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**Maryna Pletinka**

Research supervisor:  
**O. H. Shkuta**  
Lecturer

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## **КУРСОВА РОБОТА**

З ПЕРЕКЛАДУ

### **ОСОБЛИВОСТІ ПЕРЕКЛАДУ УКРАЇНСЬКОЮ МОВОЮ КЛІШЕ У ЮРИДИЧНОМУ ДИСКУРСІ**

Плетінка Марина  
студентка групи Па20-19

Керівник курсової роботи \_\_\_\_\_  
(підпис)

викладач  
Шкута Олена Георгіївна

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Київський національний лінгвістичний університет  
Кафедра теорії і практики перекладу з англійської мови

Завідувач кафедри теорії і практики  
перекладу з англійської мови

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**ЗАВДАННЯ**  
**на курсову роботу з перекладу з англійської мови**  
**для студентів IV курсу**

студентка 4 курсу, ПА 20-19 групи, факультету перекладознавства КНЛУ

спеціальності 035 Філологія, спеціалізації 035.041 Германські мови і літератури (переклад включно), перша - англійська, освітньо-професійної програми Англійська мова: усний і письмовий переклад

Тема роботи Особливості перекладу українською мовою кліше у юридичному дискурсі.

Науковий керівник Шкута Олена Георгіївна, викладач

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**Графік виконання курсової роботи**

| № п/п | Найменування частин та план курсової роботи   | Терміни виконання     | Відмітка про виконання |
|-------|---|-----------------------|------------------------|
| 1.    | Аналіз наукових першоджерел і написання <b>теоретичної частини</b> курсової роботи (розділ 1)   | 1–5 листопада 2022 р. |                        |
| 2.    | Аналіз дискурсу, який досліджується, на матеріалі фрагмента тексту; проведення перекладацького аналізу матеріалу дослідження і написання <b>практичної частини</b> курсової роботи (розділ 2) | 7–11 лютого 2023 р.   |                        |
| 3.    | Написання <b>вступу і висновків</b> дослідження, оформлення курсової роботи і подача завершеної курсової роботи науковому керівнику для попереднього перегляду                                | 28–31 березня 2023 р. |                        |
| 4.    | <b>Оцінювання</b> курсових робіт <b>науковими керівниками</b> , підготовка студентами презентацій до захисту курсової роботи  | 25–30 квітня 2023 р.  |                        |
| 5.    | <b>Захист</b> курсової роботи (за розкладом деканату)   | 2-13 травня 2023 р.   |                        |

Науковий керівник \_\_\_\_\_ (підпис)

Студент \_\_\_\_\_ (підпис)

## РЕЦЕНЗІЯ НА КУРСОВУ РОБОТУ З ПЕРЕКЛАДУ З АНГЛІЙСЬКОЇ МОВИ

студентка 4 курсу, ПА 20-19 групи, факультету перекладознавства КНЛУ спеціальності 035 Філологія, спеціалізації 035.041 Германські мови і літератури (переклад включно), перша - англійська, освітньо-професійної програми Англійська мова: усний і письмовий переклад

Плетінка Марина Станіславівна

(прізвище, ім'я, по-батькові студента)

за темою Особливості перекладу українською мовою кліше у юридичному дискурсі.

| № п/п | Критерії   | Оцінка в балах |
|-------|--|----------------|
| 1.    | Наявність основних компонентів структури роботи — <i>загалом 5 балів</i> (усі компоненти присутні – 5, один або декілька компонентів відсутні – 0)   |                |
| 2.    | Відповідність оформлення роботи, посилань і списку використаних джерел нормативним вимогам до курсової роботи — <i>загалом 10 балів</i> (повна відповідність – 10, незначні помилки в оформленні – 8, значні помилки в оформленні – 4, оформлення переважно невірне – 0) |                |
| 3.    | Відповідність побудови вступу нормативним вимогам — <i>загалом 10 балів</i> (повна відповідність – 10, відповідність неповна – 8, відповідність часткова – 4, не відповідає вимогам – 0)   |                |
| 4.    | Відповідність огляду наукової літератури нормативним вимогам — <i>загалом 15 балів</i> (повна відповідність – 15, відповідність неповна – 10, відповідність часткова – 5, не відповідає вимогам – 0)   |                |
| 5.    | Відповідність практичної частини дослідження нормативним вимогам — <i>загалом 20 балів</i> (повна відповідність – 20, відповідність неповна – 15, відповідність часткова – 10, не відповідає вимогам – 0)  |                |
| 6.    | Відповідність висновків результатам теоретичної та практичної складових дослідження — <i>загалом 10 балів</i> (повна відповідність – 10, відповідність неповна – 8, відповідність часткова – 4, не відповідає вимогам – 0)   |                |

Усього набрано балів: \_\_\_\_\_

Оцінка:

“До захисту”

\_\_\_\_\_ (42-70 балів)

\_\_\_\_\_ (підпис керівника)

“На доопрацювання”

\_\_\_\_\_ (0-41 балів)

\_\_\_\_\_ (підпис керівника)

“ \_\_\_\_\_ ” \_\_\_\_\_ 2023 р.

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## INTRODUCTION

In modern conditions, more and more scientists are interested in the translation of legal discourse. This area is very popular due to the development of international relations and intercultural relations. Translation of legal discourse is a problem for a translator, as it has specific features.

**The relevance of this research lies** in the incomplete exploration of the translation characteristics of English legal discourse, particularly in terms of the translation of legal terms-clichés into Ukrainian. Additionally, many aspects related to this translation remain unexplored, highlighting the continued relevance and importance of this research topic.

Legal terminology exists in the context of legal translation studies, which also defines the main directions of research in this area, namely the history of legal language, legal terminology, legal lexicography; textual legal science, legal stylistics, comparative legal linguistics, forensic linguistics.

**The presentation of the problem's theoretical background.** Difficulties when translating the English legal discourse repeatedly noted by researchers: V. V. Alimov, M. B. Verbetens, I. M. Humovska, T. V. Zaplitna, I. V. Korunets, and others.

**The term paper is focused on** the analysis of the translation of English legal discourse terms into Ukrainian.

**Presentation of the topicality for the study.** The topicality of the study is the translation of terms-cliché of the English legal discourse into Ukrainian.

**Definition of the research aim and objectives.** **The research aim is** to analyse the main features of the translation of terms-cliché of the English legal discourse into Ukrainian

**The objectives of the study are:**

- to establish the legal discourse as an object of linguistic research;
- to characterize the term as an important component of legal discourse;
- to describe the problem of translation of legal terms;
- to hold the analysis of the ways of translation of legal terms-cliché.

Identification the investigation **subject**. The investigation subject is English legal discourse.

**Object** of research is the translation of non-equivalent terms of the English legal discourse into Ukrainian.

**Data sources**. The sample of 50 examples of terms-cliché from the following documents:

- справа “Азер Ахмадов проти Азербайджану”;
- case of Azer Ahmadov v. Azerbaijan (Заява № 3409/10).

Outline of **the methods used in research**. Analysis, synthesis, simile, method of a continuous sample, method of translational analysis, definitional analysis.

**Theoretical value** is derived from the potential utilization of the results obtained through theoretical analysis, serving as a foundation for future research endeavours.

**Practical value** of the research. The conclusions obtained in the research could be used as the demonstrating material when teaching at universities.

Brief outline of the research paper **structure**. Term paper consists of the introduction, two chapters, which are divided into units, a conclusion, bibliography, list of lexicographical and illustrative sources, annex, resume.

# CHAPTER 1

## THEORETICAL ASPECTS OF TRANSLATING LEGAL TERMS-CLICHÉS FROM ENGLISH INTO UKRAINIAN

### 1.1 Terms-clichés as a linguistic phenomenon

Terms-clichés as a linguistic phenomenon in legal discourse refer to the use of fixed and stereotypical expressions, phrases, or terms that have become standardized and commonly employed within the legal field. These terms-clichés serve specific legal functions, facilitate communication, and ensure consistency and precision in legal language.

In legal discourse, terms-clichés often possess a specific legal meaning and are used to convey legal concepts, principles, or procedures. They may include commonly used legal phrases, formulaic expressions, or technical terminology that have acquired a conventional and recognized meaning within the legal community.

The study of terms-clichés in legal discourse examines their linguistic features, origins, semantic nuances, and usage patterns. It explores how these linguistic units are employed in legal texts, such as legislation, court judgments, legal contracts, and legal opinions. The analysis of terms-clichés aims to understand their role in legal communication, their impact on legal interpretation, and their potential benefits or drawbacks in terms of clarity, precision, and comprehensibility.

Research on terms-clichés in legal discourse may investigate their cultural and historical dimensions, tracing their development and evolution over time. It may also explore the cross-linguistic aspects of terms-clichés, examining their equivalents or variations in different legal systems and languages.

The study of terms-clichés as a linguistic phenomenon in legal discourse contributes to the understanding of the unique language and communication practices within the legal domain. It provides insights into the specialized vocabulary, conventions, and rhetorical strategies employed by legal professionals and helps to



enhance legal translation, interpretation, and effective communication within the legal community.

“Discourse” has entered the technical language of most humanistic and social scientific disciplines over the past decade. Neither the object nor the method of analysis is consistent. Discourse is widely used to refer to a stream of scholarly consideration, usually written, of the issues of concern to a particular field of inquiry. For example, the discourse of philosophy refers in its broadest sense to all recorded considerations of issues deemed relevant to philosophers from the origins of the discipline to the present. When used in this manner in reference to a particular discipline, discourse analysis means interpretation of the traditions of scholarship in that discipline [19: 2].

For those disciplines such as linguistics, anthropology, and sociology that study spoken as well as written language, discourse analysis also refers to the study of connected sequences of speech such as conversations and narratives. The methods used for such studies are highly variable, but all depend on the analysis of the “texts” that result from the recording – whether contemporaneously, with the assistance of mechanical devices, or from memory – of segments of speech [19: 2].

There are two types of legal discourse: first, the largely written discourse of judges, lawyers, and scholars about law and legal doctrine; and second, what the participants in legal institutions are saying. The records available for the study of these two discourses are very different. The body of judicial opinions, statutes, legislative records, and scholarly commentaries that has accumulated over the centuries is enormous. Together, these sources are the primary materials contained in law libraries. This official discourse of the law is regularly consulted and used as precedent in developing and refining legal doctrine. Even with electronic assistance, access to this official discourse of the law is a formidable undertaking and remains generally confined to professional specialists.

By contrast, the verbal exchanges that constitute the practical, everyday discourse of the law – as, for example, the speech of litigants, witnesses, lawyers, judges, and jurors in courts across the country – are seldom recorded with the intention of preserving them permanently. Sometimes even efforts to listen are proscribed:

consider, for example, the strictures that guarantee the privacy of jury deliberations [19: 3].

In the everyday legal world, there is no parallel to the formal, official discourse of the law, in the sense of a continuous, connected stream of discussion. There are many voices, but the fragments that survive are discontinuous and unconnected [19: 4].

The definition of the legal discourse which can be found in the legal-linguistic scholarship is rather general. Cornu [21: 207] develops the notion of the legal discourse in contrast with the legal vocabulary. He insists also on two different aspects of the legal discourse, the linguistic and the juridical one and undertakes a first attempt to categorize it by identifying the legislative, the customary discourses as well as the corporal expression in the discourse [21:211]. It is understandable that his research is based on a rather general concept of the juridical discourse, because all judicial activity makes in one way or another part of it.

One may also adapt a more abstract notion of the legal discourse that would comprise the totality of the linguistic activity in law which seems to be compatible with Cornu's preliminary general definition. The flexibility of the notion of the general, not necessarily only legal discourse that has been construed in this way by Michel Foucault [25: 102] and others has a further advantage. It allows for a more specific conceptualization of the context to which frequent reference has been made here. Foucault employed it to characterize the transformation of primary texts into discourses which necessitate interpretation [25: 93]. It is worth mentioning that also historically the discourse has been defined rather broadly, e.g. by Dionysius of Halicarnassus as an arrangement of words such disposed that they form a complete sense. The general notion of the discourse says at least that utterances must follow in an arrangement and cannot stand freely in the speech and that the discourse constitutes a larger unit of sense called already by Dionysius, not unproblematically, complete sense.

