

## *Lexicological and Terminological Research in the Field of Law and European Union Law*

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**ABSTRACT:** Different points of departure in lexicology (starting from a word/lexeme/lexical unit meaning) and in terminology (starting from concepts) entail different research procedures. We could speak of the intersection of these procedures in specialised lexicology which takes into account both points of view and, in addition, deals with semi-technical words/lexemes/lexical units. Research procedures differ depending on the nature of the units to be identified, the features to be analysed, the objectives to be reached and on the nature of the end products, that is, to distinguish between approaches to compiling a bilingual law dictionary (as a specialised purpose dictionary) and compiling a bilingual EU legal terminology manual/database as a standardised form of lexis presentation.

**Key-words:** *bilingual dictionaries, terminology, law, European Union law, lexicological research, terminological research*

### INTRODUCTION

Specialised bilingual dictionaries, in comparison with terminological manuals or databases, cover a broader scope of lexical material. In selecting the stock of lemmas, a bilingual lexicographer, depending on the size of the dictionary, field of coverage and whether or not the lexical units are culture dependent, could choose (as in Bergenholtz and Tarp 1995: 103) to include lemmas which are:

- a. “LSP terms only,
- b. both LSP terms and other non-common-language expressions,
- c. all expressions which must be assumed to occur regularly,
- d. expressions having a certain minimum frequency in a given LSP corpus.”

Larger bilingual dictionaries usually choose to cover terminology and common language expressions important or very frequent in the selected field and sub-fields.

Lexicological work and terminological work have different objectives (as shown in Table 1). The role of a dictionary is to document every possible linguistic diversity and complexity, and could be viewed as an open system. Specialised bilingual dictionaries might be less open than general language dictionaries, since they are field-bound, and synonyms and near-synonyms are provided, but boundaries also exist with regard to what is considered general use in a language. In specialised bilingual dictionaries, collocations have an important use-related informative role.

In terminology manuals/databases, definitions are given, and in bilingual or multilingual situations, equivalents are provided. In the case of EU legal terminology, the task is to provide equal authenticity of legal instruments in different official languages. In relation to specialised dictionaries, terminologies are closed systems. They do not go outside the scope of the field they cover. In terminology manuals and in terminology databases, collocations are not dealt with (since they are a matter of use, not of definition), unless they are extended terms.

Table 1: Dictionary and terminology approaches: similarities and differences

Bilingual law dictionary	Bilingual EU terminology
- word- (lexeme-) based	- concept based
- lists and describes	- lists and prescribes (at least at the level of recommendation)
- compares meanings in two languages and in different legal systems	- registers equivalence of meanings in two languages (in harmonised legal systems)
- deals with different meanings in different legal systems in which full equivalence does not exist (differences and/or gaps in legal systems)	- provides a definition of a concept for each term which serves as a basis for the unequivocal determination of meanings in two languages
the situation could be of: full equivalence partial equivalence no equivalence no translation    paraphrase    neologism ( <i>common law</i> )	the situation could be only of full equivalence, which enables the same/parallel legal effect in all EU jurisdictions
- comprehensible to the layman	- for specialists
- distinguishes between AmE, BrE etc., and now EU terminology – with elements of contrastiveness included	- analysis/establishment of a terminological system – purpose to reduce homonymy and polysemy
- contents: the same partly the same different	- onomasiologic appreciation of terminological studies - link between expression and conceptualisation (content & expression)

These differences bear on the methodology of necessary lexicological and terminological research.

## Methodology of research

Modern lexicological/terminological research is mainly conducted through a computational analysis of relevant corpora. Corpora used to conduct research, for the different purposes mentioned above, are of various types. For lexicological research, they may include the compilation of scientific and professional texts of typical genres, since meanings and use can be reached and understood through the context (the meanings of numerous semi-technical words/lexemes are heavily dependent on the context). For terminological study purposes, in the case of EU law, only official documents and legal instruments are relevant since, in terminology, meaning is independent of context, and term identification and precise definitions should be reached from up-to-date official documentation. The process of recording and processing terminology in databases (based on the used or generated terminology units) is crucial for implementation (of the specific matter), for teaching, and for translation and interpretation purposes. Table 2 shows possible sources used in research and the possible results which could be obtained.

