

PECULIARITIES OF FORMAL STRUCTURE OF TERMS DENOMINATING CONCEPTS OF HUMAN RIGHTS AND FREEDOMS IN LITHUANIAN, GERMAN AND ENGLISH

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The article presents an interdisciplinary approach towards the analysis of terminology of Constitutional Law from the linguistic and legal perspectives. The article stresses the importance of analyzing and comparing the formal structure of terms denominating concepts of human rights and freedoms in Lithuanian, German and English as one of the main areas of Constitutional Law. The results reveal that these concepts are expressed in the analyzed languages through multi-word terms; however, each language follows different patterns of term formation.

Keywords: Comparative legal linguistics, constitutional law, terminology, formal structure of terms.

Introduction

Legal language is considered to be a separate branch of language and has a specific system of terms and sentence structure. The feature which notably distinguishes it from other branches of language is its lexis, i.e. terminology, which has become one of the most important objects of research conducted on the legal language recently [12, p. 3]. It is notable, that the level of the development of terminology of any branch of science, industry or law in particular depends on the degree of the development and advancement of the sphere itself where new concepts appear and terms referring to them are created and used. Thus areas of science which have only started being developed are in need of creating consistent and systematized terminology. Since the restoration of independence of Lithuania in 1991 the political structure of the Lithuanian state has changed and all areas of law, as well as the constitutional law, had to be reviewed and developed. As significant modifications were introduced into its legal system, the great need for the creation of consistent and systematized legal language and legal terminology emerged. In order to achieve that it is necessary to analyze the tradition of term formation and creation of the language, as terminology is cre-

ated in line with the general principles of word formation and should be consistent with the norms of the language. However, it also might be useful to compare the principles of creating terminology with other languages, as quite a number of terms are international in nature. As researchers of the Lithuanian legal language claim ‘if one wishes to improve the quality of translations of legal documents from and to Lithuanian, it is necessary to analyze and compare legal terminology of Lithuanian and other languages, term formation and semantics’ [6]. We believe this statement could be applied to any language as well.

Most of the researches conducted on the Lithuanian legal language are diachronic in character or analyze it from cultural perspective. For instance, A. Umbrasas analyses legal terminology of Lithuanian, its status during the interwar period of 1918–1940, the alternation of terminology in the translations of the Lithuanian civil codes and the criminal statute [15]. In general, there not many synchronic contrastive researches of terminology of Lithuanian and other languages, whereas research which would focus on the comparison of legal terminology of Lithuanian and other languages is scarce. The most notable linguists of Lithuania analyze general terminology issues in their works, such as principles of term formation, typology, sources and peculiarities, are K. Gaivenis [4], S. Keinys [7] and E. Jakaitienė [5]. Some linguists have addressed the comparative aspects and issues of equivalence of terminology of Lithuanian and other languages, e.g. V. Marina [11, p. 98–108], E. Kontutyte [8, p. 69–79]. Synchronic contrastive

analyses of terminology of criminal law are conducted by S. Rackevičienė and V. Janulevičienė [14, p. 98–108]. The present research will contribute to the area of linguistic research of comparative legal terminology.

The object of the present research is terms denominating concepts of human rights and freedoms in Lithuanian, German and English with the focus on their formal structure. The questions of equivalence or semantics were not addressed in this paper. The research is aimed at identification of the patterns of formal structure of the analyzed terms characteristic of each language, the frequency thereof and the reasons which determine the choice of a particular pattern. A comparative linguistic method of analyses is applied, which seeks to reveal similarities and differences in formal structure of legal terms in Lithuanian, German and English. The analysis of the formal structure of terms involves classification of terms into formal types and determining what patterns of term formation are characteristic of each language. The object of the research is the terms of the constitutional law of Lithuania, Germany and the United Kingdom related to regulation of the relationship of an individual, the society and the state, human rights and freedoms.

The Lithuanian terms were selected from the Constitution of the Republic of Lithuania (hereafter LRK) and the Universal Declaration of Human Rights, 1948 in the Lithuanian language (hereafter VZTD), the German terms were selected from the The Basic Law for the Federal Republic of Germany, 1949, in German (hereafter GBD – Grundgesetz für die Bundesrepublik Deutschland),

and the Universal Declaration of Human Rights, 1948 in German (hereafter AEM – Allgemeine Erklärung der Menschenrechte), whereas the English data was acquired from the Human Rights Act, 1998 in English (hereafter HRA), which is based on the European Convention on Human Rights (hereafter ECHR), and the Universal Declaration of Human Rights, 1948 in (hereafter UDHR). The choice of the legal documents can be explained by the fact that The Basic Law for the Federal Republic of Germany, 1949, is considered to be extremely important in the history of constitutionality worldwide as it entrenched the idea of a legal and social state. This document is universally considered to be the most comprehensive catalogue of human rights and freedoms alongside other important international documents entrenching human rights and freedoms.

