

## PRAGMATIC CHALLENGES IN LEGAL ORAL TRANSLATION

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**Abstract.** This article examines the pragmatic dimension of legal translation, concentrating on how speaker intention, implicature, and illocutionary force influence legal meaning across languages and institutional contexts. Drawing upon linguistic pragmatics (Austin, 1962; Grice, 1989; Searle, 1969) and functional approaches to legal translation (Šarčević, 1997; Cao, 2007), the study analyses how pragmatic elements – such as formality, politeness, and indirectness – affect both the accuracy and performative validity of legal discourse. Through a qualitative, discourse-pragmatic methodology, the research identifies key areas of risk where pragmatic misinterpretation can lead to distortions of institutional stance, loss of trust, or legal invalidity. Findings highlight that legal translators function not merely as linguistic intermediaries but as pragmatic mediators whose interpretive choices preserve or transform the illocutionary and strategic force of legal texts. The paper argues that pragmatic awareness constitutes an essential professional competence for translators, especially in conflict or negotiation settings where meaning is strategically constructed. Finally, the study recommends integrating pragmatic training, risk-based quality assurance, and intercultural competence into translator education to strengthen the reliability and ethical integrity of multilingual legal communication.

**Keywords:** legal translation, linguistic pragmatics, implicature, speech acts, formality and politeness, pragmatic misinterpretation, translator competence.

### 1. INTRODUCTION

The rapid transformation of the global legal environment in the twenty-first century has presented new challenges to the field of legal translation, which now occupies a central position in interdisciplinary research that combines linguistics, law and communication.

Legal translation is no longer seen simply as a transfer of meaning between two linguistic systems, but as a complex act of intercultural and institutional mediation. In this context, the pragmatic dimension of legal discourse – how intentions, premises and illocutionary forces are encoded and decoded – has become critically important for scholars seeking to ensure accuracy, fairness and communicative effectiveness in legal and institutional settings.

As legal systems interact through transnational treaties, international courts, and multilingual institutions such as the European Union, the role of the translator goes far beyond linguistic equivalence. It includes interpreting the communicative intent behind legal statements, reconciling formality and power asymmetries, and anticipating potential misinterpretations that may affect legal outcomes.

Misjudging pragmatic cues such as implicature, deictic reference, or the illocutionary force of directives and performatives can have profound legal consequences, especially in the context of conflict, negotiation, or crisis. A pragmatic approach to legal translation, therefore, offers valuable insight into how meaning is strategically constructed and interpreted across languages and legal cultures.

This article **aims** to explore key pragmatic issues in legal translation by analysing recurring phenomena, including speaker intention and formality, implicature and speech acts. Drawing on theories of linguistic pragmatics and applying them to legal translation, this study aims to explore how these elements shape legal meaning and influence cross-cultural legal communication.

## 2. LITERATURE REVIEW

The foundations of pragmatic approaches to translation come from the work of Austin (1962) and Grice (1989). In *How to Do Things with Words*, Austin argued that statements can perform actions. These actions are called speech acts and carry illocutionary force that goes beyond literal wording. Grice's theory of conversational implicature further shows that meaning often extends beyond what is explicitly stated. It depends on shared assumptions and cooperative principles between speakers and listeners. Together, these ideas shifted focus from semantic meaning to pragmatic meaning.

This shift is especially important in legal translation. Accurate interpretation relies not only on words themselves but also on cultural and institutional norms that shape how meaning is understood.

Building on these ideas, legal translation scholars such as Šarčević (1997) and Cao (2007) explored how linguistic accuracy connects to legal function. In *New Approach to Legal Translation*, Šarčević described legal translation as a communicative act that seeks functional equivalence within legal systems. Similarly, in *The Law of Translation*, Cao argued that legal language is both linguistic and institutional in nature. Therefore, translators must balance textual precision with pragmatic flexibility. Later research by Tipton and Desilla (2019, 2022) showed that pragmatic competence becomes especially important during crises or conflicts, when miscommunication can intensify social and political tensions.

More recent studies stress the need for pragmatic sensitivity in cross-cultural legal discourse. Todorova and Ruiz Rosendo (2023) demonstrate that misunderstandings of implicature or deictic expressions in multilingual legal negotiations can distort speaker intentions and shift power dynamics. Their findings support the idea that translation is a performative act of meaning reconstruction. Pragmatic choices affect not only clarity but also institutional credibility.

