech. 5) *appropriate register* – means that a term’s style (register) is consistent or compatible with the context of usage. The key is understanding which register is appropriate for the context and then using it consistently. 6) *precedent* – is the extent to which a proposed designation is in harmony with established designations. Once a term or a concept had been generally accepted it should not be changed without cogent reasons and reasonable prospects of acceptance of the change. Nybakken calls the same principle – stability. 7) *conciseness* – is the orthographic length of a term. Conciseness is important for efficiency of communication. 8) *appropriate simplicity* – means that the number of words in a term is appropriate for the level of importance of the designated concept. As a rule, the more important the concept, the simpler the term should be. Like conciseness, this criterion serves efficiency of communication. This criterion has a binary scale, so that a term is either monomial or polynomial. 9) *form correctness* – is the extent to which a term has no grammatical errors, such as misspelling, wrong hyphenation, wrong (inverted) order, inadmissible variant, wrong part of speech, etc. this criterion is also called linguistic correctness. 10) *etymological purity* – Nybakken describes it as follows: “a word constructed from elements derived from a single language is usually preferable to a hybrid word which combines elements derived

from more than one language. Constructive elements derived from a single language ordinarily combine more easily and euphoniously than elements taken from different languages. [54:82]

A common and clear language with shared meanings is not only the basis of any particular culture, but also the prerequisite for any successful terminology. Nevertheless, the main problems related to terminology refer to term extraction phase. Theresa Cabre identifies the following difficulties: 1) identification of complex terms, that is, determining where a terminological phrase begins and ends; 2) recognition of complex terms, that is, deciding whether a discursive unit constitutes a terminological phrase or a free unit; 3) identification of the terminological nature of a lexical unit, that is, knowing whether in a specialized text a lexical unit has a terminological nature or belongs to general language and 4) appropriateness of a terminological unit to a given vocabulary. [11] Thus, to make the terminologist's task easier the candidate term is provided with its context and, when available, with any other further information (frequency, relationship between terms, etc.)

### 1.6.1 Different classifications of terms

The classification of terms can be as complicated as classifying people. Nevertheless, classification is necessary not to use terms that were invented once but are gone out of use or have even never been accepted in the community. Unfortunately, the existence of such deprecated terms becomes manifested in standards, as well in national as in international standards, and dictionaries due to historic developments. This is due to the inclusion of terms before terms are negotiated or before a term becomes deprecated. Consequently, they should appear in term banks to enable users to find them and get information on the usage, definition and origin of the term. To enable the use of recommended terms, the recommended term has to be marked or labeled somehow.

There are linguists who divide legal terms in two groups: a) pure legal terms or legalese: *chirografar* – creditor lipsit de garanții reale sau personale, a cărei creanță este garantată cu patrimoniul general al debitorului, *casare* – desființarea de către instanța de recurs a unei hotărâri judecătorești, *acrescămînt* – creșterea drepturilor succesoriale ale unei persoane, drept urmare a renunțării sau înlăturării altor persoane de la moștenire, and b) common words that are used as terms in the legal field: *jaf*, *furt*, *viol*, *a pedepsi*, etc.

According to the grade of recommendation, Thorsten Trippel distinguishes:

- preferred (term): terms that are recommended for a certain concept,
- accepted (term): terms that are not strictly recommended but used and accepted,
- archaic (term): terms that can be found in old documents but are not used any more,

- deprecated (term): terms that should not be used at all and subsidized by the preferred or an accepted term. [63]

As we can see, there are a lot of classifications made by different linguists according to different criteria. Thus, the majority of terms may be divided into the following groups:

**1. Latin terms.** One of many noticeable features of English legal lexicon is the existence of *Latin terms* in its terminology. The presence of such terms is linked to certain reasons. “In the first place, it was inevitable for English law to escape the influence of Latin which was supported by the power of the Roman church over Europe at that time, and also to its widespread use as a language of learning and literature, and also due to the incredible power of the Roman law which was a coherent written system, and had strength of an institution over a considerable area of Europe. [47:56]

Latin legalese came to the UK with Emperor Claudius’s legions and stuck around even when the toga wearers returned home. Following the Norman conquest, Latin was joined by French to share a virtual duopoly in our courts. There have been previous attempts to rid English law of Latin’s pernicious influence. In 1730, Parliament passed a decree outlawing courtroom Latin - only to concede a few years later that there were no suitable English words to replace the banned lingua franca. While at the Lord Chancellor's department in 1998, Geoff Hoon MP accused Latin of contributing to “the mystification of the law which we are trying to get away from”. Lord Woolf then decreed that such phrases as *in camera* (in private), *ex parte* (without notice of the hearing) and *subpoena* (witness summons) would be banned. However, nothing changed since lawmakers continue to use Latin terms in legal documents. [68] Here are some Latin phrases and words in common use: *bona fide* (good faith or in good faith), *res judicata* (an issue adjudicated), *actus reus* (guilty act).” [Price, Richard, 1995:71]

There are many common Latin words used today in English courts and legal proceedings, such as: *habeas corpus* - bring a person before a court; *pro bono* - done for free for the public good; *status quo* - how things are currently; *subpoena* - an order commanding a person to appear in court under a penalty for not appearing. Some Latin constructions had changed their meaning through the time. Linguist Mellinkoff D. gives the following examples: the original meaning of *corpus delicti* was *body of the crime*, and the modern meaning is *material evidence in a crime*; *de facto* (from the fact) - in reality, actually, in effect; *de jure* (from the law) - according to law, by right; *(in) flagrante delicto* (while the crime is burning) - red-handed, in the act; *sine qua non* (without which not) - an indispensable condition, a prerequisite. [41:20] Table 1 lists other common Latin words used in English, Romanian and Polish courts and legal proceedings.

**Table 1. Common Latin legalese**

| <i>Word</i>           | <i>Modern meaning (English)</i>  | <i>Polish</i>                                 | <i>Romanian</i>                                |
|-----------------------|--|---|--|
| <b>affidavit</b>      | <i>a sworn, written statement</i>  | <i>pisemna deklaracja pod przysięgą</i>       | <i>depoziție, mărturie scrisă sub jurământ</i> |
| <b>subpoena</b>       | <i>an order commanding a person to appear in court under a penalty for not appearing</i> | <i>wezwanie do sądu w charakterze świadka</i> | <i>citație</i>                                 |
| <b>alibi</b>          | <i>alibi</i>   | <i>alibi</i>                                  | <i>alibi</i>                                   |
| <b>status quo</b>     | <i>the existing condition or state of affairs</i>  | <i>stan istniejący, stan rzeczy</i>           | <i>status quo</i>                              |
| <b>corpus delicti</b> | <i>material evidence in a crime</i>  | <i>dowód przestępstwa</i>                     | <i>Corpuri delictae</i>                        |
| <b>De facto</b>       | <i>De facto</i>  | <i>istotnie, rzeczywiście, w praktyce</i>     | <i>De facto</i>                                |
| <b>De jure</b>        | <i>De jure</i>   | <i>zgodnie z prawem, formalnie, prawnie</i>   | <i>De jure</i>                                 |

Despite the emergence of French, Latin remained an important legal language in England, especially in its written form. The fact that writs were drafted in Latin for so long explains why even today, many of them have Latin names. The use of Latin and tireless repetitions by the judges have endowed these legal maxims with a sense of timelessness and dignity; moreover, they reflect an oral folk tradition in which legal rules are expressed as sayings due to the ease of remembering a certain rhythm or rhyme.

Lawyers use Latin terms because they are a convenient shorthand. Some Latin terms have been given judicial or statutory meanings and have become “terms of art”. Some lawyers argue that Latin is more precise than English. Blackstone said that: “Law Latin was a technical language calculated for eternal duration and easy to be apprehended both in present and future times; and on those accounts, best suited to preserve those memorials which are intended for perpetual rules of action”. Hudson writes that: “the survival of Latin tags in our legal system is primarily designed to give mystery and majesty to otherwise ordinary mortals and their fallible proceedings, as is the case with wigs and robes.” Linguists believe that law Latin is not precise because words are added, changed or dropped. That is why it is characterized as “barbarous”, “mutilated”, “dog Latin”, “corrupt”, “harmful”, etc. [Price, Richard, 1995:53] More than that, all Latin terms used in legal documents, as a rule, are used in italicized form.

**2. French origin legalese.** Legal language is peppered with French terms and words derived from French. French terms are entrenched in legal language because of history and not because they are more precise than their English equivalents. In the past, law French became to be used because most judges came from the Norman aristocracy. It was perpetuated because only the noble and

wealthy could afford to have their sons trained as lawyers and fluency in French was a mark of nobility. When Anglo-French died out as a living language, the French used by lawyers and judges became a language exclusive to the legal profession. It was incomprehensible both to their clients and to the speakers of ordinary French. Legal French also contained many terms for which there were no English equivalents. [Price, Richard, 1995:7]

Several French terms are still common in legal English such as *accounts payable/receivable*, *attorney general*, *court martial*, *judge*, *payment*, *property*, etc. All these terms were all originally French, but have been subsumed by English. The most lasting impact of French is the tremendous amount of technical vocabulary that derives from it, including many basic words in the English legal system, such as: *agreement*, *arrest*, *estate*, *fee simple*, *bailiff*, *council*, *plaintiff* and *plea*. As in the early Anglo-Saxon influence, which had phrases featuring the juxtaposition of two words with closely related meaning which are often alliterative such as *to have and to hold*, this doubling continued in legal French, often involving a native English word together with the equivalent French word, since many people at the time would have been partially bilingual and would understand at least one of the terms, for example, *acknowledge and confess*, *had and received*, *will and testament*, *fit and proper*, etc. [59:122]

Law French is responsible for many tautologies. For example, *goods* (eng) and *chattels* (fr); *sell* (eng) and *assign* (fr); *break* (eng) and *enter* (fr). These tautologies arose as lawyers translated documents from French to English. They added English words with the same meanings as the French term if they wanted to preserve French words. Today, this confuses readers who assume that two words would not be used if one would suffice. In addition, law French is not always precise or immutable. Attempts to eradicate the French from legal language have been made since the unsuccessful Statute of Pleadings specified that all pleadings were to be spoken in English (although written in Latin), except for “ancient terms and forms”. Notwithstanding all these attempts, the French terms remained to be used in the legal field. [47:8]

**3. Archaic legal terms.** It is no longer considered good style to include Old English and Middle English legal words in modern legal writing. E.g.: *aforsaid*, *aforementioned* and *forthwith*; “here” words - *hereafter*, *herein*, *hereof*, *heretofore*; “there” words - *thereafter*, *thereby*, *therefore*, *thereto*; “where” words – *whereby*. But linguists consider that “although these expressions often had a legitimate function in the past, the claim that *archaic legal words or expressions* should be preserved because they are somehow more precise than ordinary language is simply not defensible.” [32:145] It is stated that “legal language often strives toward great formality and it naturally gravitates towards archaic language. These words give a flavor of formality and tradition to the legal language.” [62:276]

There are a large number of archaic words which are no longer used in ordinary English writing but continue to exist in English legal texts. This category basically refers to the “portmanteau” words, such as *herein*, *forthwith*, *hereby*, *notwithstanding*, *heretofore* and so forth. The use of such archaic terms in English legal texts is now strongly opposed on the grounds that not only are “these words obstacles to the lay reader, but they are also imprecise and thus troublesome to the legal reader; they may create the appearance of precision, thus obscuring ambiguities that might otherwise be recognized.” [59:122]

Accordingly, the more conservative legal terms are, the safer a legal document will be. In other words, this use of antiquated terminology is driven by the need to avoid troublesome changes as far as legal lexical meaning is concerned. The principle is that “what has been tested and found adequate is best not altered”. [Tiersma, Peter, 2000:161] The use of historical expressions creates an aura of seriousness, authority, and respect for the law. It is for this reason that archaic terminology is still used in many of our cultural rites of passage, such as weddings, baptisms, and funeral services. In his book, *Legal Translation. The Plain Language Movement and English as a Lingua Franca*, Andrew A. Hammel, a Lecturer on the Law Faculty of the Heinrich Heine University, from Germany, says that „eliminating or changing this language can change the register of the document and lower the register of a translated legal document in order to make it more readable for the general public violates a basic tenet of translation.” [30]

The existence of a legal metalanguage to convey legal terms is very helpful. It works in the following way: a legal term under legal system A, understood as a systemic term, is transformed into another term under legal system B by finding a term that corresponds with the function of the legal term under legal system A. Professor Marcus Galdia, believes that „a complete equivalence between the terms of two legal systems can only be attained if both legal languages refer to the same legal system, positing an acceptable equivalence between two legal systems and not two languages.” [29:3] A clear understanding of the terminology is therefore important not only for the sake of the terms, but also to facilitate the general understanding of the legal text or conversation as a whole.

**4. Doublets** In the course of its long history, the language has adopted a great many words from foreign languages all over the world. One of the consequences of extensive borrowing was the appearance of numerous *doublets*. A legal *doublet* is a standardized phrase used frequently in English legal language which consists of two or more words which are near synonyms. The origin of the doubling — and sometimes even tripling — often lies in the transition of legal language from Latin to French. Certain words were simply given in their Latin, French and/or English forms to ensure understanding. Such phrases can often be pleonasms. [64] Actually, there is a common use

of such collocations in which synonyms or near- synonyms or sequence of two or more words or phrases belonging to the same grammatical category having some semantic relationship and joined by some syntactic device such as *and* or *or*. There are cases when these doublets may develop divergent meanings, creating antonymic doublets. It seems that in judicial interpreting these constructions provide precision, meaning and accuracy. Usually, these constructions may seem tautologous, but they are stylistically sound because the repeated meaning is merely a stylized way to express a single concept. Such words can be either nouns, verbs, adjectives or even prepositions. For example: *made and enter, by and between, terms and conditions, covenants and obligations, null and void, represents and warrants*. There are doublets which have been found to be of differing rather than similar nature: *directly or indirectly, bought or sold, in cash or in kind* and so forth. Legal drafters, nowadays, do not normally use such pairing of words as a distinction from simple style of expressions, but it is merely a tradition adopted when drafting legal documents.

Linguists consider that “since the use of doublets in the English legal texts is calculated to create universality of application, the corollary is that any translation should aim to create an equivalent universality through the proper positioning of such expressions in the translated text. While this practice can be understood in some genres as a tool of enhancing the aesthetics of the text, in many other instances it can simply be nothing more than futile tautology: a *valid, lawful, definitive, effectual, ratified* sale, containing *no stipulation or defect or withdrawal or rescission*, he may dispose of it in any way he *desires or wishes*.” [33:245]

Doublets are also called conjoined phrases. One reason for such lists of words is to be as comprehensive as possible. They also can add emphasis. But they can lead to ambiguity because of the rule of interpretation that every word should be given meaning and nothing treated as surplusage. For example, the doublet *estate or interest* is often found in conveyancing documents. It is also found in real property legislation: “upon the registration of any transfer, the estate or interest of the transferor... shall pass to the transferee”. It is suggested that *interest* alone is just as precise.

The doctrine of estates grew out of the concept of tenure under the feudal system. Jowitt’s Dictionary of English Law says that: “*interest* was used in conveyances to denote every beneficial right in the property conveyed... In a narrower sense, interest was used as opposed to estate, and therefore denoted rights in property not being estates”. Thus, when referring to property, *interest* is not a technical term. It is a word capable of having a wide meaning and indeed different meanings according to the context or the subject matter. The word is capable of including “estate”.

*Estate* is a technical word with feudal overtones. *Interest* is a non-technical word. A person with an *estate* necessarily has an interest. It is suggested that the words *estate* and *interest* could be transposed without loss of meaning. Thus, the phrase *interest or estate* is unnecessary. Drafters can

simply use the word *interest* instead. This is as legally effective and conveys much more meaning to the people who read or are bound by the documents in which *interest* appears. [47:19]

**5. Borrowings: internationalisms, anglicisms.** A large portion of borrowings (41%) is represented by scientific and technical terms. The number and character of borrowings do not only depend on the historical conditions, on the nature and length of the contacts, but also on the degree of the genetic and structural proximity of the languages concerned. The closer the languages, the deeper and more versatile is the influence. It is very important to discriminate between the two processes – the adaptation of borrowed material to the norms of the language and the implementation of these words according to the concept they bear. The process of assimilation of borrowings includes changes in sound form, morphological structure, grammatical characteristics, meaning and use. [40:125]

All the loanwords have come from a variety of sources: the historic interrelatedness of Indo-European languages, mutual borrowing, globalization, borrowing from non-European languages, linguistic conventions in supra-national institutions such as the church, scientific and technological standardization, and international news exchange. One of the objectives of comparative law is to expand the perspective and the study of legal provisions and hence, by comparison, to improve local provisions already existing or those that will be created in the future. While analyzing foreign legal provisions, the intent to borrow the provisions may be triggered. Drafters of local legal provisions may look at foreign legal provisions and find in the latter a source for their drafts. If the provisions seem to be suitable, the drafters may adopt them to their legal framework. That borrowing may develop into what Alan Watson calls "*legal transplantation*," that is to say, "the moving of a rule or a system of law from one country to another, or from one people to another." The adoption of a foreign legal provision will make the recipient its new owner, and in turn, the recipient will make the borrowed provision new; when the original provision "interacts with the ethos of the recipient society, the interaction" results in a body of its own. In addition, the borrowing of legal provisions may be experienced both in an active and a passive way. Active borrowing takes place when one seeks a foreign legal provision and introduces it to a local legal framework. Passive borrowing takes place when a local legal provision is sought after and is introduced into a foreign legal framework. It is for instance perfectly acceptable to borrow terms from the language in which the concepts have been created, or to render them in a target language by means of descriptive phrases for lack of a single term. [45]

Phd. Aliona Dosca identifies the following ways of inflowing of international legal terms in the target language: the contacts between businessmen in different fields, mass-media, online trials, the contracts concluded with foreign partners, the international conferences, seminars, forums on

legal topics, and of course, the translations performed in the legal field. Thus, a borrowed term has all the chances to be used largely only if it is considered useful, adequate, integrative in the language system and it comes from a prestigious language with a high social-cultural level. [23:42]

**6. Legal neonyms** All languages continuously create new words to denominate new concepts. All of them have their own mechanisms to do so: through coinage *ex nihilo*, through their own linguistic mechanisms or through borrowing. In specialized communication, the need to name things may be even stronger because of the constant innovations occurring daily in science and technology. Thus, specialized communication – whether direct or mediated – requires terminological units which are essential for a better denomination to social, economic, political, technological or scientific changes.

In fact, professionals frequently identify new specialized concepts that need to be filled with new lexical units or with semantically-recycled lexical units. Consequently, these professionals are used to making decisions that do not always satisfy everyone. One of the fields in which neonymy is particularly crucial is that of terminology planning. Neonymy is defined by Mariana Ploae-Hanganu [46:235] as the neology of specialized terminology. But it was Rondeau who proposed the term neology to be reserved for the concept of neology in the common language and neonymy for terminological neology. A neonym is described as a linguistic sign similar with the term, being unambiguous, monoreferential, and being a part of a special system of concepts.

Theresa Cabre, in her book “Terminology: theory, methods and applications”, describes neonyms as follows: they arise because of a need for a designation and are usually stable, they reject synonymy because it can distort communicative efficiency and they are designed to be international. [10:210]

In juridical terminology the process of incorporation of neonyms is valorized with the help of the translation loans. Thus, neonyms have a decisive role in the renewal and actualization of the vocabulary in the field of law. A research made by German linguists show that in the XIX<sup>th</sup> century terms tended to change once in 30 years. Now, the situation is absolutely different and terms appear once in 5 years. Thus the appearance of neonyms is caused by the technical-scientific and cultural progress which are a kind of generator of new concepts. [20:157]

**7. Compound legal terms. Legal set expressions and clichés** Words put together to form lexical units make phrases or word-groups. The degree of structural and semantic cohesion of word-groups may vary. Some word-groups seem to be functionally and semantically inseparable. Such word-groups are usually described as set-phrases, word equivalents or phraseological units, eg. *legal person, to file an application*. As a rule, the component members in the word-groups seem to possess greater semantic and structural independence. Word-groups of this type are defined as free

or variable word-groups or phrases. The aptness of a word/term to appear in various combinations is described as its lexical valency or collocability. [40:95] Speaking about the lexical meaning of the word-group it may be defined as the combined lexical meaning of the component words. As a rule, the meanings of the component words are mutually dependent and the meaning of the word group naturally predominates over the lexical meaning of its constituents. Even in word-groups made up of technical terms, which are traditionally held to be monosemantic, the meaning of the word-group can not be described as the sum total of the meanings of its components. [Melenciuc D., 2005:96]

An important source of legal term creation is the phraseological derivation or compounding. According to Gérard Cornue, two thirds of the legal terminology is represented by compound terms. It is a process of creating stable syntagmatic units bearing a unitary meaning. They are considered as distinct structures and inseparable vocabulary units. They are formally and semantically dependent on the constituent bases and the semantic relations between them, which mirror the relations between the motivating units. The structural inseparability of compound words finds expression in the unity of their specific distributional pattern and specific meaning. Semantically, compound words are generally motivated units. The meaning of the compound is first of all derived from the combined lexical meanings of its components. [Melenciuc D., 2005:156] On the other hand, according to Cambridge dictionary, a set expression is a phrase in which the words are always used in the same order. The member-words of phraseological units are always reproduced as single unchangeable collocations. They are characterized by complete stability of the lexical components and grammatical structure. In her work, “Analiza semantico-structurală a terminologiei managementului economic în limba română”, Lucia Cepraga nominates and suggests the following classifications of word-groups; thus, according to the number of words, there are: [15:87]

a) two member set expressions – *secretul corespondenței, procedura penala, Assembly Act, Supreme Court, to hold liable, final judgement, pokrzywdzona strona, postępowanie sądowe*

(i) N+N: *comiterea infracțiunii, individualizarea pedepselor, retragerea mărturiei, corp delict, enforcement warrant, case-law, ocena dowodów*

(ii) N+Adj or viceversa: *arest ilegal, clauză penală, crimă organizată, infracțiune calificată, circumstanță agravantă, constitutional order, non-governmental organization, domestic court, szkoda pieniężna, pokrzywdzona strona, prawo wewnętrzne*

(iii) V+N: *a retrage mărturia, a stabili pedeapsa, a evalua dovezi, złożyć odwołania*

b) three member set expressions – *suspendarea executării pedepsei*

b<sup>1</sup>) prepositional – *privațiune de libertate, instigare la discriminare*