The roots of the development of the Constitutional law and legal language in Lithuania

Although the roots of the development of constitutionality of Lithuania lie in the XVI c. when the constitutional provisions were first codified in the Lithuanian Statutes, the first real steps in the history of the development of the constitutional law of Lithuania were made only in the beginning of the late 1920-ies when the first provisional constitutions of Lithuania were drawn up (1918, 1919 and 1920). After the draft constitutions the first permanent Constitution of the Republic of Lithuania was adopted in 1922, which provided for the parliamentary form of government. In 1928 an octroying Constitution of the Lithuanian State was ad-

opted, which is considered to be one of the first constitutional acts in Europe to shift from democracy towards authoritarianism, whereas the Constitution of the Lithuanian State which entered into force in 1938 was of an explicit authoritarian character. The period of 1940ies – 1990ies can be referred to as an interruption of the authentic development of the constitutionality of Lithuania, during which the constitutions of the Soviet Republic of Lithuania of 1940 and 1978 were in force [10, p. 35–296].

Upon the restoration of independence of Lithuania on 11 March, 1990, the Provisional Basic Law was adopted, which was in force until 25 October, 1992, when the Constitution of the Republic of Lithuania was adopted by referendum. In its form the new constitution resembles a codified constitution and according to the established competences of the state institutions provides for the form of government of a parliamentary republic, as the Constitutional Court of Lithuania has construed, which is also characterized by some features of the so called mixed (semi-presidential) form of government.

Thus, we can see that the development of the constitutionality of Lithuania stretches over several centuries. It is a paradox that having such a long legal history Lithuania reached the XX century without having its own national legal language. Sources of law in the Grand Duchy of Lithuania were announced and legal relations were dealt with not in Lithuanian, but in the Slavonic chancellery language. This language was used for writing the statutes of Lithuania, whereas the translations thereof were made only into Latin or

Polish. Lithuanian language was not allowed into state institutions by the nations who had divided the Lithuanian territory in the end of the XVIII c. and oppressed it for more than a century. Disciplines at Vilnius University were conducted in Latin or Polish and upon the closure of the university future lawyers were forced to study law in foreign countries in foreign languages. According to professor M. Maksimaitis, the terminology of the Lithuanian law and professional legal language in general started to be formed alongside the restoration of the statehood of Lithuania in 1918, and was primarily determined by the needs of the restored national state. Great attention was paid to the Lithuanian legal language by the State Council established in 1928. A special editorial board was established to edit draft legislation; moreover, a special commission on legal terminology was formed to create and improve new legal terms [9, p. 7]. Professor M. Maksimaitis draws a conclusion that during the two decades of the independence in the inter-war period the Lithuanian legal terminology and professional legal language was constantly developed and became a sound basis for the modern Lithuanian legal terminology and legal language [9, p. 12]. Thus we can state that during the inter-war period the terminology of the constitutional law was formed, which reflected the peculiarities of the science of the constitutional law [1, p. 49–50].

In this vein it is also notable that there are changes in the conception of the constitutional law itself. It should be noted that the previously prevalent conception of constitutional law as one of

the branches of law has been gradually replaced by the perception of constitutional law as not merely a branch of law, but rather the law of the Constitution, whereas the Constitution is viewed not just as an act (or one of the most important acts), but as a specific area of law, which comes into foreground among other laws and differs from them in many aspects. The Constitution is now viewed as the primary constitutive state act, as the ultimate law (*law par excellence*), and the whole legal system is viewed as a constitution-centered legal system with the Constitution as its core part. This constitution-centered conception of the legal system stipulates that the Constitution is a legal act that integrates the whole legal system, directs the legal regulation and determines its content. The Constitution is the only primary legislative act of constitutive (sovereign) power, the sole effective measure of lawfulness of the legal system. It is also notable that currently prevalent perception of constitutional law states that constitutional law determines not only present, but also prospective framework and content of legal regulation and directs the law-making process itself [16, p. 16–17].

