

Discursive mediation of expert knowledge to a lay audience: An analysis of Russian jury instructions

Olga Boginskaya

Irkutsk National Research Technical University (Russia)

boginskayaoa@istu.edu

Abstract

Russian jury instructions have not previously been analysed in terms of the explanatory strategies employed in expert-lay discourse, where abstract concepts need to be displayed in a way that enables a lay audience to understand them. The current study was motivated by the lack of explicit guidance for interacting with lay persons in Russian courtroom trials, and by the challenges faced by jury members in attempting to understand abstract and(or) unfamiliar legal concepts. The results underpin the article's central argument that the explanatory strategies can overcome the incomprehensibility of expert texts, indicating that efforts should be made to explain abstract legal concepts to a lay audience. These strategies are: 1) definitions selected to explain the meaning of legal terms; 2) descriptions employed to communicate new knowledge by relating it to existing knowledge; 3) examples used with the intention of avoiding communication problems by referring complex legal concepts to concrete objects or events; 4) metaphors that facilitate jurors' comprehension of abstract legal information by bringing it closer to their everyday experience; 5) synonyms which provide alternatives to abstract legal concepts from everyday language. The research could be extended further by carrying out studies on explanatory strategies in other specialised domains where technical expert texts create a demand for expert-to-lay translation.

Keywords: discourse, legal language, explanatory strategy, comprehension, abstract concept.

Resumen

La mediación discursiva de conocimientos expertos a no expertos: un análisis de instrucciones al jurado ruso

Hasta el momento, las instrucciones dadas al jurado ruso no se han analizado como estrategias explicativas empleadas en el discurso entre expertos y no expertos. El presente estudio se ha visto motivado por la falta de orientación explícita para interactuar con los no expertos en la sala del tribunal ruso, así como por los desafíos a los que se enfrentan los miembros del jurado cuando tratan de entender conceptos legales abstractos y/o desconocidos para ellos. Los resultados obtenidos en este artículo ponen de manifiesto que las estrategias explicativas pueden superar la incomprendibilidad de los textos de expertos, de tal modo que deberían emprenderse esfuerzos para explicar los conceptos legales abstractos a un público no experto. Estas estrategias son 1) definiciones que explican el significado de los términos legales, 2) descripciones empleadas para comunicar nuevos conocimientos relacionándolos con conocimientos previos, 3) ejemplos empleados para evitar problemas de comunicación mediante la remisión a objetos o eventos concretos para comprender ciertos conceptos jurídicos, 4) metáforas que facilitan la comprensión de la información jurídica abstracta acercándola a la experiencia cotidiana, 5) sinónimos que funcionan como equivalentes cotidianos de los términos legales. Esta investigación puede ampliarse mediante nuevos estudios sobre estrategias explicativas en otros ámbitos de especialidad en los que los textos técnicos producidos por expertos de tales ámbitos han de adaptarse a un público no experto.

Palabras clave: discurso, lenguaje jurídico, estrategia explicativa, comprensión, concepto abstracto.

1. Introduction

The jury trial involves two categories of actors, legal experts trained in the field of law and laypersons who lack knowledge of law, which reflects the asymmetrical relationship that exists in the courtroom. As laypersons, including jurors, play a crucial role in a trial, “it is of the utmost importance that they should be able to understand all the communication going on in court, including the legal terms used and their implied concepts” (Gotti, 2014: 19). Knowledge asymmetries, such as those that arise in legal settings, should be considered from a speaker-audience perspective, taking into account legal knowledge transfer from formal legal language to the language of common citizens (Heffer et al., 2013; Roelcke, 2018). The knowledge factor:

centers around the ability of comprehension of the target group, i.e., the target group’s general ability to understand a text, its level of general background knowledge or its level of expertise (or lack of) in connection

with a specific subject [...]. Typical intralingual translations instigated by the parameter of knowledge (explanatory translations) are typically of the expert-to-layman kind (Zehntsen, 2009, p. 806).

A number of studies are available on legal-lay interactions (Anesa, 2016; Gotti, 2014; Heffer, 2005; Tiersma & Curtis, 2008). They make attempts to describe particular features of expert-lay discourse and identify explanatory structures that contribute to the popularization of legal information. Little attention has, however, been devoted to research into comprehensibility of jury instructions written in languages other than English. Due to the fact that in Russia jury trials have begun to operate only since 1993, Russian jury instructions have barely been analysed in terms of the explanatory strategies employed in legal-lay discourse, in which a set of abstract concepts needs to be displayed in a way that enables a lay audience to understand it. The current study was thus motivated by the lack of explicit guidance for interacting with lay persons in a Russian court.