Table 2: Differences and similarities in specialised lexicology and terminology research

	Bilingual law dictionary	Bilingual EU terminology
<b>sources</b>	<ul style="list-style-type: none"> <li>- texts</li> <li>- <b>corpora</b></li> <li>- parallel corpora (if translated)</li> <li>- transcripts</li> </ul>	<ul style="list-style-type: none"> <li>- texts</li> <li>- parallel corpora (of official documents</li> <li>- texts exist in all EU official language versions)</li> </ul>
<b>to obtain</b>	<ul style="list-style-type: none"> <li>- single-word terms</li> <li>- multiword terms</li> <li>- general words in specialised use +</li> <li>- frequent general words</li> </ul>	<ul style="list-style-type: none"> <li>- single-word terms</li> <li>- multiword terms +<sup>1</sup></li> </ul>

## Examples

The examples given in Table 3 show the differences discussed above (Tables 1 and 2) through seemingly simple international words (*convention*, *regulation* and *directive*). The column on the left shows their headword articles in a bilingual dictionary (Gačić 2010), which are followed by numerous collocations, and the column on the right shows entries from a possible terminology database<sup>1</sup> which have a specific meaning within the framework of EU legal terminology (as exemplified in the corpus of European legal acts).

<sup>1</sup> See Struna: <<http://struna.ihjj.hr/>>

Table 3: Examples of headwords in a specialised dictionary and in a terminology base or manual

Bilingual law dictionary	Bilingual EU terminology <sup>2</sup>
<p><b>convention</b> konvencija, međunarodni ugovor; ustaljeno pravilo; sporazum, dogovor, pogodba; klauzula, odredba; opća suglasnost; običaj; Konvencija (za redoviti postupak revizije Ugovora o EU); sastanak, skup, zbor; kongres, skupština, konferencija; konvencionalnost; (AmE) Konvencija (kongres stranke na kojem se biraju kandidati stranke za predsjednika i potpredsjednika)</p>	<p><b>konvencija</b> Def. 1: International agreement on a specific topic. <i>Međunarodni sporazum o određenoj tematici.</i> <b>Konvencija</b> Def. 2 An assembly of representatives of the national Parliaments, of the Heads of State or Government of the Member States, of the European Parliament and of the Commission convened to amend the Treaties in accordance with an ordinary revision procedure.<sup>3</sup> <i>Skupština predstavnika nacionalnih parlamenata, šefova država ili vlada zemalja članica, Europskog parlamenta i Komisije sazvana radi izmjena i dopuna Ugovora u redovitom revizijskom postupku.</i> <b>FR: convention; DE: Konvention</b></p>
<p><b>regulation</b> uredba (EU); vladina uredba; propis, pravilo, odredba; pravilnik, poslovnik; naredba; reguliranje, regulacija, usmjerenje, ravnanje, uređivanje, uređenje, podešavanje, udešavanje; politika reguliranja</p>	<p><b>uredba</b> Def. Pravni propis EU obvezujući za sve zemlje članice. Def. Under the EEC Treaty, Art. 189, or the Euratom Treaty, Art. 161, a measure adopted by the EC Council or the EC Commission which has general application, is binding in its entirety and has direct applicability (q.v.) in all Member States <b>FR: reglement ; DE: Verordnung</b></p>
<p><b>directive</b> uputa; direktiva (EU); naputak, (obvezujuća) smjernica, instrukcija</p>	<p><b>direktiva</b> Def. Pravni akt EU čiji sadržaj zemlje članice moraju u određenom roku prenijeti u svoje zakonodavstvo. Def. An instruction by the Community to a Member State to legislate on a particular matter within a defined period of time. A directive gives a legislative outline, but allows each Member State to decide the details of the legislation in its implementing laws. <b>FR:directive; DE: Richtlinie</b></p>

The legal field is very dynamic, with frequent changes at national or international levels which lead to lexical dynamism and frequent changes in terminology.

## LEXICAL DYNAMISM AND CHANGES IN TERMINOLOGY

New legal realities incessantly develop new legal concepts, based on which new terms are created, and new language uses established. Lexical dynamism and changes in the used legal language and terminology have characterised the legal system of the European Union since its founding Treaties (EEC) and following the major Treaties and legal instruments until today.

Lexical dynamism in EU law is frequently reflected through:

- terminologisation or reterminologisation of already existing words or terms
- new terms to denote existing or similar functions
- changes in the names of institutions
- problems of polysemy in naming institutions (council, community)
- problems of finding equivalents to render meaning into other official languages.

### Terminologisation or reterminologisation of already existing words or terms

European institutions, following the entry into force of the Lisbon Treaty, may adopt only **five types of acts (as opposed to fourteen prior to that<sup>2</sup>):** *regulations*, *directives* and *decisions* (which are **binding** acts) and *recommendations* and *opinions* (which are not legally binding). In addition, a new category of legal act is envisaged: a *delegated act* (when the legislator delegates the power to adopt acts amending **non essential elements** of a legislative act to the Commission). All these types of acts already existed in different national legislations, but within the framework of the EU terminology they became different concepts acquiring new meanings and new definitions.