Despite these advances, several aspects remain under-researched. The relationship between speaker intention, illocutionary force, and institutional pragmatics has not been thoroughly analysed. While theoretical discussions are numerous, there is a lack of empirical evidence demonstrating how pragmatic errors impact legal outcomes. To address these aspects, this study examines pragmatic phenomena in legal translation and assesses their impact on accuracy, fairness, and strategic communication in multilingual legal contexts.

## 3. RESEARCH METHODOLOGY

### 3.1. Research Design and Scope

This study uses a qualitative analytical approach grounded in linguistic pragmatics and translation studies. It examines how pragmatic elements shape meaning in legal translation. The analysis focuses on

two key areas: (1) how speaker intention and formality are conveyed in legal discourse, and (2) how implicature and speech acts are interpreted in legal documents and proceedings. The goal is to identify common pragmatic issues and demonstrate how misinterpretation can alter the legal force, strategic intent, or perceived politeness.

The study combines theoretical discussion with context-based examples taken from both authentic and modelled legal texts. It does not seek statistical generalisations. Instead, it aims to reveal the pragmatic mechanisms that guide translation choices and influence institutional outcomes.

### 3.2. Data Sources and Analytical Corpus

The illustrative corpus comprises selected legal and institutional texts from international and Ukrainian legal contexts, including:

- contractual clauses and memoranda of understanding,
- diplomatic and inter-institutional correspondence,
- judicial statements and procedural documents, and
- public institutional communications (e.g., apologies, warnings, acknowledgements).

The selected materials demonstrate high pragmatic density, referring to cases where formality, intention, or indirectness significantly affect interpretation. The examples used in the article (e.g., “*We take your concerns into account,*” “*We will respond appropriately*”) are representative of real-world patterns commonly encountered in multilingual legal communication, rather than isolated, idiosyncratic cases.

### 3.3 Analytical Framework

The analysis draws upon established frameworks in linguistic pragmatics and translation theory, particularly:

- **Speech Act Theory** (Austin, 1962; Searle, 1969) to identify the illocutionary force of legal utterances and examine how their performative nature is preserved or altered in translation;
- **Conversational and Conventional Implicature Theory** (Grice, 1975, 1989) to analyse how indirect meaning, presupposition, and implicature operate in legal discourse;
- **Politeness and Relevance Theories** (Brown & Levinson, 1987; Morini, 2014) to evaluate how politeness, formality, and strategic vagueness are encoded across languages;
- **Functionalist approaches to translation** (Šarčević, 1997; Cao, 2007) assess equivalence in legal function rather than literal linguistic form.

Through this multi-layered lens, each example is examined for:

1. **Pragmatic intention** – what the speaker or institution aims to achieve;
2. **Illocutionary function** – whether the utterance operates as an assertion, directive, commissive, expressive, or declaration;
3. **Cultural-pragmatic alignment** – how norms of politeness, formality, or indirectness differ between the source and target legal cultures; and
4. **Translational consequence** – how alternative renderings might alter the perceived meaning, legal validity, or power dynamic.

### 3.4 Procedures and Analytical Steps

The methodological process followed four main stages:

1. **Text Selection and Contextualization** – Identifying and categorising passages which represent pragmatic challenges in multilingual legal communication.
2. **Pragmatic Deconstruction** – Analysing each instance to uncover speaker intention, implicature, and speech-act function in the source text.
3. **Comparative Translation Analysis** – Examining potential target-language equivalents (primarily English - Ukrainian and backward) and evaluating their adequacy in preserving pragmatic force.
4. **Interpretive Synthesis** – Deriving generalisable insights about pragmatic risks and strategies in legal translation, supported by exemplars.

This interpretive procedure follows the tradition of critical discursive-pragmatic analysis, linking linguistic form, institutional context, and social power relations in translation (Fairclough, 2013; Tipton & Desilla, 2022).

### 3.5 Ethical and Contextual Considerations

All examples used in this study come from publicly available legal documents or from anonymised simulated data to ensure confidentiality and ethical compliance. The analysis focuses on linguistic and pragmatic features of the texts rather than on specific jurisdictions or named institutions. Cultural sensitivity was also prioritised when interpreting idioms, indirect speech acts, and culturally conditioned implicatures. This approach helps ensure that interpretations align with communicative norms in both the source and target legal systems.