(i) N+Prep./article+N: *detențiune pe viață, violare de domiciliu, deprivation of possessions, principle of lawfulness, entry into force, article of incorporation, występowanie w prawach, wezwanie na rozprawę, pobyt w areszcie*

(ii) V+Prep./article+N: *a condamna la închisoare, to lodge a claim, to reject the claims, to uphold the judgement, to seize the assets, to pay in instalments, podać do sądu*

b<sup>2</sup>) non-prepositional – *suspendarea cursului prescripției*

(i) N+N+N: *garantarea libertății persoanei, court fee waiver, egzekucja nakazu eksmisji*

(ii) N+N+Adj: *retragerea plîngerii prealabile, caracterul penal al faptei, gravitatea faptei săvârșite, sęd niższej instancj, ponowne rozpatrzenie sprawy*

(iii) N+Adj+Adj: *vătămare corporală gravă, circumstanțe agravante legale, hidden legal impediments*

c) multi-member set expressions – *taxă pe valoare adăugată, legea cu privire la buget*

(i) four consecutive member terms – *judecarea cererii de revizuire, drept de reprezentare generală, act de stare civila, organe de urmărire penală, hearing on the merits, to lodge a court action, to appeal against the judgement, law on foreign investment, prawo do sprawiedliwego procesu, działać w złej wierze, korzystać z prawa zaskarżania, prawo do sprawiedliwego procesu*

(ii) five consecutive member terms – *dreptul cu privire la persoană, gradul de pericol social al infracțiunii, restabilirea situației anterioarecomiterii infracțiunii, right to freedom of assembly, panel of the Supreme Court, to fall under the provisions of, to file a request for annulment, wnosić skargę kasacyjną od postanowienia, wstąpienie w prawo do najmu, złożyć sprawę do sądu cywilnego, złożyć skargę w drodze apelacji*

(iii) six consecutive member terms – *prezența obligatorie a inculpatului la judecată, cauza care înlătură caracterul penal al faptei, to order the re-opening of the proceedings, right to peaceful enjoyment of possessions, Appellate Chamber of the Economic Court, złożyć wniosek o zawieszenie wykonania postanowienia*

(iv) seven consecutive member terms – *modalitatea de exercitare a supravegherii urmăririi penale, aplicarea retroactivă a legii penale interpretative mai favorabile, warrant for the enforcement of the judgement, Department for the Privatisation of State Property, cessation of the alleged breaches of law, sęd pierwszej instancji właściwy do rozpoznania sprawy*

- (v) eight consecutive member terms – *moduri de sesizare a organului de urmărire penală, efectul extensiv al apelului și recursului în procesul penal, uchylenie tymczasowego aresztowania pod warunkiem wpłacenia poręczenia majątkowego*
- (vi) nine consecutive member terms – *legea despre procedura judecătorească în cazul privațiunii de libertate; to lodge an application with the Supreme Court of Justice, incitement to hatred on ethnic, racial or religious grounds,*
- (vii) more than nine consecutive member terms – *infracțiuni săvârșite pe teritoriul țării de către persoane care beneficiază de imunitate de jurisdicție, Convention for the Protection of Human Rights and Fundamental Freedoms, to raise demands on the spot for action to remedy a breach of the law (14),*

Also she distinguishes another classification of legal set expressions, such as:

a) free set expressions – as a rule, they have a free structure and order of elements within the set expression, which means that they are flexible, for example: *a respinge apelul, a contestat o decizie, to lodge an application, to file an application, odrzucić skargę.*

b) fixed set expressions – usually, they have a fixed meaning and the order of the elements can not be changed, for example, *scrisoare de trăsură, scrisoare de garanție, strămutarea cauzei, posiedzenie zamknięte, strona trzecia, okoliczności sprawy, ustawa konstytucyjna.* All these examples have an ossified structure and meaning, they are standard legal formulas.

Also, we may distinguish some sort of sentences, atypical for the specialized field but widely used, as follows: *Fapta nu este prevăzută de legea penală; Fapta nu a fost comisă de învinuit sau inculpat; Fapta nu există; Fapta nu prezintă gradul de pericol social al unei infracțiuni; Fapta nu întrunește elementele constitutive ale infracțiunii.* These sentences appeared in the legal field under the Latin influence, and mainly by way of loan and ad-literam translation: *electa un via non datur recursus ad alteram; action non datur cui nihil interest; actus interpretandus est potius ut valeat quam ut pereat; adversus periculum naturalis ratio permititt defendere.* [14:20] All these ways of forming terms in present day English can be resorted to for the creation of new terms whenever the occasion demands.

**8. Terms created by means of derivation and conversion** In linguistics, derivation is the process of forming new words, thus it is considered a highly productive way of forming words. Although derivational affixes do not necessarily modify the syntactic category, they modify the meaning of the base, eg.: *legal – illegal, defend – defendant,* etc. The table bellow describes the types of derivation, as follows:

| SUFFIXATION                    |                                |        |
|--------------------------------|--------------------------------|--------|
| Romanian                       | English                        | Polish |
| a) suffixes denoting the agent | a) suffixes denoting the agent |        |

|  |   |   |
|--|---|---|
| - <i>tor</i> ; instigator, făptuitor<br>- <i>ar</i> ; mandatar,<br>- <i>ist</i> ; criminalist, recidivist<br>- <i>at</i> ; inculpat, acuzat. | of the action<br>- <i>er, -ant</i> ; defendant, applicant   | - <i>qcy, -ca</i> ; skarżący, obrońca,<br>przestępca, wnioskodawca<br>- <i>ony, -any</i> ; oskarżony,<br>zatrzymany   |
| b) suffixes denoting actions<br>- <i>are</i> ; premeditare, instigare<br>- <i>aj</i> ; șantaj, spionaj                                       | b) suffixes denoting the result<br>- <i>ment</i> ; judgement, amendment,<br>annulment, enactment,<br>impediment<br>- <i>ion</i> ; decision, conclusion,<br>protection, prosecution<br>- <i>ance</i> ; observance, | - <i>ość</i> ; dopuszczalność, legalność<br>- <i>acja</i> ; dyskryminacja<br>- <i>anie, -enie</i> ; prześladowanie,<br>naruszenie, postanowienie,<br>rozporządzenie |
| c) suffixes denoting a feature of<br>a specific action<br>- <i>t</i> ; condiționat, vătămat,<br>suspendat                                    | c) suffixes denoting actions<br>- <i>ation</i> ; application,<br>discrimination, authorization,<br>administration, termination,<br>expropriation  | - <i>jęcie</i> ; przyjęcie  |
| d) suffixes denoting possibility<br>- <i>abil</i> ; prealabil, anulabil,<br>brevetabil, inalienabil  | d) suffixes denoting the<br>appurtenance<br>- <i>al</i> ; constitutional  | - <i>two</i> ; przestępstwo, śledztwo,<br>orzecznictwo  |
| e) suffixes denoting the<br>modality<br>- <i>iv</i> ; abuziv, definitive,<br>preventiv   | e) suffixes denoting condition<br>- <i>ity</i> ; legality, admissibility  | - <i>owy</i> ; majątkowy,<br>nieprocesowy   |
| f) suffixes denoting<br>appurtenance<br>- <i>al</i> ; patrimonial, succesoral  | f) suffixes denoting features<br>- <i>able</i> ; reasonable, appealable   |   |
| <b>PREFIXATION</b>   |   |   |
| - <i>in, -im, -i</i> ; indirect, inacțiune,<br>iresponsabilitate   | <i>un-</i> ; unjust, unappealable   | <i>o-</i> ; ochronić<br><i>u-</i> , utrymać, uszkodzenie<br><i>od-</i> ; odszkodowanie,<br>odwoławczy, odrzucić   |
| - <i>co</i> ; coparticipare, coautor   | <i>im-, in-, i-</i> ; immovable, illegal,<br>impartiality, independent  | <i>za-, z-</i> ; zakwestionować,<br>znowelizowanie, zbadanie  |
| - <i>re</i> ; redeschidere, restabilire  | <i>retro-</i> ; retroactive   | <i>nie-</i> ; niezasadny,<br>nieuzasadniony,<br>niedopuszczalność,<br>niematerialny, niezbywalny  |
| - <i>ne</i> ; nerespectare, nedenunțare,<br>neretroactivitate  | <i>non-</i> ; non-pecuniary, non-<br>enforcement, non-compliance,<br>non-governmental   | <i>bez-</i> ; bezstronny<br><i>s-</i> ; skierować<br><i>roz-</i> ; rozpatrzenie,  |
| <b>REGRESSIVE DERIVATION</b>   |   |   |
| Pedeapsă – <i>a pedepsi</i><br>Arest – <i>a aresta</i>   | Appeal – <i>to appeal</i><br>Breach – <i>to breach</i>  | Oskarżać – <i>oskarżenie</i><br>Apelować – <i>apelacja</i>  |
| <b>PARASYNTHETIC DERIVATION (prefix+root+suffix)</b>   |   |   |
| Retrogradare, retroactivitate,<br>antidumping, refinanțare   | Non-enforcement,<br>unappealable, immovable   | Zmodyfikowanie,<br>prześladowanie, nieodwoalny,<br>poszkodowany, współskarżony  |

Conversion, as one of the principal ways of forming words in modern English, is highly productive in replenishing the English word-stock with new words. It refers to numerous cases of

phonetic identity of words, primary the so-called initial forms of two words belonging to different parts of speech, eg.: *arrest – to arrest*. Therefore, conversion is characterized not simply by the use of the paradigm as a word-building means, but by the formation of a new word solely by means of changing its paradigm. Hence, the change of paradigm is the only word-building means of paradigm. [40:143]

**9. Legal metaphors and metonymies** During the time, the legal discourse has embraced a range of figurative expressions evoking all sorts of experiences. We frequently consider law as a matter of looking: we *observe* it; we evaluate *claims in the eye of the law*, our high courts *review* the decisions of inferior tribunals. Thus, with the aid of metaphors, metonymies and other stylistic devices, we go so far as to give law the visual quality of hue: we may make a property claim under *color of title*; we discourage *yellow dog* contracts and make securities trading subject to *blue sky* laws; for good or ill, we frequently adhere to *black letter* rules. To say that jurisprudential metaphors exist and even flourish is not, however, to say that they have been uniformly welcomed, even by the most creative lawyers and jurists. In the eighteenth century, England's Lord Mansfield commented that “nothing in law is so apt to mislead than a metaphor.”

According to Oxford English Dictionary (2009), the metaphor is a figure of speech in which a name or descriptive word or phrase is transferred to an object or action different from, but analogous to, that to which it is literally applicable.

An exploration of metonymy as a pervasive device in legal jargon, statutes and judicial opinions reveals that metonymy is representative of a mode of thought which simultaneously emancipates and oppresses while hiding within an ermine cloak of authority. [31:1216] For example, *intellectual property*.

**10. Terms which consist of lexical items of a general nature** which assume a completely different meaning when joined together to serve a legal purpose, e.g. *committal proceedings; frank-fee* for freehold land. In some instances the term can be so simple that it is thought no ambiguity could arise from its use, but in legal application it creates a specificity of purpose that is known only to those knowledgeable in this field. *Young person* to any user of English is just what it means; however, according to Section 107 of the Children and Young Person Act 1933 of the United Kingdom, a *young person* is one of *14 and upwards, and under 17.*” [33:134]

**11. Common words with uncommon legal definitions** Judith L.Holdsworth, in *English legal language and terminology* states that „there is a wide use of common words with uncommon legal definitions, e.g.: *action* - law suit; *executed* - signed and delivered; *hand* – signature; *infant* – minor; *instrument* - legal document; *without prejudice* - without loss of any rights; and legal tautologies, e.g.: *keep and maintain; deem and consider; final and conclusive; null and void; free*

*and clear; aid and abet; give, devise and bequeath; mind and memory; had and received; will and testament; pain and penalties; to have and to hold.* [32:115]

**12. Legal false friends** False friends are pairs of words in two languages that appear to be similar, but differ in meaning. For example, in French “attendre” means “to wait” – quite different from the English sense of “to attend an event.” Confusion could obviously ensue from that particular word combination! False friends are treacherous in translation and not only. When an English lawyer refers to a number of parties being ‘jointly’ liable to make payment, the presumption is that each is liable for the full amount (albeit that there is only one obligation, so performance by one will discharge the other). In Scots law, joint liability means that each party is presumed to be liable only for a proportion of the total amount due. The table below shows some example of law terms, their false friends in Romanian and the translation:

| <b>English</b>     | <b>False friend (Romanian)</b> | <b>Translation (Romanian)</b> |
|--------------------|--------------------------------|-------------------------------|
| <i>adept</i>       | <i>adept</i>                   | <i>expert</i>                 |
| <i>ballot</i>      | <i>balot</i>                   | <i>vot</i>                    |
| <i>crime</i>       | <i>crima</i>                   | <i>infractiune</i>            |
| <i>deposit</i>     | <i>depozit</i>                 | <i>avans</i>                  |
| <i>evidence</i>    | <i>evidenta</i>                | <i>probe</i>                  |
| <i>ordinary</i>    | <i>ordinar</i>                 | <i>obisnuit</i>               |
| <i>process</i>     | <i>proces</i>                  | <i>procedura</i>              |
| <i>individual</i>  | <i>individual</i>              | <i>persoana</i>               |
| <i>application</i> | <i>aplicatie</i>               | <i>cerere, petitie</i>        |
| <i>respondent</i>  | <i>respondent</i>              | <i>piřit</i>                  |

### **1.6.2 The process of terminologization, determinologization and reterminologization**

Since terms are specific to a domain we must expect their frequency of occurrence to be relatively low outside the domain in question. It is important to mention that, in English language, we may create new terms and words with the help of already existing sources. Here we have several possibilities such as: terminologization, determinologization and reterminologization.

**Terminologization** of a word implies endowing the word in question, over and above its existing semantic value, with a specific meaning which, corresponds to a specific concept within a special subject field. In this way the word acquires the status and characteristics of a term. It now belongs to a subject field and is part of the system of terms. This process takes place without changing the semantic value, which the word has in LGP. In other words terminologization is the way of forming new terms from the existing sources, it means from words that activate in the vocabulary of the language. The creation of new terms by means of terminologization comes in force when, for example a new concept appears and it has to be called in a way. In order not to borrow a term, terminologists take an already existing word and give it a new semantic value, which is used in a new sphere of activity. But this does not mean that the word loses or changes its prime

semantic value. In this case the word acquires a new meaning as a term and becomes polysemantic. Here we want to mention that polysemy among terms is characteristic for those terms that have been formed by means of terminologization.

In other words terminologization is a process in which an every day word becomes a term alongside with the appearance of new concepts that have to be named, concepts that appear alongside with the modernization, development of science, art, life, etc. So, in this case we may speak about polisemy of terms, terms that have more than one meaning. Terminologization refers to the use of already existing resources. It means that we create new terms from the already existing words. For example:

| <b>Word / Term</b> | <b>Common meaning</b>       | <b>Meaning obtained in the result of terminologization</b> |
|--------------------|-----------------------------|--|
| <i>Act</i>         | <i>fapt, acțiune</i>        | <i>lege, document</i>                                      |
| <i>Appearance</i>  | <i>Înfățișare</i>           | <i>Probabilitate</i>                                       |
| <i>to back</i>     | <i>a transmite în spate</i> | <i>a aproba, a confirma</i>                                |
| <i>Body</i>        | <i>Corp</i>                 | <i>Organizație</i>   |
| <i>Case</i>        | <i>Geamantan</i>            | <i>Proces, instanță</i>                                    |
| <i>Chamber</i>     | <i>Cameră</i>               | <i>Consiliu, comitet</i>                                   |
| <i>Day</i>         | <i>Zi</i>                   | <i>Termen</i>  |
| <i>Entry</i>       | <i>Intrare</i>              | <i>Înregistrare, înscriere</i>                             |
| <i>Fact</i>        | <i>Faptă</i>                | <i>Infracțiune, vinovăție</i>                              |
| <i>File</i>        | <i>filă, colecție</i>       | <i>Dosar</i>   |
| <i>Mark</i>        | <i>Notă</i>                 | <i>Dovadă</i>  |

**Determinologization** is the way in which terminological usage and meaning can “loosen” when a term captures the interest of the general public, (Meyer and Mackintosh) and the semantic changes caused by determinologization have been grouped into two types: 1) the original terminological sense is by and large preserved; 2) the original terminological sense is diluted. This distinction between preservation and dilution of a terminological concept largely corresponds to the distinction between sense modulation and sense selection in lexical semantics, but due to the standardization bias in terminology few studies have explored how the meaning of terms evolves and how communicative context affects termhood. [42:87] Thus, the process of determinologization is when lexical units, which function as terms in specialized discourse, occur in non-specialized contexts. [65]

| <b>Term / Word</b> | <b>Meaning as a term</b>   | <b>Meaning obtained in the result of determinologization</b> |
|--------------------|----------------------------|--|
| <i>Search</i>      | <i>Percheziție</i>         | <i>Căutare</i>   |
| <i>Assets</i>      | <i>activul, acțiuni</i>    | <i>Bunătăți</i>  |
| <i>Production</i>  | <i>Producție, material</i> | <i>Înfățișare</i>  |

|             |               |                |
|-------------|---------------|----------------|
| <i>Will</i> | <i>Voință</i> | <i>Tentare</i> |
|-------------|---------------|----------------|

Often, determinologization and metaphorization go hand in hand. While technical terms typically have precise semantic relations with other terms in their field, they frequently lose this precision when they are determinologized. Similarly, the expressive neutrality may disappear. Thus, it is not always possible to determine if a non-technical word is in origin a determinologized term or if, vice versa, a technical term is a terminologized general word (i.e. a word that has secondarily acquired a well-defined meaning in a specialized field). From a synchronic perspective, it is fortunately unimportant whether a word was first non-technical and then technical or the other way round. [60:63] The term determinologization is also known as *despecialization*.

**Reterminologization** is a means of new term creation from the terms already existing in the language but, the point is that in different domains the term has different meanings, that is, a term is used in economy and in law but with different meanings.

| <b>Terms</b>         | <b>Meaning as a law term</b>                 | <b>Meaning as an economic term</b> |
|----------------------|--|------------------------------------|
| <i>Account</i>       | <i>Dare de seamă</i>                         | <i>cont, socoteală</i>             |
| <i>Accountant</i>    | <i>Pîrît într-o acțiune de dare de seamă</i> | <i>Contabil</i>                    |
| <i>Act</i>           | <i>lege, document</i>                        | <i>Acțiune</i>                     |
| <i>Administrator</i> | <i>Tutor</i>                                 | <i>Garant</i>                      |
| <i>Agreement</i>     | <i>Contract, convenție</i>                   | <i>Tranzacție</i>                  |
| <i>Assent</i>        | <i>Sanctiune</i>                             | <i>Acord</i>                       |
| <i>Bail</i>          | <i>Cauțiune</i>                              | <i>Garanție</i>                    |
| <i>Bargain</i>       | <i>Contract de lege</i>                      | <i>afacere bună</i>                |
| <i>Court</i>         | <i>Tribunal, judecătorie</i>                 | <i>teren sportiv</i>               |
| <i>Duties</i>        | <i>Drepturi</i>                              | <i>Taxe</i>                        |
| <i>Gage</i>          | <i>Pariu</i>                                 | <i>Gaj</i>                         |
| <i>Release</i>       | <i>Punere în libertate</i>                   | <i>Chitanță</i>                    |
| <i>Security</i>      | <i>Cauțiune</i>                              | <i>garanție, gaj</i>               |
| <i>Term</i>          | <i>Perioadă, termen</i>                      | <i>Scadență</i>                    |
| <i>Charge</i>        | <i>Cauțiune</i>                              | <i>un preț care trebuie plătit</i> |

A great majority of linguists consider that among all these three ways of term creation, terminologization is the most productive.

### 1.7 Legal terminology

Legal language has been called an argot, a dialect, a register, a genre, a style, and even a separate language. In fact, it is best described with the relatively new term, *sublanguage*, because it has its own specialized grammar, a limited subject matter, contains lexical, syntactic, and semantic restrictions, and allows "deviant" rules of grammar, stylistics, linguistics that are not acceptable in the standard language. However we describe it, legal language is a complex collection of linguistic

habits that have developed over many centuries and that lawyers have learned to use quite strategically. Today, the legal terms are also called *legalese*. The American Heritage Dictionary of the English Language defines *legalese* as the specialized vocabulary of the legal texts. They are dense, pedantic verbiage, produce specification or interface standard. Legalese was once defined as "the language of lawyers that they would not otherwise use in ordinary communications but for the fact that they are lawyers".

It is true that lawyers make a distinction between *verdict* and *judgement*, *accused* and *defendant*, *summons* and *subpoena*, it is also true that this is motivated by lawyers preference for particular terms to refer to particular persons, things or concepts. Likewise, *magistrate* can not be used to refer to the justice in a district or supreme court, despite the similarity in the general functions and powers he shares with a *judge* in these higher courts. This is so, because firstly, *similar* is not *identical*, and secondly, to refer to these two positions by either term only would be misleading, confusing and contrary to the main function of language, namely proper labeling of people, things and concepts and hence proper and effective communication. Synonymy is ideally not a feature of technical language, since a *judge* is just a *judge*. [35]

Wróblewski classifies legal language into the language of the law (język prawa) and the metalanguage of law (język prawniczy). In addition, there are more detailed classifications of legal texts; for example, Gémar distinguishes the language of the legislator, judges, the administration, commerce, private law and scholarly writings. We absolutely agree with this arbitrary classification, since every division of the law has its own terminology. Let's take for example the terms *trial* and *lawsuit*. According to Oxford Advanced Dictionary, the word *trial* is defined as "the judicial examination of the issues in a civil or criminal cause by a competent tribunal and the determination of these issues in accordance with the law of the land", while *lawsuit* means "a proceeding in a court of law brought by one party against another, esp. a civil action". Thus, we can conclude that the term *trial* is more common to the criminal field, while *lawsuit* – to the civil one, and we can not talk about a lawsuit in a case of murder. The same with the terms *plaintiff* and *defendant* in the civil case and *inculpat (defendant)* and *parte vătămată (injured party)* in the criminal case.