### New terms to denote existing or similar functions

EU countries have their diplomatic representations through embassies and consulates, and to denote such representations for EU purposes, the terms *diplomatic* and *consular missions* are used.

<sup>2</sup> [http://europa.eu/legislation\\_summaries/institutional\\_affairs/treaties/lisbon\\_treaty/ai0032\\_en.htm](http://europa.eu/legislation_summaries/institutional_affairs/treaties/lisbon_treaty/ai0032_en.htm)

Table 4: Existence of different terms – *embassies* and *consulates* ≠ *diplomatic* and *consular missions* and *Union delegations*

	<b>International law:</b>	<b>EU law:</b>
EN	<i>embassies</i> and <i>consulates</i>	<i>diplomatic</i> and <i>consular missions</i> of the Member States and the <b>Union delegations</b> in third countries and at international conferences (and their representations to international organisations)
HR	<i>veleposlanstva</i> i <i>konzulati</i>	<i>diplomatske</i> i <i>konzularne misije</i>

### Changes in the names of institutions

Frequent change in EU legal terminology/names of institutions and organisations can be exemplified through the use of the terms *court/tribunal* and *council*. In such cases, an indication of a change and note on the previous use has to be included in terminology databases.

Following the entry into force of the Treaty of Lisbon on 1 December 2009, the official name the *Court of Justice of the European Communities* (ECJ)<sup>3</sup> changed to the *Court of Justice* (although it is still sometimes referred to as the *European Court of Justice*). The *Court of First Instance* (created in 1988) was renamed *General Court* and, besides these two courts, the third judicial jurisdiction is that of the *Civil Service Tribunal* or the *European Union Civil Service Tribunal* (created in 2004)<sup>4</sup> which are all covered by the name the *Court of Justice of the European Union*.

Table 5: Terms/names for *courts* in the European Union

	<i>Court of Justice of the European Union</i> HR: Sud Europske unije		
EN	<i>Court of Justice</i> <sup>4</sup> ( <i>European Court of Justice</i> )	<i>General Court</i>	<i>Civil Service Tribunal</i> ( <i>European Union Civil Service Tribunal</i> )
HR	Sud (Europski sud)	Opći sud	Službenički sud (Europski službenički sud)

<sup>3</sup> It was established in 1952 as the *Court of Justice of the European Coal and Steel Communities*, and renamed as the *Court of Justice of the European Communities* in 1958. So, in less than sixty years, it changed its name three times and underwent considerable reorganisation.

<sup>4</sup> La Cour de justice de l'Union européenne, dont le siège est établi à Luxembourg, comprend trois juridictions: la Cour de justice, le Tribunal (créé en 1988) et le Tribunal de la fonction publique (créé en 2004) ([http://curia.europa.eu/jcms/jcms/Jo2\\_6999/](http://curia.europa.eu/jcms/jcms/Jo2_6999/)).

The term *court of justice* was translated into English from French (*cour de justice*) which has not been used in France, except recently in the *Haute Cour de justice de la République* (although the term is used in Canada and in Switzerland, and for naming international institutions).

### Problems of polysemy in naming institutions

Very frequently within the European Union (and its forerunners), different institutions bear a name using the same head noun and, besides the fact that they might differ considerably in their scope of activity and competences, such practices are inconvenient from the linguistic point of view and are hardly clear for the broader public.

One such term is *Council*, where knowledge of the functioning and of the history of the institutions that share this name is necessary to differentiate between them. This takes considerable effort (and is confusing for the general public as a whole).

The **European Council** consists of the heads of state or government of the member states, the President of the European Commission and the High Representative for Foreign Affairs takes part in the meetings. With the entry into force of the Treaty of Lisbon on 1 December 2009, it became an institution with its President (of the European Council).

The **Council of the European Union** (sometimes just called the **Council** and sometimes still referred to as the **Council of Ministers**) is composed of one minister per Member State with responsibility for a given area (and the related European Commissioner contributing, but not voting) who meet in ten different Council configurations.<sup>5</sup>

<sup>5</sup> Following the entry into force of the Treaty of Lisbon, the General Affairs and Foreign Affairs configuration was divided into:

General Affairs

Foreign Affairs

Economic and Financial Affairs

Justice and Home Affairs (JHA)

Employment, Social Policy, Health and Consumer Affairs

Competitiveness (internal market, industry, research and space)

Transport, Telecommunications and Energy

Agriculture and Fisheries

Environment

Education, youth, culture and sport.





*ka policijska škola* and the best translation, due to the fact that CEPOL as such does not offer regular higher education to police officers,<sup>7</sup> is *Europska policijska akademija* (as translated into the majority of other European languages).