### 3.6 Methodological Significance

This methodology views the translator as a pragmatic and strategic communicator, not just a linguistic mediator. By analysing intention, formality, implicature, and speech acts, the study aims to show how pragmatic awareness improves both accuracy and functionality in legal translation. The findings are expected to support translator training, strengthen cross-cultural legal communication, and refine pragmatic models used in institutional translation, especially in complex or conflict-sensitive contexts.

## 4. FINDINGS AND DISCUSSION

### 4.1. Conveying Speaker Intention and Managing Formality in Legal Discourse

The analysis shows that conveying speaker intention and managing formality are essential for meaning and legal effect in translation. In legal and institutional discourse, the speaker's intent often goes beyond literal wording. It appears through tone, phrasing, and modality. For example, a hesitant "*I think this might work*" differs greatly from a firm "*It will work.*" Such differences can affect decisions in arbitration or during testimony. If a translator misinterprets irony or sarcasm as a serious statement, or vice versa, the consequences can be severe. Legal contexts require clarity and precision at all stages.

Even neutral-sounding statements may carry hidden pragmatic meaning. For example, the phrase "*Sure, we'll consider that offer*" may seem like a sign of agreement, but it can signal a polite refusal without real intention to proceed. Similarly, the phrase "*That's just great*" may express disappointment after failed negotiations rather than praise, while "*Really?*" can indicate sarcasm, disbelief, or an insult,

depending on the tone. Literal translation in these cases risks distorting meaning and may change the outcome of testimony, negotiation, or legal reasoning.

At the same time, formality, politeness, and institutional register are also key pragmatic factors. Morini (2014) notes that relevance and politeness interact in unpredictable ways. Translators, therefore, need to understand cultural norms of respect and cooperation. Formulaic phrases such as *"We regret any inconvenience caused"* illustrate this. If translated as an emotional apology, the target text may misrepresent institutional intent and create expectations of compensation. Another example is *"We wouldn't want this matter to become public, would we?"* The sentence appears polite, yet it can also be perceived as a veiled threat, implying reputational harm. A literal Ukrainian translation (*"Ми ж не хочемо, щоб справа стала публічною, правда?"*) conveys only the surface message and loses the pressure behind it. In such cases, explanatory notes (e.g., *натяк на тиск або погрозу оприлюдненням*) may be necessary to preserve pragmatic force. A similar issue arises with *"You might want to reconsider."* Depending on context, it may sound like mild advice or an implicit warning. The translator must, therefore, navigate not only lexical equivalence but also the illocutionary force underlying the utterance (Austin, 1962).

Thus, the translator acts as a pragmatic mediator, balancing precision, politeness, and legal force. When translators master pragmatic conventions, the translated text maintains its authenticity and legal credibility in the target culture.

#### 4.2. Implicature and Speech Acts in Legal Documents and Proceedings

The findings suggest that legal meaning is often implied rather than explicitly stated. Grice's (1975, 1989) concept of implicature explains how these unstated meanings operate as a powerful interpretive force in legal communication. For example, *"We note your concerns"* is not an expression of empathy. It usually functions as a polite refusal that reduces confrontation while signalling a lack of commitment. Similarly, *"We will respond appropriately"* may act as a warning or a delaying tactic rather than a real promise to take an action. A literal translation of such phrases can shift institutional stance or alter diplomatic tone.

Speech act analysis shows that illocutionary force – not surface wording – creates legal consequences. The statement *"The court hereby sentences the defendant..."* is a performative declaration that changes legal reality (Austin, 1962; Searle, 1969). For this reason, translators must maintain the performative function of such language. Even small pragmatic shifts can weaken legal validity or distort institutional authority.

The findings further show that legal meaning is often implied rather than stated directly. Grice's (1975, 1989) concept of implicature explains how unstated meaning shapes interpretation in legal communication. Conversational implicature occurs when a speaker communicates more than is explicitly stated in the literal wording. For example, *"That company has skeletons in its closet"* does not refer to actual skeletons. It implies that the company is hiding past wrongdoing or unresolved problems that may arise during due diligence. A literal Ukrainian translation (*"у тієї компанії є скелети в шафі"*) sounds figurative and may be inappropriate in formal legal discourse. A more suitable translation – such as *"Компанія приховує серйозні проблеми"* or *"має сумнівне минуле"* – preserves the intended meaning without unnecessary metaphor.