As we all know, there are two legal systems: *the Common Law style* which is used in English speaking countries (e.g. Britain, Canada, Australia) and previous colonies of Britain (e.g. South Africa, Zimbabwe, Sri Lanka, India), and *the Continental or Civil Law style* which is used in the countries of the Continent - virtually all of these countries have codified legal systems (e.g. Belgium, the Netherlands, Germany, France). Thus, namely this fact creates difficulties in rendering legal terms. John E. Joseph, professor of Applied Linguistics, at University of Edinburgh, believes that „each legal system is situated within a complex social and political framework which responds

to the history, uses and habits of a particular group. This complex framework is seldom different from one country to another, even though the origins of the respective legal systems may have points in common.” [38:21]

The diversity of legal systems makes research in the field of legal terminology more difficult because a particular concept in a legal system may have no counterpart in other systems. „Sometimes, a particular concept may exist in two different systems and refer to different realities which raises the problem of documentation and legal lexicography. Legal translation implies both a comparative study of the different legal systems and an awareness of the problems created by the absence of equivalents.” [13]

Legal terminology also requires the experience and knowledge of a professional translator, both in the source and target languages. Legal translators must be alert to the use of false friends or false cognates. For example: *ascent* (climb) and *assent* (agreement); *council* (a group that consults or advises) and *counsel* (to advice, advice, lawyer); *judicious* (showing good judgement) and *judicial* (connected with a court of law, a judge or legal judgement), etc.

On 26 April 2003, the civil courts of the English legal system introduced some huge changes. One of the more significant change was that of terminology. For example, *plaintiff* went to be replaced by *claimant*. *Plaintiff* was at one time the same word as *plaintive* and is closely related to complaint. Defendants in legal actions may not be surprised to hear that it has close links to *plague* as well. All these words come from the Latin *plaga* “stroke, blow” and came into English through French. A *plaintiff*, therefore, was originally just a person who made a complaint, but the word became a fossil of legal terminology many centuries ago.”

Another historic word that vanished from the legal lexicon is *writ*, to be replaced by the prosaic *claim form*. “A *writ* is in origin just something written down, the same word that turns up in Holy Writ for Christian sacred texts. By about 1400, it had become the standard word for a formal legal document, usually one that requires somebody to do something, or more often to stop doing something.” Because of its legal links, it also has a semi-figurative sense of authority, control, as in phrases like “*his writ doesn't run there*”.

A third word that was changed is *pleadings* for the formal *statements* on both sides before a court case. Lord Wolff said: “I have suggested that the word *pleading* should be replaced by *statement of case*. The word has become too much identified with a process which the legal profession itself readily acknowledges has to change. The word goes back to the earliest days of Norman law in Britain, at a time when you really did have to plead your case. The word is related to *plea* and, through its Latin original, to *please*.” In conclusion, if the changes make the law more comprehensible, surely that's to the public good. Pro bono publico, in fact. [27]

### 1.7.1 English, Romanian and Polish legal terminology

As it was mentioned above, there are two legal systems: the *Common law system* and the *Civil law system (or Continental)*. Since 1189, English law has been described as a common law rather than a civil law system (i.e. there has been no major codification of the law, and judicial precedents are binding as opposed to persuasive). This may have been due to the Norman conquest of England, which introduced a number of legal concepts and institutions from Norman law into the English system. In the early centuries of English common law, the justices and judges were responsible for adapting the Writ system to meet everyday needs, applying a mixture of precedent and common sense to build up a body of internally consistent law.

*Common law*, also known as case law or precedent, is the law developed by judges through decisions of courts and similar tribunals rather than through legislative statutes or executive branch action. A common law system is a legal system that gives great precedential weight to common law, on the principle that it is unfair to treat similar facts differently on different occasions. The body of precedent is called common law and it binds future decisions. In cases where the parties disagree on what the law is, an idealized common law court looks to past precedential decisions of relevant courts. If a similar dispute has been resolved in the past, the court is bound to follow the reasoning used in the prior decision (this principle is known as *stare decisis*). If, however, the court finds that the current dispute is fundamentally distinct from all previous cases (called a “matter of first impression”), judges have the authority and duty to make law by creating precedent. Thereafter, the new decision becomes precedent, and will bind future courts. Common law legal systems are in widespread use, particularly in England where it originated in the Middle Ages and in nations or regions that trace their legal heritage to England as former colonies of the British Empire, including the United States, Malaysia, Singapore, Bangladesh, Pakistan, Sri Lanka, India, Ghana, Cameroon, Canada, Ireland, New Zealand, South Africa, Zimbabwe, Hong Kong, and Australia.

Unlike common law, the *civil law* (or continental) is a legal system inspired by Roman law, the primary feature of which is that laws are written into a collection, codified, and not (as in common law) determined by judges. Conceptually, it is the group of legal ideas and systems ultimately derived from the Code of Justinian, but heavily overlaid by Germanic, ecclesiastical, feudal, and local practices, as well as doctrinal strains such as natural law, codification, and legislative positivism. Materially, civil law proceeds from abstractions, formulates general principles, and distinguishes substantive rules from procedural rules. It holds legislation as the primary source of law, and the court system is usually inquisitorial, unbound by precedent, and composed of specially trained judicial officers with a limited authority to interpret law. The civil

law system is common to all European Union states, Romania as well, except UK (excluding Scotland) and Ireland, Brazil, Canada (Québec only), China, Japan, Mexico, Russia, Switzerland, Turkey, USA (Louisiana only), India (Goa only).

The main difference between the two is that customs dictate common law whereas civil law is written and which has to be abided by the courts. However, codification is not any means to classify civil law into a separate entity. [66] The basic difference between civil and common law is in its terminology.

As most lawyers know, Roman law and common law have been the major competing systems of law for centuries. Because of their different origins, even where legal concepts are similar common law terminology differs from civil law's. In today's increasingly transnational world, common law lawyers are exposed more and more often to civil law terminology. They are exposed to it when they encounter European transactions; and in international law, many of the terms of which derive from French law or other civilian jurisdictions. In general, the civilian and common law terms are not always exact synonyms, but have at least a substantial overlap with one another. Thus, in the table below, we have some common law terms and their analogue in civil law terminology [34]:

| <b>Common law terms</b>                      | <b>Civil law terms</b>                                     |
|--|--|
| <i>Agency</i>                                | <i>Mandate</i>   |
| <i>Agent</i>                                 | <i>Mandatory</i>   |
| <i>Arbitrator</i>                            | <i>Amicable compounder</i>                                 |
| <i>Bilateral contract</i>                    | <i>Synallagmatic contract</i>                              |
| <i>Commitment (e.g. of an insane person)</i> | <i>Interdiction</i>  |
| <i>Contract</i>                              | <i>Conventional obligation</i>                             |
| <i>Conveyance</i>                            | <i>sale</i>  |
| <i>Counterclaim</i>                          | <i>Reconventional demand</i>                               |
| <i>Easement in gross</i>                     | <i>Right of use</i>  |
| <i>Intangibles</i>                           | <i>Incorporeals</i>  |
| <i>Interest</i>                              | <i>Civil fruits</i>  |
| <i>Joint and several liability</i>           | <i>Solidary liability</i>                                  |
| <i>Joint tenants or tenants in common</i>    | <i>Co-owners</i>   |
| <i>Life estate</i>                           | <i>Usufruct</i>  |
| <i>Limited partnership</i>                   | <i>Partnership in commendam</i>                            |
| <i>Personalty or personal property</i>       | <i>Movables or movable property</i>                        |
| <i>Realty, real property, real estate</i>    | <i>Immovables or immovable property</i>                    |
| <i>Right of way</i>                          | <i>Right of use</i>  |
| <i>Set-off</i>                               | <i>Compensation</i>  |
| <i>Settlement (of a lawsuit)</i>             | <i>Transaction or compromise</i>                           |
| <i>Statute of limitations</i>                | <i>Liberative prescription or acquisitive prescription</i> |
| <i>Third party beneficiary</i>               | <i>Stipulation pour autri</i>                              |
| <i>Tolling up the statute of limitations</i> | <i>Suspension of prescription</i>                          |
| <i>Tort, tortious</i>                        | <i>Delict, delictual</i>                                   |
| <i>Will</i>                                  | <i>Testament</i>   |

In some cases, the same terminology is used in both common law and civil law (example: acquisition/ *acquisition*). In other cases, different terms must be used to reflect the concepts of each legal system. For example, the terms “pre-trial pecuniary loss/*perte pécuniaire antérieure au process*” have been used for the civil law, whereas the terms “special damages/*dommages-intérêts spéciaux*” have been used in common law. [67]

### 1.7.2 Incongruity of legal terms

Terms are defined by Sager as lexical items representing discrete concepts that form the knowledge system of a given subject field; hence terms are “depositories of knowledge”. It is especially visible in the legal field where terms are grounded in country-specific legal systems whose knowledge basis is defined in national legislation. As a result, legal terms show a certain degree of asymmetry between national systems. There are several degrees of terminological incongruity, ranging from identical concepts (very rare) or near equivalence to conceptual voids without any equivalents in the TL language. The degree of incongruity may be measured as differences between essential and accidental features; it is also explained with reference to intersection and inclusion.

The techniques of dealing with incongruous concepts may be placed along the continuum between two extremes: domesticating and foreignizing strategies. Venuti stated that domesticating involves assimilation to the TL culture and is intended to ensure immediate comprehension. By contrast, foreignizing seeks to evoke a sense of foreign by sending the reader abroad, creating as a result, a risk of incomprehension. Foreignizing strategies include: transcription (borrowing, adaptation, paraphrase), literal equivalence (calque or loan translation), SL-oriented equivalence and TL-oriented equivalence.

As we all know, the Polish Code defines only two types of companies which most of all differ in the amount of minimum capital and corporate governance requirements. Both companies pay corporate income tax and have a legal personality they acquire upon registration in the National Court Register. In *Spółka z ograniczoną odpowiedzialnością* (sp. z o.o.), the minimum capital requirement is PLN 50,000. The company may be formed by natural and legal persons whose liability is limited by shares. *Spółka z ograniczoną odpowiedzialnością* is referred to as a “historically younger sister” of *spółka akcyjna*. In *Spółka akcyjna*, which is mainly intended for large scale ventures, the minimum capital requirement is PLN 500,000. The company may be formed by natural and legal persons whose liability is limited by shares. Shareholders are more separated from the day-to-day management of operations than in *Spółka z ograniczoną odpowiedzialnością*. Furthermore, there are more stringent disclosure and corporate governance

requirements; for example, it is obligatory to establish a Supervisory Board (*Rada Nadzorcza*). Now let us have a look at English equivalent of *spółka z ograniczoną odpowiedzialnością* and *spółka akcyjna* [5]:

| Dictionary/Code | <i>spółka z ograniczoną odpowiedzialnością</i>  | <i>Spółka akcyjna</i>   |
|-----------------|---|---|
| Tepis, Beck     | Limited liability company   | Joint-stock company   |
| Kienzler        | Limited liability company   | Public limity company<br>Joint-stock company  |
| Kozierkiewicz   | Limited company<br>Private limited company<br>Limited corporation<br>Limited partnership<br>Limited liability company | Public limity company<br>Joint-stock company<br>Public limited liability company<br>Incorporated company<br>Registered company<br>Stock company limited by shares<br>Private limited company<br>Stock corporation |
| Małkiewicz      | Limited liability company   | Joint-stock company<br>Public company limited by shares   |
| Myrczek         | Limited liability company<br>Private company  | Joint-stock company<br>Public limited company with share capital<br>Publicly held corporation   |

The two types of companies are traditionally rendered through SL-oriented equivalents: limited liability company for *spółka z ograniczoną odpowiedzialnością* and joint stock company for *spółka akcyjna*, which may be found even in the Stanisławski Dictionary in the 60s. It should be emphasized that the semantic field of *company* is differently organized in the common law and civil law systems. For example, English law makes a finer categorization: it distinguishes between *unlimited* and *limited* companies, companies *limited by guarantee* and by *shares*, and *private* and *public* companies. By contrast, all Polish companies are limited only by shares; however, this breakdown into *spółka z ograniczoną odpowiedzialnością* and *spółka akcyjna* is not based on the criterion whether they are privately or publicly held. Thus, the boundaries of the TL and SL concepts will inevitably differ.

Łucja Biel considers that another important aspect of incongruity of legal concepts is the intertextuality of term that is how their meanings may be shaped and stabilized by other sources, including legislation and case-law. For this reason there are grounds for supposing that sets of facts and sets of consequences will rarely be identical in two legal systems; hence, term will hardly ever have the same semantic potential in the SL and TL. [5]

To sum up, unless the degree of incongruity is too large, the translator should strive to find a natural TL-equivalent or in other words a term designating a concept or institution of the target legal system having the same function as a particular concept of the source legal system. A TL-oriented equivalent allows the recipient to activate knowledge structures attached to it; it allows the translator to access the unfamiliar through the familiar. Therefore, the choice for the right equivalent in a given context may be a difficult task as it requires a good knowledge of SL and TL legal concepts. Owing to the terminological incongruity between the common law and civil law systems, it is impossible to find the one and only proper equivalent.

### 1.7.3 Translation of legal terms

Legal translation is the translation of texts within the field of law. The translation of legal texts is a practice boasting a long history and its background originates from antiquity. The best known artefacts in this field include the peace treaty between Egypt and the Hittite Empire in 1271 BC as well as the translation of the *Corpus Iuris Civilis* into numerous languages after its initial translation into Greek. The translators of these and other legal texts from past centuries – most of whom remain unknown to us – must certainly have reflected on the methodological problems associated with their complex and demanding task.

In modern globalization context the law (legal rights) is necessary for serving its crucial purpose. “After The World War II the problems of the translation of juridical texts had been discussed and analyzed by theorists, legal experts, translators, linguists. They made the conclusion that - *to achieve the absolute equivalent during the translation of a juridical text is impossible, because like any translation, the translation of juridical texts presupposes the interrelation of linguistic and extralinguistic knowledge.*” [29:4]

It is generally accepted that the terminological incongruity between legal systems is the greatest challenge for legal translators. Legal translators are required to produce faithful translations; yet, the notion of faithfulness seems to be subjective and difficult to define. Sarcevic argues that legal translation requires a change of approach to equivalence: “the principle of fidelity to the source text is losing ground to the principle of fidelity to the single instrument”. She observes that since it is unrealistic to expect that the same meaning will be achieved in translation, the equal meaning and effect presumptions are secondary to the presumption of equal intent”. Thus it is argued that at least at the terminological level, literal equivalents are proffered. Garzone argues that “quite often, the pursuit of legal equivalence can go hand in hand with literal translation”. On the other hand, Sarcevic observes that to ensure uniform interpretation, drafters form terms which are “reasonably transparent and can be easily translated’. Since the terms must be easily recognizable in

all languages, literal equivalents have clearly had priority. This view is confirmed by Miler who stresses that terminological difficulties are solved relatively quickly by calquing English terms, “the general rule is that terms are being copied directly from English language if they do not have a direct counterpart”. Translators use calques as they do not want to be liable of producing a text with a different legal effect than the original. One may observe a certain paradox: literalism in the translation of terminology on the one hand and a departure from literalism in interpretation on the other hand. If no acceptable equivalents can be uncovered in the TL legal system, subsidiary solutions must be sought. Basically, three subsidiary solutions may be distinguished: a) no translation takes place and the source term or its transcribed version is used; b) a paraphrase is used to describe the source language term; c) a neologism is created, i.e. a term is used in the target language that does not form part of the terminology of the TL legal systems, if necessary, in combination with an explanatory footnote.

Gerard-René de Groot, Professor of Comparative and Private International Law at Maastricht University, believes that “translators should not use the terminology of system A at one point and the terminology of system B at another. When a fundamental choice has been made for the terminology of system A, but some acceptable equivalents are lacking, neologisms, as acceptable equivalents from another legal system, may be employed. In this case, it is necessary to mark such terms as neologisms, for instance, by expressly referring to the legal system from which the neologisms in question were borrowed.” [21:28] Speaking of terms, we should bare in mind one but very important thing that “while in a given context there is seldom only one “correct word choice”, in legal writing the need for using the exact and monosemous word (having only one meaning) for a particular object or process is vital for the creating and maintenance of precision and clarity of reference.” [50:247]

Usually, translators have big problems with the phenomenon of *false equivalence*. As a rule, it happens when they are phonetically similar in both languages, however they have different meanings. Akehurst claims that “the fatal mistake is to use technical terms of English law which sound like a French term but which do not mean the same thing”. Wagner notes that since national terms may be misleading, it is better to use supranational terms without any immediate national connotations. National terms may appear to be trespassing onto the territory of the national parliaments since during the transposition generic supra-European concepts are replaced by national concepts. On the other hand, the avoidance of national terms and terminology increases text alienation. Thus, translating a legal text should mean the adjustment of the source text to the legal language of a given country”.

As argued by Sarcevic, translators are allowed to be creative provided that the substance remains unchanged, otherwise they “should exercise constraint in the interest of preserving the single instrument”. Translators are also required to maintain the same degree of ambiguity whether it is intentional or unintentional, since the legislative language is frequently a compromise between precision and flexibility. [3:151]

Harvey describes legal translation as “combining the inventiveness of literary translation with the terminological precision of technical translation”. It is mainly due to the specificity of legal language and, in particular, the system-bound nature of legal terminology and differences between the common law and civil law systems. In the book of Alcaraz Enrique and Hughes Brian, *Legal Translation Explained*, is stated that “the translation of legal terminology is one of the core issues of translation studies. The difficulties are caused by the system-bound nature of legal terminology”, [1:38] or – to put it differently – are the result of precisely this very close relationship between language and law. Thus, the system-bound character of legal terminology has direct consequences for the translation of legal information.

The existence of a legal metalanguage to convey legal terms is very helpful. It works in the following way: a legal term under legal system A, understood as a systemic term, is transformed into another term under legal system B by finding a term that corresponds with the function of the legal term under legal system A. Professor Marcus Galdia, believes that „a complete equivalence between the terms of two legal systems can only be attained if both legal languages refer to the same legal system, positing an acceptable equivalence between two legal systems and not two languages.” [29:3]

Contemporary language of law makes several requirements relating to legal terms that should be taken into consideration in the process of translating. The legal term should meet the following important requirements: a) satisfy the rules and norms of a corresponding language; b) be systematic; c) correspond to a certain definition oriented to a certain concept; d) be relatively independent of the context; e) be precise; f) be as concise as possible; g) aim at one-to-one correspondence (within the certain terminological system); h) be expressively neutral; i) be euphonical.

One of the troublesome problems of legal translation is the disparity among languages. The bigger the gap between the SL and TL, the more difficult the transfer of message from the former to the latter will be. Therefore, when dealing with legal terms one may use the following translation methods: a) *interpretative-communicative* (translation of the sense); b) *literal* (linguistic transcodification); c) *free* (modification of semiotic and communicative categories); and d)

*philological* (academic or critical translation). The translation method will affect the way micro-units of the text are translated. They shall undergo the following techniques of translation:

1) *literal translation* or *word-for-word translation* – occurs when there is an exact structural, lexical even morphological equivalence between two languages, in which the SL word order is preserved and the words translated singly by their most common meanings, out of context; the rendering of text from one language to another rather than conveying the sense of the original. It is the direct transfer of the source text into the target language in a grammatically and idiomatically proper way. But literal translation can be applied just when the languages involved share parallel structures and concepts. Consequently, literal translation carries the imprint of the original. This technique is used when it is possible to transpose the source language term into the target language.

2) *reformulation* or *equivalence* – is appropriate since legal translation deals with a type of language for special purpose which involves crosslinguistic communication. Through equivalence, legal translation can be depicted as a domain of socioculturally determined linguistic behaviour with both culture-specific and universal components;

3) *calque* or *loan transfer* – is a phrase borrowed from another language and translated literally word-for-word, it is the creation of a neologism with the source language's structure. This technique shall be used since legal systems have their own history, organizing principles, patterns of reasoning and have been designed to answer the needs of a particular nation. This inevitably leads to the incongruity of legal concepts between national systems. Therefore, the only solution is the loan transfer, it may be the term or the concept;

4) *modulation* - consists of using a phrase that is different in the source and target languages to convey the same idea. Modulation requires an excellent knowledge of both legal languages involved in the translation. This includes knowing the mechanisms of the language.

5) *adaptation* - occurs when something specific to one language culture is expressed in a totally different way that is familiar or appropriate to another language culture;

6) *borrowing* - the taking of words directly from one language into another without translation and often they pass into general usage. Borrowing can be for different reasons: the target language has no (generally used) equivalent; the source language word sounds “better” (more specific, fashionable, exotic or just accepted), even though it can be translated; to retain some “feel” of the source language. As a rule, borrowing is used to overcome a gap in the target language.

7) *compensation* - is a rather amorphous term, but in general terms it can be used where something cannot be translated from source to target language, and the meaning that is lost in the immediate translation is expressed somewhere else in the TT;

8) *paraphrase* or *explicitation* – introduces information from the ST that is implicit from the context; in this procedure the meaning of the term is explained. Here the explanation is much more detailed than that of descriptive equivalent. This technique is used when there is no equivalent in the target language. Paraphrasing is a type of explanatory modulation. However, there are linguists (Newmark P., *A textbook of translation*) who are against this method of translating legal term, because translation doesn't mean explaining or commenting on a text or a term. Too many explanations destroy the conciseness of the text or term and make it subject to the same distortions of its counterpart – literal translation.

Nida includes *footnotes* as another adjustment technique and points out that they have two main functions: a) to correct linguistic and cultural differences; b) to add additional information about the historical and cultural context of the text in question. On the other hand, Newmark includes the option of combining two or more procedures.

As it was mentioned before, any kind of translation has to meet the principal requirements of adequacy, accuracy and completeness. While accuracy and completeness are mainly aimed at the form of the legal text, adequacy is referred to its content. Adequacy of the legal translation, which means translating culture-specific concepts, is mostly achieved by following the principal rules of legal terminology in the target language. Translating implies transferring the meaning of the original, but not only the words. On the other hand, there are linguists who propose a linguistic rather than a cultural translation. But what shall a translator do when dealing with terms from different legal systems? In this case, a linguistic approach won't be enough. Therefore, the translator will have to dig deep into the culture of SL and TL in order to find a suitable solution for a translation unit. More importantly, while translating it is important to know the legal terminology in both languages because, for example, the substitution of a legal term of the source text by its synonym (a word of common usage) in the target language may result in misinterpretation in terms of law. The distortion of a meaning of a law term may lead to legal consequences.

#### **1.7.4 Legal terminology innovations in the Republic of Moldova**

As we all know and feel we live in an era of multilingualism which is committed to observe the linguistic diversity and achieve “unity in diversity”. Multilingualism is, therefore, a method of avoiding linguistic disenfranchisement. Thus, in order to arrive at the same meaning (or rather to convey the same legislative intent) the drafting language undergoes a certain degree of deculturalisation. As noted by van Els, deculturalisation or the reduction of the cultural embedding is typical of lingua francas. A similar process is referred to by Craith as deterritorialisation. These processes help to avoid any “idiolinguistic solutions” in rendering legal terms.