Moreover, the discourse provides information of different provenance and quality. Therefore, it can be understood as a structured context [11: 202] that constitutes a part of the reality such that it creates the context or represents what the

participants know already [11: 278—280]. It has also a practical component because it links closer what is said with what is done [11: 253]. This specific feature is important within the modern conception of the legal argumentation which should promote the rationality of the discourse and avoid empty or intentionally false arguments that are employed solely in order to win and without any attention paid to the socially relevant subject matter within a legal question. Furthermore, the discourse provides rather for a contextual than for syntactic information [11: 276]. This, in turn, favors the general concept rather than the classification of varieties because the discourse provides an unlimited number of vantage points that could be used for its classification. Cornu's analysis of the numerous possibilities to classify the legal discourses illustrates best this problem [21].

The ongoing professional debates about the nature of law in general and about the application of relevant portions of the law to specific cases constitute the official discourses of the law. The debate about the nature of law is the preserve of jurisprudential scholars and is rarely noticed by the great majority of judges and practicing lawyers. The other sort of official legal discourse – statutes, collected decisions of appellate courts, and scholarly commentary – is, of course, routinely used by lawyers in presenting cases, and in turn consulted by judges in making their decisions. Laypersons may encounter this discourse directly when they testify in court or serve as jurors, or through the mediation of lawyers when they seek professional help in drawing up or interpreting a legal document [14].

Official legal discourse of the latter type is far removed from the language of ordinary people. It tends to transform or simply to ignore the discourse of the disputants whose problems are the law's very reason for being. Moreover, despite the fact that the law exists to solve human problems and regulate human conduct, its professional discourse has been predominantly about purportedly neutral principles whose application is believed to transcend human variation.

Legal terminology is undoubtedly a hallmark of legal discourses and a key component of quality control and competence evaluation in legal translation. The culture-bound and evolving nature of most legal concepts, the complexity of their

semantic layers and the various degrees of asymmetry between their native legal systems and sources explain the added difficulty of terminological work.

According to Pearson, language as a whole is a label used to describe different situations [31]. In its turn, legal language is designed to address specific situations, and concentrates in providing legal information within sender-receiver relationship. As eminent legal linguist Matilla notes, legal language exists only in social environment attributed to particular national legal system, as a part of socio-cultural diversity of a particular society [31]. Following that, civil and common law systems create different conceptual systems, which in their turn establish distinct semantic domains of legal terms [29]. In this respect, also linguistic expert Sandrini acknowledges that the national legal system has to be regarded as a framework for all legal communication, and it clearly affects terminology [35]. Thus, mindful of the fact that legal terminology is the most significant and visible linguistic feature of the legal language [17], it can be summarized that the first intrinsic and one of the most substantive characteristics attributed to legal terminology is its dependence of national legal context and inability to exist outside thereof.

Secondly, legal terminology is not only inherently placed within national legal boundaries, but is specifically construed to be applied in specialized communicative discourse. Eminent linguistic expert Cabré submits that legal terminology as such and terms offer a set of special activities which are designed to present this specialized field of knowledge. 8 Likewise, distinguished linguistic researcher Sager points out that terminology is concerned with the collection, description, processing and presenting of lexical items, i.e. terms belonging to specialized area of usage. 9 In addition, distinguished Latvian linguist Skujiņa provides in this connection that a term is a word or terminological expression that expresses the respective scientific notion [34].

Somehow in another, much wider context, the terminology is considered as an object of translation studies research in the scientific works of M. B. Verbeniets [2], E. F. Skorokhodko [8], I. M. Humovska [3], O. V. Mynzak [7], I. M. Sushynska and P. H. Davydova [9], T. V. Zaplitna [4] and some others.

It should be noted that in most modern research, there are two approaches to the definition of term: structural – substantive and functional. Proponents of the first consider term as a special word that is opposed by its semantic grammatical structure to common. The pro-functional approach (E. F. Skorokhodko [8], V. M. Leichyk [6] believe that the term is a type of lexical units usage, but not a special type of lexical unit. In particular, E. F. Skorokhodko understands the term as a word or a constant phrase that is a member of such lexical-semantic system, which represents a certain professional (specialized) concepts system.

Thus, legal terminology serves as an identification of specialized communicative discourse, and is well-equipped with a set of specific methods. Consequently, such methods allow locating a particular lexical unit within the particular field of law and establishing its relations with other units attributed to this field, as well as co-relations with other fields of law (for example, civil law, criminal law, arbitration law). Next, legal terminology, as signifier of specialized field of legal knowledge, tends to address the needs of users who operate within this particular field.

Therefore, in addressing the users' needs, it should be pointed out that terminology, as referred to by Cabré, perceives a common goal of establishing and facilitating the efficiency and optimisation of communication between specialists of the subject-field [14]. The mentioned function on the same footing underlines rationale of legal terminology, i.e. it addresses the need of efficiently operating communication in legal discourse, thereby conveying precise legal message from sender to receiver. At the same token, linguistic scholar Temmerman points out that in a process of special language understanding potential user groups should be particularly borne in mind [40].

Since a term constructs a central object of terminological analysis, Cabré suggests that terminology must necessarily cover three elements: cognitive, linguistic and communicative [14]. Likewise, according to Sager, the study of terminology as a semantically-oriented discipline can be approached from the perspective of referents (a cognitive dimension), from the point of view of designation given to referent (a

linguistic dimension), and from the point of view of equation of referent and designation can be put to (communicative dimension) [34].

Thus, following the presented line of logic, within the first cognitive element a legal term may be demonstrated as comprising a certain number of characteristics, and for the needs of the present research they may be summarized and prioritized as follows:

a) contextual dependence, i.e. a legal term is always contextualized and applied in situational model.<sup>16</sup> Such contextualization appears in different sources of law (legislative act, case-law), as well in authoritative academic writing.

b) Conceptual structure, i.e. a legal term has a specific meaning and determined place in conceptual structure [14: 184]. A concept should be precisely drawn and incorporated into conceptual system, thereby emphasizing its interaction with other concepts.

Observing the linguistic element, the following characteristics may be discerned:

a) a legal term is a lexical unit which have lexical and syntactic structure;  
 b) a legal term may appear in different grammatical forms (for example, nouns, verbs, adjectives).

This list of characteristics may be supplemented by another entry stating that a legal term may exist as an abstract or a concrete term [14:.102]. Thus, considerable role of abstract terms in legal discourse is acknowledged.

From the perspective of communicative element, the following characteristics are crucial:

a) transmitting of information in sender-receiver relations [14: 101]. Here, the process of transmitting of particular information should be efficient and practical; otherwise, a legal term is useless.

b) A sender and a receiver presumably operate in the same specific field of knowledge.

Thus, legal terms are inherently complex phenomena, and various approaches exist to define them. The concept of term refers to a word or a fixed phrase that is an

integral part of a lexical-semantic system representing a specific professional or specialised concept system.

## **1.2 Translation features in the legal discourse**

The translation of a legal text from one natural language into another implies the transfer and communication of complex information, which is embedded within the source legal system and subject to the constraints of the genre [13, 12], into the receiving environment. The purpose of the text must also be considered and adds an extra layer of difficulty to achieving a successful outcome in this multidimensional endeavour [37]. As Engberg has emphasized, legal meaning arises from a person's encounter with another's knowledge, and legal genres have a readership with widely divergent levels of knowledge, in terms of both depth and breadth [24]: for example, between lay persons, legal practitioners or legal scholars. Each of these groups has different expectations.

Numerous factors contribute to the challenges and difficulties encountered when translating between English and Ukrainian. Firstly, the inherent nature of law and legal language adds complexity and difficulty to the process of legal translation. This is compounded by further complications arising from crossing two languages and legal systems in translation. Some of the sources of legal translation difficulty include the systemic differences in law, linguistic differences, and cultural differences. The source legal system cannot be directly transferred to the target legal system due to variations and differences in historical and cultural evolution. [36: 13]. The lack of congruence between legal systems in the source language and the target language poses a significant challenge for legal translators. Furthermore, the difficulty levels can vary when translating legal texts between different legal systems, families, and languages.

There are the following situations according to the affinity of the legal systems and languages according to De Groot [22: 409—140]:

1. for instance, in cases where there is a close relationship between the legal systems and languages involved, such as the situation between Spain and France, the task of translation is relatively easy;
2. when the legal systems share a close relationship, but the languages involved are different, this situation may not present significant challenges. For example, translating English laws into Ukrainian law would fall under this category;
3. when the legal systems vary while the languages have similarities, the level of difficulty remains significant. For instance, translating German legal texts into Dutch, and vice versa, exemplifies this challenge.
4. when both the legal systems and languages are unrelated, the level of difficulty significantly intensifies. For instance, translating the Common Law from English into Chinese, and vice versa, exemplifies this heightened challenge.

In essence, the level of difficulty in legal translation is directly correlated to the degree of similarity between the legal systems and languages involved [22: 410].

As we know, one distinctive feature of legal languages and legal texts is the complex and unique legal vocabulary. Legal terminology serves as the most prominent and notable linguistic characteristic of legal language in translation studies as a technical form of communication. Additionally, it represents one of the primary challenges encountered when translating legal documents. This common feature of the language of law is found in most languages, but there are linguistic and legal differences in each language, often unique. The legal vocabulary, including both legal concepts and legal usage, is extensive.

Applicable to the translation of most legal languages, three major terminological challenges can be identified related to translation. These are:

1. legal conceptual issues and the question of equivalence and non-equivalence of legal concepts in translation;
2. legal jargon and usage that are bound to the legal institutions, personnel and areas of law;
3. legal language as a technical language in terms of ordinary vs legal meanings, and legal synonyms [15].



Nowadays, translators of legal documents show the greatest interest in rendering of legal vocabulary, as well as the problem of equivalence. Unfortunately, turning to the dictionaries do not always give the opportunity to discover the universal replacement of the translated word. For adequate translation it is necessary to determine the unit of translation, which can be not only a word, but also any language unit: from phoneme to phrasal unity. Legal vocabulary often includes the proper names, realities that form the main difficulty for the translator. It is important to obtain background knowledge about the culture and traditions of a foreign-speaking country for the translation of such lexical units.

The first method used for the translation of legal terms is the transcription – the phonemic reproduction of the lexical unit of the source text by means of the TL phonemes, thus obtaining a phonetic imitation of the original word.

Another method of translation is transliteration – literal reproduction of the ST lexical unit using the TL alphabet, literal imitation of the form of the source word. Techniques such as transcription and transliteration are repeatedly used as components of mixed translation, along with calquing, semantic translation, or commentary [24].

Calquing is used directly for those language units that do not have an equivalent in the TL, not reproduced in sound, semantic meaning of the word or phrase. Descriptive translation is repeatedly used in the interpretation of the realities typical for living conditions of one person and have no analogues in the life of another. According to I. V. Korunets, the descriptive way of conveying the sense of language units implies their structural transformation which is necessary to explicate their meaning with the help of hierarchically different target language units [5: 30].

Among the lexical and grammatical transformations of non-equivalent vocabulary, the most interesting for legal translation are: omission, compensation, addition, antonymic translation, as well as semantic development. Also, there are often used such methods as omission and compensation [13].

Omission is a transformation of removing the excessive information that does not carry an important semantic load. Omission is often used when synonyms are used

in the original text, which would be stylistically unfounded in the text in the TL [12: 33].

Another technique that is often used in the translation of non-equivalents in the field of jurisprudence is the addition – the inclusion the explanations and inserts that help to understand the St, so the translator can clarify the meaning of realities, terms, abbreviations, foreign language.

Antonymic translation is built by replacing any concept in a foreign language with the opposite concept in the translating language with the corresponding transformation of the entire statement [12] It is utilised with the aim of ensuring the accuracy in conveying content or to enhance the necessary expressive quality of meaningful units. It serves as a method of translation where an affirmative language unit (such as a word, word combination, or sentence) is expressed through a negative language unit in terms of sense or structure, while maintaining identical content. Similarly, it can also involve translating a negative language unit in terms of sense or structure using an affirmative language unit. [12: 31].

Modulation is a kind of lexical and grammatical transformation in wherein one concept is substituted with another based on their adjacency or logical proximity. At the same time, the main idea should remain unchanged [12: 34].

Also, there are the next transformations, used for translation of legal vocabulary:

- replacement by approximate equivalent;
- translation by non-terminological equivalent;
- compression of terms with several components;
- zero translation.