Conventional implicature encoded with conjunctions such as *but*, *yet*, or *however*, can significantly alter legal meaning. For instance, *“The defendant confessed, but under pressure”* implies contradiction and mitigation through *‘but’*. The literal content confirms a confession, yet the pragmatic meaning signals that the confession may not have been voluntary. Translating this as *“Підсудний зізнався, але під тиском”* preserves the nuance, whereas *“зізнався під тиском”* flattens the contrast, eliminating the implication of contradiction. Such small connectors (e.g., *but*, *yet*, *still*, *nevertheless*) carry evaluative implications that can affect judgments of credibility or liability, and therefore require careful pragmatic attention.

Cultural implicature also plays a role. For example, in English courtroom rhetoric, *“The defendant has already suffered enough”* implies leniency without an explicit request. In Ukrainian legal practice, however, indirect appeals of this type would typically be made explicit (*“Прошу врахувати обставини, що пом’якшують покарання”*), illustrating how pragmatic equivalence cannot be presumed across legal cultures (House, 1997; Wierzbicka, 2003).

Expressions that appear positive may also convey negative attitudes. For instance, *“That’s just great”* can be sarcastic, expressing disappointment rather than approval, especially after failed negotiations. Translating such statements as sincere praise may create a false sense of agreement or distort the communicative context. The exclamation *“Really?”* works in a similar way. Depending on tone, it may show surprise, doubt, or irony. In cases like *“Really? You found new evidence?”* a literal translation may hide disbelief and misrepresent the speaker’s stance.

Beyond implicature, **speech acts** play a central role in shaping legal meaning. Legal discourse does not merely describe reality – it performs actions (Austin, 1962; Searle, 1969). For example:

- **Assertives:** Stating facts or reporting. *“The contract was signed on March 1st, 2025.”* The speaker asserts a fact that can be verified as true or false;
- **Directives:** Requests, commands, or suggestions. *“Please submit the evidence by Friday.”* The lawyer or judge directs another party to take action;
- **Commissives:** Promises, offers, or threats. *“We agree to indemnify the client for any losses arising from negligence.”* The party commits itself legally to a future obligation;
- **Expressives:** Apologies, congratulations, or thanks. *“We regret any inconvenience caused by the delay in delivery.”* The company expresses its apology and acknowledges responsibility;
- **Declarations:** Official changes to the state of affairs. *“The court hereby sentences the defendant to five years’ imprisonment.”* The very act of saying this **creates** a new legal state of affairs.

It is **illocutionary force**, rather than surface form, that determines legal consequences. The phrase *“We will respond appropriately”* may function as a warning, a non-committal postponement, or a diplomatic threat depending on context. Similarly, *“We note your concerns”* often serves as a polite refusal rather than an acknowledgement. Misinterpreting such utterances can alter the perceived institutional stance, shift strategic negotiation dynamics, or unintentionally escalate or soften the tone of communication.

These findings show that legal translation is a high-stakes process of pragmatic interpretation. Implicature, cultural norms, and speech acts function not only as linguistic features but also as strategic tools. Translators must therefore go beyond simple lexical equivalence. They need a nuanced understanding of how meaning, power, and intent are negotiated in legal discourse. Such pragmatic

awareness is essential to preserve the accurate and ethical legal meaning across languages and jurisdictions.

### **4.3. Consequences of Pragmatic Misinterpretation in Legal Contexts**

Pragmatic misinterpretation in legal translation generates profound legal, institutional, relational, and strategic consequences. Errors of this nature exceed mere linguistic inaccuracy, extending into the realm of legal risk and institutional reputation.

#### **(a) Legal Consequences**

Misrendering a speaker's intention or illocutionary force can directly affect the contractual validity or judicial interpretation. If a translator misrepresents a warning as a reassurance or omits the implied condition in a legal clause, the resulting text may produce unintended obligations or nullify consent. For example, mistranslating a conditional "*subject to approval*" as a declarative "*approved*" transforms a provisional statement into a binding one, thereby altering the legal status of the agreement.