One of the foremost institutes of constitutional law is the institute of human rights and freedoms. As professor D. Beinoravicius notes, the aim of constitutions, which were formed upon the restraint or weakening of the absolute power, especially in the end of the XVIII c., was to set the limits of power and to protect human rights and freedoms [2, p. 188]. Human rights and freedoms are the core value of the modern civilization. They are not only

a legal category, but also civil, political and moral category. The concept of human rights as entrenched in the national law by Article 18 of the Constitution of the Republic of Lithuania stipulates that human rights and freedoms are inalienable. Human rights and freedoms are the most important legal values and must be safeguarded and honored by the state institutions and officials [3, p. 353].

When regulating different social spheres, entrenching human rights and freedoms usually Lithuanian terms are used; however, unavoidably the terms have to be translated or adopted from other languages, especially when international concepts are involved. It is notable that the status of Lithuanian as the state language is entrenched in the Article 14 of the current Constitution of the Republic of Lithuania, which states that «The State language is Lithuanian». As A. Pupkis notes that by granting the statehood sign to a language, the state guarantees the survival of that language and unimpeded use thereof for communication in all life spheres, i.e. public activity, economic, political, cultural life, etc. [13, p. 215]. Still, in the context of Europeanization and globalization processes the influence of other language on Lithuania, especially of English, is indeed noticeable; thus, according to M. Vainiute it is necessary to strengthen by all means possible the positions of the Lithuanian language in the environment of multilingual Europe [17, p. 37]. These processes undoubtedly affect the sphere of law in general and the sphere of constitutional law in particular. Undoubtedly the state language policy is extremely important in this respect, as well as the activity of the state institu-

tions such as the State Commission of the Lithuanian Language and the State Inspection of Language of norming, codification and other functions.

There are several sources of terminology in all branches of science as well as the terms used in constitutional law. One of the ways of term formation is termization, i.e. the process under which ordinary words of the common language are transformed into terms, for instance, words acquire a new meaning; the meaning of a word can be widened or narrowed, etc. Other sources of terminology are borrowing (including international terms), translation and formation [1, p. 55–59], which we are going to discuss in more detail.

Discussion of the results of the analyses of the Lithuanian and English terms referring to regulation of the relationship of an individual, the society and the state, human rights and freedoms. The research reveals that all of the analysed terms are multi-word terms. They can be classified into the following formal types:

First pattern: **Genitive + right/ freedom**

This pattern is characteristic only of Lithuanian and German. English terms do not follow this pattern.

According to their meaning the Lithuanian terms following this pattern can be further subdivided into two types.

The noun in the genitive case in the pattern of the first type names the object of the human right or freedom (i.e. the right or freedom to something), e.g. *rinkimų teisė* («the right to elections»), *peticijos teisė* («the right of petition»), *minties, tikėjimo ir sąžinės laisvė* («free-

dom of thought, conscience and religion»), nuosavybės teisė («the right of property»).

The noun in the genitive case in the pattern of the second type indicates who the right of freedom belongs to, e.g. *sutuoktinių teisės («the rights of spouses»), lygios moterų ir vyrų teisės («equal rights of women and men»), žmogaus teisės ir laisvės («rights and freedoms of humans»).*

This model is not frequent and on average makes 16% of the analysed cases.

In German this pattern was found only in one document – the Constitution and makes 28% of the cases, e.g. *die Freiheit des Glaubens («freedom of religion»), die Freiheit des Gewissens («freedom of conscience»), die Freiheit der Meinungsäußerung («freedom of expression»).* This model is quite productive in German.

Such pattern does not exist in English, as the genitive case is expressed in the analysed documents by other linguistic means:

either by prepositional constructions (when either referring to the object of the human right or freedom or when indicating who the right of freedom belongs to), e.g. *the right of petition (peticijos teisė), the right to freedom of thought, conscience and religion (minties, tikėjimo ir sąžinės laisvė); the equal rights of men and women (lygios moterų ir vyrų teisės);*

either by an infinitive (when referring to the object of the human right or freedom), e.g. *the right to own property (nuosavybės teisė);*

or by an adjective, e.g. *human rights (žmogaus teisės).*

Second pattern: **Prepositional constructions**

This pattern is characteristic of all three languages under consideration.

The Lithuanian terms follow the pattern «right/freedom» + «the preposition» + «(to)» + a noun in the accusative case; the German terms follow the pattern «right/freedom» + «a noun» + the prepositions «auf», «von», «zu», while the English terms follow the pattern «right/freedom» + «prepositions» to, of, from + a noun.