Assuming that explanatory strategies constitute an identifiable field of study within the broader field of discourse studies, this paper examines asymmetrical discursive interactions. It sets out to investigate the explanatory strategies employed in jury instructions to ensure the accessibility and comprehensibility of the information provided by the judge. Jury instructions are complex, and jurors might find it difficult to understand them, which is problematic because jurors can only apply instructions to the extent that they understand them (Baguley et al., 2017). Considering the crucial role that explanatory strategies assume in legal-lay discourse, including jury instructions, the main research questions addressed here are the following:

- (1) What explanatory strategies are used to communicate legal information to jurors in the Russian courtroom?
- (2) Which of these explanatory strategies are most commonly used in the corpus?

‘Literature review on explanatory strategies in expert-lay discourse’ section reviews work that deals with knowledge asymmetry and explanatory strategies employed in specialised texts. In the section titled ‘Data and methods’, the data, including the data selection criteria, and the procedures employed to analyse the explanatory strategies are described. Following that, the main explanatory strategies found in the corpus are analysed

through exemplification. The article concludes by outlining further research avenues.

2. Literature review on explanatory strategies in expert-lay discourse

This article aims to focus on expert-lay interactions and explanation structures. In this sense, the present study is in line with research on popularisations by many other authors who have dealt with the linguistic features of this type of discourse and compared it with scientific discourse (Anesa, 2016; Baguley, 2017; Balteiro, 2017; Calsamiglia & van Dijk, 2004; Ciapuscio, 2003; Engberg, 2020; Garzone, 2020; Gülich, 2003; Heffer, 2005; Krapivkina, 2017a; Tiersma & Curtis, 2008). These studies have shown that experts and laypeople rely on different types of knowledge (specialised knowledge versus lay knowledge), which gives rise to a complex dialogue based on the subjective reconstruction of phenomenological experience on the one hand, and professional experience on the other.

The knowledge parameter centres on the audience's comprehension capacity, i.e., its level of expertise in connection with a specific discipline (Zehtsen, 2009, p. 806). Knowledge asymmetries require translation of expert knowledge into lay language, i.e. simplification and explanation are crucial mechanisms contributing to the comprehensibility of specialised texts. The strategies of simplification (lay words, simple syntax) and explanation (definitions, descriptions, examples, synonyms and metaphors) help non-experts "to construct lay versions of specialized knowledge and integrate these with their existing knowledge" (Calsamiglia & van Dijk, 2004, p. 370). In other words, they help lay people to relate two types of knowledge and produce expressions more suitable to the audience's level of comprehension and knowledge (Ciapuscio, 2003).

These strategies are especially crucial in jury trials, where the defendant's fate is in the hands of lay people, and they have been studied in a number of publications on legal language and discourse. For example, Tiersma (1999) identified a number of linguistic features that impede the comprehension of jury instructions. Among others, he mentions abstract legal concepts which need to be explained to jury members. Heffer (2005) explored variation among judges in the delivery of instructions and raised the question as to whether comprehension of jury instructions might be improved through

linguistic accommodation or standardised simplification of written texts. He claims that lawyers:

have been taught to follow ‘paradigmatic’ legal principles and procedures, and are well aware of the contribution an evidential point might make to their logic-based legal case. At the same time, they are equally well aware of the need to communicate with and persuade a group of lay people (the jurors) who are unlikely to reason in a paradigmatic fashion with respect to evidence detailing the crime narrative at the heart of the case (Heffer, 2005, p. 15).

As Heffer (2005) points out, the communicative asymmetry creates a discursive tension which is manifested in both the macrolinguistic structures of jury instructions, and in the microlinguistic choices of the legal professionals. Professional training contributes to mutual understanding between members of the same discourse community. Lay participants will inevitably not have the same training and understanding. Therefore, legal professionals are forced to employ discursive strategies that facilitate comprehension on the part of a lay audience. However, they do not abandon the need to promote their professionalism and expertise, navigating “these characteristics and their temporary mitigation in order to provide more informal, simplified expressions deemed more appropriate in relation to user needs” (Anesa, 2016, p. 83). Explanatory structures such as definitions, descriptions, exemplifications, synonyms, paraphrases, reformulations, and tropes, are employed by legal professionals to make up for the knowledge gap in legal discourse involving lay participants (Anesa, 2016).