#### **(b) Institutional Consequences**

Translating institutional formulas too literally or too personally can distort the organisation's stance. As illustrated by "*We regret any inconvenience caused,*" such expressions are typically non-committal and defensive. Rendering them as genuine apologies introduces expectations of redress or accountability that the institution never intended, risking reputational harm and subsequent legal exposure.

#### **(c) Relational Consequences**

In legal negotiations or client–attorney communications, pragmatic misalignment can erode trust. Politeness strategies—such as mitigation, indirectness, and face-saving expressions—are vital for maintaining rapport and preventing confrontation. A literal translation that strips these pragmatic cues may portray the speaker as arrogant, evasive, or insincere, undermining cooperation and professional goodwill.

#### **(d) Strategic Consequences**

Failure to detect or convey strategic implicature can lead to significant tactical disadvantages. Missing implied threats, refusals, or stalling tactics embedded in diplomatic or corporate exchanges may cause a party to miscalculate timing or intent, resulting in unfavourable settlements or missed opportunities for negotiation. Translators thus play a crucial role in safeguarding the strategic integrity of communication by preserving both overt and covert meanings.

Given these risks, pragmatic competence should be considered a key element of legal-linguistic expertise. Every stage of translation, from document analysis to live interpretation, can create potential vulnerabilities. Institutions should therefore implement quality assurance procedures that value pragmatic equivalence as much as linguistic accuracy. These procedures will include training in legal thinking, discourse pragmatics and intercultural communication. With this approach, legal translation becomes not just a process of transmitting language, but a broader practice of managing legal and communicative risks.

### **4.4. Synthesis and Theoretical Implications**

The results of the study demonstrate that pragmatic competence is essential for effective legal translation. Meaning in legal discourse depends not only on vocabulary and grammar, but also on the speaker's intention, context, and institutional norms. Therefore, translation should be viewed as a

strategic act of communication that reconstructs legal meaning in a way that is appropriate for the target culture and legal system.

This study supports the arguments of Šarčević (1997) and Tipton and Desilla (2019, 2022). Translators act as pragmatic co-authors of legal discourse, and their choices affect how legal texts are perceived in terms of validity, fairness, and authority. Incorporating pragmatic analysis into translation methods can help create a more ethical and effective model of multilingual legal practice.

## 5. CONCLUSION AND IMPLICATIONS FOR PRACTICE

### 5.1. CONCLUSION

This study demonstrates that pragmatic competence is essential to legal translation. Meaning in legal discourse is constructed not only through linguistic form but through the interaction of speaker intention, illocutionary force, implicature, and institutional convention. Drawing on foundational theories of linguistic pragmatics (Austin, 1962; Grice, 1989; Searle, 1969) and contemporary scholarship in legal translation (Šarčević, 1997; Cao, 2007; Tipton & Desilla, 2019, 2022), the analysis shows that legal utterances contain both explicit and implicit dimensions that jointly determine their communicative and legal effect.

The findings show that misunderstandings of tone, formality, or implicature can distort institutional positions, harm professional relationships, and even influence legal outcomes. Legal discourse functions as a performative system in which language creates both social and legal realities. For this reason, translators are not simply intermediaries. They are legal-linguistic agents who interpret institutional intent and preserve the performative force of legal language across different cultures and legal systems.

Ultimately, the accurate rendering of pragmatic meaning ensures not only linguistic accuracy but also legal validity, fairness, and strategic coherence. Pragmatic misinterpretation, on the other hand, can lead to cascading consequences, from invalid contracts to diplomatic tensions. Therefore, legal translation needs to be reimagined as a pragmatic and strategic communicative practice based on interdisciplinary expertise that combines linguistics, law, and intercultural communication.

### 5.2. IMPLICATIONS FOR PRACTICE

#### 1. Translator Training and Professional Standards

Legal translators require specialised training that goes beyond lexical and syntactic equivalence to include pragmatic analysis, institutional discourse norms, and legal reasoning. Translator training should integrate courses in speech act theory, implicature, politeness strategies, and legal rhetoric, complemented by comparative studies of legal cultures. Pragmatic case studies that illustrate how subtle shifts in tone, modality, or deixis affect legal outcomes should become standard pedagogical tools. Such training develops translators' ability to anticipate and manage pragmatic risks in complex institutional environments.