### **1.3 Legal discourse text analysis**

In this part, the analysis of the text of legal discourse is performed. Discourse parameters of the text: the text is related to legal discourse. It doesn't involve any extralingual factors, but has a great number of linguistic characteristics:

*“INTRODUCTION*

1. “ *The application concerns the telephone tapping of an opposition journalist and raises issues, in particular, under Article 8 of the Convention.* ”

#### *THE FACTS*

2. *The applicant was born in 1962 and lives in Baku. He was represented by Mr R. Hajili, a lawyer based in Strasbourg, and Mr F. Namazli and Mr. E. Sadigov, lawyers based in Azerbaijan.*

3. *The Government were represented by their Agent, Mr Ç. Əsgərov.*

4. *The facts of the case, as submitted by the parties, may be summarised as follows.*

#### *I. RELEVANT BACKGROUND*

5. *The applicant is a journalist. At the time of the events he was the editor-in-chief of the opposition-oriented newspaper Azadliq.*

6. *On 22 February 2008, A.K. who was also a journalist employed by the Azadliq newspaper, was allegedly beaten by two agents of the Ministry of National Security (“the MNS”) while researching an article and taking photographs of trees that had been cut down in an area called Olive Gardens. On 13 March 2008 A.K. was stabbed while returning home from work. Criminal proceedings were instituted in relation to both assaults. However, the proceedings in respect of the incident of 22 February 2008 were later discontinued by the investigator in the case, who concluded that the MNS agents in question had not beaten A.K. but had simply asked him to give them the photographs that he had taken. As to the criminal procedure into A.K.’s stabbing, the investigation largely based on tapped conversations led to the conviction of S.S. (with whom A.K. allegedly had a relationship) to one and a half year’s imprisonment, upheld by the higher courts.*

7. *It further appears that in the course of the investigation concerning the stabbing, telephone conversations between A.K. and other persons, including his colleagues had been intercepted. The domestic proceedings concerning A.K.’s stabbing and the interception of his telephone conversations were the subject of the Court’s decision in Khalil v. Azerbaijan ((striking out), nos. [60659/08](#), [38175/09](#) and [53585/09](#), 6 October 2015).*

## II. THE IMPUGNED SECRET SURVEILLANCE

8. On 14 March 2008 the Sabail District Court granted an application by the First Deputy Prosecutor General authorising secret surveillance of A.K. and his contacts for a period of six months. The relevant parts of the decision (“the decision of 14 March 2008”) read as follows:

“... The First Deputy Prosecutor General, ..., has asked the court to authorise operational-search activities in respect of A.K., submitting that according to information received by the Ministry of National Security, A.K., an employee of the Azadliq newspaper, was stabbed by unknown persons ... while on his way home from work on 13 March 2008 at 7.45 p.m. During the preliminary investigation, information was received indicating that the incident had been organised by foreign special services and destructive forces with the purpose of aggravating the socio-political situation in the country.

In this connection, taking into account that it is impossible to reveal, prevent, document and collect material evidence of A.K.’s illegal activities by any other means, the Anti-Terrorism Centre of the MNS has made an application to conduct operational-search activities in respect of him for six months. Having regard to the above-mentioned information, the [following activities] using technical means are necessary: covert interception of the telephone conversations and other conversations of A.K. and his contacts; audio and video-recordings; surveillance of postal correspondence; inspections of buildings, flats, fenced-off plots of land and other objects; [and] observation of persons.

Having examined the application, and taking into account that it is not possible to collect the necessary information to reveal, prevent, document and collect material evidence of A.K.’s illegal activities, the application must be granted.

Taking into account the above-mentioned information and Article 10 of the Law on Operational-Search Activities, [and] Articles 84.6.12, 445, 446.1.3, 447-448 and 454 of the CCrP [the Code of Criminal Procedure],

**I HEREBY DECIDE**

1. The application shall be granted.

2. *[The following] operational-search activities using technical means should be conducted in respect of A.K., an employee of the Azadliq newspaper, born in 1983, and his contacts for a period of six months: covert interception of telephone and other conversations; audio and video-recordings; surveillance of postal correspondence; inspections of buildings, flats, fenced-off plots of land and other objects; [and] observation of persons.*

3. *Execution of the decision shall be entrusted to the Ministry of National Security.”*

9. *On 10 May 2008 the MNS addressed a letter to E.A., the Head of the Serious Crimes Investigation Department of the Prosecutor General’s Office, the relevant part of which read as follows:*

*“... Lately, false information is being spread in different forms of mass media about the attempted murder of A.K. In the 8 May 2008 edition of the Azadliq newspaper, an article about A.K.’s kidnap and an attempt to push him under a train at 28 May [metro] station was published. As a result of the investigation, it was established that on 7 May 2008 at 7.23 p.m., when the editor-in-chief of the Azadliq newspaper, Azer Ahmadov, had made a call from telephone number ...-50, used by him, to telephone number ...-75, used by an employee of the newspaper [called] V.M. (“Azər Əhmədov istifadə etdiyi ...-50 sayılı telefondan qəzetin əməkdaşı V.M.-in istifadəsində olan ...-75 sayılı telefona zəng vurarkən...”), [V.M.] had informed him about an attempt by unknown persons to push A.K. under a train at 28 May metro station and the preparation of an article entitled ‘A danger to A.K.’s life’. A.K. had then taken the telephone and confirmed the above-mentioned information ...”*

**Stylistic characteristics of the text.** The following tropes and figures of speech (stylistic devices and expressive means) were used in the text:

Epithets:

*“During the preliminary investigation, information was received indicating that the incident had been organised by foreign special services and destructive forces with the purpose of aggravating the socio-political situation in the country.”*

In this case, the following epithets were applied: *special, destructive.*

“On 10 May 2008 the MNS addressed a letter to E.A., the Head of the Serious Crimes Investigation Department of the Prosecutor General’s Office, the relevant part of which read as follows.”

In the fragment, an epithet *serious* was used in this case.

**Lexical features of the text.** The following special literary and colloquial vocabularies were used in the text:

Proper names:

“He was represented by Mr R. Hajili, a lawyer based in Strasbourg, and Mr F. Namazli and Mr. E. Sadigov, lawyers based in Azerbaijan.”

The example demonstrates the use of such proper names, as: “*Mr R. Hajili, Mr F. Namazli, Mr. E. Sadigov*”.

Toponyms:

2. “*The applicant was born in 1962 and lives in Baku*”.

In the fragment, toponym *Baku* was applied.

Subject field terms:

*Criminal proceedings* were instituted in relation to both assaults.

In the example, the term-collocation was applied: *criminal proceedings*.

“*The domestic proceedings* concerning A.K.’s stabbing and the interception of his telephone conversations were the subject of the Court’s decision in *Khalil v. Azerbaijan* ((striking out), nos. 60659/08, 38175/09 and 53585/09, 6 October 2015)”.

The example demonstrates that the term-collocation was used in this case: *the domestic proceedings*.

Allusion:

“*The application concerns the telephone tapping of an opposition journalist and raises issues, in particular, under Article 8 of the Convention*”.

The fragment demonstrates the use of an allusion *under Article 8 of the Convention*.

Quotes:

“*The relevant parts of the decision (“the decision of 14 March 2008”) read as follows:*”

*“... The First Deputy Prosecutor General, ..., has asked the court to authorise operational-search activities in respect of A.K., submitting that according to information received by the Ministry of National Security, A.K., an employee of the Azadliq newspaper, was stabbed by unknown persons ...”*

The example represents the use of the quote of the decision of 14 March 2008.

Abbreviation:

*On 22 February 2008, A.K. who was also a journalist employed by the Azadliq newspaper, was allegedly beaten by two agents of the Ministry of National Security (“the MNS”) while researching an article and taking photographs of trees that had been cut down in an area called Olive Gardens.*

In the fragment, an abbreviation the MNS was applied.

Thus, it is possible to point out that the media language is characterized by a low percentage of expressive means, high degree of formality, documentary character. It characterizes by the use of a low number of epithets, the use of proper names, toponyms, subject field terms, allusions, quotes, abbreviations.

The communicative intention of the legal discourse type text as in the analysed example is to provide an introduction to the case and present factual information related to the application. It outlines the background, relevant events, and key decisions made by the court and authorities involved. The text aims to establish a foundation for understanding the legal context and issues at hand in the subsequent discussion. The analysed document itself binds the addressee to a certain kind of behaviour thus altering addressee’s behaviour. The communicative intention is achieved through the inclusion of factual information, the use of specific and obligatory lexical units, as well as the utilization of binding linguistic elements such as syntactical and morphological constructions. Additionally, the text may employ extra-linguistic means to further enhance its communicative effectiveness. Referential type of text is artefact.

## **Conclusions on Chapter 1**

The first part of study was devoted to the analysis of theoretical resources. We have found that legal terminology is undoubtedly a hallmark of legal discourses and a key component of quality control and competence evaluation in legal translation. Legal language is designed to address specific situations, and concentrates in providing legal information within sender-receiver relationship. Legal language exists only in social environment attributed to particular national legal system, as a part of socio-cultural diversity of a particular society.

Also, we found out that legal terminology is the most significant and visible linguistic feature of the legal language. Legal terminology is not only inherently placed within national legal boundaries but is specifically construed to be applied in specialized communicative discourse.

Legal terminology must necessarily cover three elements: cognitive, linguistic and communicative. Legal terminology has the following characteristics:

- a) a legal term is a lexical unit which have lexical and syntactic structure;
- b) a legal term may appear in different grammatical forms (for example, nouns, verbs, adjectives).

We have concluded that one distinctive feature of legal languages and legal texts is the complex and unique legal vocabulary. Nowadays, translators of legal documents show the greatest interest in rendering of non-equivalent vocabulary.

Also, we have found that non-equivalent legal vocabulary includes the proper names, realities and associative lacunas. There are the next transformations of translation the legal non-equivalent vocabulary: transcription, transliteration, calquing, descriptive translation, omission, addition, antonymic translation, modulation, replacement by approximate equivalent, translation by non-terminological equivalent, compression of terms with several components, zero translation.



## CHAPTER 2

### ANALYSIS OF TRANSLATING PECULIARITIES OF LEGAL TERMS- CLICHÉS FROM ENGLISH INTO UKRAINIAN

This section of the paper focuses on the examination of translating peculiarities of legal terms-clichés from English into Ukrainian. The material of analysis is the following documents:

- справа “Азер Ахмадов проти Азербайджану”;
- case of Azer Ahmadov v. Azerbaijan (Заява № 3409/10).

#### 2.1 The use of the lexical and semantic transformations

The initial stage involves conducting an analysis of the utilization of lexical transformations. Thus, the following lexical transformations were identified:

##### 1. Generalization:

(1). *“A person claiming that his or her rights have been or are being violated by a State official performing operational-search activities may complain to the official’s superior, a prosecutor or a court” (Article 4 § IV) (CAA, URL).*

*“Особа, яка стверджує, що її права були порушені або порушуються державними посадовими особами, які здійснюють оперативно-розшукову діяльність, має право звернутися зі скаргою до їх керівника, прокурора або до суду” (стаття 4 § IV) (САЗ, URL).*

The example represents the use of the following term-cliché: *official’s superior*. The following translation was applied: *керівника*. The term-cliché was replaced by means of a lexical unit with a general meaning. Thus, the transformation of generalization was applied in this case.

##### 2. Modulation:

(2). *“As to the criminal procedure into A.K.’s stabbing, the investigation largely based on tapped conversations led to the conviction of S.S. (with whom A.K.*

*allegedly had a relationship) to one and a half year's imprisonment, upheld by the higher courts*" (CAA, URL).

*"Що стосується кримінального провадження щодо ножового поранення А.К., розслідування, головним чином побудоване на основі перехоплених телефонних розмов, призвело до засудження С.С. (з яким (якою), як стверджується, А.К. був знайомий (мав стосунки)), якому (якій) призначено покарання у вигляді півтори року тюремного ув'язнення рішеннями судів вищестоящих інстанцій" (СAX, URL).*

In the fragment, the term-cliché was used: *higher courts*. In the frameworks of translation, the term *вищестоящих інстанцій* was applied. The translator uses the transformation of differentiation, as the component of term *courts* was rendered by means of a term with another meaning: *інстанцій*.

