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СИСТЕМА ЕДИНИЦ ЮРИДИЧЕСКОЙ ТЕРМИНОЛОГИИ

Аннотация

Общая теория термина уделяет большое внимание анализу единиц, формирующих терминологические системы. Состав терминов рассматривается лингвистами с различных точек зрения: их происхождения, структуры, семантических особенностей и т.д. В данной статье рассматривается проблема классификации единиц терминосистемы на материале юридической терминологии с точки зрения существования подсистем терминов внутри единой терминосистемы и приобретения лексическими единицами признаков терминологичности. Этот процесс может быть представлен рядом стадий, на которых лексические единицы приобретают различные терминологические свойства.

Ключевые слова: юридическая терминология, термин, номенклатура, прототермин, терминоид.

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THE SYSTEM OF LEXICAL UNITS IN LEGAL TERMINOLOGY

Abstract

The general theory of terms pays much attention to the analysis of the system of lexical units forming terminological systems. The composition of terms is considered by linguists from various points of view: their origin, structure, semantic characteristics, etc. This article deals with the problem of classification of terminological units with the example of legal terminology from the point of view of subsystems of terms existing in the legal terminology and acquisition of terminological properties by lexical units. This process may be represented by a series of stages at which lexical units acquire various terminological properties.

Keywords: legal terminology, term, nomenclature, proto-term, terminoid.

Introduction

The purpose of this article is to consider various degrees of terminological properties of lexical units in legal terminology. In some works devoted to the general theory of terms, the question of the degree of manifestation of terminological properties by lexical units is solved taking into consideration specific features of terminologies and their correlation with definite spheres of knowledge [1]. The degree of terminological properties of lexical units may be different depending on the origin of words and word combinations, which may be drawn from the general language, borrowed from other languages, or coined in the terminology proper. The main characteristic feature of a term is represented by its functional definition. A term is a word or word combination used to denote a notion of a specific sphere of knowledge. Any lexical unit adapted to such a system either acquires a scientific or professional definition and/or is included into specific classifications of objects and notions.

The system of lexical units in legal terminology

Legal terminology is represented by two interacting terminological subsystems, those of law (legislation) and theory of law (jurisprudence). Taking into account the genetic relationships between the vocabulary of common use with these terminological systems one can single out the following types of legal terminological signs: 1) proto-terms of law; 2) proto-terms of jurisprudence; 3) terms used both in laws and jurisprudence; 4) terms of jurisprudence; 5) legal nomenclature; 6) terminoids of law; 7) terminoids of jurisprudence.

Combination in item 3 of terms of law and jurisprudence is explained by the fact that all terms of law become terms of jurisprudence, but not vice versa. From a genetic point of view, one can single out terms of law that existed before the emergence of jurisprudence and can be regarded as proto-terms of the latter.

Proto-terms of law are represented by three types of units.

1. Lexical units of a historically distant period denoting the concepts of customary law, which is closely connected with morality (popular legal terminology).

2. Lexical units of jurisprudence, which were not institutionalized in laws, but were the product of scientific thought aimed at perfection of law; some of such terms may be adopted by the terminology of law due to extra-linguistic factors (e.g. the Russian terms *лжепредпринимательство* (pseudo-entrepreneurship), *заведомо ложная реклама* (false advertising), which passed the stage of proto-terms before the adoption of the new

Criminal Code of the RF in 1997). The problem of criminalization of pseudo-entrepreneurship and false advertising has arisen in connection with the transition of the Russian national economy to market relations. In a number of official documents, it was stressed that under the new economic conditions the absence of legal rules concerning liability for pseudo-entrepreneurship creates considerable difficulties in combating shadow economy. The Decree of the President of the Russian Federation of September 18, 1993, № 1390 "On additional measures of strengthening law and order in the Russian Federation" stressed the urgent necessity of introduction of criminal liability for pseudo-entrepreneurship to fight against the penetration of criminal elements into the national economy [2]. A similar proposal came from regional bodies of power.