#### 2. Quality Assurance and Risk Management

Institutions involved in multilingual legal communication should implement pragmatic quality assurance systems that assess not only terminological accuracy but also the preservation of communicative intent and illocutionary force. Each stage of translation—from drafting to editing—should include a pragmatic review stage that ensures consistency in formality, tone, and performative meaning. Pragmatic checklists, peer review, and dynamic equivalence checks can help reduce the risk of

unintended legal or diplomatic consequences. This shifts quality control from static error correction to proactive risk management in communication activities.

### **3. Cross-Cultural and Inter-Institutional Competence**

Given that pragmatic conventions vary across legal systems, translators need to develop cross-cultural pragmatic awareness. This awareness includes understanding of how politeness, vagueness, and indirectness function differently in common law and civil law traditions, as well as in other legal cultures. Inter-institutional workshops and comparative discourse analysis can help to promote common pragmatic norms, enabling smoother communication between multilingual legal actors in international courts, arbitration, and diplomatic exchanges.

### **4. Ethical Responsibility and Translator Agency**

The study highlights the ethical dimension of pragmatic mediation. Translators, as pragmatic agents, have a responsibility to preserve both the integrity and intent of legal discourse. Over-literal translation can distort the legal truth, while over-interpretation can lead to bias. Translators should therefore exercise ethical pragmatism, balancing faithfulness to the source with transparency about pragmatic ambiguities. This approach involves the judicious use of translator's notes or comments where implicatures, politeness markers, or institutional norms cannot be directly reproduced

### **5. Future Research Directions**

Future research should aim to test pragmatic models of translation through empirical corpora and experimental studies. Cross-linguistic analyses of courtroom discourse, international arbitration, and legislative drafting can provide measurable data on how pragmatic shifts affect legal interpretation and outcomes. Furthermore, the integration of translation tools with artificial intelligence requires critical study: while such systems increase efficiency, they often fail to recognise pragmatic and illocutionary subtleties important for legal meaning. A hybrid human-AI model, where human translators control pragmatic accuracy, may represent a sustainable future direction for legal translation practice.

## **6. FINAL REFLECTION**

The findings confirm that legal translation operates at the intersection of language, law, and power. It is not simply a process of reproducing texts in different languages, but an act of mediating institutional will, preserving justice, and maintaining communicative balance in multilingual governance. Thus, integrating pragmatic awareness into translator training and institutional policies is essential for enhancing both the reliability and ethical sustainability of global legal communication.

In the modern landscape characterised by cross-border litigation, international treaties, and multilingual diplomacy, pragmatic competence is not an optional skill but a fundamental prerequisite for ensuring that translated law continues to mean and fulfil the intent of the original law.

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У статті досліджено прагматичний вимір юридичного перекладу з акцентом на тому, як комунікативний намір мовця, імплікатура та іллокутивна сила формують юридичне значення у різних мовах та інституційних контекстах. Спираючись на теорії лінгвістичної прагматики (Austin, 1962; Grice, 1989; Searle, 1969) і функціональні підходи до юридичного перекладу (Šarčević, 1997; Cao, 2007), автор аналізує, як прагматичні чинники – такі як формальність, ввічливість і непрямість – впливають не лише на точність, а й на перформативну чинність юридичного дискурсу. Використовуючи якісний дискурсивно-прагматичний підхід, дослідження виявляє основні зони ризику, де прагматичне непорозуміння може призвести до викривлення позиції інституції, втрати довіри чи юридичної недійсності. Результати підкреслюють, що юридичний перекладач є не лише мовним посередником, а прагматичним медіатором, чий інтерпретативні рішення зберігають або змінюють іллокутивну та стратегічну силу юридичних текстів. У статті доведено, що прагматична обізнаність є ключовою професійною компетентністю перекладачів, особливо у ситуаціях конфлікту чи переговорів, де значення формується стратегічно. Автор пропонує впровадження прагматичного навчання, систем оцінювання ризиків і міжкультурної компетентності у підготовку перекладачів для підвищення надійності та етичної цілісності багатомовної юридичної комунікації.

**Ключові слова:** юридичний переклад, лінгвістична прагматика, імплікатура, мовленнєві акти, формальність і ввічливість, прагматичне непорозуміння, перекладацька компетентність.