Such dynamism and changes and lack of willingness to name different entities by different names frequently cause difficulties in establishing and translating terminology. Terminology databases should make a reference to all (historical) varieties, since older (obsolete) terms still exist in documents, and sometimes they are used in quite recent scholarly or other writings (some of them through reference to older documents or due to a delay in publishing) and many official internet sites are too slow in reconstructing their pages in accordance with the changes made, thus leading to misunderstanding concerning the current state.

## Conclusion

Dictionary equivalents provide help in translating/interpreting legal texts from or into a foreign language or in writing legal texts in foreign languages. In order to be able to address distinctions in different legal systems/jurisdictions, bilingual law dictionaries have to be compiled for the named language and should not amount to mere translated versions of foreign dictionaries or word lists. The problem of bilingual lexicology and lexicography is the incongruity of legal systems and especially of existing gaps in legal systems (which are very frequent, especially when comparing continental and Anglo-Saxon legal systems).

In the domain of terminology (as in the case of EU terminology), new legal concepts are introduced for Member States. They are not characterised by gaps in the system of concepts as they are when different legal systems are contrasted, but they are semantically contrasted within these different linguistic systems, so new linguistic means (terms) have to be defined, and equivalents which reflect the meaning (definition) in the best possible way have to be determined. So, the task is to create, standardise, distribute, pass on, implement and manage terminology to provide for the needs of specialists, terminologists and translators/interpreters, and to disambiguate terms (to which end definitions are provided). It is sometimes very difficult to find proper equivalents in other languages since terms may reflect the linguistic and cultural properties of the language in which they were created. In such cases, they are sometimes taken over into other languages (e.g. *avis*, *acquis communautaire*, *screening*), but usually after some time satisfactory equivalents are found and they are changed.

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<sup>7</sup> CEPOL organises courses, seminars and conferences on key topics relevant to all police forces in Europe. The implementation of the activities takes place at the National Police Training Colleges of the Member States.

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## LEKSIKOLOŠKA I TERMINOLOŠKA ISTRAŽIVANJA NA PODRUČJU PRAVA I PRAVA EUROPSKE UNIJE

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**SAŽETAK:** Leksikološka i terminološka polazišta, iako su u nekim segmentima zajednička, razlikuju se budući da leksikologija polazi od značenja riječi/leksema/leksičke jedinice, a terminologija od pojma. Polazišni postupci se ukrštaju u specijaliziranoj leksikologiji koja uzima oba polazišta, te obrađuje i opće riječi sa specijaliziranim značenjem u stručnoj upotrebi kao i, za područje, najvažnije riječi iz općega jezika. Ukazuje se na temeljne sličnosti i razlike i kod obrade značenja. Dok rječnik tolerira i djelomičnu ekvivalentnost (ako se ne može izbjeći i parafrazu), kod terminologije je nužna potpuna ekvivalentnost zbog nužne jednoznačnosti teksta i komunikacije (u pravu EU se govori o istovjetnosti pravnih posljedica kroz pravne instrumente na svim službenim jezicima).

Navode se primjeri obrade *convention*, *regulation* i *directive* u dvojezičnom rječniku i u terminološkoj bazi/priručniku – da bi se ukazalo na razliku tih dvaju postupaka. Ukazuje se na primjer razlikovanja diplomatskih i konzularnih predstavništava u međunarodnom pravu i pravu EU. Posebno se ukazuje na dinamičnost i promjene u nastajanju termina i imena institucija (*court*, *council*) te na nužnost sadržajne analize pojma pri određivanju ekvivalenata (*European Police College – Europska policijska akademija* umjesto često korištenih *Europska visoka policijska škola* ili *Europska policijska škola*).

Dvojezična pravna leksikografija, uz potrebu šire pokrivenosti područja kojim se bavi, ima osobito težak zadatak rješavanja leksičkih jedinica koje proizlaze iz nepodudarnosti pravnih sustava, od različitosti značenja termina i institucija do rješavanja postojanja praznina u pravnim sustavima (bilo da se to odnosi na lijevu ili desnu stranu rječnika). Kad se radi o pravnoj terminologiji EU, ne odričući značenje pravnog i kulturnog nasljeđa koje se djelomično prenosi kroz jezik na kojem EU terminologija izvorno nastaje, ekvivalenti u različitim jezicima ne smiju ukazivati na pojmovnu različitost, odnosno ne smiju se koristiti nacionalnom pravu specifični termini koji pokrivaju neki drugi sadržaj da ne bi došlo do neželjenih pravnih posljedica.

**Ključne riječi:** *dvojezični rječnici, terminologija, pravo, pravo EU, leksikološka istraživanja, terminološka istraživanja*