(3). *"In this connection, taking into account that it is impossible to reveal, prevent, document and collect material evidence of A.K. 's illegal activities by any other means, the Anti-Terrorism Centre of the MNS has made an application to conduct operational-search activities in respect of him for six months"* (CAA, URL).

*"У зв'язку з цим, зважаючи, що виявити, запобігти, задокументувати і зібрати речові докази протиправної діяльності проти А.К. в будь-який інший спосіб не видавалося можливим, Антитерористичний центр МНС звернувся з клопотанням про проведення відносно нього оперативно-розшукових заходів строком на шість місяців"* (СAX, URL).

The term-cliché *has made an application* was used in this case. The transformation of differentiation was used, as the term was rendered by means of a term *МНС звернувся з клопотанням*. Thus, the collocation *has made* was replaced by lexical unit *звернувся*.

(4). *"In particular, he argued that there had been no court decision authorising such interception as required under domestic law"* (CAA, URL).

*"Зокрема, він стверджував, що не було судового рішення, яке б дозволяло таке прослуховування, як того вимагає національне законодавство"* (СAX, URL).

The example demonstrates the implementation of the transformation of differentiation, as the term-cliché required under domestic law was rendered by means of the term-collocation “як того вимагає національне законодавство”. Thus, the component of the term “required under”r was replaced by the component “як того вимагає”.

(5). *On 14 April 2009 the Nasimi District Court transferred the case file to the Sabail District Court, on the basis of territorial jurisdiction* (CAA, URL).

18. “14 квітня 2009 року Насиминський районний суд передав матеріали справи в Сабаїльській районний суд відповідно до територіальної підсудності” (CAХ, URL).

In this case, the term-cliché territorial jurisdiction was translated by means of the term-collocation територіальної підсудності. The transformation of differentiation was applied, as the component of the term jurisdiction was replaced by means of the term підсудність.

(6). *It therefore held that the procedure under domestic law, and in particular Article 259 of the CCrP and Article 11 of the Law on Operational-Search Activities, had been complied with* (CAA, URL).

“Тому він вирішив, що процедура, встановлена національним законодавством, зокрема, статтею 259 КПК і статтею 11 Закону про оперативно-розшукову діяльність, була дотримана” (CAХ, URL).

The example represents the use of the following term-cliché: *the procedure under domestic law*. The following translation was applied: “процедура, встановлена національним законодавством”. The element of the term *under* was replaced by the lexical unit *встановлена*.

(7). “COMPLAINT BY THE APPLICANT IN THE FRAMEWORK OF THE CRIMINAL PROCEEDINGS CONCERNING A.K.’S CASE” (CAA, URL).

IV. “СКАРГА ЗАЯВНИКА В РАМКАХ КРИМІНАЛЬНОГО ПРОВАДЖЕННЯ У СПРАВІ А.К.” (CAХ, URL)

In the fragment, the term-cliché was used: THE CRIMINAL PROCEEDINGS CONCERNING ....CASE. In the frameworks of translation, the term

КРИМІНАЛЬНОГО ПРОВАДЖЕННЯ У СПРАВІ was applied. The translator uses the transformation of differentiation, as the component of term concerning was rendered by means of a term with another meaning: *у*.

(8). “*The applicant mainly reiterated his previous arguments raised in the civil proceedings, and asked the appellate court to declare the decision of 14 March 2008 unlawful and award him compensation in respect of non-pecuniary damage*” (CAA, URL).

“*Заявник в основному повторив свої попередні аргументи, висунуті в цивільному позові і просив апеляційний суд визнати рішення від 14 березня 2008 року незаконним і присудити йому компенсацію за заподіяння моральної шкоди*” (CAХ, URL).

The term-cliché to declare the decision was used in this case. The transformation of differentiation was used, as the term was rendered by means of a term визнати рішення. Thus, the lexical unit declare was replaced by lexical unit визнати.

(9). “*This right may be restricted, in accordance with a procedure provided for by law, in order to prevent crime or uncover true facts when investigating a criminal case ..*”. (CAA, URL).

“*Це право може бути обмежено відповідно до процедури передбаченої законом, з метою попередження злочинів або встановлення достовірних фактів при розслідуванні кримінальної справи ..*”. (CAХ, URL).

The example demonstrates the implementation of the transformation of differentiation, as the term-cliché uncover true facts was rendered by means of the term-collocation встановлення достовірних фактів. Thus, the component of the term uncover was replaced by the component встановлення. Also, the transformation of grammatical replacement was applied, as the verb was replaced by the noun.

(10). “*If these are insufficient, the prosecutor in charge of the preliminary investigation or the supervising judge may request additional documents*” (Article 446.4) (CAA, URL).

“У разі їх недостатності прокурор, що здійснює керівництво досудовим розслідуванням, або слідчий суддя мають право запросити додаткові документи” (стаття 446.4) (САХ, URL).

In this case, the term-cliché *the preliminary investigation* was translated by means of the term-collocation досудовим розслідуванням. The transformation of differentiation was applied, as the component of the term *preliminary* was replaced by means of the term досудовим.

(11). (b) “*notwithstanding the absence of sufficient grounds for initiating criminal proceedings, information is received from a reliable, known and objective source about persons who are conspiring to commit, committing, or have committed a criminal offence*” (CAA, URL).

(b) “незважаючи на відсутність достатніх підстав для порушення кримінальної справи, з достовірного, відомого і об'єктивного джерела отримано інформацію про осіб, які мають намір вчинити, вчиняють або вчинили кримінальний злочин” (САХ, URL).

The example represents the use of the following term-cliché: *initiating criminal proceedings*. The following translation was applied: порушення кримінальної справи. The element of the term *initiating* was replaced by the lexical unit порушення.

(12). “PRESIDENTIAL DECREE NO. 507 OF 19 JUNE 2001 ON THE DIVISION OF POWERS BETWEEN AUTHORITIES CONDUCTING OPERATIONAL-SEARCH ACTIVITIES” (CAA, URL).

V. “УКАЗ ПРЕЗИДЕНТА № 507 ВІД 19 ЧЕРВНЯ 2001 РОКУ ПРО РОЗМЕЖУВАННЯ ПОВНОВАЖЕНЬ МІЖ ОРГАНАМИ, ЩО ЗДІЙСНЮЮТЬ ОПЕРАТИВНОРОЗШУКОВУ ДІЯЛЬНІСТЬ” (САХ, URL).

In the fragment, the term-cliché was used: *the division of powers*. In the frameworks of translation, the term розмежування повноважень was applied. The translator uses the transformation of differentiation, as the component of term *powers* was rendered by means of a term with another meaning: повноважень.

(13). “Neither the MNS, in the domestic proceedings, nor the Government, in their submissions to the Court, argued that the applicant’s telephone conversation with

*V.M. on 7 May 2008 had been the only intercepted one, that the interception happened otherwise than via the tapping of the applicant's telephone, or that the impugned measure had been limited in time and had covered a period of time shorter than that indicated in the decision of 14 March 2008*" (CAA, URL).

*"Ні МНБ, в ході внутрішнього розслідування, ні Уряд в своїх поясненнях Суду не зазначали, що телефонна розмова заявника з В.М. 07 травня 2008 року була єдиною прослуханою розмовою, перехоплення якої сталося не інакше, ніж у зв'язку з прослуховуванням телефону заявника, або що оспорювана міра була обмежена за часом і охоплювала період часу коротше, ніж той, який вказаний в рішенні від 14 березня 2008 року"* (CAХ, URL).

The term-cliché *the domestic proceedings* was used in this case. The transformation of differentiation was used, as the term was rendered by means of a term *внутрішнього розслідування*. Thus, the lexical unit *proceedings* was replaced by lexical unit *розслідування*. Also, the transformation of grammatical replacement was applied, as a noun in plural was replaced by noun in a singular form.

(14). *However, it can be inferred from the Government's submissions that the Supreme Court has upheld the lower court's judgment (see paragraph 78 below)* (CAA, URL).

*"Однак з представлених урядом матеріалів можна зробити висновок, що Верховний суд підтримав рішення нижчої інстанції (див. пункт 78 нижче)"* (CAХ, URL).

The example demonstrates the implementation of the transformation of differentiation, as the term-cliché *the lower court's judgment* was rendered by means of the term-collocation *рішення нижчої інстанції*. Thus, the component of the term *court* was replaced by the component *інстанція*. Also, the transformation of transposition was applied, as the word order was changed.

## **2.2 The use of grammatical transformations**

The specific of implementation of grammatical transformations in the process of translating terms-cliché will be analysed in this part of the paper. The following grammatical transformations were identified in the frameworks of analysis:

## 1. Addition:

(15). “26. On 13 June 2009 the applicant lodged an appeal against the decision of 14 March 2008” (CAA, URL).

26. “13 червня 2009 року заявника подав апеляційну скаргу на рішення суду від 14 березня 2008 року” (CAХ, URL).

In this case, the term-cliché an appeal against the decision was translated by means of the term-collocation апеляційна скарга на рішення суду. The transformation of addition was applied, as the component of the term скарга was added in the text of translation: апеляційна скарга.

## 3. Omission:

(16). “I HEREBY DECIDE” (CAA, URL)

“ВИПІШИЛИ” (CAХ, URL)

(17). “He therefore asked the court to declare the interception of his telephone conversations unlawful and award him compensation in respect of non-pecuniary damage” (CAA, URL).

“Тому він просив суд визнати перехоплення його телефонних розмов незаконним і присудити йому компенсацію моральної шкоди” (CAХ, URL).

In the fragment, the term-cliché was used: *HEREBY DECIDE*. In the frameworks of translation, the term *ВИПІШИЛИ* was applied. The translator uses the transformation of omission, as the component of term *HEREBY* was omitted in the text of translation.

This way, the use of the following lexical transformations in the process of translation of terms-cliché is observed:

- the use of the transformation of differentiation;
- the use of the transformation of generalization;
- the use of the transformation of addition;
- the use of the transformation of omission.

## 3. Transposition:

(18). *“Criminal proceedings were instituted in relation to both assaults”* (CAA, URL).

*“За фактами обох нападів відкрито кримінальні провадження”* (CAH, URL).

In the example, the transformation of transposition was used, as the order of words of term-cliché was changed: the term-cliché *criminal proceedings* was used at the beginning of the sentence, while in the text of translation, it was applied at the end of the sentence.

(19). (b) *“Under Article 449.1 of the CCrP, only the procedural acts or decisions of an authority conducting criminal proceedings could be contested before the courts”* (CAA, URL).

*(b) “Згідно зі статтею 449.1 КПК, в суді можуть бути оскаржені тільки процесуальні дії або рішення того органу, що здійснює кримінальне провадження”* (CAH, URL).

In this case, the word order of term-cliché was changed: *only the procedural acts or decisions of an authority conducting criminal proceedings could be contested* – *“можуть бути оскаржені тільки процесуальні дії”*. Thus, the transformation of transposition was used.

(20). *“Therefore, the MNS’s acts could not be contested under the judicial supervision proceedings”* (CAA, URL).

*“Тому дії МНБ не могли бути оскаржені в рамках процедури судового нагляду”* (CAH, URL).

In the fragment, the transformation of transposition was used, as the order of words was changed: *“the judicial supervision proceedings – в рамках процедури судового нагляду”*.

(21). (f) *“By declaring his action inadmissible, the first-instance court had violated his right of access to a court”* (CAA, URL).

*(f) “Відмовивши у задоволенні позовних вимог, суд першої інстанції порушив його право на доступ до суду”* (CAH, URL).



In this case, the term *the first-instance court* was rendered by means of transformation of transposition: *суд першої інстанції*. This, the transformation of transposition was used in this case.

(22). 16. “On 12 January 2009 the Supreme Court granted the applicant’s appeal in part, quashed the appellate court’s decision and remitted the case for fresh examination” (CAA, URL).

16. “12 січня 2009 року Верховний суд частково задовольнив апеляцію заявника, скасував рішення апеляційного суду і повернув справу на новий розгляд” (CAХ, URL).

A complex term of example *granted the applicant’s appeal in part* was rendered by means of a transformation of transposition, as the word order was changed: *суд частково задовольнив апеляцію заявника*.

(23). “It asked the court to dismiss the applicant’s appeal” (CAA, URL).

“Воно просило суд відхилити скаргу заявника” (CAХ, URL).

The term *the applicant’s appeal* was also rendered by means of the transformation of transposition, as the word order was changed – *скаргу заявника*.