In Lithuanian the analysed prepositional constructions are formed using only one preposition, i. e. «į» (to), e.g. *teisė į gyvybę, laisvę, asmens saugumą (the right to life, freedom and security of person), teisė į gynybą (the right to protection).*

The comparison of frequency of terms formed by means of prepositional constructions in LRK ir VZTD shows a significant difference. In LRK only 2 constructions of this type were found, which makes only 6,25% of all analysed patterns, meanwhile in VZTD the number thereof is 32,5%. One of the reasons of these diverse data could lie in the nature of the analysed documents. VZTD is a translation of an international document from English into Lithuanian. The original text uses numerous precise terms which the translator tried to preserve in the process of translation. LRK was originally written in Lithuanian, it is not a translation from another language. In comparison with the language of other branches of law, the language of LRK uses less specific terms used only by lawyers. This is determined by the addressee of the document. The constitution is intended for people with or

without legal education that is why its language has to be not only formal, precise and clear, but also comprehensible to ordinary citizens. Thus this language uses the minimum amount of specific terminology. In LRK the pattern the preposition «į» (*to*) + a noun in the accusative case «is replaced by either the pattern» right/ freedom + infinitive, where the preposition «į» is replaced by a verb which specifies the action of «getting» or «having», e.g. VZTD – *teisė į poilsį ir laisvalaikį* vs. LRK – *teisė turėti (to have) poilsį ir laisvalaikį*; VZTD – *teisė į socialinę apsaugą*, vs. LRK – *teisė gauti (to get) socialinę apsaugą*, or the right or freedom is expressed not through a term, but rather by an explicit construction (a full sentence) explaining the essence of the right or freedom (e.g. VZTD – *teisė į mokslą*, vs. LRK – «Mokymas valstybinėse ir savivaldybių bendrojo lavinimo, profesinėse bei aukštesniosiose mokyklose yra nemokamas» and «Aukštasis mokslas prieinamas visiems pagal kiekvieno žmogaus sugebėjimus»).

In German the analysed prepositional constructions are formed using prepositions «auf», «von», «zu»: das Recht auf Leben («*the right to life*») – (5,5% / 45,5%); die Freiheit von Furcht («*freedom from fear*») – (0% / 0,5%); das Recht zum Widerstand («*the right to confront*») (5,5% / 0%); total: (11% / 50%).

The comparison of frequency of terms formed by means of prepositional constructions in the analysed documents again shows a significant difference. In the Constitution only 4 constructions of this type were found, which makes only 11% of all analysed patterns, meanwhile in AEM the number thereof is 22, 21 of

which are constructions with the preposition ‘auf’ and make 50% of the analysed cases.

In English the analysed prepositional constructions are formed using prepositions «to», «of» and «from», e.g. *the right to life, the right of petition, freedom from fear*. All analysed documents exhibit similar frequency of this pattern. This pattern is the most productive when forming terms referring to human rights and freedoms in English. As can be seen in Table 1 this pattern is followed in 57% of all analysed cases. There is a slight difference in the use of prepositions. The word «freedom» is always used with the preposition «of», whereas the word «right» is used with the preposition «to». However, there some exceptions to the rule, when the word «right» can be used with the preposition «of» when the noun and verb forms of the word following the preposition are homonymous, e.g. *the right of petition*, but *the right to petition (against somebody)*.

Third pattern: **Right/ freedom + infinitive**:

This pattern is characteristic of all languages under consideration.

In Lithuanian this pattern is extremely productive, as it is used with similar frequency in both analysed documents and on average makes 59% of all cases, e.g. *eisę turėti savo įsitikinimus ir juos laisvai reikšti* («*the right to have convictions and express them freely*»), *laisvė gauti ir skleisti informaciją* («*the right to receive and impart information*»).

In German this pattern is quite productive, and is followed in 25% of the cases, e.g. *das Recht seiner Meinung in Wort, Schrift und Bild frei zu äussern*

(«*the right freely to express and opinions in speech, writing, and pictures*»).

In the analysed documents in English 30% of all analysed cases follow this pattern: *freedom to hold opinions and to receive and impart information and ideas, right to form and to join trade unions*.

No significant differences among the analysed documents were found in this case.

pattern: **Adjective + right/ freedom**

This pattern is also characteristic of the three languages under consideration, but it is not very frequent. Only several instances of this pattern have been found in all documents, which make only from 5 to 13%, e.g. in Lithuanian: *ekonominė teisė (economic right), socialinė teisė*

(*social right*), *kultūrinė teisė (cultural right)*; in German: *gleichen Rechte (equal rights), unveräußerlichen Rechte (inalienable rights), wirtschaftlichen, sozialen, kulturellen Rechte (economic, social, cultural rights)*; in English: *human right; fundamental freedoms; inalienable rights*.