Thus, we may say that terminology innovations come in the target language through deculturalisation and deterritorialisation. However, these are not the only means of introducing new term innovations. Innovations in terminology may be achieved, as well, through terminologization, determinologization and reterminologization. The Republic of Moldova has plenty of such examples, such as the use of the term *franchising*. The franchising, or the contract of franchising, is provided in the Civil Code of the Republic of Moldova, art. 1171-1178 and the Law on franchising No. 1335 of 01.10.1997. According to Oxford Dictionary, franchising means *a right or license that is granted to an individual or group to market a company's goods or services in a particular territory under the company's trademark, trade name, or service mark and that often involves the use of rules and procedures designed by the company and services (as advertising) and facilities provided by the company in return for fees, royalties, or other compensation*. The term comes from the late 13th century from Old French *franchise* “freedom”. The meaning of “authorization by a company to sell its products or services” is from 1959, while the commercial licensing sense is attested from 1966.

This term and phenomena is widely spread in many countries since such types of contracts are very popular. In our country, the first company that began to operate on the base of a franchising contract was the well-known “McDonalds”. Thus, we may say that the *de facto* launching of “McDonalds” imposed the Moldovan lawmakers to introduce a new concept in the civil law. Now, there are more companies in the Republic of Moldova that function on the base of such a contract, such as: “House Factory”, “BIER PLATZ”, ” Buon Giorno”, “Fornetti”, etc.

In what concerns the use of the term *franchising*, the Civil Code and the Law on franchising uses the English form of the term, even if the attempts to translate this word gave us the Romanian version *franciză*. More than that, the above mentioned legislative acts provide the English terms *franchiser* and *franchisee* as the parties of the contract of franchising. The question that arises here is why this partiality to the English borrowings? Maybe the English terms provide more precision and accuracy than any Romanian term adaptation. Thus the use of the term *franchising* represents an example of linguistic and concept deterritorialisation.

Another legal term innovation is the term *factoring*. The concept of factoring or contract of factoring is prescribed in the Civil Code of the Republic of Moldova, in art. 1290-1300. According to Oxford Dictionary, *factoring* means a contract by which a person (the client) cedes its receivables to a party (the factor), who assumes the responsibility of taking over the receivables in exchange for a tax, called the agio. Through the direct transfer of invoices, the factor becomes the owner of the receivables. The purpose of a factoring contract is to permit a company to: delegate all or part of the administrative work on the clients account; obtain a protection against the risk of non-payment, and

to obtain, if needed, an advance payment of its debts. The institution of factoring in Moldova is not as popular as in other countries, but anyway, the Moldova lawmaker decided to introduce this concept in the Moldovan law. The only company in the Republic of Moldova that provides factoring services is “NFC-Moldfactor”. In what regards the linguistic or terminological approach on this term, no attempts to translate or adapt this term haven’t been registered. Thus, it is the use that shall decide the future of this term.

The use of the Romanian term *dol* instead of *viclenie* and *înșelăciune* represents as well an innovation. It was recently introduced in the Moldovan legislation. According to Romanian dictionaries the term *dol* is defined as “un viciu de consimțământ care constă în inducerea în eroare a unei persoane prin mijloace viclene pentru a o determina să încheie un act juridic”. Unlike *viclenie* and *înșelăciune*, which belong to the common vocabulary, and moreover, they are obsolete, the term *dol* comes from the French *dol* and Latin *dolus*. At the same time, the term exists in English, as well, and is being defined as the fraud committed to induce another to make a contract. This proves one more time the tendency of standardization of legal terminology.

The Romanian term *terță persoană*, widely used a long period, now has been changed with the term *intervenient*. According to the Code of Civil Procedure, art. 65 and art. 67 the term *intervenient* means „orice persoană interesată care poate interveni într-un proces ce se desfășoară între alte persoane, în care acesta poate formula pretenții proprii cu privire la obiectul litigiului. Intervenientul principal are drepturi și obligații de reclamant”. On the other hand, according to the Romanian DEX, the term *terță persoană* means „persoana care nu figurează ca parte într-un proces, dar are dreptul de a participa la un proces civil pentru a-și apăra drepturile sale, ce nu coincid cu interesele celor două părți”. Thus, lawmakers decided that *terță persoană* is narrower than *intervenient* and semantically it doesn’t cover the full meaning of what is meant by *intervenient*. The same with *hîrtii sau titluri de valoare* and *valori mobiliare*. Today lawmakers tend to use *valori mobiliare* instead of *hîrtii sau titluri de valoare*. Legally and semantically, the term *hîrtii sau titluri de valoare* is considered narrow. The dictionaries give the following definition for *valori mobiliare*: instrumente negociabile emise în formă materială sau evidențiate prin înscriere în cont, care conferă deținătorilor drepturi patrimoniale asupra emitentului; valori mobiliare sunt acțiunile, obligațiunile, titlurile emise de administrația publică centrală și locală, precum și instrumentele financiare derivate și alte titluri de credit. Thus, *valori mobiliare* has a broader meaning and it comprises *hîrtii sau titluri de valoare*, too.

Another term that tends to instil into the legal terminology is *insolvabilitate* instead of *faliment*. Prof. Alexandru Cojuhari, Ph.D., habilitated in law, states that „în prezent, insolvabilitatea cuprinde același sens pe care îl conținea și falimentul”. He believes that the partiality for

*insolvabilitate* instead of *faliment* is motivated by the fact that „insolvabilitatea apare ca o instituție mai democratică”. For linguists this argument doesn’t have any serious grounds, since democracy is not a linguistic criteria. Anyway, the professor explains further that „sub aspectul finalității sale, insolvabilitatea nu presupune numai restructurarea sau distribuirea patrimoniului celui aflat în incapacitatea de plată, fapt inclus în instituția falimentului, dar mai oferă și posibilitatea parcurgerii altor căi alternative de redresare a situației debitorului, deci exclude lichidarea patrimoniului și propune realizarea unor măsuri de gestionare economico-financiară îndreptată spre restabilirea capacității de plată a întreprinderii”. [19:190] Thus, the term *faliment* was terminologized and substituted with *insolvabilitate* which is considered more accurate in defining the concept it describes. Another examples that recently became innovations in the legal terminology are: the use of the term *succesiune*, instead of *moștenire*, *infanticid* instead of *pruncucidere*, *dol* instead of *viclenie*, *apatrid* instead of *persoană fără cetățenie*, *adopție* instead of *înfiere*, etc. We shall mention as well, the most recent new terms included in the Moldovan law, such as: *Avocatul Poporului*, *Ombudsman*, *ONG (organizație non-guvernamentală)*, *crimă organizată*, *novație*, *acord stand by*, *contract de leasing*, *asigurare de malpraxis*, *contract de know-how*, *holding*, etc. The last term, ***holding***, is prescribed by law in the „Government Decison No. 39 of 26.01.1996, on the creation of the State Holding Avicola JSC”, where the term *holding* was used in its English version ***Holdingul*** de Stat Avicola S.A. According to the Romanian DEX, *holding* means „societate care deține o cantitate suficientă din acțiunile altei societăți pentru a putea exercita controlul asupra ei.” On the other hand, the Oxford Dictionary defines a *holding company* as a company that controls other companies through stock ownership but that usually does not engage directly in their productive operations. Thus, Moldovan lawmakers decided not just to borrow the concept but they also kept the form of the word.

Another tendency in the Moldovan legal terminology is the internationalization and standardization of terms. The French jurist Rene David stated that „internationalization doesn’t mean the substitution and replacement of one legal system with another, but it means the harmonization of the international law.” As a result, this harmonization leads to the unification of legal terminology. As a rule, standardization is achieved through equivalence or loan transfer, from the linguistic point of view, and through cooperation and interaction between countries, from extralinguistic point of view.

## **Chapter II. Contrastive Analysis of English, Romanian and Polish Legal Terminology (Based on the Contrastive Analysis of Moldova Cases at European Court for Human Rights)**

According to Plato, words are unreliable guides to the ideal, that's why, in solving international legal problems, a lawyer will be dealing with words, and the accuracy of a written legal document depends largely on word selection and terminology. Generally speaking, the theory of terminology is defined in relation to three different dimensions, and this according to Sager: the *cognitive dimension* – which examines the concept relations and thereby how the concepts constitute structured sets of knowledge units or concept systems in every area of human knowledge, as well as the representation of concepts by definitions and terms; the *linguistic dimension* - which examines existing linguistic forms as well as potential linguistic forms that can be created in order to name new concepts; and the *communicative dimension* - which examines the use of terms as a means of transferring knowledge to different categories of recipients in a variety of communicative situations and covers the activities of compilation, processing and dissemination of terminological data in the form of specialized dictionaries, glossaries or terminological databases, etc. Thus, we must recognize the multidimensional character of terminological entities (concept → term → communication unit) first of all in the context of conveying specialized knowledge. So, my aim in this chapter is to demystify the peculiarities of legal terminology without oversimplifying the complex and interdisciplinary nature of the problem involved. But before starting the analysis a brief overview on the European Court of Human Rights will be presented.

### **2.1. Description and structural organisation of European Court for Human Rights decisions**

The European Court of Human Rights (ECHR) in Strasbourg was established under the European Convention on Human Rights of 1950 to monitor compliance by Contracting Parties. The European Convention on Human Rights, or formally named Convention for the Protection of Human Rights and Fundamental Freedoms, is one of the most important conventions adopted by the Council of Europe. All 47 member states of the Council of Europe are contracting parties of the Convention and they have to sign and ratify the Convention. Applications against Contracting Parties for human rights violations can be brought before the Court either by other States Parties or by individuals.

The Court was instituted as a permanent court with full-time judges on 1 November 1998, replacing the then existing enforcement mechanisms, which included the European Commission of Human Rights (created in 1954) and the European Court of Human Rights, which had been created in 1959. The court consists of a number of judges equal to the number of Contracting Parties, which

currently stand at 47. Each judge is elected in respect of a Contracting Party by the Parliamentary Assembly of the Council of Europe”.

Since the foundation of ECHR, there are some notable cases. In 2003 and 2004, the court ruled that sharia is incompatible with the fundamental principles of democracy because the sharia rules on inheritance, women's rights and religious freedom violate human rights as established in the European Convention on Human Rights.

In 2006, the court denied admissibility of the applications of former Soviet secret services operatives convicted in Estonia for Stalinist crimes against humanity after Estonia became independent in 1991. Since the Russian military invaded Chechnya for the second time in 1999, the Court has agreed to hear cases of human rights abuse brought forward by Chechen civilians against Russia in the course of the Second Chechen War, with 31 rulings to date as of June 2008 (including regarding the cases of torture and extrajudicial executions). As of 2008, ECHR has been flooded by a complaint from Chechnya, what the Human Rights Watch called "the last hope for the victims. [67]

Moldova is among the first nine countries with the largest number of applications filed to the European Court of Human Rights (ECHR). According to the statistics, 2,442 applications against Moldova were registered with the ECHR on December 31, 2008. Out of these, 1,147 applications were submitted to a decisional body, 477 were declared inadmissible and struck off the list, 126 were communicated to the Government, while 29 were declared admissible. Last year, the Court passed 33 judgments against Moldova. In 28 of the cases, the Court found at least one violation of the European Convention on Human Rights.

As regards the ratio of applications to population, in 2008 Moldova was ranked third after Slovenia and Georgia with 3.21 applications per 10,000 residents. Among the most important cases examined by the ECHR in 2008 were *Guja versus Moldova*, *Tănase and Chirtoacă versus Moldova* and *Megadat.com SRL versus Moldova*.” [43]

A ECHR decision is that body of reported judicial opinions in countries that have common law legal systems. It includes courts' interpretations of statutes and also, constitutional provisions and administrative rules. It is a judge-made law that interprets prior case law, statutes and other legal authority.

All legal texts follow a standard skeletal plan or compositional pattern. The features of layout in English legal texts are of great importance. It refers to the sketch or plan of the text's physical appearance. All ECHR decisions have usually a fixed standard structure. The heading contains the emblem of the Council of Europe (12 stars that form a circle, symbolising union; the number of stars is fixed, twelve being the symbol of perfection and completeness) and two titles:

“*Council of Europe*” and „*European Court for Human Rights*” written both in English and French, as English and French are the Council of Europe’s two official languages. Other standard constructions are: the number of the section (e.g. *FOURTH SECTION* ), the title of the case (e.g. *CASE OF FLUX (NO. 2) v. MOLDOVA*), the number of application (e.g. *Application no. 31001/03*), the fixed constructions *Judgement* and *Strasbourg* and the date when the decision was passed. Also, there is a standard two sentences paragraph, that reads as follows: „*This judgment will become final in the circumstances set out in Article 44 § 2 of the Convention. It may be subject to editorial revision*”. And finally, there is a list of the members of the Chamber, who will decide upon the case.

Next comes the body of the text which constitutes the central and most important part of the document. The body contains the following chapters: *procedure, the facts, the circumstances of the case, information related to relevant domestic law* (articles, sections and provisions of the Republic of Moldova Codes in force at the material time), *the law* (based on the provisions and articles of the European Convention on Human Rights) and *alleged violations of the Convention*.

The closing part, (called *FOR THESE REASONS, THE COURT*) consists of several short paragraphs, which are usually numbered. These paragraphs represent the decisions made by the Court in a case. The paragraphs begin with fixed constructions, which are: *Declares, Holds, Holds unanimously, Dismisses*. Big cases may have a closing of 4 to 7 paragraphs. The last one includes the information regarding the language of the document, the date of its notification: e.g. *Done in English, and notified in writing on 3 July 2007, pursuant to Rule 77 § 2 and 3 of the Rules of Court* and of course the signature of the Registrar and the President of the Court. Here we can also find information regarding any opinions of members of the Chamber, which are usually annexed to the judgment: e.g. *In accordance with Article 45 § 2 of the Convention and Rule 74 § 2 of the Rules of Court, the partly dissenting opinion of Mr Bonello is annexed to this judgment*.

As we can see, the ECHR decisions have official and strict formulas, with standard and precise constructions which define the rigid style of the legal genre. It is maintained that the layout of English legal texts is a very significant feature and in many cases constitutes an essential framework for understandability.

## 2.2 A terminological analysis of legal terms

Speaking of the terminology of European Court for Human Rights decisions, it should be mentioned, that they have a kind of ritualistic, standard, traditional and proper terminology, this means that all decisions comprise and carry the same lexicon and lexical constructions. This may be understood as a process of standardization. Standardization is achieved through the use of a

common legal language Words such as, *procedure* – *procedură*, *the case* – *cauză*, *applicant/plaintiff* – *reclamant*, *defendant* – *pârît*, *judicial decision* – *hotărîrea instanței de judecată*, *the law* – *în drept*, *case law* – *practica judecătorească*, *jurisprudență*, *judgement* – *hotărîre*, *section* – *articol*, *to issue a decision* – *a emite o decizie*, *provision* – *normă*, *final judgement* – *decizie finală, definitivă*, *to appeal against the judgement* – *a contesta decizia*, *to deliver a judgement* – *a pronunța o hotărîre* and many other words, represent the standard legal vocabulary of ECHR decisions and the terminology of legal field.

One of the challenges of ECHR decisions is the wide use of **Latin terms**. It can be observed that Latin terms serve as internationalisms within the subject field of law (generally speaking, within every area of science) and they represent the major group of loan words used in law. Some Latin terms have been given judicial or statutory meanings. Some lawyers argue that Latin is more precise than English. We can say that Law Latinisms are words calculated for eternal duration and easy to be apprehended both in present and future times. When dealing with Latin terms we may face the question whether to translate them or not. It should be mentioned that there are cases when Latin expressions used in legal texts are translated and cases when Latin expressions keep their Latin form: *inter alia*, *prima facie*, *mutatis mutandis*. But no matter they are from the first or the second group, Latin terms usually do preserve their Latin form.

Let's start with the analysis of the word *inter alia*: „...he argued *inter alia*, that...” translated as „...el a susținut, *inter alia*, că...”. As we can see, the word *inter alia*, in both cases was used in its initial Latin form. From Latin, *inter alia* means *among other things* [Latin: *inter*, among + *alia*, neuter accusative pl. of *alius*, other]. The question is why this word was not translated since Latin is no longer in active use? The answer is quite simple: because these words have become an accepted part of the legal English and a large part of law dictionaries. Generally, this type of words are usually italicised, but not to highlight or visualise an idea, but because this is a matter of style.

Another Latin term is *prima facie*: „the Court notes that the summary and the impugned statement were based on information coming from a source which was *prima facie* reliable” and its translation into Romanian: „Curtea notează că rezumatul și declarația contestată s-au bazat pe informația primită de la o sursă care era *prima facie* sigură”. From Latin *primus* "first" + *facies* „form”, *prima facie* means at first sight, evident without proof or reasoning, obvious. Another examples of Latin terms that were kept untranslated both in English and Romanian, would be: “...the decision had been taken by the Auction Commission *ultra vires*.” or “...it has to be ascertained whether the situation amounted to a *de facto* expropriation.”

However, there are cases when Latinate words are translated. In the sentence „...the gatherings organised by the CDPP had *in fact* been demonstrations...”, *in fact* was translated into

Romanian as „...întreunirile organizate de PPCD erau *de facto* demonstrații...”. As can be seen, the Latin form of *de facto* was preserved in the the Romanian translation, while in the English sentence it was translated. From Latin, *de facto* means from, according to + *facto*, fact, in other words it means, in reality or fact, actually, in fact.

The example mentioned above is not the only translated Latin term. For example, „the Court, for the reasons set out *below*, does not consider it necessary to decide this point either” and the Romanian translation „Curtea, de asemenea, din considerentele expuse *infra*, nu consideră ca fiind necesar să se pronunțe asupra acestui punct”. From Latin, the word *infra* means *below*, *underneath*, *beneath*. It is considered a Latin prefix but its use as a prefix was rare in Latin.

In order to continue, just look at the following example: „legal certainty presupposes respect for the principle of *res judicata*, that is the principle of the finality of judgement”, translated into Romanian as „principiul securității raporturilor juridice presupune respectul față de principiul *lucrului judecat*”. From Latin, *res judicata* means thing decided, judged matter: *res*, thing + *judicata*, to judge. Another example would be: “The Court *finally* ordered that each of the parties...”, translated into Romanian, as follows: “*In fine*, instanța de judecată a dispus ca fiecare dintre părți să...”. Thus, the English “finally” was rendered in its Latin form as “in fine”.

In the Polish legal terminology, things are a little bit different. First of all, the use of Latin legalese is very narrow, and secondly, all Latin terms are translated into Polish. For example: “He formed that view, *inter alia*, on the basis of proceedings...”, rendered in Polish as “Przekonania takiego nabrał, *między innymi*, w wyniku postępowania...”, or “The applicant stated that he had lived in *de facto* marital cohabitation...” translated as “Skarżący oświadczył, że pozostawał w *faktycznym* wspólnym pożyciu małżeńskim”, and „They first argued that the complaint was incompatible *ratione personae* with the provisions...and the complaint was incompatible *ratione materiae* with the provisions...” translated in Polish as “Po pierwsze, Rząd argumentował, że skarga pozbawiona była *właściwości podmiotowej* w stosunku do przepisów... oraz skarga była pozbawiona *właściwości rzeczowej* w stosunku do przepisów...”.

This tendency of translating legal Latin terms may be explained by the fact that Polish is not a Romanic language (even if it corresponds to the Latin alphabet with several additions) and belongs to the West Slavic languages. The Latin language, for a very long time the only official language of the Polish state, has had a great influence on the Polish language, beginning with the acquisition of Christianity in the Latin rite in 966. Thus, Latin became the language of the church and law. For a very long period Latin influenced the content of the Polish law. Anyway, today, as we can see, all Latin legal terms are considered as loanwords and are rendered in Polish. The

studies demonstrate that in Poland, Latin is used exclusively in the metalanguage of the law and not in the language of the law.

On the other hand, there are cases when Latin legal terms are kept in their initial form, for example: „orzecznictwo może być oceniana *in abstracto*.”[4], „jest warunkiem *sine qua non* dla legalności zatrzymania...”, or „Wnioskodawca może *post factum* ubiegać się o stwierdzenie, czy jego zatrzymanie było uzasadnione.”, „zgodność *ratione personae*”. Consequently, there is no rule of using legal Latin terms in the Polish legal terminology, whether in their initial form or rendered in Polish.

Also, there are Polish term of Latin origin, as: *kasacja* – from Medieval Latin *cassātiōn*, *egzekucyjny* - Medieval Latin *execūtāre*, Middle English *executen*, Old French *executer*, *administracja* – from Latin *administrātiōn*, *kodeks* - Anglo-French, Old French, Latin *cōdex*, *ratyfikować* - from Old French *ratifier* (late 13c.), from Medieval Latin *ratificare*, *instancja* – from Latin *instantia*, *tytuł* pokrewieństwa – from Latin *titulus*, *legalność* – from Medieval Latin *lēgālītās*, *prokurator* – from Medieval Latin *prosecutor*, *konstytucja* – from Latin *constitūtiōn*, *cywilny* – from Latin *cīvīlis*, *meritum* - from O.Fr. *merite* , from L. *meritum*, *trybunał* – from Latin *tribūnal*, *tribūnāle*, *regulować* – from Late Latin *rēgulāre*, *dyskryminacja* – from Latin *discrīminātiōn*. All these terms are of Latin origin, therefore they were not just borrowed but undergone the process of adaptation at morphological, ortographic and phonetic levels. More than that, the Polish terms kept both the meaning and the concept. From these examples, we may notice that just the inflection ending is different, whereas the word stem is the same, both in Latin and Polish. As a consequence word stem equivalence is used as similarity criterion between languages.

The use of **terms of French origin** in the Romanian, English and Polish legal terminology is also spread because these languages were influenced widely by French, mainly the vocabulary and as a result, French terms have accommodated so well, that now they can create very complex lexical constructions. Iwona Witczak-Plisiecka, in her book *The relevant theoretic perspective on legal language*, states that “in general, a word ranges from foreignising (SL-oriented equivalents) to domesticating (TL-oriented equivalents) where the former “seeks to evoke a sense of the foreign” while the latter involves assimilation to the TL culture and is intended to ensure immediate comprehension.” [61:141]

Let us take, for example, the English term, *cessation of breach of law*, translated into Romanian as *încetarea încălcării legii*. From Old French, *cessation* means delaying, ceasing. Another example, is *request for annulment – recurs în anulare*. In this case, we deal with two borrowings: *request* and *annulment*, both from French. From Old French, *request* means things

asked for, while *annulment* – means the act of annulling, abolition, invalidation. The construction *to lodge an appeal – a depune apel*, also consists of two French borrowings, *to lodge* and *appeal*.