The comprehensibility of jury instructions as a legal genre has been studied by a number of lawyers and linguists (Baguley et al., 2019; Buchanan et al., 1978; Charrow & Charrow, 1979; Diamond & Levi, 1996; Elwork et al., 1977; Tiersma & Curtis, 2008). Several studies have focused on jury instruction comprehensibility testing (Charrow & Charrow, 1979; Saxton, 1998; Wiener et al., 1995). For example, an experiment conducted by Wiener et al. (1995) showed that rewritten instructions containing lay concepts and syntactically simple structures were more comprehensible to mock jurors. A number of studies have demonstrated significant improvements in comprehension when legal and abstract terms were explained through definitions, descriptions, examples or paraphrases (Diamond & Levi, 1996; Elwork et al., 1977; Gülich, 2003; Imwinkeiried & Schwed, 1987; Wiener et al., 1995). Imwinkeiried and Schwed (1987), for example, described four linguistic

methods which can improve the comprehensibility of jury instructions: substitution of abstract and legalistic words with the words of everyday language, sentence simplification, sentence length reduction, and proper text organisation. For her part, Gülich (2003) argues that metaphors, exemplification, scenarios, and concretisation should be employed to present specialised knowledge to a lay audience. Similar to Gülich, Zehtsen (2009, p. 803) identified the following strategies: paraphrasing, restructuring and simplification, whereby exclusive expertise is discursively represented and translates into intelligible knowledge. Along the same lines, Tiersma and Curtis (2008) compared comprehension of the new civil instruction on circumstantial evidence with comprehension of the old circumstantial evidence instruction and concluded that the new instruction is more effective at overcoming difficulties with the common understanding of legal concepts. The authors argue in favour of explaining complicated topics by using examples, or employing more understandable words (synonyms) that may be familiar to jurors.

To sum up, communication between lawyers and jurors presents two main features:

- (1) the relationship between them is an expert-lay-relation, which implies the presence of a knowledge asymmetry;
- (2) since the purpose of specialised knowledge mediation is to inform a lay audience about abstract legal phenomena, it goes without saying that in the courtroom the hermetic features of legal discourse should be simplified by presenting legal information by means of clearly understandable language using a set of explanatory strategies.

3. Data and methods

To meet the aforementioned objectives, the corpus including Russian jury instructions was built as specified below. Eleven texts were derived from the jurytrial.ru site that posts judicial documents, books and articles on jury trial issues. A further 31 texts were taken from the archive of the regional court of Russia located in Irkutsk. All the texts selected to build the corpus were jury instructions on murder and felony murder. The size of the corpus came to 250,063 words, distributed throughout 42 texts. According to Flowerdew (2004), the corpus containing 20,000-250,000 words should be called small-scale. However, it is matched with the features under study since explanatory

structures are a common phenomenon in expert-lay discourse. All the texts in the corpus date back to the period between 2003 and 2019 as the aim is to focus on recent texts that are synchronically comparable.

To compile the corpus for this study, jury instructions were selected and analysed in terms of the explanatory strategies used to improve the comprehensibility of legal concepts. The jury instructions were selected based on the following criteria:

- (1) the texts were required to contain explanatory strategies;
- (2) the texts were required to contain abstract legal terms that have different meanings in general and legal language;
- (3) the texts were required to be synchronically comparable, i.e. all the texts included in the corpus date from the period between January 2003 and July 2019.

Texts that met these criteria were shortlisted and selected to build the corpus. Given during the trial, the jury instructions provide juries with guidelines on their behaviour and help to deliver verdicts because they describe the procedures jurors should follow to evaluate the evidence (Lieberman, 2009). Because the jury instructions explain relevant law, they contain legal terms and present special difficulties because of their linguistic complexity. Thus, the communicative efficiency of popularised jury instructions is crucial to a fair trial. The corpus may be used to confirm the presence of explanatory strategies when legal knowledge is transferred to a lay audience.

Calsamiglia and van Dijk's (2004) classification of explanatory strategies was taken as a methodological basis for the present study. All the explanatory strategies found in the corpus were distributed between five groups: definitions, descriptions, examples, metaphors, and synonyms. In order to go beyond a mere list of explanatory strategies employed in the corpus, the present study applied both quantitative and qualitative analyses. A manual analysis of the corpus was used to identify the explanatory strategies based on signalling markers. Metaphors were identified at the level of individual word tokens using the Metaphor Identification Procedure (Pragglejaz Group, 2007). Synonyms were identified by close reading. Both the relative and raw frequencies of occurrences of the explanatory strategies and signalling markers were calculated to facilitate comparison. The frequency was also calculated per 10,000 words to facilitate comparison. The results of the quantitative analysis were summarised in table format.