(24). 27. “On 22 June 2009 the Sabail District Court rejected the applicant’s appeal, finding that he did not have a right to contest its decision of 14 March 2008” (CAA, URL).

27. “22 червня 2009 року Сабаїльській районний суд відхилив апеляцію заявника, постановивши, що у нього не було права оскаржувати рішення від 14 березня 2008 року” (CAХ, URL).

In a fragment of the text, the terminological collocation was rendered by means of the transformation of transposition, since the word order was changed in the translation text: *rejected the applicant’s appeal* – *відхилив апеляцію заявника*.

(25). “If the procedural act or decision is declared unlawful by the judge” (CAA, URL).

“Якщо процесуальна дія або рішення визнано суддею незаконним” (CAХ, URL).

As the example demonstrates, the term *declared unlawful by the judge* was rendered by means of the transformation of transposition, since the word order was changed: *визнано суддею незаконним*.

(26). “*The following procedures are carried out in accordance with Articles 452 and 453 of the CCrP (Article 454): lodging an appeal against a court’s decision on the compulsory conduct of investigative measures, on the application of coercive procedural measures, and on the examination of the lawfulness of the decisions or acts of authorities conducting criminal proceedings; and verifying a court’s decision on lawfulness and validity*” (CAA, URL).

“*Наступні процедури здійснюються відповідно до Статей 452 і 453 КПК (Стаття 454): подача апеляції на рішення суду про примусове проведення слідчих дій, про застосування примусових процесуальних заходів, а також про перевірку законності рішень або дій органів, що здійснюють кримінальне провадження, перевірка законності і обґрунтованості рішення суду*” (CAХ, URL).

In the example, the transformation of transposition was used, as the order of words of term-cliché was changed: *a court’s decision on lawfulness and validity* – *перевірка законності і обґрунтованості рішення суду*.

(27). (d) “*a person has absconded from the investigating authorities, is avoiding the execution of his punishment, or is missing*” (CAA, URL).

(d) “*особа переховується від органів слідства, ухиляється від виконання покарання, або зникла безвісти*” (CAХ, URL).

In this case, the word order of term-cliché was changed: *the investigating authorities* – *органи слідства*. Thus, the transformation of transposition was used.

(28). “*Merits. The parties’ submissions*” (CAA, URL).

“*Суть 1. Доводи сторін*” (CAХ, URL).

In the fragment, the transformation of transposition was used, as the order of words was changed: *the parties’ submissions* – *доводи сторін*.

(29). *“They submitted that the interception had been on the basis of Articles 177.3.5 and 259 of the CCrP, and the latter provision contained all the minimum safeguards developed under the Court’s case-law”* (CAA, URL).

*“Він стверджував, що перехоплення було здійснено на підставі статей 177.3.5 і 259 КПК, причому останнє положення містить всі мінімальні гарантії, впроваджені відповідно до прецедентного права Суду”* (СAX, URL).

In this case, the term-cliché *the Court’s case-law* was rendered by means of transformation of transposition: *до прецедентного права Суду*. This, the transformation of transposition was used in this case.

(30). *“Any interference with an individual’s Article 8 rights can only be justified under Article 8 § 2 if it is in accordance with the law, pursues one or more of the legitimate aims to which that paragraph refers and is necessary in a democratic society in order to achieve any such aim”* (CAA, URL).

*“Будь-яке втручання в права особи, передбачені Статтею 8, може бути тільки виправданим відповідно до Статті 8 § 2, якщо воно відповідає закону, переслідує одну або більше законних цілей, на які посилається цей параграф, і є необхідним у демократичному суспільстві для досягнення будь-якої зазначеної мети”* (СAX, URL).

In the example, the transformation of transposition was used, as the order of words of term-cliché was changed: *interference with an individual’s rights* – *втручання в права особи*.

(31). *“According to the Court’s well-established case-law, the wording “in accordance with the law” requires the impugned measure to have some basis in domestic law and to be compatible with the rule of law, which is expressly mentioned in the Preamble to the Convention and inherent in the object and purpose of Article 8”* (CAA, URL).

*“Згідно усталеної прецедентної практики Суду, формулювання “згідно із законом” вимагає, щоб оспорювана міра ґрунтувалася на внутрішньому законодавстві і була сумісною з верховенством права, про що прямо вказано в преамбулі Конвенції і притаманне об’єкту і меті Статті 8”* (СAX, URL).

In this case, the word order of term-cliché was changed: *the Court's case-law – прецедентної практики Суду*. Thus, the transformation of transposition was used.

(32). “*The Court notes that under Article 177.3.5 of the CCrP, the interception of telephone conversations must be, as a rule, carried out on the basis of a court decision*” (CAA, URL).

“Суд зазначає, що відповідно до статті 177.3.5 КПК прослуховування телефонних розмов, як правило, повинно здійснюватися на підставі рішення суду” (CAХ, URL).

In the fragment, the transformation of transposition was used, as the order of words was changed: *a court decision – рішення суду*.

## 2. Grammatical replacement:

(33). “*Having examined the application, and taking into account that it is not possible to collect the necessary information to reveal, prevent, document and collect material evidence of A.K. 's illegal activities, the application must be granted*” (CAA, URL).

“Розглянувши клопотання, і зважаючи, що не представляється можливим зібрати необхідну інформацію для виявлення, припинення, документування і збору речових доказів протиправної діяльності відносно А.К. в інший спосіб, клопотання підлягає задоволенню” (CAХ, URL).

The example demonstrates the using of the medical term *material evidence*. This term was translated by means of the transformation of grammatical replacement, as a noun in singular form was translated by means of a noun in plural: *речових доказів*.

(34). “*The application shall be granted*” (CAA, URL).

1. “*Клопотання задовольнити*” (CAХ, URL).

The term-cliché *shall be granted* was translated by means of the transformation of grammatical replacement, as construction was replaced by a single term: *задовольнити*.

(35). 3. “*Execution of the decision shall be entrusted to the Ministry of National Security.*” (CAA, URL)

3. “Виконання рішення покласти на Міністерство національної безпеки” (CAХ, URL).

In the fragment, the transformation of grammatical replacement was applied, as the term-cliché *execution of the decision shall be entrusted* was rendered by the term *виконання рішення покласти*. Thus, the construction *shall be entrusted* was replaced by the verb *покласти*.

(36). “On 29 July 2008 the applicant brought civil proceedings against the MNS and E.A” (CAA, URL).

“29 липня 2008 року заявник подав цивільний позов проти МНБ і Е.А” (CAХ, URL).

The example demonstrates, that the term *civil proceedings* was translated by the transformation of grammatical replacement: *цивільний позов*. Thus, noun in the form of singular was replaced by noun in plural.

(37). “It explained to the applicant that he had a right to appeal in judicial supervision proceedings, in accordance with criminal procedure” (CAA, URL).

“Суд роз’яснив заявнику, що він має право на оскарження в судовому порядку, відповідно до положень кримінально-процесуального законодавства” (CAХ, URL).

In the fragment, the following term was applied: *a right to appeal*. In this case, the translator applied the transformation of grammatical replacement: *право на оскарження*. Thus, an infinitive form of term *to appeal* was replaced by noun: *оскарження*.

(38). “The decisions of a court (a judge), investigating authorities or authorities conducting operational-search activities constitute grounds for conducting operational-search activities” (CAA, URL).

“Рішення суду (судді), слідчих органів або органів, які здійснюють оперативно-розшукову діяльність, є підставою для проведення оперативно-розшукових заходів” (CAХ, URL).

The term-cliché *operational-search activities* was translated by means of the transformation of grammatical replacement, as noun in plural was translated by noun in singular: *оперативно-розшукову діяльність*.

(39). “Even though the decision had specified that the secret surveillance measures in question were important for detecting, preventing, documenting and collecting material evidence relating to A.K.’s “illegal activities”, the judge had failed to verify the existence of a “reasonable suspicion” about the alleged illegal activities” (CAA, URL).

“Незважаючи на те, що в рішенні було зазначено, що заходи таємного спостереження відігравали важливу роль для виявлення, запобігання, документування та збору матеріальних доказів, що відносяться до “незаконної діяльності” А.К., суддя не перевірів наявність “обґрунтованої підозри” щодо ймовірної незаконної діяльності” (СAX, URL).

In the fragment, the transformation of grammatical replacement was applied, as the term-cliché *illegal activities* was rendered by the term *незаконної діяльності*. Thus, the noun in plural was replaced by noun in singular.

(40). “The domestic law did not impose any requirement on a judge to verify the existence of a “reasonable suspicion” against the person concerned, or to apply the “necessity” and “proportionality” test” (CAA, URL).

“Національне законодавство не накладає ніяких вимог на суддів щодо перевірки “обґрунтованості підозр” щодо відповідної особи або застосування критерію “необхідності” і “пропорційності”” (СAX, URL).

The example demonstrates, that the term-cliché *reasonable suspicion* was translated by the transformation of grammatical replacement: *обґрунтованості підозр*. Thus, an adjective *reasonable* was replaced by a noun.

Thus, the following grammatical transformations were used in the process of translating terms:

- transposition;
- grammatical replacement.

## 2.3 The implementation of lexical-grammatical transformations

As a part of the practical analysis, the following lexical-grammatical transformations were identified:

### 1. Descriptive translation

(41). *“In such a case, the authorised official must, within forty-eight hours of carrying out the activity, submit a reasoned decision to the relevant supervising court” (Article 445.2) (CAA, URL).*

*“В цьому випадку уповноважена посадова особа зобов'язана протягом сорока восьми годин після прийняття даного рішення подати мотивоване рішення до відповідного суду, що здійснює судовий нагляд” (стаття 445.2) (CAХ, URL).*

In this example, the term *supervising court* was translated by the use of transformations of descriptive translation, as the meaning of the term was described: *суду, що здійснює судовий нагляд*.

### 2. Modulation:

(42). *“The domestic proceedings concerning A.K.’s stabbing and the interception of his telephone conversations were the subject of the Court’s decision in *Khalil v. Azerbaijan* ((striking out), nos. 60659/08, 38175/09 and 53585/09, 6 October 2015)” (CAA, URL).*

*“Розслідування органів внутрішніх справ щодо ножового поранення А.К. та перехоплення його телефонних розмов були предметом судового рішення в справі *Khalil v. Azerbaijan* (зазнав невдачі або відмова у задоволенні) заяви № 60659/08, 38175/09 та 53585/09, 6 жовтня 2015 року)” (CAХ, URL).*

In this case, the term *domestic proceedings* was translated by means of transformation of modulation, as the sense of this term was developed: *розслідування органів внутрішніх справ*.

(43). *On 15 August 2008 the Nasimi District Court declared the applicant’s action inadmissible (CAA, URL).*

15 серпня 2008 року Насімієвський районний суд оголосив про відмову у задоволенні позовних вимог заявника (САХ, URL).

In the fragment, the transformation of modulation was applied while translating the term-cliché *declared the applicant's action inadmissible*, the meaning of which was developed: *оголосив про відмову у задоволенні позовних вимог заявника*.

(44). “On 11 November 2009 the Baku Court of Appeal upheld the first-instance court's judgment, reiterating the same reasoning” (САА, URL).

23. “11 листопада 2009 року Бакинський апеляційний суд залишив в силі рішення суду першої інстанції, повторивши ті ж доводи” (САХ, URL).

The fragment demonstrates the implementation of the transformation of modulation, as the term-cliché *upheld the first-instance court's judgment* was rendered by means of a term *залишив в силі рішення суду першої інстанції*. Thus, the sense of the term was developed.

(45). “In addition to his previous arguments, the applicant also complained that the first-instance court's decision had violated his right of access to a court and his right to an effective remedy under Articles 6 and 13 of the Convention” (САА, URL).

“На додаток до своїх попередніх аргументів, заявник також скаржився на те, що рішення суду першої інстанції порушило його право на доступ до суду і його право на ефективний засіб юридичного захисту у відповідності до статей 6 і 13 Конвенції” (САХ, URL).

In this case, the term *an effective remedy* was translated by means of transformation of modulation, as the sense of this term was developed: *ефективний засіб юридичного захисту*.

(46). “37. In cases provided for under Article 10 § IV of the Law on Operational-Search Activities (see paragraph 46 below), the interception of telephone conversations may be carried out without a court decision, on the basis of a reasoned decision by an authorised official of the body carrying out the operational-search activity” (САА, URL).