Having outlined the nature of French origin terms in legal texts, we should mention that in general the loans are short words, easily adaptable and following a well established pattern of minimal orthographic adaptation, for example: *allegation – alegație, amendment – amendament*. Accordingly, *allegation* comes from French *allégation*, which means an assertion made by a party that must be proved or supported with evidence. *Amendment* comes from French *amendement*, which means in government and law, an addition or alteration made to a constitution, statute, or legislative bill or resolution or in Romanian it means *modificare la un proiect de lege sau de tratat prin adăugiri și precizări*.

As a rule, all legal French origin terms are not just taken or transferred from French but are rendered through adaptation. For example: “...*deliberând* la 26 februarie 2008 în ședință închisă, se pronunță următoarea hotărâre...”. Consequently, the term *a delibera* comes from the French *délibérer*. The transfer of the term was performed fully since the Romanian language had acquired not just the adapted form of *délibérer* but its definition as well, as follows: „a examina, a dezbate pentru a lua o hotărâre”. The same with the terms *a privatiza* - fr. *privatiser*, *drept* - fr. *droit*, *proprietate* - fr. *propriété*, *penalitate* - fr. *pénalité*, *reclamant* - fr. *réclamant*, *prescriptie* - fr. *prescription*, etc.

In what regards English, the law French origin terms were used in the law courts of England, beginning with the Norman Conquest by William the Conqueror. Many of the terms of Law French were converted into modern English in the 20th century to make the law more understandable in common-law jurisdictions. For example: *bailiff* from Old French *baillif*, the marshal of the court, charged now chiefly with keeping order in the courtroom; *culprit*, as the guilty party; *defendant* from Old French *defendant*, the party against whom a civil proceeding is brought; *mortgage* - literally *a dead pledge*, comes from Old French *mortgage*, a pledge by which the landowner remained in possession of the property he staked as security (the term mortgage was replaced in modern French by *hypothèque*); *plaintiff* - the person who begins a lawsuit. The term plaintiff comes from legal French *plaintif* from the 14<sup>th</sup> century.

A more dynamic view arises upon the use of Polish terms of French origin. For example, *reprezentować* – from Medieval French *representer*, *neutralność* - from Medieval French *neutralite*, *rezygnacja* - from French *resignation*, *proces* – from French *process*, *ratyfikować* - from Old French *ratifier*, *decyzja* - from M.Fr. *décision* (14c.), *apelacja* - Old French *apel*, *aresztować* – from Anglo-French, Middle French *arester*, *gwarancja* – from Anglo-French *guarantie*, *kwestionować* – from Middle French *questioner*, *termin* – from O.Fr. *terme*, *policja* – from

Medieval French *police*. Therefore, with regard to Polish terms of French origin, we deal, again, with orthographic and morphological adaptation. This confirms the sensitivity of loanwords to adaptations. It is adaptation that determines the nativization of loanwords. However, it should be mentioned that orthography is considered a possible factor for those adaptations that cannot be explained by phonological principles. In this way, “reading adaptations” (*ratyfikować, apelacja, aresztować*) are relatively well identified, but adaptations based on between-language grapheme-to-phoneme (*kwestionować*) correspondence rules will often go unnoticed, since they typically resemble or are even undistinguishable from phonologically-based adaptations.

The legal English lexicon is considerably made of **archaic legal terms**. However, this touch of archaisms is not in vain, it is done on purpose. There are reasons behind this tendency towards archaic words. Tiersma states that “legal language often strives toward great formality, and it naturally gravitates towards archaic language”. According to this quotation, archaisms give a flavor of formality to the language to which they belong. Some lawmakers prefer to use antique terms instead of new ones. For example, they use *imbibe* as an alternative of *drink*, *inquire* rather than *ask*, *forthwith* as a substitution of *right away* and so on.

Accordingly, the more conservative legal terms are, the safer a legal document will be. In other words, this use of antiquated terminology is driven by the need to avoid troublesome changes as far as legal lexical meaning is concerned. The principle, according to Crystal and Davy is that “what has been tested and found adequate is best not altered”. Certain archaic words have actually acquired an authoritative interpretation over the years. So, altering them is an absolute risk. Also, this ongoing use of old-fashioned diction is, on the other hand, a matter of convenience. That is, what was workable before can be workable again.

Let us take the following examples: *dovadă, proprietate comună în devălmășie, pricină, înșelăciune, chiriaș, împuternicit, înfiere, speluncă, câștig nerealizat*. Today, these terms are already considered archaic terms which belong to the common vocabulary. However, a part of them continue to be used in the legal field for the sake of tradition, because today they acquired new forms. For example, instead of *dovadă* we have *probă*, instead of *câștig nerealizat* – *beneficiu nerealizat*, *pricină* was substituted with *litigiu*, *înșelăciune* with *fraudă*, *chiriaș* with *locatar*, *împuternicit* with *mandatar*, *înfiere* with *adopție*. Semantically, these changes are not substantial, since the concept is kept. The only change lies in the form of the term. The aim of these acquisitions is to give to the legal terminology a sense of technicality, so that the term to be used exclusively in the legal field. With regard to *proprietate comună în devălmășie* and *speluncă* they are still in use but nobody knows for how long.

With regard to English archaic terms, we shall mention: *hereby, therefore, hereinafter, whereas, etc.* The extensive use of archaisms in legal texts arises partly from the fact that the law was the last institution to stop using the French and Latin of the Norman occupation. But is also due to the fact that legal language has to be seen to be distinct from ordinary usage.

Despite the so called usefulness of the archaic touch within legal language, its functionality is still debatable. It is quite apparent from the examples given previously that certain outdated terms and constructions are truly a handicap for better understanding, they make legal language inaccessible for public reader or more specifically to those who are mainly concerned with legal matters and noticeably such terms render comprehension difficult. So, their unique compensation is seeking advice from lawyers as translators.

Given all this, let's continue with **doublets**. During the research we found many doublets in all three languages. In many cases it may seem to us that these doublets are synonymic and tautological, but they are not. As a rule, one of the member of the doublet may be of Latin or French origin. There are cases when these doublets may develop divergent meanings, creating antonymic doublets. It seems that in judicial interpreting these constructions provide precision, accuracy and tradition. Usually, these constructions may seem tautologous, but they are stylistically sound because the repeated meaning is merely a stylized way to express a single concept.

Let's start with a simple example: "*Article 7. Protection of **honour and dignity***" rendered into Romanian as "*Articolul 7. Apărarea **onoarei și demnității***". In order to establish what type of doublet is this expression we will analyse their definitions. Accordingly, *honour* means a code of integrity, dignity, self-respect, courage, fidelity, especially excellence of character, high moral worth, virtue, nobleness. *Honour* denotes a fine sense of, and a strict conformity to, what is considered morally right or due and *dignity* means the quality or state of being worthy of esteem or respect. Now let's see the Romanian definitions of *onoare* and *demnitate*. Thus, *onoare* means *integritate morală, probitate, corectitudine, cinste* and *demnitate* - *caracter demn; destoinicie*. In this case, it goes without saying that this doublet is a synonymic one, and the terms *honour* and *dignity* are partial synonyms.

The next is **fair and objective**: „*While the Constitutional Court was generally regarded as **fair and objective**, observers frequently...*” translated as „*În timp ce Curtea Constituțională în general a fost considerată ca **justă și obiectivă**, observatorii des...*”. *Fair* implies the treating of all sides alike, justly and equitably, in a proper or legal manner, while *objective* implies detachment that permits impersonal observation and judgment. It results that *fair and objective* is tautological doublet, whose members overlap one another, because they denote the same concept. The same

with **legal and constitutional**, or in Romanian **ordinea de drept și constituțională**. The term *legal*, already means *constitutional*, or pertaining to law, connected with the law.

Another confusing doublet is **duties and responsibilities**: „*The exercise of these freedoms, since it carries with it **duties and responsibilities**, may be subject to such formalities, conditions...*” translated into Romanian as „*Exercitarea acestor libertăți ce comportă **îndatoriri și responsabilități**, poate fi supusă unor formalități, condiții...*”. Dictionaries define *duty* as responsibility of conduct, function, or performance that arises from an express or implied contract, or from the fact of holding an office or position while *responsibility* means duty or obligation to satisfactorily perform or complete a task. From the definitions it is clear that the term *responsibilities* is emotionally stronger than the term *duties*. The same with **independence and impartiality**.

As the first and most important thing in understanding legal doublets is to look for their definitions. Consequently, let's analyse the following example: „*...it had grounds for an **objectively justified and legitimate** fear that judge in question...*”. And its translation: „*...el avea motive pentru o temere obiectiv **justificată și legitimă** precum că judecătorul respectiv...*”. Technically, at the first view *justified and legitimate* seems to be a tautological doublet, since *just* means based on right, rightful, lawful, legal. But *legitimate* is a legal term and is more concrete, being defined as according to law, accordant with law or with established legal forms and requirements. The etymology of this word shows that it comes from Latin *legitimus* legally sanctioned. That is why, we say that *justified and legitimate* is a synonymic doublet.

Examples, such as **influence or pressure, ideas and opinions, defamatory or untrue** are all synonymic doublets. In these examples, there is a semantic distance, since the meanings of the words cannot be superposed. For example, the intensity of the word **influence** is not the same as that of **pressure**. *Pressure* is stronger than *influence*. In addition, it is stylistically more forceful and more concrete. However, the border between denotation and connotation is somewhat confusing. That is why, when dealing with such constructions we shall establish which word most precisely matches the style and meaning that is to be conveyed.

Sometimes, the distinction between a pair of words is clear just from their meanings. For example, „*...the Government further submitted that the reasons given to justify the interference were **relevant and sufficient***”. Let's analyse their lexical entries. *Relevant* means appropriate, suitable and sufficient to support the cause. *Sufficient* is defined as adequate, competent, full, satisfactory and adequate for the purpose. To sum up, we can say that these two definitions are similar, but not identic.

Many of the differences between the words of such constructions can be expressed in terms of various lexical features. Let's take the following examples: „...*the Court awards the applicant EUR 1, 800 for costs and expenses*” translated as „...*Curtea acordă reclamantului suma de 1 800 EUR pentru costuri și cheltuieli*”. Technically, the difference between *costs* and *expenses* is the domain they belong to. For instance, *costs* (in its plural form) in the field of law means money allowed to a successful party in a lawsuit in compensation for legal expenses incurred, chargeable to the unsuccessful party or the charges fixed for litigation, often payable by the losing party. And since we have a legal text, this is the definition we are looking for. Speaking of *expenses*, from the definition it means an expenditure of money. It results that we have here a tautological doublet.

Thus, the following examples are tautological doublets: *religion or belief, tolerance and mutual respect, practices and rites, unreasonable or arbitrarily, final and unappealable, to use and enjoy*. The idea in these examples is that there is no dividing line between the lexical entries of these doublets. Even if in the construction *religion or belief* we may identify the denotative dimensions of formality (*religion*) and informality (*belief*), their meanings are the same.

Naturally, we may also divide doublets by lexical distinction and conceptual distinction. For instance, in the following examples, *offensive or defamatory, breaches of the statute or law, to disseminate propaganda and agitation, rights and freedoms, incentives and guarantees* we deal with conceptual distinctions between words. By contrast, *statute* means an enactment made by a legislature and expressed in a formal document. *Statute* is commonly applied to the acts of a legislative body. On the other hand, the term *law* means any written or positive rule or collection of rules prescribed under the authority of the state or nation. As we can see, we deal with two concepts from the same field, moreover, *statutes* are comprised in *laws*. The lexical distinctions can be illustrated in the following examples: *assembly and association, fair and proper*. These distinctions are based on the following aspects: register (formal *assembly* /informal *association*), intensity (forceful *fair*/weak *proper*). Due to these distinctions at concept and lexical levels, these doublets cannot be considered as tautologies.

As we have mentioned at the beginning, there are also antonymic doublets, such as *rights and obligations, starting time and finishing time of the assembly, pecuniary and non-pecuniary damage*.

And finally, we cannot avoid the most complex constructions, composed of three and more terms. There are few such cases, however they should be mentioned. Examples, such as: „*Members of Parliament shall have the right to organise demonstrations, meetings, processions and other peaceful gatherings in accordance with the Conduct and Organisation of Assemblies Act*”, translated into Romanian as „*Deputatul are dreptul să organizeze mitinguri, demonstrații,*

*manifestații, procesiuni și orice alte întruniri pașnice în condițiile Legii cu privire la organizarea și desfășurarea întrunirilor*” or „...the respondent State exercised its discretion **reasonably, carefully and in good faith**...” translated as „statul reclamat și-a exercitat împuternicirile **rațional, scrupulos și conștiincios**”. These two cases represent synonymic constructions because they define one single concept and words that describe the concepts are placed in direct correspondence.

With regard to Polish doublets we shall mention that there are very few: **zasadność i dopuszczalność skargi** and **koszty i wydatki**. This is explained by the fact that legal language strives to avoid ambiguous terms, repetitions and synonyms, and since the Polish language doesn't have such strong roots with Latin and French, as the English and Romanian languages do, the use of such doublets is very narrow.

The aspect of doublets, as a peculiarity of legal texts, is a difficult and confusing one and this because of the connotative and denotative dimensions of these constructions, whether they are synonyms or tautologies. The problems appear when you have to translate them. And here arises the question, whether to translate or omit a member of the word group. As we saw from the above analysed examples, doublets are translated entirely, even if they are tautologies, and this is achieved for the purpose of precision, tradition and accuracy in legal texts.

The phenomenon of **borrowings** and **neonyms** in the legal terminology is mostly common to the Romanian and Polish languages, since the English language is the source for borrowings. The cause of borrowings lies in the frequent contacts of languages. Borrowings are limited to nouns, verbs, adjectives, and sometimes phraseological expressions. The phenomenon of transdisciplinary borrowing is also common to the legal terminology. It happens when a designation from one specific subject field is used in the legal field in order to represent a different concept. As a rule, lexical borrowings undergo a gradual process of adaptation before the recipient language community fully assimilates them. In the initial stage, borrowings are used as quotes, which retain their donor language form. This is not always the case, since quite often the adaptation process is very fast. However, certain loans are not readily assimilated and they will perhaps remain non-inflectable due to their phonology or for other reasons.

As a rule, the incorporation of borrowings and neonyms is valorized with the help of the translation loans. For example, the term **ombudsman** comes from the Danish, Norwegian and Swedish languages, essentially meaning *representative*. The Parliamentary Ombudsman is the institution that the Scandinavian countries subsequently molded into its contemporary form, and which subsequently has been adopted in many other parts of the world. According to Oxford Dictionary the term *ombudsman* is a person who acts as a trusted intermediary between an organization and some internal or external constituency while representing not only but mostly the

broad scope of constituent interests. Thus, the term was borrowed and introduced in all languages with its initial form. The English and Romanian languages preserve the borrowed form, while in the Polish language we deal with an attempt of translating the concept as *Rzecznik Praw Obywatelskich*, usually translated as the Commissioner for Protection of Civil Rights, or Commissioner for Human Rights. According to Polish dictionaries the institution of *Rzecznik Praw Obywatelskich* is defined as “jednoosobowy organ władzy państwowej, pełniący funkcję ombudsmana, który stoi na straży wolności, praw człowieka i obywatela”.

Another example, is the Romanian term *alegație*, borrowed through adaptation from the French *allegation* and the English *allegation*. According to Oxford Dictionary the term *allegation* is defined as a statement by a party to a lawsuit of what the party will attempt to prove. On the other hand, according to bilingual English-Romanian dictionaries, allegation is translated into Romanian as *declarație, depozitie, afirmație nedovedită, motiv neîntemeiat*. Anyway, the Moldovan lawmaker decided that using the term *alegație* is more appropriate and precise. Another reason, and we think this is the main one, would be the tendency of legal terms standardization and internationalization.

If we go on and on through the analysis of borrowings of the legal terminology we should mention the terms *franchising* and *factoring* used in the Moldovan law. Both terms come from English. In this case, the Moldovan lawmaker borrowed not just the terms but the concepts they denote, too. According to Merriam-Webster's Dictionary of Law, franchising is defined as the “right or license that is granted to an individual or group to market a company's goods or services in a particular territory under the company's trademark, trade name, or service mark and that often involves the use of rules and procedures designed by the company and services (as advertising) and facilities provided by the company in return for fees, royalties, or other compensation”. In Romanian, according to art. 1171, Civil Code of the Republic of Moldova, the term is defined as follows: “prin contract de franchising, care este unul cu executare succesivă în timp, o parte (franchiser) și cealaltă parte (franchisee) întreprinderi autonome se obligă reciproc să promoveze comercializarea de bunuri și servicii prin efectuarea, de către fiecare din ele, a unor prestații specifice”. In other words franchising is “un contract comercial cu funcții apropiate de intermediere, reglementat în dreptul anglo-american, având ca obiect acordarea de către un comerciant-producător, numit franchiser (francizor), a dreptului de a vinde anumite bunuri, sau de a presta anumite servicii, și de a beneficia de un sistem de relații care cuprinde marca, renumele, know-how-ul și asistență, unui alt comerciant (persoana fizică sau juridică) numit franchisee (francizat), în schimbul unui preț ce constă într-o sumă de bani inițială și o redevență periodică numită franchisee fee (taxa de franciză). This term corresponds to the term *concesiune comercială*, but anyway, the Moldovan lawmaker decided to keep the English version since the institution of franchising is a

new one for the Moldovan law and promoting the non-ambiguity of legal terms is the main goal to be achieved when rendering legal terms. The same situation with the term *factoring*. According to Merriam-Webster's Dictionary of Law the term *factoring* is defined as the “purchasing of accounts receivable from a business by a factor who assumes the risk of loss in return for some agreed discount”. On the other hand, the Civil Code of the Republic of Moldova, art. 1290 defines factoring as follows: “prin contract de factoring, o parte, care este furnizorul de bunuri și servicii (aderent), se obligă să cedeze celeilalte părți, care este o întreprindere de factoring (factor), creanțele apărute sau care vor apărea în viitor din contracte de vânzări de bunuri, prestări de servicii și efectuare de lucrări către terți, iar factorul își asumă cel puțin 2 din următoarele obligații: finanțarea aderentului, inclusiv prin împrumuturi și plăți în avans; ținerea contabilității creanțelor; asigurarea efectuării procedurilor de somare și de încasare a creanțelor; asumarea riscului insolvenței debitorului pentru creanțele preluate (delcredere).” Thus, the definitions and the concepts they describe are similar. The problem lies in the loan transfer and conservation of the term in both languages, English and Romanian.

With regard to borrowings in the Polish legal terminology, we should mention that the Polish language is pretty reticent and reserved in respect to borrowings in the legal field, even if the influence of English on Polish dates back to the turn of the 18<sup>th</sup> – 19<sup>th</sup> centuries; however, it gained momentum after 1989, when Poland overthrew communism and opened its borders to the West. Among borrowings in the Polish language one may distinguish the following: *leasing, dealer, joint venture, holding, franchising, broker*. This lexical corruption of the Polish language leads to its contamination and consequently to its impoverishment. That is why, the Polish Parliament has decided to enshrine the language and stamp out foreign linguistic encroachment. A group of Sejm deputies has submitted a bill on the protection of Polish language which would result in fines of up to zł.10 000 for overusing foreign words. The bill emphasized the duty to protect the Polish language and it was aimed to seek to make Polish obligatory in names of goods and services, as well as contracts with foreign partners when the terms of the contract will be realized in Poland. But, the bill was not passed. The opponents of this legislation emphasized that the encroachment of foreign languages, mostly English, is just an indication of Poland's growing closeness to the rest of the world. They stated that the appearance of new words bespeaks vivacity and flexibility of of the language.

As a rule, borrowings and neonyms in the legal field prove successful and are fully incorporated in the TL. In other cases, the initial loan is replaced at a later stage by a form more compliant with the linguistic structures of the TL.

As a rule, special languages endeavor to make the process of designation systematic, based on certain specified linguistic rules, so that terms would reflect the concept characteristics they refer to as precisely as possible. The aim of the systematization of these principles is to achieve transparency and consistency in linguistic representation of knowledge. This aim is achieved through **derivation** and **conversion**. Thus we distinguish:

a) use of nouns derived from verbs and viceversa: *to arrest – arrest, to appeal – appeal, to breach – breach, to ban – ban, to violate – violation, to promulgate – promulgation, a delibera – deliberare, a contesta – contestare, a suspenda – suspendare, skarżać – skarżący, dyskryminować – dyskryminacja, naruszać – naruszenie, gwarantować – gwarancje, zmodyfikować – zmodyfikowanie, prześladować – prześladowanie, rząd – rządzić.*

b) use of nouns derived from adjectives, and viceversa: *illegal – ilegalitate, constitution – constitutional, admissible – admissibility, certain – certainty, statute – statutory, crime – criminal, zasada – zasadny, konstytucja – konstytucyjny, wolny - wolność*

By using the existing forms we may create new terms through:

a) suffixation: *reclamant, lichidare, promulgare, invocare, contestare, constituțional, încãlcare, suspendare, contestare examinare, applicant, constitutional, inquiry, judgement, amendment, notification, authorisation, annulment, possession, appealable, compensation, statutory, investigation, incorporation, nowelizacja, wolność, kasacyjny, odwołanie, zaskarżanie, egzekucyjny, administracyjny, własliwość, równość, majątkowy, traktowanie, rozwiązanie, ratyfikować, eksmisyjny, konstytucyjny, aresztowanie, krajowy, popełnienie, osobisty, wnioskodawca, wezwanie, oskarżyciel, domniemanie, pozbawienie, zwolnienie, poręczenie, wymuszanie, rozporządzenie.*

b) prefixation: *illegal, ilegalitate, ședință extraordinară, neexecutare, nefondat, reexaminare, illegal, non-governmental, extraordinary meeting, non-pecuniary, non-enforcement, retroactive, nieprocesowy, odrzucić, zakwestionować, utrzymać, niematerialny.*

c) suffixation and prefixation: *irrevocabil, retroactive, imobil, ilegalitate, nonappealable, immovable property, pokrzywdzona strona, rozpatrzenie, uszkodzenie, nietykalny, uniewinniony, bezzasadny, zatrzymanie, nieprawdziwy, nieodwołalny, niedopuszczalność, odszkodowanie, nieuzasadniony, pokrzywdzony, przesłuchiwanie.*

d) conversion: *a remite – remitere, a împuternici – împuternicit, a invoca – invocare, a notifica – notificare, a contesata - contestare, a suspenda – suspendare, a audia - audiere, a sanționa – sanțiune, a hotărî – hotărîre, sanction – to sanction, appeal – to appeal, claim – to claim, to appeal – appeal, to breach – breach, to ban – ban, dyskryminować – dyskryminacja, rozporządzenie – rozporządzać, wymuszanie – wymuszać, śledzić – śledztwo, poręczenie –*

poręczać, traktować – *traktowanie*, areszt – *aresztować*, uszkodzić – *uszkodzenie*, odwołanie – odwoływać, kasacja – kasować.