Quantitative analysis was supplemented with qualitative analysis applied to all instances of the explanatory strategies in the corpus so as to interpret the results of the quantitative analysis and reveal the role of explanatory mechanisms in dialogue between asymmetrical interlocutors.

4. Results

In this section, the data obtained from the study are presented, beginning with the relative and raw frequencies of occurrences of the explanatory strategies found in the corpus (Table 1). Thereafter, a focus is placed on the frequency of occurrences of individual explanatory strategies and linguistic markers signalling these strategies in the corpus (Tables 2-6).

As shown in Table 1, definitions and descriptions, comprising 31.3% and 26.2% respectively, are the most commonly used explanatory strategies, while metaphors and synonyms are the least commonly used tools, comprising only 10.8 and 9.9%.

| Explanatory strategies | Relative frequency (%) | Raw frequency | Normalised frequency |
|------------------------|------------------------|---------------|----------------------|
| Definitions | 31.3 | 189 | 7.6 |
| Descriptions | 26.2 | 158 | 6.3 |
| Examples | 20.6 | 124 | 5 |
| Metaphors | 10.8 | 65 | 2.6 |
| Synonyms | 9.9 | 60 | 2.4 |
| Total | 100 | 596 | 23.9 |

Table 1. Frequency distribution of the explanatory strategies in the corpus.

4.1. Definition

Definitions improve the clarity of legal terms, and play a significant role in explaining unknown words to a lay audience and ensuring the comprehensibility of expert discourse. They are determined by the speaker's ability to switch from professional jargon to lay language. The quantitative analysis revealed 189 instances that could be identified as definitions (7.6 instances per 10,000 words). Here are two examples from the corpus:

- (1) Под *хищением* понимаются совершенные с корыстной целью противоправные безвозмездное изъятие и (или) обращение чужого имущества в пользу виновного или других лиц, причинившее ущерб собственнику или иному владельцу этого имущества.

Theft is understood as an act of unlawful seizure of someone else's property in favour of the culprit or other persons, committed with a mercenary intention and causing damage to the owner of this property¹.

- (2) Под *нападением* понимается применение насилия.

Assault is understood as the act of inflicting harm.

“*Хищение*” (“theft”) and “*нападение*” (“assault”) are explained by providing definitions that express the essential nature of the legal concepts and are used to discursively represent knowledge about the legal phenomena in question. These definitions are obligatory in jury trials because in everyday language these concepts have different semantic features and should be specified. For example, in everyday language “*нападение*” (“assault”) is defined as “a swift action taken with the aim of causing harm, capturing someone / something, or proving one's superiority”).

The most frequently defined terms found in the corpus are “*убийство*” (“murder”) – sixteen instances, “*умысел*” (“criminal intent”) – fourteen instances “*соучастие в преступлении*” (“criminal complicity”) – thirteen instances, “*нападение*” (“assault”) – nine instances, and “*пособник*” (“accomplice”) – seven instances. The statistics presented above can be explained by the types of crime – murder and felony murder – that the jury instructions selected deal with. Here are two examples from the corpus, in which the terms “*убийство*” (“murder”) and “*нападение*” (“assault”) are defined.

- (3) *Убийство* – это умышленное причинение смерти другому человеку.

Murder is an intentional infliction of death upon another person.

- (4) Под *разбоем* понимается нападение в целях хищения чужого имущества.

Robbery is understood as an attack with the intent of stealing someone else's property.

The judge makes an attempt to eliminate any possible misunderstanding regarding the meaning of the legal concepts “*убийство*” (“murder”) and “*разбой*” (“robbery”) by providing their technical definitions. The excerpts show the use of two definition markers: “*это*” (“this”) separated by the dash² (1) and the verb “*понимается*” (“is understood”).

The findings of the present study reveal that the definitions found in the corpus typically display the following forms:

| Type of definition | Relative frequency (%) | Raw frequency | Normalised frequency |
|-------------------------|------------------------|---------------|----------------------|
| Legal term + definition | 64.4 | 121 | 4.8 |
| Definition + legal term | 35.6 | 68 | 2.7 |
| Total | 100 | 189 | 7.5 |

Table 2. Frequency distribution of definition techniques in the corpus.

As shown in Table 2, the most common definition technique used in the corpus is juxtaposition, comprising 64.4% (or 121 of all cases) of the definition techniques found in the corpus. It is a process whereby the legal term is followed by its definition introduced by morphological forms of the verbs “понимать” (“to understand”), “определять” (“to define”) or the linking word “это” separated by a dash. Some typical examples from the corpus are provided below.

- (5) Под соучастием в преступлении закон *понимает* совместное участие двух или более лиц в совершении умышленного преступления.