“37. У випадках, передбачених статтею 10 § IV Закону про Оперативно-розшукову діяльність (див. Пункт 46 нижче), перехоплення телефонних розмов



може здійснюватися без рішення суду, на підставі мотивованого рішення уповноваженої посадової особи органу, що здійснює оперативно-розшукову діяльність” (САХ, URL).

The fragment demonstrates the implementation of the transformation of modulation, as the term-cliché *an authorised official* was rendered by means of a term *уповноваженої посадової особи*. Thus, the sense of the term was developed.

(47). “40. *The procedural acts or decisions of the authority conducting the criminal proceedings, including the investigator, the prosecutor and the person conducting the operational-search activities, can be contested before the supervising courts (Article 449.1)*” (САА, URL).

40. “Процесуальні акти або рішення органу, що здійснює кримінальне провадження, в тому числі слідчого, прокурора і особи, яка здійснює оперативно-розшукову діяльність, можуть бути оскаржені суддею, що здійснює судовий нагляд (стаття 449.1)” (САХ, URL).

In this example, the term *contested before the supervising courts* was translated by means of transformation of modulation, as the sense of this term was developed: *оскаржені суддею, що здійснює судовий нагляд*.

(48). “It also noted that if a person was not a participant in criminal proceedings, his or her right to lodge a complaint in judicial supervision proceedings could not be recognised” (САА, URL).

“Він також зазначив, що якщо особа не є учасником кримінального провадження, то його право подати скаргу в рамках процедури судового нагляду не може бути визнано” (САХ, URL).

In this case, the term *judicial supervision proceedings* was translated by means of transformation of modulation, as the sense of this term was developed: *в рамках процедури судового нагляду*.

(49). “It is in the first place for the national authorities, notably the courts, to interpret and apply the domestic law: the national authorities are, in the nature of things, particularly qualified to settle issues arising in this connection” (САА, URL).

“В першу чергу, національні органи влади, зокрема суди, повинні тлумачити і застосовувати правила внутрішнього права: національні органи влади, за своєю природою, мають спеціальну компетенцію, щоб вирішувати проблемні аспекти, що виникають в зв'язку з цим” (СAX, URL).

The fragment demonstrates the implementation of the transformation of modulation, as the term-cliché *to settle issues* was rendered by means of a term *вирішувати проблемні аспекти*. Thus, the sense of the term was developed.

(50). “He submitted that although domestic law required prior judicial authorisation for interception, the authorisation procedure did not provide for sufficient safeguards against abuse, and no specific rules existed for surveillance in sensitive situations, for instance where the confidentiality of journalists’ sources was at stake” (СAA, URL).

“Він стверджував, що хоча внутрішнє законодавство вимагає попереднього судового дозволу на прослуховування, процедура видачі дозволу не передбачає достатніх гарантій проти зловживань, і не існує спеціальних правил для таємного спостереження в делікатних ситуаціях, наприклад, коли під загрозою знаходиться конфіденційність журналістських джерел” (СAX, URL).

In this example, the term *the authorisation* through the application of modulation transformation, considering the evolved meaning of this term: *процедура видачі дозволу*.

By employing this approach, it becomes feasible to identify the subsequent lexical-grammatical transformations:

- descriptive translation;
- modulation.

Thus, the use of the following transformations was identified while translating terms-cliché of legal discourse:

1. lexical transformations:

- the use of the transformation of differentiation;
- the use of the transformation of generalization;
- the use of the transformation of omission;

– the transformation of addition.

2. Grammatical transformations:

– transposition;

– grammatical replacement.

3. Lexical-grammatical transformations:

– descriptive translation;

– modulation.

The results of statistical analysis are represented in the fig. 2.1.

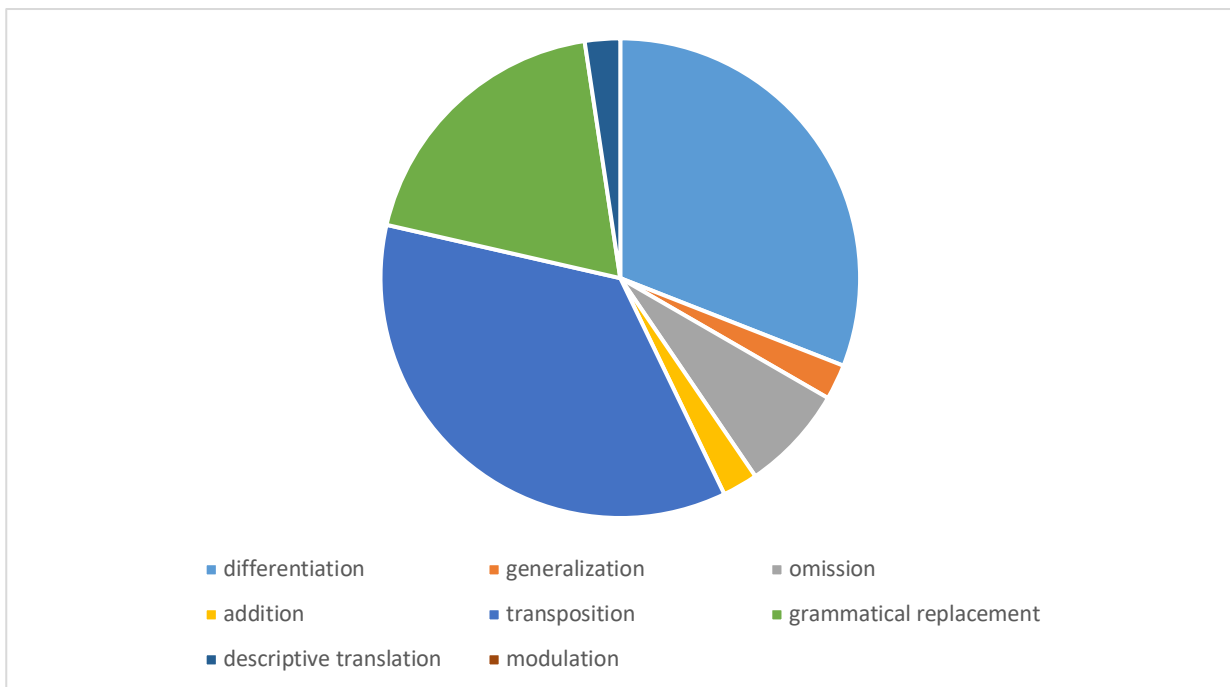


Fig. 2.1 – The results of statistical analysis

The following results were obtained while translation terms-cliché:

- the transformation of differentiation was used in 26% of examples;
- the transformation of generalization was used in 2% of examples;
- the transformation of omission was used in 6% of examples;
- the transformation of addition was used in 2% of examples;
- the transformation of transposition was used in 30% of examples;
- the transformation of grammatical replacement was used in 16% of examples;
- the transformation of descriptive translation was used in 2% of examples;

- the transformation of modulation was used in 18% of examples.

Thus, it was found that the most common transformation of terms-cliché translation is the transformation of transposition, which was used in 30% of examples, and the transformation of differentiation, which was applied in 26% of examples.

The less frequent transformations observed are as follows: modulation transformation, which was utilized in 18% of examples, and grammatical replacement transformation, which was employed in 16% of examples. The transformations that occurred with the lowest frequency are as follows: omission transformation, observed in 6% of examples; addition transformation, applied in 2% of examples; and descriptive translation, which was utilized in 2% of examples.

## **Conclusions on Chapter 2**

The objective of this section of the paper was to examine the distinctive aspects of translating legal term clichés from English into Ukrainian. The analysis was based on the following documents: "справа Азер Ахмадов проти Азербайджану" and "case of Azer Ahmadov v. Azerbaijan" (Заява № 3409/10).

During the translation of legal discourse terms-clichés, the utilisation of the following transformations in terms of lexical and semantic modifications was identified: modulation transformation, generalization transformation. Omission, transposition, addition and grammatical replacement were applied as lexical and grammatical transformations. The translation of term clichés yielded the following results: the transformation of differentiation was applied in 26% of examples, the transformation of generalization in 2% of examples, and the transformation of omission in 6% of examples. the transformation of addition was used in 2% of examples; the transformation of transposition was used in 30% of examples; the transformation of grammatical replacement was used in 16% of examples; the transformation of descriptive translation was used in 2% of examples; the transformation of modulation was used in 18% of examples.

## CONCLUSIONS

The primary focus of the paper revolves around examining the distinctive characteristics involved in translating legal term clichés from English to Ukrainian. The analysis has shown that legal terminology is undoubtedly a hallmark of legal discourses and a key component of quality control and competence evaluation in legal translation. It was that legal terminology is the most significant and visible linguistic feature of the legal language. Legal terminology is not only inherently placed within national legal boundaries, but is specifically construed to be applied in specialized communicative discourse.

It was pointed out that legal terminology must necessary cover three elements: cognitive, linguistic and communicative. Legal terminology has the following characteristics: a) a legal term is a lexical unit which have lexical and syntactic structure; b) a legal term may appear in different grammatical forms (for example, nouns, verbs, adjectives).

It was concluded that one distinctive feature of legal languages and legal texts is the complex and unique legal vocabulary. Nowadays, translators of legal documents show the greatest interest in rendering of non-equivalent vocabulary. Also, it was figured out that non-equivalent legal vocabulary includes the proper names, realities and associative lacunas. There are the next transformations of translation the legal non-equivalent vocabulary: transcription, transliteration, calquing, descriptive translation, omission, addition, antonymic translation, modulation, replacement by approximate equivalent, translation by non-terminological equivalent, compression of terms with several components, zero translation.

The practical aspect of the paper involves the analysis of the specificities in translating legal terms-clichés from English to Ukrainian. While translating legal term clichés, various transformations were identified, including lexical and semantic transformations such as generalization and modulation, as well as lexical and grammatical transformations such as transposition, grammatical replacement, omission, and addition.

The following results were obtained while translation terms-cliché: the transformation of differentiation was used in 26% of examples; the transformation of generalization was used in 2% of examples; the transformation of omission was used in 6% of examples; the transformation of addition was used in 2% of examples; the transformation of transposition was used in 30% of examples; the transformation of grammatical replacement was used in 16% of examples; the transformation of descriptive translation was used in 2% of examples; the transformation of modulation was used in 18% of examples.

The practical analysis has shown the most common transformation of terms-cliché translation is the transformation of transposition, which was used in 30% of examples, and the transformation of differentiation, which was applied in 26% of examples. The less common are the following transformations: the transformation of modulation, which was used in 18% of examples, the transformation of grammatical replacement, which was applied in 16% of examples. The least common are the following transformations: the transformation of omission, which was used in 6% of examples; the transformation of addition, which was applied in 2% of examples; descriptive translation, which was used in 2% of examples.