There are cases when through suffixation, prefixation and conversion semantic fields are created. For example: *a dona – donație – donator – donatar*; *a reclama – reclamație – reclamant – reclamat*; *a mandata – mandatar – mandant*; *a moșteni – moștenire – moștenitor*; *a asigura – asigurare – asigurator – asigurător*; *comodat – comodant – comodatatar*; *renta – debirentier – credirentier*; *a împrumuta – împrumut – împrumutător – împrumutat*, etc. Therefore, we may consider suffixation, prefixation and conversion the most productive means of term formation. For example, *a mandata* means a împuternici, *mandatar* - persoană care a primit împuternicirea de a reprezenta sau de a apăra interesele unei alte persoane numită mandant, while *mandant* - persoană fizică sau juridică care dă o împuternicire unei alte persoane de a o reprezenta sau a acționa în interesul său”. As can be seen the terms are interrelated and the shift in the meaning is not so big, since they form the semantic field of the same concept.

With regard to compoundings, in the legal field compound terms lead to new concepts. Compounds can be complex terms, phrases or blends. On the base of the number of members in a compounding, we distinguish:

a) two-member word groups: for example, ***criminal investigation***. According to the Canadian Encyclopedia, a criminal investigation is an official effort to uncover information about a crime. It involves the investigation of violations of criminal law. In a criminal investigation, the state is responsible for all the expense of investigating the case and presenting it in court, with the exception of the accused's defence. Therefore, the term consists of two members, an adjective and a noun, both belonging to the legal system. Consequently, when taken together the phrase gets a new meaning, thus describing a new concept.

Another two member phrase is ***pecuniary damages***. According to Oxford Dictionary, pecuniary means consisting of or relating to money, while damage - injury or harm impairing the function or condition of a person or thing. Consequently, when taken together, the new term is defined as: compensation for loss or harm suffered in the form of a change for the worse in someone's financial situation and caused by another's infringement of a statute, breach of contract or failure to observe some other legal rule, or the estimated money equivalent for detriment or injury sustained. Thus, we deal with a new concept. The same with: *case-law*, *Supreme Court*, *final judgement*, *civil obligations*, *ordinary meeting*, *secret ballot*, *injured party*, *default interest*, *enforcement warrant*, *legal person*, *ill-founded*, *draft legislation*, *immovable property*.

With regard to Polish two member compoundings we may distinguish: *pokrzywdzona strona* (injured party), *złożyć odwołanie* (to file an appeal), *umowa najmu* (lease agreement), *prawa*

*osobiste* (personal rights), *prawomocny wyrok* (final judgement), *złożyć apelacje* (to appeal), *akt oskarżenia* (bill of indictment), *wnosić skargę* (to lodge an application), *osoba prawna* (legal person), etc. As a rule, these compoundings had already become fixed constructions denoting legal concepts.

In Romanian, the process of creating two member compoundings is the same, that is, with the help of prepositions and article, as follows: *urmărire penală*, *Judecătoria Economică*, *fondul cererii*, *bunuri imobiliare*, *principiul neretroactivității*, *lege organică*, *capital social*, *decizie irevocabilă*, *a casa hotărîrea*, *a admite recursul*, *obligații civile*, *ordine constituțională*, *hotărîre definitivă*, *a respinge apelul*, *circumstanțele cauzei*, *fondul cauzei*.

b) three member word groups: *deprivation of possessions*, *principle of lawfulness*, *entry into force*, *right to property*, *first instance court*, *freedom of conscience*, *appeal in disguise*, *rule of law*, *relevant domestic law*, *Prosecutor's General Office*, *request for annulment*, *prescribed by law*, *Court of Appeal*, *breach of law*, etc. Let us analyse the term **first instance court**. The term consists of three words, an adjective and two nouns. According to legal dictionaries a *first instance court* or a *court of first instance* is the initial trial court where an action is brought.

There are three member word groups, where one of the members may be a preposition, for example, *rule of law*. The phrase is composed of three words, two nouns and a preposition. If taken separately each term shall preserve its meaning and the concept it represents, while taken together the term acquires a new meaning. The rule of law does not have a precise definition, and its meaning can vary between different nations and legal traditions. Generally, however, it can be understood as a legal-political regime under which the law restrains the government by promoting certain liberties and creating order and predictability regarding how a country functions. In the most basic sense, the rule of law is a system that attempts to protect the rights of citizens from arbitrary and abusive use of government power. On the other side, there are three member word groups, where one of the members may be an article, either definite or indefinite, for instance: *to lodge an application*, *to exercise a right*, *to bring an action*, etc.

As for Polish, the same as in English, there are prepositional three member groups and non-prepositional. Therefore, the prepositional compoundings are: *korzystać z prawa* (to exercise the right), *występowanie w prawach* (succession of rights), *podać do sądu* (to sue), *uznać za winny* (to convict), *wezwanie na rozprawę* (summons), *wniosek o niedopuszczalności* (plea of inadmissibility), *pobyt w areszcie* (detention); and nonprepositional: *sąd niższej instancji* (lower court), *ponówne rozpatrzenie sprawy* (remitted case), *egzekucja nakazu eksmisji* (enforcement of the eviction order), *wydać wyrok zaoczny* (to give judgement in default), *postawić zarzut napaści* (to charge with assaulting), *Kodeks postępowania karnego* (Code of civil procedure).

In Romanian, we distinguish prepositional compoundings: *lipsire de proprietate, taxă de stat, termen de prescripție, proceduri de executare, proiect de lege, a intra în vigoare, drept de proprietate, act de constituire, a acționa în justiție, recurs în anulare, a trage la răspundere, a emite o decizie*; and non-prepositional: *vicii juridice ascunse, a menține hotărârea judecătorească, a aduce atingere drepturilor, repararea prejudiciului moral, drept intern pertinent*.

c) four member word groups: *hearings on the merits, circumstances of the case, background of the case, incitement to public violence, noncompliance with the legislation, re-opening of the proceedings, to exhaust the domestic remedies, principle of legal certainty, principle of res judicata, judicial miscarriages of justice, Code of civil procedure, compensation for moral damage, Higher Council of Magistrates, to appear before the court, to lodge a court action*. As we can see, all these compounds are created with the help of prepositions (*law on foreign investment, to act in bad faith, merits of the application*) or definite and indefinite article (*to lodge a court action, hearings on the merits*). The most widely used prepositions are: *of, on* and *in*. As a rule, the majority of these compounds are fixed and have fixed meanings, for example: *principle of legal certainty* is defined as the principle in national and international law which holds that the law must provide those subject to the law with the ability to regulate their conduct. Legal certainty is internationally recognised as central requirement for the rule of law.

With regard to Polish four member groups, we distinguish: *zasadność i dopuszczalność skargi, wolność sumienia i wyznania* (freedom of conscience and religion), *uchylić się od obowiązku* (escape the obligation), *prawo do wolności myśli* (right to freedom of thought), *poręczenie osoby godnej zaufania* (guarantee by a responsible person), *wnosić odwołanie od postanowienia* (to lodge an appeal against the decision), *naruszenie zasady domniemania niewinności* (breach of the presumption of innocence). As we may notice, these compoundings are formed with the help of prepositions and conjunctions.

As for Romanian four member word groups, we have: *căi interne de recurs, a acționa cu rea-credință, îmbogățire fără justă cauză, a respinge apelul ca nefondat, a trimite cauza spre examinare, cod de procedură civilă, principiul stabilității raporturilor juridice, dreptul la respectarea bunurilor, incitare la violență publică*.

d) five member word groups: *failure to repay the loan, to send the case for re-examination, to file a request for annulment, to uphold the request for annulment, right to a fair hearing, to fall under the provisions of, panel of the Supreme Court, right to freedom of assembly*. These examples, on the other hand, consist of more than one preposition or article. Even if they have more members, all of them are interrelated and bear one single meaning denoting one single concept, for example, *right to a fair hearing* is defined in the Universal Declaration of Human Rights (UDHR), art. 10 as

follows: “Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him”. Thus, the right to a fair trial is absolute and cannot be limited. It requires a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.

As for Polish five member groups, we registered the following structures: *wnosić skargę kasacyjną od postanowienia* (to file a cassation appeal against the judgement), *wstąpienie w prawo do najmu* (succession to the right to lease), *złożyć sprawę do sądu cywilnego* (to lodge a civil action), *wyczerpać wszelkich dostępnych środków krajowych* (to exhaust the available domestic remedies), *uchylić się przed wymiarem sprawiedliwości* (to hide from justice).

With respect to Romanian five member groups the following units were identified: *titlu executoriu pentru executarea hotărîrii, omisiunea de a restitui împrumutul, cu dreaptă și prealabilă despăgubire, a intenta o acțiune judiciară, a epuiza căile interne de recurs, dreptul la un proces echitabil, a dispune remiterea cauzei la rejudecare, a înainta un recurs în anulare, a înainta o acțiune în judecată, Colegiul Curții Supreme de Justiție.*

e) six member word groups: *freedom of association and peaceful assembly, right to peaceful enjoyment of possessions, to order the re-opening of the proceedings, judicial errors and miscarriages of justice, to dismiss the appeal as being unfounded, to rely on the legislation in force, Appellate Chamber of the Economic Court.* These constructions are more complex since they are formed with the help of prepositions, articles and conjunctions. Anyway, they have one single semantic line denoting one single concept, for example, *right to peaceful enjoyment of possessions* which is defined as the human right by which private property exists. Moreover, this right is enshrined in Article 17 of the Universal Declaration of Human Rights.

With respect to Polish six member compoundings, we have: *złożyć wniosek o zawieszenie wykonania postanowienia* (to request a stay of execution of the decision), *ochrona praw człowieka i postawowych wolności.*

As for the Romanian compoundings, we have: *Colegiul de Apel al Judecătorei Economice, a epuiza toate căile de atac interne.*

f) seven member word groups: *warrant for the enforcement of the judgement, Department for the Privatisation of State Property, cessation of the alleged breaches of law.* The number of such long constructions is not so big, because as we all know legal terminology tends to be as precise as possible, that is why conciseness is very important in order to render the concept.

As for Polish seven member compounding, we found: *sąd pierwszej instancji właściwy do rozpoznania sprawy* (court of first instance competent to deal with the case), *Ustawa o gwarancjach wolności sumienia i wyznania* (law on guarantees for freedom of conscience and religion).

As for Romanian, we registered: *scutire de la plata taxei de stat, decizie definitivă și fără drept de recurs, lacune în drept și omisiuni ale justiției, incitare la ură națională, rasială sau religioasă*.

g) eight member word groups: *a înainta o acțiune la Curtea Supremă de Justiție, Legea cu privire la organizarea și desfășurarea întrunirilor*.

h) nine member word groups: *to lodge an application with the Supreme Court of Justice, incitement to hatred on ethnic, racial or religious grounds, to exercise the discretions reasonably, carefully and in good faith*.

i) ten member word groups: *Convention for the Protection of Human Rights and Fundamental Freedoms*.

As a rule, words making up a compound term or a phrase are joined by hyphen, prepositions, articles (definite or indefinite) or by fusing, or they are cited without any indication of joining between them.

An important aspect of legal terminology is the use of **legal metaphors and metonymies**. These modes or techniques can be regarded as horizontal mechanisms influencing terminologization and interdisciplinary borrowing.

A metaphors is defined as a literary figure of speech that uses an image, story or tangible thing to represent some intangible quality or idea. Consequently, one may deal with the following legal metaphors: *fructe, proprietate intelectuală, stingerea acțiunii penale, violare de domiciliu, deschiderea succesiunii, dizolvarea persoanei juridice, stingerea obligației, a acționa pe cineva în justiție, termenul de prescripție începe să curgă, etc.* Let us take for analysis the Romanian term *fructe*. According to the Romanian DEX, the term **fructe** means: ansamblul organelor vegetale care se dezvoltă după fecundația unei flori și care conțin semințele plantei respective; poamnă, rod; produse vegetale care servesc ca hrană. This is the denotative meaning of the word *fructe* or its literal meaning, while the connotative meaning is reflected in the following legal definition: venituri în bani obținute prin exploatarea bunurilor, adică prin cedarea folosinței lor unei alte persoane, în schimbul unor sume de bani plătite periodic de către aceasta, spre exemplu chiriile și dobânzile creanțelor. Consequently, the term was terminologized and acquired a new meaning in the legal field, that of property (as income or goods) produced by or derived from other movable or immovable property without diminution of its substance fruits and products of the thing held; the revenue derived from property esp. by virtue of an obligation (as a lease).

Another metaphor, common for the Romanian and English languages is *proprietate intelectuală* or *intellectual property*. If we split the phrase and define each word separately, we shall notice that the word group is illogical, since the adjective intellectual can be attributed just to persons and not to objects. Anyway, on the base of the metaphorization process, the word group acquired a new meaning denoting the concept of property that results from original creative thought, as patents, copyright material, and trademarks; an intangible asset, such as a copyright or patent. Metaphorization is a common strategy by which the speaker expresses a concept in an abstract domain by means of a concept in a concrete domain, or a meaning shift between different “conceptual structures”.

As for *dizolvarea persoanei juridice* or *dissolution of a corporation* the process of metaphorization and terminologization is similar. The word *dizolva* which means “proces diagenetic de solubilizare a compușilor minerali ce alcătuiesc o rocă”, was adopted in the legal field through transdisciplinary loan from the chemistry field. Therefore, it acquired the meaning of termination, dissolution, ending of a partnership relationship or “dizolvarea persoanei juridice are ca efect deschiderea procedurii de lichidare”.

With regard to English metaphors, we registered: *to violate a right, to deliver a judgement, to observe the Constitution, observance of law, to bring an action, natural and legal person, reparation, to appear before the court, hearing on the merits, the term begins to run..., immovable property*. Let us analyse the term *reparation*. According to its denotative meaning, *reparation* means restoration to good condition. Nevertheless, in the legal field, this term acquired the meaning of compensation for an injury, redress for a wrong inflicted, the payment of damages. Therefore, the term has been metaphorized to such an extent that the term was conceptualized as a technical legal term.

Another legal metaphor is the term *immovable property*. If we split the phrase and consider the words separately, than *immovable* is defined as incapable of being moved or unable to move; fixed; stationary; while *property* - the possession or possessions of a particular owner, a piece of land or real estate; possessions collectively or the fact of owning possessions of value. Therefore, a literal interpretation of the term would lead to the ambiguous concept of possessions that cannot be moved. A more precise definition of this term is given by legal dictionaries that define the concept of *immovable property* as an immovable object, an item of property that cannot be moved without destroying or altering it - property that is fixed to the Earth, such as land or a house. Immovable property includes premises, and property rights (for example, inheritable building right), houses, land and associated goods and chattels if they are located on or have a fixed address. Needless to say that this definition is more precise, since it denotes a legal concept.

As for Polish legal metaphors, we identified the following: *przedmiot skargi*, *wolność sumienia* (freedom of conscience), *wejście w życie* (entry into force), *skierować skargę* (to submit an application), *śledztwo* (investigation), *domniemanie niewinności* (presumption of innocence), *łamać prawo* (breach of law).

Metonymy (the abstract noun that labels this phenomenon) is so common that it can even be found as a regular convention of legal languages. For example, all ECHR judgements are usually labelled as “[the plaintiff] vs. Moldova”. Here, Moldova is a word used to mean “the system of state, the Moldovan state authorities”. Thus, Moldova stands for the government and authorities of the Republic of Moldova. In the UK, criminal prosecutions are usually labelled as “The Queen vs. xxx [the accused]”. Here, the Queen – who usually knows nothing about the business, in the person of Her Majesty Elizabeth II – is a word used to mean “the system of state”, or “the legal system”. So it is a metonym.

With respect to metonymies, they are broadly defined as a trope in which one entity is used to stand for another associated entity or as the use of a word for a concept or object associated with the concept/object originally denoted by the word. Consequently, we have met the following metonymies: *cazier judiciar*, *tutelă*, *patrimoniu*, *plîngere*, *Cod Civil*, *obligații*, *ațiune*, *persoană fizică*, *persoană juridică*, *forță majoră*, *picătura streșinilor*, *tulburare de posesie*, etc. Therefore, let us begin with the Romanian term *cazier judiciar* or the English *criminal record*. According to legal dictionaries, the term *cazier judiciar* is defined as “denumire care se dă fișei de evidență în care sunt consemnate datele privind antecedentele penale ale unei persoane, document în care se ține evidența persoanelor condamnate sau împotriva cărora s-au luat alte măsuri cu caracter penal sau administrativ”, in other words, a record of a person’s criminal history, generally used by potential employers, lenders etc. to assess his or her trustworthiness. Consequently, the legal phrase *cazier judiciar* stands for the concept of criminal record.

One interesting example is the Romanian legal term *picătura streșinilor*, which means „falsă servitute comportând obligația proprietarului unui fond de a construi streșina casei sale astfel încât apa rezultată din ploii sau zăpezi să cadă pe propriul său teren, ori pe drumul public, iar nu pe fondul învecinat. Conform acestei norme legale, proprietarul este obligat să-și construiască acoperișul astfel, încât streșina să nu permită ca apa, zăpada sau gheața să cadă pe teritoriul vecin. Pentru a se conforma cerințelor legale, el trebuie să lase între peretele său și fondul vecin o bucată de teren suficientă pentru ca apa să nu cadă pe teritoriul vecin”. For a non-specialist this term may create a big confusion, consequently he would translate it literally. If we go on with the analysis, we should mention that this technical term consists of two words belonging to the common vocabulary and that they have no contiguity with the legal field. Thus, through metonymization and

terminologization two general-language words were transformed into a term designating a legal concept in a language for special purposes (LSP), that is the legal field.

Another popular metonymy is *persoană juridică* or in English, *legal person*. If we translate the word group literally, we shall obtain a person pertaining to law, connected with the law, or recognized, enforceable, or having a remedy at law, which is illogical from semantic point of view. That is why, the word phrase was metonymized and acquired the meaning of an individual or organization which is legally permitted to enter into a contract, and be sued if it fails to meet its contractual obligations; it is the characteristic of a non-human entity regarded by law to have the status of a person. Then again, we deal with a legal concept hidden under a two-member word group. The same situation is common to the term *persoană fizică* or *natural person*. If we divide the word group and analyse each word separately we can notice that there no semantic relation between them: *persoană* – individ, ființă umană, om, while *fizică* - care se referă la corpul ființelor vii, în special la activitatea mușchilor, care aparține corpului ființelor vii, în special activității musculare; care aparține simțurilor. Thus, the combination of these two words is not relevant, but under the process of metonymization it acquired a legal meaning denoting a legal concept. metonymization refers to semantic change that is motivated by part-whole relation, cause-effect, ellipsis and “marked implicature”.

With regard to English metonymies, we distinguish: *extraordinary meeting*, *injured party*, *non-pecuniary damage*, *reasonable time*, *case-law*, *rule of law*, *incorporation*, *hearing*, *bad-faith*, *good-faith*, *Supreme Court*. Let us take the phrase *reasonable time*. It represents a compounding of two words, both belonging to the common vocabulary, which means not excessive time, moderate time, fair time; while transferred in the legal field the term acquired new connotative and pragmatic dimensions, and namely: the period ascertained from custom, trade practice, or from circumstances like those at issue, as the time required to complete a transaction or contract without a specified completion or maturity date. In the absence of an express or fixed time established by the parties to an agreement or contract, a reasonable time is any time which is not manifestly unreasonable under the circumstances. For example, if a contract does not fix a specific time for performance, the law will infer (and impose) a reasonable time for such performance. This is defined as that amount of time which is fairly necessary, conveniently, to do what the contract requires to be done, as soon as circumstances permit.

Another interesting metonymy is the term *rule of law*. The rule of law is an ambiguous term that can mean different things in different contexts. In one context the term means rule according to law. No individual can be ordered by the government to pay civil damages or suffer criminal punishment except in strict accordance with well-established and clearly defined laws and

procedures. In a second context the term means rule under law. No branch of government is above the law, and no public official may act arbitrarily or unilaterally outside the law. In a third context the term means rule according to a higher law. No written law may be enforced by the government unless it conforms with certain unwritten, universal principles of fairness, morality, and justice that transcend human legal systems. In other words, if considered literally, it means that the law rules upon sth, that the law controls and exercises the dominating power and authority over sth. Therefore, the rule of law requires the government to exercise its power in accordance with well-established and clearly written rules, regulations and legal principles. A distinction is sometimes drawn between power, will and force, on the one hand, and law, on the other. When a government official acts pursuant to an express provision of a written law, he acts within the *rule of law*. But when a government official acts without the imprimatur of any law, he or she does so by the *sheer force of personal will and power*.

As for Polish legal metonymies, we identified the following units: *strona trzecia*, *osoba poszkodowana* (injured person), *ostateczna decyzja* (final decision), *posiedzenie zamknięte* (deliberation in private), *Sąd Najwyższy* (Supreme Court), *równość broni między stronami* (equality of arms between the parties). Let us consider the term *strona trzecia* or in English *third party*. Since the word group consists of a noun *strona* and an ordinary numeral *trzecia* it may seem to us, if rendered literally, that we deal with the third person from a group of people. Therefore, in a colloquial discourse *strona trzecia* may be considered as the third person from an entity. Nevertheless, in the legal field, this term describes a legal concept. Consequently, the term *strona trzecia* represents a generic legal term for any individual who does not have a direct connection with a legal transaction but who might be affected by it. It is a person who is not a party to a contract or a transaction, but has an involvement (such as a buyer from one of the parties, was present when the agreement was signed, or made an offer that was rejected). The third party normally has no legal rights in the matter, unless the contract was made for the third party's benefit. Thus, the process of metonymization managed to naturalize the term into the legal field.