5) Fifth pattern: a compound noun

This pattern is only characteristic of the German terms in the analysed documents, e.g. *das Petitionsrecht* («*the right to petition*»), *das Asylrecht* («*the right to asylum*»), *das Wahlrecht* («*the right to vote*»), *die Menschenrechte* («*human rights*»).

This pattern is very productive. But it should be noted that although there

Document Model	LRK	VZTD	HRA	UCHR	GBD	AEM	TTotal in Lithuanian	TTotal in English	TTotal in German
Total number of terms	32	43	22	40	36	44			
Prepositional constructions	2	14	14	22	4	22			
	62,5%	32,5%	63,5%	55%	11%	50%	19,5%	57%	30,5%
Right/ freedom + infinitive	20	24	5	13	7	14			
	62,5%	55,5%	23%	32,5	19,5%	32%	59%	30%	25%
Genitive + right/ freedom	8	3			10				
	25%	7%			28%		16%		14%
Adjective + right/ freedom	2	2	3	5	-	5			
	6,25%	5%	13,5%	12,5%	-	11%	5,5%	13%	5,5%
Compounds	-	-	-		15	3	-	-	
	-	-	-		41,5%	7%	-	-	24 %

Table 1. Distribution of patterns of terms in the analysed documents.

are 41,5% of cases of this pattern use in the Constitution, only 7% of such cases were found in UDHM.

Conclusions

Relying on the data of the research the following conclusions can be drawn:

1. Human rights and freedoms are expressed through multi-word terms in Lithuanian, German and English as well as one-word (compound) in German in particular. The terms referring to human rights and freedoms found in the analysed documents can be classified into five formal types: 1. prepositional constructions; 2. right/ freedom + infinitive; 3. Genitive + right/ freedom; 4. adjective + right/ freedom; 5. compound noun.

2. In Lithuanian, German and English different patterns of term formation are preferred. In English the most productive pattern of term formation is *prepositional constructions* (57%), the second most frequent pattern used is *right/ freedom + infinitive* (30%). In Lithuanian these two patterns are very productive, however, the more productive of the two is the pattern *right/ freedom + infinitive* (59%), while prepositional constructions (19,5%). In German four patterns are very productive *prepositional constructions* (30,5%), *right/ freedom + infinitive* (25%), *compounds* (24 %) and *genitive + right/ freedom* (14%). In all languages the pattern *adjective + right/ freedom* is not frequent. The pattern *Genitive + right/ freedom* were found only in Lithuanian and German because in English the genitive case is expressed by other linguistic means, i.e. prepositional constructions, an infinitive or an adjective. In Lithuanian this pattern is the third in frequency and on average makes 16% of all analyzed cases.

3. Finally, patterns of term formation and the choice of a particular pattern depend on the nature of the document and the semantics of the term. Thus, to be able to determine regularities conditioning the choice of a particular pattern it is necessary to analyze the semantics of the terms, which the authors of the present paper are planning to do in the future. The results of the analyses of the principles of term formation can be useful not only to linguists and law-makers, which create terminology, but also translators and interpreters of legal discourse, when deciding which translation strategy to use.

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Бейноравичюс Д., Погожилська Л., Вайнюте М. Особливості формальної структури термінів, що визначають поняття прав і свобод людини в литовській, німецькій та англійській мовах.

Стаття відображає міждисциплінарний підхід до аналізу термінології конституційного права з лінгвістичної та юридичної перспективи. Наголошено на важливості аналізу та порівняння формальної структури термінів, що визначають поняття прав і свобод людини в литовській, німецькій та англійській мовах. Доведено, що в досліджуваних мовах ці поняття відбиті в різноманітних термінах; кожна мова має власні моделі утворення термінів.

Ключові слова: порівняльна юридична лінгвістика, конституційне право, термінологія, формальна структура термінів.

Бейноравичюс Д., Погожилская Л., Вайнюте М. Особенности формальной структуры терминов, обозначающих понятия прав и свобод человека в литовском, немецком и английском языках.

Статья представляет собой междисциплинарный подход к анализу терминологии конституционного права с лингвистической и юридической перспектив. Подчеркивается важность анализа и сравнения формальной структуры терминов, обозначающих понятия прав и свобод человека в литовском, немецком и английском языках. Доказано, что данные понятия выражены в анализируемых языках посредством многосложных терминов; каждому языку присущи различные модели формирования терминов.

Ключевые слова: сравнительная юридическая лингвистика, конституционное право, терминология, формальная структура терминов.

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