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## LIST OF DATA SOURCES

САХ – СПРАВА “АЗЕР АХМАДОВ ПРОТИ АЗЕРБАЙДЖАНУ” CASE OF AZER AHMADOV v. AZERBAIJAN (Заява № 3409/10). URL: [https://hudoc.echr.coe.int/eng#{%22itemid%22:\[%22001-220392%22\]}](https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-220392%22]})

CAA – CASE OF AZER AHMADOV v. AZERBAIJAN. URL: [https://hudoc.echr.coe.int/eng#{%22itemid%22:\[%22001-211101%22\]}](https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-211101%22]})

## ANNEX

| Original   | Translation   | Transformation         |
|--|---|------------------------|
| <p>(1). <i>As to the criminal procedure into A.K.'s stabbing, the investigation largely based on tapped conversations led to the conviction of S.S. (with whom A.K. allegedly had a relationship) to one and a half year's imprisonment, upheld by the higher courts (CAA, URL).</i></p> | <p><i>Що стосується кримінального провадження щодо ножового поранення А.К., розслідування, головним чином побудоване на основі перехоплених телефонних розмов, призвело до засудження С.С. (з яким (якою), як стверджується, А.К. був знайомий (мав стосунки)), якому (якій) призначено покарання у вигляді півтори року тюремного ув'язнення рішеннями судів вищестоящих інстанцій (САХ, URL).</i></p> | <p>Differentiation</p> |
| <p>(2). <i>In this connection, taking into account that it is impossible to reveal, prevent, document and collect material evidence of A.K.'s illegal activities by any other means, the</i></p>   | <p><i>У зв'язку з цим, зважаючи, що виявити, запобігти, задокументувати і зібрати речові докази протиправної діяльності проти А.К. в будь-який інший спосіб не видавалося можливим, Антитерористичний центр МНС <u>звернувся з</u></i></p>  | <p>Differentiation</p> |

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| <p><i>Anti-Terrorism Centre of the MNS <u>has made an application to conduct operational-search activities in respect of him for six months</u> (CAA, URL).</i></p>               | <p><i><u>клопотанням</u> про проведення відносно нього оперативно-розшукових заходів строком на шість місяців (САХ, URL).</i></p>   |                 |
| <p>(3). <i>In particular, he argued that there had been no court decision authorising such interception <u>as required under domestic law</u> (CAA, URL).</i></p>                 | <p><i>Зокрема, він стверджував, що не було судового рішення, яке б дозволяло таке <u>прослуховування, як того вимагає національне законодавство</u> (САХ, URL).</i></p>         | Differentiation |
| <p>(4). <i>On 14 April 2009 the Nasimi District Court transferred the case file to the Sabail District Court, on the basis of <u>territorial jurisdiction</u> (CAA, URL).</i></p> | <p><i>18. 14 квітня 2009 року Насиминский районний суд передав матеріали справи в Сабаїльській районний суд відповідно до <u>територіальної підсудності</u> (САХ, URL).</i></p> | Differentiation |
| <p>(5). <i>It therefore held that the <u>procedure under domestic law, and in particular</u></i></p>  | <p><i>Тому він вирішив, що <u>процедура, встановлена національним законодавством, зокрема,</u></i></p>  | Differentiation |

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| <p><i>Article 259 of the CCrP and Article 11 of the Law on Operational-Search Activities, had been complied with (CAA, URL).</i></p>  | <p><i>статтею 259 КПК і статтею 11 Закону про оперативно-розшукову діяльність, була дотримана (САХ, URL).</i></p>  |                        |
| <p><i>(6). COMPLAINT BY THE APPLICANT IN THE FRAMEWORK OF THE CRIMINAL PROCEEDINGS CONCERNING A.K.'S CASE (CAA, URL).</i></p>   | <p><i>IV. СКАРГА ЗАЯВНИКА В РАМКАХ КРИМІНАЛЬНОГО ПРОВАННЯ У СПРАВІ А.К. (САХ, URL)</i></p>   | <p>Differentiation</p> |
| <p><i>(7). The applicant mainly reiterated his previous arguments raised in the civil proceedings, and asked the appellate court to declare the decision of 14 March 2008 unlawful and award him compensation in respect of</i></p> | <p><i>Заявник в основному повторив свої попередні аргументи, висунуті в цивільному позові і просив апеляційний суд <u>визнати рішення від 14 березня 2008 року незаконним і присудити йому компенсацію за заподіяння моральної шкоди (САХ, URL).</u></i></p> | <p>Differentiation</p> |

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| <p><i>non-pecuniary damage (CAA, URL).</i></p>   |  |                        |
| <p>(8). <i>This right may be restricted, in accordance with a procedure provided for by law, in order to prevent crime or <u>uncover true facts</u> when investigating a criminal case ... (CAA, URL).</i></p> | <p><i>Це право може бути обмежено відповідно до процедури передбаченої законом, з метою попередження злочинів або <u>встановлення достовірних фактів</u> при розслідуванні кримінальної справи ... (СAX, URL).</i></p> | <p>Differentiation</p> |
| <p>(9). <i>If these are insufficient, the prosecutor in charge of the <u>preliminary investigation</u> or the supervising judge may request additional documents (Article 446.4) (CAA, URL).</i></p>           | <p><i>У разі їх недостатності прокурор, що здійснює керівництво <u>досудовим розслідуванням</u>, або слідчий суддя мають право запросити додаткові документи (стаття 446.4) (СAX, URL).</i></p>                        | <p>Differentiation</p> |
| <p>(10). (b) <i>notwithstanding the absence of sufficient grounds for <u>initiating criminal proceedings</u>, information is received from a reliable, known and</i></p>                                       | <p><i>(b) незважаючи на відсутність достатніх підстав для <u>порушення кримінальної справи</u>, з достовірного, відомого і об'єктивного джерела отримано інформацію про осіб, які мають намір</i></p>                  | <p>Differentiation</p> |



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| <p><i>objective source about persons who are conspiring to commit, committing, or have committed a criminal offence (CAA, URL).</i></p>   | <p><i>вчинити, вчиняють або вчинили кримінальний злочин (CAH, URL).</i></p>   |                        |
| <p>(11). <i>PRESIDENTIAL DECREE NO. 507 OF 19 JUNE 2001 ON THE DIVISION OF POWERS BETWEEN AUTHORITIES CONDUCTING OPERATIONAL-SEARCH ACTIVITIES (CAA, URL).</i></p>  | <p><i>V. УКАЗ ПРЕЗИДЕНТА № 507 ВІД 19 ЧЕРВНЯ 2001 РОКУ “ПРО РОЗМЕЖУВАННЯ ПОВНОВАЖЕНЬ МІЖ ОРГАНАМИ, ЩО ЗДІЙСНЮЮТЬ ОПЕРАТИВНОРОЗШУКОВУ ДІЯЛЬНІСТЬ” (CAH, URL).</i></p>  | <p>Differentiation</p> |
| <p>(12). <i>Neither the MNS, in the <u>domestic proceedings</u>, nor the Government, in their submissions to the Court, argued that the applicant’s telephone conversation with V.M. on 7 May 2008 had been the only intercepted one, that the interception</i></p> | <p><i>Ні МНБ, в ході <u>внутрішнього розслідування</u>, ні Уряд в своїх поясненнях Суду не зазначали, що телефонна розмова заявника з В.М. 07 травня 2008 року була єдиною прослуханою розмовою, перехоплення якої сталося не інакше, ніж у зв’язку з прослуховуванням телефону заявника, або що оспорювана міра була</i></p> | <p>Differentiation</p> |

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| <p><i>happened otherwise than via the tapping of the applicant's telephone, or that the impugned measure had been limited in time and had covered a period of time shorter than that indicated in the decision of 14 March 2008 (CAA, URL).</i></p> | <p><i>обмежена за часом і охоплювала період часу коротше, ніж той, який вказаний в рішенні від 14 березня 2008 року (САХ, URL).</i></p>                             |                                       |
| <p>(13). <i>However, it can be inferred from the Government's submissions that the Supreme Court has upheld the lower court's judgment (see paragraph 78 below) (CAA, URL).</i></p>   | <p><i>Однак з представлених урядом матеріалів можна зробити висновок, що Верховний суд підтримав рішення нижчої інстанції (див. пункт 78 нижче) (САХ, URL).</i></p> | <p>Differentiation, transposition</p> |
| <p>(14). 26. <i>On 13 June 2009 the applicant lodged an appeal against the decision of 14 March 2008 (CAA, URL).</i></p>  | <p><i>26. 13 червня 2009 року заявника подав апеляційну скаргу на рішення суду від 14 березня 2008 року (САХ, URL).</i></p>   | <p>Addition</p>                       |

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| <p>(15). <i>A person claiming that his or her rights have been or are being violated by a State official performing operational-search activities may complain to <u>the official's superior</u>, a prosecutor or a court (Article 4 § IV) (CAA, URL).</i></p> | <p><i>Особа, яка стверджує, що її права були порушені або порушуються державними посадовими особами, які здійснюють оперативно-розшукову діяльність, має право звернутися зі скаргою до їх <u>керівника</u>, прокурора або до суду (стаття 4 § IV) (САХ, URL).</i></p> | <p>Generalization</p> |
| <p>(16). <i>I HEREBY DECIDE (CAA, URL)</i></p>   | <p><i>I. ВИРІШИЛИ (САХ, URL)</i></p>   | <p>Omission</p>       |
| <p>(17). <i>He therefore asked the court to declare the interception of his telephone conversations unlawful and award him compensation <u>in respect of non-pecuniary damage</u> (CAA, URL).</i></p>  | <p><i>Тому він просив суд визнати перехоплення його телефонних розмов незаконним і <u>присудити йому компенсацію моральної шкоди</u> (САХ, URL).</i></p>   | <p>Omission</p>       |

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| <p>(18). <i>Criminal proceedings were instituted in relation to both assaults (CAA, URL).</i></p>  | <p><i>За фактами обох нападів відкрито кримінальні провадження (СAX, URL).</i></p>  | <p>Transposition</p> |
| <p>(19). <i>(b) Under Article 449.1 of the CCrP, only <u>the procedural acts</u> or decisions of an authority conducting criminal proceedings could be contested before the courts (CAA, URL).</i></p> | <p><i>(b) Згідно зі статтею 449.1 КПК, в суді можуть бути оскаржені тільки <u>процесуальні дії</u> або рішення того органу, що здійснює кримінальне провадження (СAX, URL).</i></p> | <p>Transposition</p> |
| <p>(20). <i>Therefore, the MNS's acts could not be contested under <u>the judicial supervision proceedings</u> (CAA, URL).</i></p>   | <p><i>Тому дії МНБ не могли бути оскаржені <u>в рамках процедури судового нагляду</u> (СAX, URL).</i></p>   | <p>Transposition</p> |
| <p>(21). <i>(f) By declaring his action inadmissible, <u>the first-instance court</u> had violated his right of access to a court (CAA, URL).</i></p>  | <p><i>(f) Відмовивши у задоволенні позовних вимог, <u>суд першої інстанції</u> порушив його право на доступ до суду (СAX, URL).</i></p>   | <p>Transposition</p> |

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| <p>(22). <i>16. On 12 January 2009 the Supreme Court <u>granted the applicant's appeal in part, quashed the appellate court's decision and remitted the case for fresh examination</u> (CAA, URL).</i></p> | <p><i>16. 12 січня 2009 року Верховний суд частково задовольнив апеляцію заявника, скасував рішення апеляційного суду і повернув справу на новий розгляд (CAХ, URL).</i></p>                       | <p>Transposition</p> |
| <p>(23). <i>It asked the court to dismiss <u>the applicant's appeal</u> (CAA, URL).</i></p>  | <p><i>Воно просило суд відхилити <u>скаргу заявника</u> (CAХ, URL).</i></p>  | <p>Transposition</p> |
| <p>(24). <i>27. On 22 June 2009 the Sabail District Court <u>rejected the applicant's appeal, finding that he did not have a right to contest its decision of 14 March 2008</u> (CAA, URL).</i></p>        | <p><i>27. 22 червня 2009 року Сабаїльській районний суд <u>відхилив апеляцію заявника, постановивши, що у нього не було права оскаржувати рішення від 14 березня 2008 року</u> (CAХ, URL).</i></p> | <p>Transposition</p> |
| <p>(25). <i>If the procedural act or decision is declared <u>unlawful by the judge</u> (CAA, URL).</i></p>   | <p><i>Якщо процесуальна дія або <u>рішення визнано суддею незаконним</u> (CAХ, URL).</i></p>   | <p>Transposition</p> |

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| <p>(26). <i>The following procedures are carried out in accordance with Articles 452 and 453 of the CCrP (Article 454): lodging an appeal against a court's decision on the compulsory conduct of investigative measures, on the application of coercive procedural measures, and on the examination of the lawfulness of the decisions or acts of authorities conducting criminal proceedings; and verifying a court's decision on lawfulness and validity (CAA, URL).</i></p> | <p><i>Наступні процедури здійснюються відповідно до Статей 452 і 453 КПК (Стаття 454): подача апеляції на рішення суду про примусове проведення слідчих дій, про застосування примусових процесуальних заходів, а також про перевірку законності рішень або дій органів, що здійснюють кримінальне провадження, <u>перевірка законності і обґрунтованості рішення суду (СAX, URL).</u></i></p> | <p>Transposition</p> |
| <p>(27). <i>(d) a person has absconded from the investigating authorities, is avoiding the execution</i></p>  | <p><i>(d) особа переховується від органів слідства, ухиляється від виконання покарання, або зникла безвісти (СAX, URL).</i></p>  | <p>Transposition</p> |