Thus, we may say that semantic and pragmatic meanings arise from the metonymic transfer and dynamic interaction between words, since metonymization involves the use of a lexical item to evoke the sense of something that is not conventionally linked to that particular lexical item. Needless to say, there is also a motivational side to metonymization, which involves semantic reanalysis and has to do with communicative economy, flexibility in communication and the desire to express a high level of clarity and specificity. The entity that is normally designated by a metonymic expression serves as a reference point affording mental access to the desired target, i.e., the entity actually being referred to. On the other hand, we should understand and accept that

metonymization proper is a polysemy phenomenon and concerns different senses, where one of the senses is conventionally associated with the lexical item used, whereas the other sense is inferred. Consequently, we may say that metonymization is instrumental in the development of new meanings, and subsequently, of new concepts.

### 2.3 Principles of term formation

Linguistic aspects of term formation are of major interest to terminologists, terminographers and subject field specialists, but also to translators, interpreters and technical writers. Usually, term formation is influenced by the subject field in which it is carried out, by the nature of the persons involved in the process of designation, by the stimulus causing the term formation, and of course by the phonological, morpho-syntactical and lexical structures of the language in which the new concept finds its linguistic expression.

According to Sager, two types of term formation can be distinguished in relation to pragmatic circumstances of their creation: *primary term formation* and *secondary term formation*. *Primary creation* accompanies the formation of a concept and is monolingual. Secondary formation occurs when a new term is created for an existing concept. In the case of *primary term formation* of a term there is no pre-existing linguistic entity, even though appropriate term formation rules exist. With *secondary term formation*, there is always an already existing term, which is the term of the source language and which can serve as the basis for secondary formation. [51:80] But, when connecting concepts to terms we should observe the following rules:

a) linguistic appropriateness – the proposed term should follow familiar and established patterns of meaning which are in use. For example.....

b) linguistic economy – the term should be concise, in order to facilitate communication in situations which are not purely scientific. For example, the term *factoring* instead of *cesiune de creanță*.

c) derivability – term formations allowing for potential derivatives, should be chosen according to what is possible in a given language; for example, arrest – to arrest, legal – illegal defendant – to defend, etc.

On the other hand, apart of morphological principles of term formation, we distinguish: ***monosemy, polysemy, synonymy, antonymy and equivalence***.

**Monosemy** is the property of having only one meaning. Monosemy of legal terms proves that legal terms are technical terms, that are those terms only applicable in the legal sphere but nowhere else. For example, ***lawsuit***. According to Oxford Dictionary a *lawsuit* is a proceeding in a court of law brought by one party against another, esp. a civil action. Accordingly, the term *lawsuit*

has just one definition that refers to the legal field and it represents just one single concept, that of a claim or dispute brought to a law court for adjudication.

Another monosemic legal term is *mortgage*. The Oxford Dictionary provides the following definition: a legal agreement by which a bank, building society, etc. lends money at interest in exchange for taking title of the debtor's property, with the condition that the conveyance of title becomes void upon the payment of the debt. Thus, the term mortgage can be exclusively used just in the legal field. The same with the term *Ombudsman*, which is defined as: a government official who hears and investigates complaints by private citizens against other officials or government agencies. The word comes from Swedish “legal representative” and was attested for the first time in 1950s. Since it represented a new concept, the term was borrowed and transferred in all legal terminologies. Other monosemic legal terms are: *Court of Appeal*, *constitutional*, *plaintiff*, *defendant*, *default interest*, *enforcement warrant*, *case-law*, *legal person*, *rule of law*, *court action*, *immovable property*, etc.

Law terminology is characterized by its vast **polisemy**. This phenomenon appeared in the juridical language by historical reasons, in the course of development of law at different epochs of human history, in the course of appearance of social institutions and personalities who furthered to its change and replenishment. Law reflects the need of society in time, so the meanings of the terms may vary according to different epochs and contexts.

Polysemy is the coexistence of many possible meanings for a word or phrase. Some linguists define polysemic terms as semi-technical terms. Such terms belong to everyday lexicon which has gained extra-meanings in the legal context. So, terms of this type are polysemic, tougher to recognize their precise meaning without resorting to the context in which they occur. Polysemic legal terms have one meaning or more than one in everyday language and another in the field of law. The word *person* may refer to: an individual, a body corporate, a joint venture, a trust, an agency or other body. So, it is recommended for translators to get accustomed to consult specialized dictionaries whenever something in the context alerts them to a usage distinct from standard or everyday usage. Actually, the understanding of such kind of terms is of great importance in grasping any given legal or other type of text in which they occur. For example, the legal term *judgement* as a formal decision or determination on a matter or case by a court, has as well, the following meanings: 1) the act of establishing a relation between two or more terms, esp as an affirmation or denial; 2) criticism or censure; 3) an estimation; 4) the faculty of being able to make critical distinctions and achieve a balanced viewpoint; discernment. The same with the term *appeal* as a proceeding in which a case is brought before a higher court for review of a lower court's judgment for the purpose of convincing the higher court that the lower court's judgment was

incorrect. In addition, the term *appeal* has the following other meanings: 1) a request for relief, aid, etc; 2) the power to attract, please, stimulate, or interest: *a dress with appeal*; 3) in cricket, a verbal request to the umpire from one or more members of the fielding side to declare a batsman out; 4) an application or resort to another person or authority, esp. a higher one, as for a decision or confirmation of a decision.

One of the most complex polysemic term is **action** as a legal proceeding brought by one party against another, seeking redress of a wrong or recovery of what is due; lawsuit. The dictionary offers the following meanings of the term *action*: 1. the state or process of doing something or being active; operation; 2. something done, such as an act or deed; 3. movement or posture during some physical activity; 4. activity, force, or energy: a man of action; 5. (usually plural) conduct or behaviour; 6. the operating mechanism, esp in a piano, gun, watch, etc.; 7. (of a guitar) the distance between the strings and the fingerboard; 8. (of keyboard instruments) the sensitivity of the keys to touch; 9. the force applied to a body: the reaction is equal and opposite to the action; 10. the way in which something operates or works; 11. physics: a. a property of a system expressed as twice the mean kinetic energy of the system over a given time interval multiplied by the time interval; b. the product of work or energy and time, usually expressed in joule seconds: Planck's constant of action; 12. the events that form the plot of a story, film, play, or other composition; 13. military: a. a minor engagement; b. fighting at sea or on land: he saw action in the war; 14. philosophy: behaviour which is voluntary and explicable in terms of the agent's reasons, as contrasted with that which is coerced or determined causally; 15. informal: the profits of an enterprise or transaction (esp. in the phrase a piece of the action). And these are just some of the meanings the term *action* has. In this very case the rescue is the context that provides the meaning of the word. The same with *warranty*. The dictionary provides the following meanings: 1. *in property law* a covenant, express or implied, by which the vendor of real property vouches for the security of the title conveyed. 2. *in contract law* an express or implied term in a contract, such as an undertaking that goods contracted to be sold shall meet specified requirements as to quality, etc: an extended warranty; 3. *in insurance law* an undertaking by the party insured that the facts given regarding the risk are as stated.

**Synonymy** is one of the most difficult approach of legal terms, since it is considered that legal terms are precise and semantically accurate. Anyway, while rendering a legal text one shall deal with the fact that a term may have several synonyms and you may don't know which of them is the appropriate one for the legal context. Synonymy is basically defined "as identity of meaning" and so, according to Lyons [39:201] the distinction may be drawn between a complete, absolute and incomplete synonymy or absolute and partial. He, like many other linguists, maintains that absolute synonyms defined by the property of having the same distribution and being completely

synonymous in all their meanings and in all their contexts of occurrence are almost nonexistent. In his view, lexemes are completely synonymous when they have “the same descriptive, expressive and social meaning”. With respect to the legal field, there is no absolute synonymy since all synonyms acquire special notional features or special connotations, therefore their usage becomes different. Thus, when dealing with synonyms, the following aspects must be considered: connotation, denotation, distribution, frequency and linguistic layer, because two terms with the same denotation may differ in other aspects of their usage.

Let's take for example the following three terms: *guarantee* – *guaranty* - *indemnity* – *warranty*. Before making any conclusions, let's analyse the definitions of these terms. Thus, according to the dictionary, a *guarantee* is a promise, esp. a collateral agreement, to answer for the debt, default, or miscarriage of another; *indemnity* - security against hurt, loss, or damage; *warranty* – in property law it means a covenant, express or implied, by which the vendor of real property vouches for the security of the title conveyed; in contract law - an express or implied term in a contract, such as an undertaking that goods contracted to be sold shall meet specified requirements as to quality, etc: an extended warranty; in insurance law - an undertaking by the party insured that the facts given regarding the risk are as stated; as for *guaranty* - a pledge to pay another's debt or to perform another's duty in case of the other's default or inadequate performance. As we can see, these 4 terms have different meanings, however they represent the same concept, since all of them refer to the act of giving a security in a matter. So, the only distinction between these four terms is the domain the word is used.

In what concerns *guaranty*, there is a tendency to substitute it with the term *suretyship* - the contractual relationship in which a surety engages to answer for the debt or default of a principal to a third party. We think that the scope of this legal term innovation is to reduce ambiguity regarding the doublet *guarantee* – *guaranty*. Moreover, *indemnity* refers mostly to a promise of compensation, which is also a guarantee. Consequently, we shall use the term *warranty* when we refer to insurances, *indemnity* – when we refer to compensations or reimbursement, *guaranty* with the meaning of *suretyship*, and finally *guarantee* – as a promise. It is very easy to confuse these terms when you don't know their definitions and the domain they are used in.

If to pass to the Romanian language, we deal with a very complex chain of synonymic words which always create troubles during the translation. Of course it is about the chain *acuzat* – *inculpat* – *pârât* – *făptuitor* – *învinuit*. In order to bring some light in what concerns these terms we suggest to give their definitions. Thus, according to Romanian DEX, *acuzat* means “persoană care este acuzată de infracțiune și este parte într-un proces penal”; *inculpat* - “persoană care este acuzată de infracțiune și este parte într-un proces penal”; *pârât* – „parte dintr-un proces civil, împotriva

căreia este introdusă acțiunea”; *făptuitor* – „persoană care înfăptuiește, săvârșește ceva”; *învinuit* – „persoană aflată sub urmărire penală; persoană acuzată de o infracțiune și este parte într-un proces penal”. In order to bring some light in what concerns these terms, we shall analyse the provisions of the Code of civil and criminal procedure. Thus, the Code of civil procedure, art. 59, section 1, states that “Parte în proces (reclamant sau *pârât*) poate fi orice persoană fizică sau juridică prezumată, la momentul intentării procesului, ca subiect al raportului material litigious”. Consequently, in a civil action we have *pârât*. On the other hand, the Code of criminal procedure, art. 65, section 1, states that “*învinuitul* este persoana fizică față de care s-a emis, în conformitate cu prevederile prezentului cod, o ordonanță de punere sub învinuire”. The same article, in section 2, defines the term *inculpat* as “învinuitul în privința căruia cauza a fost trimisă în judecată”. This means that the rest of the synonyms *acuzat* and *făptuitor* belong to the common vocabulary. Thus, the distinction between the terms *acuzat* – *inculpat* – *pârât* – *făptuitor* – *învinuit* can be done according to the principle of the domain they belong. This distinction is necessary and primordial since legal terms must be as precise and accurate as possible in order to deliver the message.

Another principle of term formation is the **terminological antonymy**. Antonymy represents the words that lie in an inherently incompatible binary relationship as in the opposite pairs as *legal* – *illegal*, *pecuniary* – *non-pecuniary*, *movable assets* – *immovable assets*, *lawful* – *unlawful*, *founded* – *ill-founded*, *ordinary* – *extraordinary* meeting, *governmental* – *non-governmental*, *compliance* with the legislation – *non-compliance* with the legislation, *admissibility* of evidence – *inadmissibility* of evidence, *examination* of the case – *re-examination* of the case, *retroactive* – *ultra-active*, etc. These relations are referred to as a binary relationship because there are two members in a set of opposites.

As for the legal field, antonymy is a convenient and easy way of creating words, in the majority of cases through derivation, since they differ in only one dimension of meaning, but are similar in most other respects, including similarity in grammar and positions of semantic abnormality. Let's take for example the terms *constitutional* and *non-constitutional*. According to Oxford Dictionary the term *constitutional* means regulated by, dependent on, or ruling according to a constitution. Consequently, in order to say that a judgement or a provision is not constitutional, one may say illegal, contracted, unlawful, extralegal, proscribed, that it doesn't correspond to the Constitution. These versions are good, as well, nevertheless, in this situation the best way would be the use of the prefix *-non*, that could save easy the situation. Moreover, the term *non-constitutional* is the most precise term since it reflects fully the meaning of non-observance of the provisions of the Constitution.

Another example is *enforcement of judgement – non-enforcement of judgement*. According to Oxford Dictionary, *enforcement of judgement* means the act or process of enforcing a judgement issued by the court. The manner in which judgments are enforced varies depending on the type of case. In criminal law, a judgment is enforced by the government. The judgment in a criminal matter often results in the imposition of a jail sentence or other penalty, which government authorities will themselves enforce. Defendants can be ordered to pay a fine, put on probation, or sent to jail. In civil law, enforcement of the judgment is left to the parties of the lawsuit. When one party to a lawsuit does not comply with the judgment issued by the court, it is up to the other party to seek relief; that is, actually obtain the judgment as ruled by the court. Thus, in order to say that a judgement was not enforced one may say abandon, disregard, neglect or ignore the judgement. But, as we can see these terms don't reflect the meaning of non-enforcement, because they are ambiguous, non-technical and belong to other contexts. Though, the most appropriate version in this case would be the use of the term non-enforcement, that was again created through derivation with the prefix *-non*.

As for the antonymic group *good-faith – bad-faith* that are compound term, we shall mention that they have different roots, one similar *faith*, and two opposite roots *good-bad*. According to Oxford Dictionary, *bad-faith* means intentional deception, dishonesty, or failure to meet an obligation or duty, for example: “both the authorities and the applicant company had acted in *bad faith* because of the above-mentioned failure to follow the auction procedure correctly.” On the other hand, *good-faith* means absence of any intent to defraud, act maliciously, or take unfair advantage, for example: “the applicant company appealed to the Supreme Court of Justice, arguing that it had been a *good faith* buyer and had complied with all the requirements set by the State authorities during the privatisation...”. Thus, the use of such antonymic groups is considerably convenient and easy to match, since it preserves the exact meaning on opposite way and doesn't let ambiguity interfere in the delivery of the message.

And finally, we shall speak about **equivalence** as a principle of term formation. After The World War II the problems of translation of legal texts had been discussed and analyzed by theorists, legal experts, translators, linguists. They made the conclusion that to achieve the absolute equivalence during the translation of a juridical text is impossible, because like any translation, the translation of legal texts presupposes the interrelation of linguistic and extralinguistic knowledge. Anyway, the theory on equivalence states that whenever there is deficiency, terminology may be qualified and amplified by loanwords or loan translations, neologisms or semantic shifts, and finally, by circumlocutions. Vinay and Darbelnet view equivalence-oriented translation as a procedure which replicates the same situation as in the original, whilst using completely different

wording, for example: *judgement – hotărîre, application – cerere, applicant – reclamant, merits – fondul cauzei, pecuniary damage – prejudiciu material, enforcement warrant – titlu executoriu.*

Roman Jakobson's study of equivalence gave new impetus to the theoretical analysis of translation since he introduced the notion of equivalence in difference. On the basis of his semiotic approach to language and his aphorism “there is no signatum without signum” he goes on to say that there is no full equivalence between the code units of two different languages. On the other hand, Nida and Taber believe that there are two types of equivalence: formal and dynamic. Formal equivalence consists of a TL item which represents the closest equivalent of a SL word or phrase, while dynamic equivalence seeks to translate the meaning of the original. But the most interesting theory on equivalence is that of Mona Baker. She distinguishes between: equivalence that can appear at word level and above word level, grammatical equivalence, textual equivalence, when referring to the equivalence between a SL text and a TL text in terms of information and cohesion, and pragmatic equivalence.

As a rule, the majority of legal terms have their equivalents in different languages, especially when the languages belong to the same legal systems, we mean common-law or continental law. Anyway, even if we deal with terms belonging to different legal systems, we may apply one of the translation methods and render the message. But, due to globalization, standardization and internationalization of law, nowadays almost every term has its own equivalent.

With respect to the languages analysed in this thesis, let us take the following examples, in English, Romanian and Polish: *the case – cauza – sprawa, complaint – plîngere – skarga, breach of law – încălcare a legii – naruşenie prava, case law – jurisprudenţă – orzeczenie, injured person – parte vatamata – osoba poszkodowana, to lodge a complaint – a inainta o actiune – wnosić skargę, merits – fondul cauzei – meritum, to deliver a judgement – a emite o hotarire – wydać wyrok, etc.*

Let us analyse the group *Court of Appeal – Curtea de Apel – Sąd Apelacyjny*. As we can see, the roots of all these 3 constructions are similar, thus we deal with 3 equivalents. The term *court*, etymologically comes from late 12 century, from Old French *curt*, and from Latin *cortem*. This means that it was borrowed in English and Romanian, through adaptation. Unlike English and Romanian, Polish has its own term denoting a court that is *sąd*. In what concerns the second member of the word group, it is common in all three languages, with some additional small changes of orthography: *appeal – apel – apelacyjny*. Etymologically, the word comes from Latin *appellāre* which means to speak to, address. It was firstly used in legal sense of “calling to a higher judge or court” in the 11<sup>th</sup> century; from Anglo-French *apeler* “to call upon, accuse”. Popular modern meaning “to be attractive or pleasing” is quite recent, attested from 1907 (*appealing* in this sense is from 1891), from the notion of “to address oneself in expectation of a sympathetic response”.

Nevertheless, there are cases when the lack of knowledge in the legal field can lead to inaccurate equivalents. For example, *Ustawa o Trybunale Konstytucyjnym – Constitutional Court Act – Legea cu privire la Curtea Constituțională*. In this example, the problem lies in the Polish term *Trybunał*. At first view, the term Polish term *Trybunał* seems familiar to English and Romanian native speakers, because according to the etymological dictionary, *Trybunał* or *tribunal* (English) and *tribunal* (Romanian) comes from Latin *tribūnal, tribūnāle* “platform for the seat of magistrates, elevation, embankment”; 1447, from Old French *tribunal*. Hence, a court of justice or judicial assembly (1590). According to the Polish dictionary the term *trybunał* means “sąd do spraw specjalnych”, that is a court for special matters. On the other hand, according to Oxford Dictionary a *tribunal* is a court of justice or any place where justice is administered, while in Britain, it is a special court, convened by the government to inquire into a specific matter. Thus, it bears the same meaning as the Polish definition. With respect to the Romanian term, according to Romanian DEX, the term *tribunal* is defined as instanță intermediară între judecătoria și curtea de apel, care își întindea jurisdicția asupra unui județ. This definition is common to the *tribunals* from Romania, since we do not have any tribunal in the Republic of Moldova. Anyway, if we take the definition of *Trybunał Konstytucyjny* as “organ sadownictwa konstytucyjnego w Polsce”, that is the highest court in Poland that deals primarily with constitutional law, or the Constitutional Court in Britain that is called the *Supreme Court*, in Romanian we have *Curtea Constituțională*, and not *Tribunalul Constituțional* or *Curtea Supremă* with respect to the English version, as someone could think. That is why it is of primary importance to check all the terms because there are cases when the sense of equivalence may lead to false friends.

In conclusion we may say that legal terms should be as accurate and precise as possible. We should bear in mind one but very important thing that while in a given context there is seldom only one “correct word choice”, in technical writing (legal) the need for using the exact and monosemous word for a particular object or process is vital for the creating and maintenance of precision and clarity of reference. A clear understanding of the terminology is therefore important not only for the sake of the terms, but also to facilitate the general understanding of the legal text as a whole. One should not translate from a legal language into the ordinary words of the target language, but into the legal terminology of the target language.

## 2.4 Precision of legal terms

Linguists and translators describe legal terms as: “prolix, obscure, opaque, ungrammatical, dull, boring, redundant, disorganised, grey, dense, unimaginative, impersonal, foggy, infirm, indistinct, confused, heavy-handed, jargon- and cliché-ridden, ponderous, overblown, pseudo-

intellectual, hyperbolic, misleading, laboured, bloodless, vacuous, evasive, pretentious, incoherent, archaic and fuzzy”, in other words – difficult to render since it requires precision and accuracy that is very difficult to achieve. The barrier in achieving high precision and accuracy of legal terms is the lack of knowledge of translators in the legal field. Before going on with the analysis and examples, we must know that there are three main positions regarding the nature of legal terms comprised in a “legal language”. They sound as follows: one view holds that *legal language is a technical language*; the second view states that *there is no legal language, and even if it exists, it is part of the ordinary language*; and finally the third view states that *legal language is a separate language, a sublanguage or a social dialect*. No matter the status of legal language according to these three views, legal terms must be monoreferential, adequate and precise. Precision of terminology in the legal system is as important as it is in some other technical areas. For example, one should know that in Moldovan law there are several ways of fighting the court’s decisions, and at every stage, the parties involved are called differently. In the court of first instance, the parties are called *reclamant* and *pârît*. In a Court of Appeal, the parties are called *apelant* and *intimat*, accordingly. At the request stage, we deal with *recurent* and *intimat*. At the request in annulment, the parties are called *contestator* and *intimat*. During the stage of revision - *revizuent* and *intimat*. And finally, in a case of forced enforcement the parties are called *creditor* and *debtor*. It may seem to somebody that this variety of terms is too extravagant, and using *reclamant* and *pârît* would be sufficient since we deal with a civil matter, and in a civil case the parties are called *plaintiff* and *defendant*. But this is not as simple as somebody could think. The preciseness of these terms lies in the fact that they tell us the stage of fighting the court’s decisions. Consequently, if we say *pârît* we understand that the case is under examination within a court of first instance.

If we go on and on through the analysis, we shall consider the terms *sentință*, *decizie* and *hotărîre*. All these terms are hyponyms and often they confuse the user of these terms. One may think that they are synonyms, but it is not true. Thus, *sentință* and *decizie* are the hyperonyms of the term *hotărîre*. *Hotărîre* represents the generic term defined as “înscriș care constată soluția adoptată de instanță în rezolvarea unei pricinii”, on the other hand *sentință* means “o hotărîre pronunțată de prima instanță”, while *decizie* “o hotărîre a instanței de recurs”. This delimitation between these terms is very important, since precision is a distinctive feature of legal terminology and an incorrect use could lead to confusion and ambiguity.