3. At present, the stage of proto-terms is often associated with the origin and functioning of words or word-combinations in the socio-political contexts, where such units stand for phenomena that are often the subject of debate because of their disputable relevance to the particular social stage of development. It seems that at present the word-combination *клонирование человека* (human cloning) is in the progress of becoming an institutionalized term. Hypothetically, this type of proto-terms can incorporate such proto-terms of law that existed before the emergence of mass media. Such units also reflected the most important concepts of social life, which afterwards were institutionalized in ancient legal rules because of the necessity of legal regulation of the emerging social phenomena and relationships. However, it is obvious that it is very difficult to find such proto-terms of the past.

Proto-terms of jurisprudence are represented by two types:

1. Those of the ancient and Old Russian law.

2. Units emerging in the subsystem of political vocabulary.

They become relevant for a certain period of development of the society. E.g., the term *отмывание денег* (money laundering) originated in the political vocabulary as a translation loan word from English and only then did it penetrate into the terminology of jurisprudence where a need of singling out such a type of economic crimes was theoretically substantiated. Then this crime was institutionalized in the Criminal Code of the RF.

Among the *terms of law* there are the following groups:

1. Terms having definitions.

2. Non-defined terms, including two sub-types: a) terms of the Russian law of the earlier periods (X-XVII centuries) used in their basic meanings; b) units of various historical periods with specialized legal meanings.

The *terms of jurisprudence* from the very beginning were supplemented with definitions.

Legal nomenclature includes lexical units of common usage. Their relations with legal terminology may be found only within legal classifications. The difference of nomenclature from terms lies in the fact that the former are represented by innumerable concrete nouns denoting objects. These units are connected with the system of concepts indirectly, through terms of the last stage of their differentiation. As the legal status of such objects is not governed by the law directly because of their multiplicity, they are often distinguished with the help of *ad absurdum* method. This method includes the procedure of matching the meaning of the nomenclature sign with that of the term. E.g., to prove that a vehicle is a source of heightened danger one must prove that such type of a vehicle (e.g., disabled carriage) is dangerous for pedestrians. If the statement becomes absurd from the legal and commonsense points of view, the lexical unit does not belong to legal nomenclature.

Another type of units belonging to legal nomenclature are numbered articles of laws and codes of law. Their numbers stand for specific terms.

Terminoids are the units belonging to the sphere of jurisprudence. They are not used by the majority of scholars. That is, their use is limited to contexts of one or several authors.

The boundaries between various categories of units of specialized legal vocabulary is very transparent. They can move from one category to another. Thus, a term of jurisprudence may become a term of legislation. All terms of law become terms of jurisprudence, but not all the terms of jurisprudence are accepted by terminology of law, because many of them are the names of theoretical artificial mental constructs. Terminoids can become both terms of jurisprudence and terms of law. A term can become a historicism, and then it can again appear in terminologies of law and jurisprudence sometimes undergoing the stage of a proto-term or terminoid. The example is the Russian legal term *банкротство* (bankruptcy), which disappeared from the active

use in the Russian legal terminology after the October Revolution, and then it appeared there again due to the changes in the national economy and legal relations.

Only the units of nomenclature do not change their status. Transformations in the subsystem of nomenclature are connected only with differences in their corpus in certain historical periods (e.g., names of bodies of the three branches of power, names of the officials).

Specificity of formation of the legal terminology reveals the following stages of terminological character of lexical units:

1. The zero one, where the word or word combination is an accessory of everyday language and does not tend to become a proto-term.

2. The first one, where a word or word combination becomes a proto-term. At this stage, a lexical unit expresses the concept of customary (ancient) law, or it is part of the political lexicon denoting a phenomenon, which in accordance with the public opinion needs legal regulation.

3. The second (terminological) one, which in its turn includes three stages:

A) A non-defined term, which is not included in classification hierarchies (for the pre-scientific period of legal terminology formation). Terminological character of such words is connected with their ability to express key notions of the three components of a legal norm (hypothesis (1), disposition (2), and sanction (3)). E.g.: *Gif eare (2) of peorð (1) aslagen XII seill. gebete (3)* [3].

B) A non-defined term included into classification hierarchies, in which their place can be established and its meaning can be revealed with the help of the analysis of its meaning on the background of meanings of other terms of the same group.

C) Terms having definitions.

We can assume that these stages are common to all the terminological systems arising from practical human activity (medicine, economics, law, etc.). However, differences are inevitable and depend on extra-linguistic factors.

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