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| <p><i>of his punishment, or is missing (CAA, URL).</i></p>   |   |                      |
| <p>(28). <i>Merits. The parties' submissions (CAA, URL).</i></p>   | <p><i>Суть 1. Доводи сторін (САХ, URL).</i></p>   | <p>Transposition</p> |
| <p>(29). <i>They submitted that the interception had been on the basis of Articles 177.3.5 and 259 of the CCrP, and the latter provision contained all the minimum safeguards developed under the <u>Court's case-law</u> (CAA, URL).</i></p>                    | <p><i>Він стверджував, що перехоплення було здійснено на підставі статей 177.3.5 і 259 КПК, причому останнє положення містить всі мінімальні гарантії, впроваджені відповідно до <u>прецедентного права Суду</u> (САХ, URL).</i></p>  | <p>Transposition</p> |
| <p>(30). <i><u>Any interference with an individual's Article 8 rights</u> can only be justified under Article 8 § 2 if it is in accordance with the law, pursues one or more of the legitimate aims to which that paragraph refers and is necessary in a</i></p> | <p><i>Будь-яке <u>втручання в права особи</u>, передбачені Статтею 8, може бути тільки виправданим відповідно до Статті 8 § 2, якщо воно відповідає закону, переслідує одну або більше законних цілей, на які посилається цей параграф, і є необхідним у демократичному суспільстві</i></p> | <p>Transposition</p> |

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| <p><i>democratic society in order to achieve any such aim (CAA, URL).</i></p>   | <p>для досягнення будь-якої зазначеної мети (CAХ, URL).</p>  |                      |
| <p>(31). <i>According to the Court's well-established case-law, the wording "in accordance with the law" requires the impugned measure to have some basis in domestic law and to be compatible with the rule of law, which is expressly mentioned in the Preamble to the Convention and inherent in the object and purpose of Article 8 (CAA, URL).</i></p> | <p>Згідно усталеної <u>прецедентної практики Суду</u>, формулювання "згідно із законом" вимагає, щоб оспорювана міра ґрунтувалася на внутрішньому законодавстві і була сумісною з верховенством права, про що прямо вказано в преамбулі Конвенції і притаманне об'єкту і меті Статті 8 (CAХ, URL).</p> | <p>Transposition</p> |
| <p>(32). <i>The Court notes that under Article 177.3.5 of the CCrP, the interception of telephone conversations must be, as a rule, carried out</i></p>   | <p>Суд зазначає, що відповідно до статті 177.3.5 КПК прослуховування телефонних розмов, як правило, повинно здійснюватися на підставі <u>рішення суду</u> (CAХ, URL).</p>  | <p>Transposition</p> |



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| <p><i>on the basis of a court decision</i> (CAA, URL).</p>   |   |                                |
| <p>(33). <i>Having examined the application, and taking into account that it is not possible to collect the necessary information to reveal, prevent, document and collect material evidence of A.K.'s illegal activities, the application must be granted</i> (CAA, URL).</p> | <p><i>Розглянувши клопотання, і зважаючи, що не представляється можливим зібрати необхідну інформацію для виявлення, припинення, документування і збору речових доказів протиправної діяльності відносно А.К. в інший спосіб, клопотання підлягає задоволенню</i> (СAX, URL).</p> | <p>Grammatical replacement</p> |
| <p>(34). <i>The application shall be granted</i> (CAA, URL).</p>   | <p><i>1. Клопотання задовольнити</i> (СAX, URL).</p>  | <p>Grammatical replacement</p> |
| <p>(35). <i>3. Execution of the decision shall be entrusted to the Ministry of National Security.</i>" (CAA, URL)</p>  | <p><i>3. Виконання рішення покласти на Міністерство національної безпеки</i> (СAX, URL).</p>  | <p>Grammatical replacement</p> |

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| <p>(36). <i>On 29 July 2008 the applicant brought <u>civil proceedings</u> against the MNS and E.A (CAA, URL).</i></p>   | <p><i>29 липня 2008 року заявник подав <u>цивільний позов</u> проти МНБ і Е.А (САХ, URL).</i></p>  | <p>Grammatical replacement</p> |
| <p>(37). <i>It explained to the applicant that he had <u>a right to appeal</u> in judicial supervision proceedings, in accordance with criminal procedure (CAA, URL).</i></p>  | <p><i>Суд роз'яснив заявнику, що він має <u>право на оскарження</u> в судовому порядку, відповідно до положень кримінально-процесуального законодавства (САХ, URL).</i></p>                  | <p>Grammatical replacement</p> |
| <p>(38). <i>The decisions of a court (a judge), investigating authorities or authorities conducting <u>operational-search activities</u> constitute grounds for conducting operational-search activities (CAA, URL).</i></p> | <p><i>Рішення суду (судді), слідчих органів або органів, які здійснюють <u>оперативно-розшукову діяльність</u>, є підставою для проведення оперативно-розшукових заходів (САХ, URL).</i></p> | <p>Grammatical replacement</p> |
| <p>(39). <i>Even though the decision had specified that the secret surveillance measures</i></p>   | <p><i>Незважаючи на те, що в рішенні було зазначено, що заходи таємного спостереження відігравали</i></p>  | <p>Grammatical replacement</p> |

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| <p><i>in question were important for detecting, preventing, documenting and collecting material evidence relating to A.K. 's "<u>illegal activities</u>", the judge had failed to verify the existence of a "reasonable suspicion" about the alleged illegal activities (CAA, URL).</i></p> | <p><i>важливу роль для виявлення, запобігання, документування та збору матеріальних доказів, що відносяться до "<u>незаконної діяльності</u>" А.К., суддя не перевіряв наявність "обґрунтованої підозри" щодо ймовірної незаконної діяльності (САХ, URL).</i></p> |                                |
| <p><i>(40). The domestic law did not impose any requirement on a judge to verify the existence of a "<u>reasonable suspicion</u>" against the person concerned, or to apply the "necessity" and "proportionality" test (CAA, URL).</i></p>  | <p><i>Національне законодавство не накладає ніяких вимог на суддів щодо перевірки "<u>обґрунтованості підозр</u>" щодо відповідної особи або застосування критерію "необхідності" і "пропорційності" (САХ, URL).</i></p>  | <p>Grammatical replacement</p> |
| <p><i>(41). In such a case, the authorised official</i></p>   | <p><i>В цьому випадку уповноважена посадова</i></p>   | <p>Descriptive translation</p> |

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| <p><i>must, within forty-eight hours of carrying out the activity, submit a reasoned decision to the relevant <u>supervising court</u> (Article 445.2) (CAA, URL).</i></p>   | <p><i>особа зобов'язана протягом сорока восьми годин після прийняття даного рішення подати мотивоване рішення до відповідного <u>суду</u>, що <u>здійснює судовий нагляд</u> (стаття 445.2) (CAХ, URL).</i></p>  |                   |
| <p>(42). <i><u>The domestic proceedings concerning A.K.'s stabbing and the interception of his telephone conversations were the subject of the Court's decision in Khalil v. Azerbaijan ((striking out), nos. 60659/08, 38175/09 and 53585/09, 6 October 2015)</u> (CAA, URL).</i></p> | <p><i><u>Розслідування органів внутрішніх справ щодо ножового поранення А.К. та перехоплення його телефонних розмов були предметом судового рішення в справі Khalil v. Azerbaijan (зазнав невдачі або відмова у задоволенні) заяви № 60659/08, 38175/09 та 53585/09, 6 жовтня 2015 року)</u> (CAХ, URL).</i></p> | <p>Modulation</p> |
| <p>(43). <i><u>On 15 August 2008 the Nasimi District Court declared the</u></i></p>  | <p><i><u>15 серпня 2008 року Насімійський районний суд оголосив про відмову у</u></i></p>  | <p>Modulation</p> |

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| <p><i>applicant's action inadmissible</i> (CAA, URL).</p>  | <p><i>задоволенні позовних вимог заявника</i> (CAХ, URL).</p>   |            |
| <p>(44). <i>On 11 November 2009 the Baku Court of Appeal upheld the first-instance court's judgment, reiterating the same reasoning</i> (CAA, URL).</p>  | <p>23. 11 листопада 2009 року Бакинський апеляційний суд <u>залишив в силі рішення суду першої інстанції</u>, повторивши ті ж доводи (CAХ, URL).</p>  | Modulation |
| <p>(45). <i>In addition to his previous arguments, the applicant also complained that the first-instance court's decision had violated his right of access to a court and his right to an effective remedy under Articles 6 and 13 of the Convention</i> (CAA, URL).</p> | <p>На додаток до своїх попередніх аргументів, заявник також скаржився на те, що рішення суду першої інстанції порушило його право на доступ до суду і його право на <u>ефективний засіб юридичного захисту</u> у відповідності до статей 6 і 13 Конвенції (CAХ, URL).</p> | Modulation |
| <p>(46). <i>37. In cases provided for under Article 10 § IV of the Law on Operational-</i></p>   | <p>37. У випадках, передбачених статтею 10 § IV Закону про Оперативно-розшукову діяльність (див. Пункт 46</p>   | Modulation |

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| <p><i>Search Activities (see paragraph 46 below), the interception of telephone conversations may be carried out without a court decision, on the basis of a reasoned decision by an <u>authorised official</u> of the body carrying out the operational-search activity (CAA, URL).</i></p>      | <p><i>нижче), перехоплення телефонних розмов може здійснюватися без рішення суду, на підставі мотивованого рішення <u>уповноваженої посадової особи</u> органу, що здійснює оперативно-розшукову діяльність (СAX, URL).</i></p>  |                   |
| <p>(47). 40. <i>The procedural acts or decisions of the authority conducting the criminal proceedings, including the investigator, the prosecutor and the person conducting the operational-search activities, can be contested before the supervising courts (Article 449.1) (CAA, URL).</i></p> | <p>40. <i>Процесуальні акти або рішення органу, що здійснює кримінальне провадження, в тому числі слідчого, прокурора і особи, яка здійснює оперативно-розшукову діяльність, можуть бути оскаржені суддею, що здійснює судовий нагляд (стаття 449.1) (СAX, URL).</i></p> | <p>Modulation</p> |

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| <p>(48). <i>It also noted that if a person was not a participant in criminal proceedings, his or her right to lodge a complaint in <u>judicial supervision proceedings</u> could not be recognised (CAA, URL).</i></p>   | <p><i>Він також зазначив, що якщо особа не є учасником кримінального провадження, то його право подати скаргу <u>в рамках процедури судового нагляду</u> не може бути визнано (САХ, URL).</i></p>   | <p>Modulation</p>                |
| <p>(49). <i>It is in the first place for the national authorities, notably the courts, to interpret and apply the domestic law: the national authorities are, in the nature of things, particularly qualified <u>to settle issues arising in this connection</u> (CAA, URL).</i></p> | <p><i>В першу чергу, національні органи влади, зокрема суди, повинні тлумачити і застосовувати правила внутрішнього права: національні органи влади, за своєю природою, мають спеціальну компетенцію, щоб <u>вирішувати проблемні аспекти</u>, що виникають в зв'язку з цим (САХ, URL).</i></p> | <p>Modulation</p>                |
| <p>(50). <i>He submitted that although domestic law required prior judicial authorisation for interception, <u>the authorisation</u></i></p>   | <p><i>Він стверджував, що хоча внутрішнє законодавство вимагає попереднього судового дозволу на прослуховування, <u>процедура видачі дозволу</u> не передбачає</i></p>  | <p>Modulation, transposition</p> |

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| <p><i>procedure did not provide for sufficient safeguards against abuse, and no specific rules existed for surveillance in sensitive situations, for instance where the confidentiality of journalists' sources was at stake (CAA, URL).</i></p> | <p><i>достатніх гарантій проти зловживань, і не існує спеціальних правил для таємного спостереження в делікатних ситуаціях, наприклад, коли під загрозою знаходиться конфіденційність журналістських джерел (СAX, URL).</i></p> |  |
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## РЕЗЮМЕ

Роботу присвячено дослідженню особливостей перекладу термінів-кліше юридичного дискурсу з англійської мови українською. Було розглянуто поняття юридичного дискурсу, визначено особливості перекладу термінів юридичного дискурсу з англійської мови українською, схарактеризовано особливості англомовного юридичного дискурсу.

Практичну частину присвячено дослідженню специфіки перекладу термінів юридичного дискурсу з англійської мови українською. Було наведено особливості вживання лексичних, граматичних та лексико-граматичних трансформацій. У висновках наведено узагальнені результати роботи.

**Ключові слова:** термін, термін-кліше, юридичний дискурс, переклад, українська мова, англійська мова