As for the terms *obligație* and *creanță* a special analysis has to be conducted. Before going on with the analysis, let us consider the definitions. Therefore, according to the Romanian DEX the term *obligație* has the following definitions: 1) datorie, sarcină, îndatorire; 2) raport juridic civil prin care una sau mai multe persoane au dreptul de a pretinde altor persoane, care le sunt îndatorate,

să dea, să facă sau să nu facă ceva. 3) hârtie de valoare care conferă posesorului ei calitatea de creditor și-i dă dreptul de a primi, pentru suma împrumutată, un anumit venit fix sub formă de dobândă. 4) raportul de drept civil în care o parte, numită creditor, are posibilitatea de a pretinde celeilalte părți, numită debitor, să execute una sau mai multe prestații ce pot fi de a da, a face sau a nu face, de regulă, sub sancțiunea constrângerii de către stat. Thus, *obligație* is a polysemantic term. On the other hand, *creanță* is defined as: 1) drept al creditorului de a cere debitorului executarea unei obligații; 2) dreptul patrimonial al unei persoane fizice sau juridice (creditor) asupra altei persoane fizice sau juridice (debitor), de executare a unei obligații, de restituire a unui bun, a unei sume de bani, de realizare a unui serviciu etc.; 3) drept al uneia dintre persoanele care sunt subiect într-un raport juridic de obligație, denumită creditor, de a pretinde celeilalte părți, denumită debitor, îndeplinirea obligației acesteia. Consequently, the affinities between these two terms are: both terms represent a property right; both are defined as a legally enforceable agreement to perform some act, esp to pay money, for the benefit of another party; both denote an instrument acknowledging indebtedness to secure the repayment of money borrowed; both of them are compulsory for the debtor. The main difference is that the term *obligație* is the generic term, while *creanță* is a type of obligation.

## 2.5 Terminological record

A *terminological record* is a file comprising all the information regarding a single term, described within the limits of one field it belongs to. Thus, a terminological record is not improvised but created. As a rule, a terminological record should be always *field-oriented*.

The creation of a terminological record is based on terminological research, usually performed by terminologists, terminographers and subject field specialists. This study can be limited to one language or can cover more than one language at the same time or may focus on studies of terms across fields. Consequently, the aim of such a scientific work would be: labelling and designating of concepts particular to one or more subject fields or domains of human activity, through research and analysis of terms in context, for the purpose of documenting and promoting correct usage; identifying the terms assigned to concepts; in case of bilingual or multilingual terminological records, establishing correspondences between terms in the various languages; compiling the terms in specialized databases, etc. In other words, the scope of a terminological record is to collect, systematize and document technical terms in a particular technical field or fields.

Standard fields of terminological records include:

1. *Entry term* – any designation of a concept heading a terminological record. The term should be in masculine, singular for nouns, infinitive for verbs. In the case of phrases and

compound words, the words should be in their natural order. We advise to consider idiomatic phrases as entry terms.

2. *Non-textual information* (*graphic*: diagrams, formulas, symbols; *audio*: sounds, music; video) – focuses on providing additional information that would facilitate the understanding of the term.

3. *Grammatical category* – refers to the semantic distinction of the term reflected in the morphological paradigms of gender, number, and other inflections.

4. *Etymology or chronology of the term* – makes references to the etymological dictionaries in order to provide information regarding the background and origin of the term, even, if attested, the year when the term was used for the first time.

5. *Term formation* – refers to the means the term was formed, that is, through derivation, borrowing, conversion, compounding, calque, neologism, semantic transfer, loan translation, etc.

6. *Pronunciation/accents* - refers to the way the term is uttered according to the phonological rules, since a word can be spoken in different ways by various individuals or groups, depending on many factors, such as: the area in which they grew up, the area in which they now live, their ethnic group, their social class, or their education.

7. *Register* – helps us distinguish between variations of the term according to the field and variations according to the use. Thus one shall distinguish among: the technical register – refers to the specialized terminology that belongs to a special field, colloquial register, official, vulgar, etc.

8. *Status* – one may distinguish: normalized/standardized, official, obsolete, neologism, preferred, tolerated – a term recently borrowed, deprecated – by experts and linguists, recommended – by the experts of an authorized professional body, non-recommended, international term, etc.

9. *Synonymy/variants* – these include terms with almost identical meaning, but which can not be substituted to the entry term in all contexts. Synonyms are terms with identical meaning in any context, i.e. which can be substituted to the entry term in all contexts. However, we should distinguish between partial and total synonyms.

10. *Polysemy* – refers to the terms that have multiple meanings in different fields, that is terms with a large semantic field.

11. *Subject field/subdomain* – it refers to the field of human knowledge to which a terminological record is assigned. Unless the domain of your terminology is extremely narrow and/or the number of entry terms is very small, we should probably need to distinguish between several subject fields within the domain.

11. *Definition (the source of the definition)* – definitions should be short, precise and stylistically homogenous. They should not be circular, i.e. should not use the entry term to be defined. They should give the essential characteristics of a concept, which identify this concept with respect to all others in a particular subject field. In the case of multilingual terminologies, definitions are a prerequisite for testing equivalence between languages. The source of the definition, which may be a book, a magazine, a dictionary or a website, shall be included, as well. It may include written or oral source of the definition.

12. *The context (the source of the context)* – is used in order to show the meaning and the use of the term. The context shall be clear, enough long and explicit. The source of the context, which may be an article, a magazine, a speech, a scientific work, a dictionary or a website, shall be included, as well. It may include written or oral source of the entry term.

13. *Encyclopedical note* – shall include additional information, some special notes, etc.

14. *Collocations* - include all the constructions, phraseological units, set expressions, word groups and combinations the term may appear and get a different or the same meaning.

15. *Notes/remarks* - includes any information regarding the term that can not be provided in any of the sections of the terminological record.

16. *Creator of the record* – if you are not the only creator; it is a strictly administrative section of the terminological record.

17. *Date of record* – it has a strictly administrative purpose.

18. *Date of modification* - it has a strictly administrative purpose.

19. *Record status* – code indicating the level of completeness and accuracy of the terminological record; it has a strictly administrative purpose

20. *Identification number of the record* – a unique number of each terminological record; it has a strictly administrative purpose.

Below, we provide a terminological record for the term *limitation period*, in three languages:

**TERMINOLOGICAL RECORD**

|   | <b>Romanian</b>  | <b>English</b>   | <b>Polish</b>  |
|---|--|--|--|
| <b>Entry term</b>   | <b>TERMEN DE PRESCRIPTIE</b>   | <b>STATUTE OF LIMITATIONS</b>  | <b>TERMIN PRZEDAWNIEŃ</b>  |
| <b>Non-textual information</b> ( <i>graphic: diagram, formulas, simbol; audio: sounds, music; video</i> ) | -----  | -----  | -----  |
| <b>Grammatical category</b> (gender, number)  | <i>Termen</i> – gen. masc, nr. sing; termene pl, termeni pl<br><i>Prescriptie</i> – gen. fem., nr. sing., prescriptii pl             | <i>Statute</i> – noun, sg<br><i>limitations</i> – noun, pl.  | <i>Termin</i> – rzeczownik, liczba pojedyncza, płeć męski ;<br><i>Przedawnienie</i> - rzeczownik, liczba pojedyncza, płeć nijaki |
| <b>Etymology/ Chronology of the term</b>  | Din lat. <i>termen, -inis</i> (cu unele sensuri după fr. <i>terme</i> ).<br>Din fr. <i>prescription</i> , lat. <i>praescriptio</i> . | Limitation - late 14 century, Middle English <i>lymytacion</i> , from Latin <i>limitationem</i> , from <i>limitare</i> .<br>Phrase <i>statute of limitations</i> attested by 1768.<br>Statute - late 13c., from O.Fr. <i>statut</i> , from L.L. <i>statutum</i> "a law, decree," noun use of neuter pp. of L. <i>statuere</i> "enact, establish," from <i>status</i> "condition, position, | -----  |
| <b>Term formation</b> (derivation, borrowing, conversion, calque, neologism, etc.)                        | Compunere:<br><i>Termen</i> (subst.) + <i>de</i> (prep.) + <i>prescriptie</i> (subst.)   | Compounding:<br><i>Statute</i> (noun) + <i>of</i> (prep.) + <i>limitations</i> (noun, pl.)   | Przymiotnik złożony<br><i>Termin</i> (rzeczownik) + <i>przedawnienie</i> (rzeczownik)  |
| <b>Pronunciation/accent</b>   | Térmen, prescriptie  | lImI'teIʃən  | -----  |

|  |  |   |  |
|--|--|---|--|
| <b>Register</b> (current register, technical, domestic use, familiar, vulgar)  | Tehnic   | Tehnic, since it belongs to the legal field   | Terminologia prawnicza   |
| <b>Status:</b><br>official term/<br>recommended/<br>non-recommended/<br>standard/ accepted/<br>preferential/ tolerated/<br>to be avoided/<br>scientific/<br>international/common | <i>Oficial, recomandat, standard, științific</i>   | <i>Official, recommended, standard, scientific</i>  | <i>Oficjalny, polecony, standard, naukowy</i>  |
| <b>Synonyms</b>  | -----  | <i>Period of prescription, term of limitation, period of limitation,</i>  | -----  |
| <b>Polysemy</b>  | -----  | <i>1. In property law a restriction upon the duration or extent of an estate<br/>2. In criminal law a criminal statute establishing the period of time within which an offense can be punished after its commission</i> | -----  |
| <b>Subject field/subdomain</b>   | Drept; drept civil, penal  | Civil law, criminal law   | Prawo cywilne, prawo karne   |
| <b>Definition (the source of the definition)</b>   | Intervalul de timp stabilit prin prescripții legale, înăuntrul căruia trebuie să fie îndeplinite actele necesare pentru valorificarea unor drepturi, stabilirea răspunderii juridice sau executarea unei | Is an enactment in a common law legal system that sets forth the maximum time after an event that legal proceedings based on that event   | Termin przedawnienia roszczeń to okres czasu, po upływie którego dłużnik będzie mógł uchylić się od spełnienia świadczenia. Kodeks |

|  |  |  |   |
|--|--|--|---|
|  | <p>sancțiuni.<br/> <a href="http://www.euroavocatura.ro/dictionar/3233/Termen_de_prescriptie">http://www.euroavocatura.ro/dictionar/3233/Termen_de_prescriptie</a></p> <p>Termenul general de 3 ani în interiorul căruia persoana poate să-și apere, pe calea intentării unei acțiuni în instanța de judecată, dreptul încălcat.<br/> Codul Civil al RM, art. 267, alin. (1)</p> <p>Dispoziție legală în virtutea căreia, după un anumit timp și în anumite condiții, se câștigă ori se pierde un drept sau încetează efectele unei hotărâri judecătorești neexecutate.<br/> <a href="http://dexonline.ro/definitie/prescriptie">http://dexonline.ro/definitie/prescriptie</a></p> | <p>may be initiated. In civil law systems, similar provisions are usually part of the civil code or criminal code and are often known collectively as "periods of prescription" or "prescriptive periods."<br/> <a href="http://en.wikipedia.org/wiki/Statute_of_limitations">http://en.wikipedia.org/wiki/Statute_of_limitations</a></p> <p>A certain period of time, legally defined, within which an action, claim, etc, must be commenced.<br/> <a href="http://dictionary.reference.com/browse/limitation">http://dictionary.reference.com/browse/limitation</a></p> <p>A certain period limited by statute after which actions or prosecutions cannot be brought in the courts.<br/> <a href="http://dictionary.reference.com/browse/limitation">http://dictionary.reference.com/browse/limitation</a></p> | <p>cywilny wprowadził co do zasady 10-letni okres przedawnienia.<br/> <a href="http://www.gazetapodatnika.pl/artykuly/przedawnienie_roszczen_cywilnoprawnych-a_5324.htm">http://www.gazetapodatnika.pl/artykuly/przedawnienie_roszczen_cywilnoprawnych-a_5324.htm</a></p>   |
| <b>Context (the source of the context)</b> | <p>Termenul de prescripție pentru daunele produse prin concurență neloială, săvârșită de administratorul unei societăți comerciale, începe să curgă nu de la data înființării de către acesta a unei societăți comerciale concurente ci pe măsura desfășurării faptelor de concurență neloială, pentru fiecare activitate cauzatoare de prejudicii, se naște un termen distinct de prescripție.<br/> <a href="http://www.scj.ro/SE%20rezumate%202003/SE%20r%203071%202003.htm">http://www.scj.ro/SE%20rezumate%202003/SE%20r%203071%202003.htm</a></p>   | <p>California has fairly short statutes of limitations on most debts: two years for oral contracts and four years for written contracts, promissory notes and credit card debts.<br/> <a href="http://articles.moneycentral.msn.com/Banking/YourCreditRating/weston-is-there-a-statute-of-limitations-on-debt.aspx">http://articles.moneycentral.msn.com/Banking/YourCreditRating/weston-is-there-a-statute-of-limitations-on-debt.aspx</a></p>  | <p>Przepis art. 118 Kodeksu cywilnego stanowi, że "jeżeli przepis szczególnie nie stanowi inaczej, termin przedawnienia wynosi lat dziesięć, a dla roszczeń o świadczenia okresowe oraz roszczeń związanych z prowadzeniem działalności gospodarczej - trzy lata".<br/> <a href="http://www.amadeus.biz.pl/pl/terminy_przedawnienia_roszczen_cywilnoprawnych/302/">http://www.amadeus.biz.pl/pl/terminy_przedawnienia_roszczen_cywilnoprawnych/302/</a></p> |
| <b>Encyclopedical note</b>                 | <p>Termenul general de prescripție extinctivă este de 3 ani, pentru drepturile de creanță, respectiv 30 de ani pentru drepturile reale prescriptibile extinctiv (cel mai important drept real, dreptul de proprietate, nu</p>  | <p>Statutes of limitations, which date back to early Roman Law, are a fundamental part of European and U.S. law. These statutes, which apply</p>   | <p>Przedawnienie roszczeń regulują art. 117 – 125 Kodeksu cywilnego. W przypadku roszczeń o świadczenia <b>okresowe</b> termin przedawnienia</p>  |

|  |   |   |  |
|--|---|---|--|
|  | este însă prescriptibil extinctiv). El se aplică de fiecare dată când legea nu prevede un termen special, care poate fi mai mic, egal sau mai mare decât cel general. | to both civil and criminal actions, are designed to prevent fraudulent and stale claims from arising after all evidence has been lost or after the facts have become obscure through the passage of time or the defective memory, death, or disappearance of witnesses. | został skrócony do <b>3 lat</b> . Dla roszczeń związanych z prowadzeniem <b>działalności gospodarczej</b> okres przedawnienia wynosi również <b>3 lata</b> . Chodzi tutaj o roszczenia przysługujące przedsiębiorcy, powstałe w związku z prowadzoną przez niego działalnością gospodarczą.  |
| <b>Collocations</b>  | <i>termenul de prescripție începe să curgă</i><br><i>expirarea termenului de prescripție</i>  | <i>to set the statute of limitations, the statute of limitation runs, to establish a statute of limitations, to apply a statute of limitation</i>   | <i>bieg terminu przedawnienia, termin przedawnienia zaczyna bieć, bieg terminu przedawnienia bywa liczony od</i>   |
| <b>Notes/remarks</b><br>(includes any information regarding the term that can not be provided in any of the sections of the terminological record) | Termenul de prescripție este reglementat de Codul Civil al Republicii Moldova, în Titlul IV, cap. II, art. 267-283  | -----   | Najogólniej mówiąc, przedawnienie roszczeń polega na tym, że po upływie określonego w przepisach prawa okresu (tzw. terminu przedawnienia) dłużnik może odmówić spełnienia świadczenia na rzecz wierzyciela. Nie jest dopuszczalne zrzeczenie się zarzutu przedawnienia; czynność taką Kodeks cywilny uznaje za nieważną. W orzecznictwie Sądu Najwyższego przyjmuje się, że możliwe jest zrzeczenie się zarzutu przedawnienia po upływie terminu przedawnienia. |
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| <b>Date</b>  | <i>22.05.2011</i>   |   |  |
| <b>Number of record</b>  | <b>1</b>  |   |  |

## CONCLUSIONS

Today, the study of terminology, i.e. the theoretical and applied study of terms as coherent systems of lexical items endowed with a singular creative dynamism, is as yet neither clearly defined nor is there general agreement about its scope. This happens, because many so-called theories about terms and terminology are really only theories of something – for instance, of concepts, of principles, of technical terms, of standardization of terms. In addition, many studies treat only a very limited number of terms, mostly for exemplification, or the terms that belong to different fields. Therefore, in this mixture of researches at a general level, general approaches are established, which are not always relevant to a field-oriented terminology, i.e. the medical terminology doesn't have the same features as the economic or legal ones.

Today, there is a desperate need of researches of intra-term relationships (e.g. *cauză penală, litigiu penal, pricină penală*), of extra-linguistic relationships between terms, conceptual relationships through variations (e.g. *furt săvârșit repetat, furt săvârșit de două sau mai multe persoane, furt săvârșit prin pătrundere în încăpere sau în locuință, furt cu cauzarea de daune în proporții considerabile, furt săvârșit în timpul unei calamități, furt săvârșit de un grup criminal organizat sau de o organizație criminală*), since terminological variation, usually in specialized texts, is now a well-known phenomenon estimated from 15% to 35%, depending on the domain reflected. Therefore, for the acquisition of a term, it is essential to identify extensively all the concepts represented by terms in textual data.

As a rule legal terminology develops on the ground of the scientific progress and globalization. Therefore, it became the instrument of communication and decodification of cultures, professional communication, languages and concepts. Thus, we witness an aggressive tendency aiming at promoting the denominative and conceptual standardization of terms. Standardization of terms contributes to a conceptual accuracy, communicative ease and harmonization of terms. Therefore, terms are created due to a clear motivation: to fill the denominative gap for a new concept, to replace an outworn term of a preexisting concept, to replace a terminological unit for a more suitable one. That is why, within the context of vocabulary development, terms tend to renew and expand.

In the conduct of the present research, we have analyzed 188 Romanian legal terms, 201 English terms and 266 Polish legal terms, according to the morphological, morpho-syntactic, morpho-semantic, and of course, the morpho-pragmatic aspects. We didn't forget, as well, about the conceptual approach or dimensions of terms in these three languages, since they belong to different legal systems: the common law and the continental law. And this proved to be the biggest

challenge. It was the moment when the linguist became the *jurilinguist*. Therefore, the study led us to the following conclusions:

a) with respect to the English legal terms, out of 201 terms: 148 terms are of Latin origin, 70 – of French origin, 11 terms are archaic, 23 doublets, 7 borrowings, 161 compound terms (44 terms are two member word groups, 67 - three member groups, 31 – four member compoundings, 13 – five member groups, 5 – six member groups, 7 – five member compoundings, 1 – eight word group, 3 – nine member compoundings, 1 – ten member group and 1 – fourteen member group), out of which 116 are fixed legal set expressions and 45 free set expressions; terms created through conversion – 45; through derivation – 143 terms (out of which: 102 terms created through suffixation, 29 – through prefixation and 12 terms were created with the help of a suffix and a prefix); 25 legal metaphors and 12 legal metonymies;

b) on the other hand, out of 188 Romanian legal terms: 129 terms are of Latin origin; 21 – of French origin; 9 archaic terms; 23 doublets; 22 borrowings; 159 compound terms, and namely: 57 – two member groups, 61 – three member groups, 25 – four member groups, 16 five member compoundings, 7 – six member groups, 4 – seven member groups and 2 eight member compoundings; out of 159 compound legal terms, 46 are free set expressions and 113 are fixed set expressions; 98 terms were created through conversion; 148 terms - created through derivation, and namely: 108 through suffixation, 22 – through prefixation and 18 through mixed derivation; also we distinguished 37 legal metaphors and 12 legal metonymies;

c) as for the Polish legal terms, out of 266 terms under investigation: 79 term are of Latin origin; 43 – French; 0 – archaic terms; 2 doublets; 10 borrowings and neonyms; 178 – compound terms (121 – fixed set expressions and 57 – free set expressions) out of which: 130 are two member word groups, 35 – three member compoundings, 28 – four member word groups, 15 – five member groups, 4 – six member compoundings, 2 – seven member groups; terms created through conversion – 151 terms; through derivation – 174 (out of which: 187 terms were created through suffixation, 54 – through prefixation, 25 – mixed derivation); 78 metaphorical terms and 34 metonymical terms.

Therefore, we established the following conclusions:

- the most productive way of forming terms is derivation, and namely suffixation;
- the two member and three member word groups are the most numerous, because they are short but meaningful, comprising a lot of information about the concept they describe;
- borrowings are not widely used in the legal terminology, especially in the terminology of the English language, since it is the English language that brings borrowings in different languages;

- with regard to Latin and French origin terms, they are mostly predominant in Romanian and English;
- the presence of archaisms is modest but they are preserved as a matter of legal text tradition;
- doublets are more common to English and Romanian, as a result of history interactions;
- with regard to legal metaphors and metonymies they are widely present in all three languages, as containers of knowledge of the field of law.

Semantically, terms should meet the following features: transparency – in order to be as clear as possible; consistency – by comprising the concept they denote; appropriateness – or belonging to the field of law; linguistic economy – that leads to preciseness; derivability and compoundability; monovalence – in order to avoid ambiguities, inaccuracies and errors in the specialized communication; conciseness – the term shall comply with the principle of linguistic saving, by requiring the maximum conciseness of the term. Needless to say that terms should avoid polysemy, synonymy, calques and be precise and monosemic.

In the light of the fact that the world enters an era of common markets, free trade and a new political and economic order, terminologists – language specialists whose main concern is matching the right term to the right concept in an effort to improve professional communication – are becoming increasingly in demand as a vital support to translators, interpreters and technical writers. Together with their fellow language professionals, terminologists work to foster better understanding among people. The choice of the right term constitutes the key phase of text translation and requires a given level of specialist, cultural and linguistic knowledge. This concerns in particular texts coming from different legal systems and legal cultures which are often the source of non-equivalence of concepts or non-coincidence of semantic fields of terms. As a consequence, each legal system as a product of different institutions, history, culture and sometimes even socio-economic principles has its own legal realities, system of concepts and even structure of knowledge. Therefore, it is namely terminology that helps in shaping and shifting meanings between languages and legal systems, because it is the only tool that can be activated in rendering professional communication. More importantly, in this speedy progress of standardization and internationalization of terms in the legal field, we consider that it is high time for *jurilinguistics* to flourish because only a well fundamented *jurilinguistics* could properly deal with legal terminology.

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