The law *understands* complicity as the joint participation of two or more persons in the commission of an intentional crime.

- (6) Заключение эксперта и его показания – *это* заключение или показания специалиста в какой-либо области знаний.

The expert opinion and the expert testimony *are* the opinion or testimony of a specialist in a certain field of knowledge.

As shown in Table 3, “понимать” (“to understand”), comprising 38.3% of all markers, is the most commonly used linguistic tool for introducing definitions of the legal concepts in this corpus. The verbal marker “определять” (“to define”) and the pronominal marker “это” (“this”) comprise only 12.1% and 10.5%, respectively.

| Definition markers | Relative frequency (%) | Raw frequency | Normalised frequency |
|--|------------------------|---------------|----------------------|
| понимается (is understood) | 38.3 | 72 | 2.9 |
| (закон) понимает (the law understands) | 25.5 | 48 | 1.9 |
| (следует) понимать (should be understood) | 13.6 | 26 | 0.8 |
| определяется (is defined) | 12.1 | 23 | 0.9 |
| это (this) separated by the dash | 10.5 | 20 | 0.8 |
| Total | 100 | 189 | 7.3 |

Table 3. Frequency distribution of the definition markers in the corpus.

Interesting for the present study is the use of the modal verb “следует” (“must” in the legal context) coupled with the definition verb “понимать” (“to understand”). In this case, the jurors are provided with a compulsory instruction signalled by the deontic modality tool. Here is an example of the case:

- (7) Под незаконной передачей предметов преступления *следует понимать* их незаконное предоставление лицами, у которых они находятся, посторонним лицам для временного использования или хранения.

One must understand the illegal transfer of objects of crime as their illegal provision by persons, who possess them, to unauthorised persons for temporary use or storage.

The deontic modality is a crucial style feature in legal documents, including jury instructions. Legal texts, being prescriptive by nature, “are regulatory instruments containing rules of conduct or norms. Accordingly, they prescribe a specific course of action that an individual ought to conform to” (Sarcevic, 1997, p. 11).

4.2. Description

Along with definitions, legal professionals often describe legal concepts without delving into their theorization, because what laypeople need is an understanding of a concept, rather than its abstract definition. Being enlarged versions of definitions, descriptions are used to explain expert knowledge by relating it to common knowledge and have simpler structures (Anesa, 2016; Ciapuscio, 2003). In this corpus, 158 discursive instances that were interpreted as descriptions were found (6.3. instances per 10,000 words). The process is illustrated in the following example.

- (8) *Доказательствами* являются любые сведения, устанавливающие наличие или отсутствие обстоятельств, подлежащих доказыванию (событие преступления, причастность к нему подсудимого, виновность).

Evidence is any information that establishes circumstances to be proven (a crime event, involvement of the defendant, guilt of the defendant).

In order to explain the legal concept, the judge describes it by relating it to shared experience. The description provides a set of characteristics whereby the legal phenomenon can be recognised. The quantitative analysis revealed that the verb “являться” (“to be”) was the most commonly used linguistic marker signalling descriptions in the corpus (see Table 4).

| Description markers | Relative frequency (%) | Raw frequency | Normalised frequency |
|-------------------------------------|------------------------|---------------|----------------------|
| являться (be) | 47.8 | 76 | 3.1 |
| это (this) separated by the dash | 31.9 | 50 | 2 |
| то есть (that is) | 20.3 | 32 | 1.3 |
| Total | 100 | 158 | 6.4 |

Table 4. Frequency distribution of the description markers in the corpus.

As distinct from definitions, descriptions involve a far more limited use of specialised vocabulary. They most commonly extend throughout large paragraphs. Consider example (9), explaining the nature of the legal concept “разумные и неустранимые сомнения” (“reasonable and irremediable doubts”) through a description which extends throughout the paragraph consisting of two complex sentences.

- (9) Сомнения должны толковаться в пользу подсудимого. Но не все, а только разумные и неустранимые. Что такое *разумные сомнения*? Это такие сомнения, которые можно разумно объяснить, основанные на здравом смысле, а не на предвзятом мнении, предположениях, воображениях, чувстве симпатии или антипатии к подсудимому, желании угодить общественному мнению, оправдать ожидания друзей. *Неустранимые сомнения* – это те, которые невозможно устранить путем тщательного и всестороннего анализа представленных вам доказательств.

Doubts must be interpreted in favor of the defendant. But not all doubts, only reasonable and irremovable ones. What are *reasonable doubts*? These are

doubts that can be reasonably explained, based on common sense rather than prejudice, assumptions, imagination, sympathy or antipathy towards the defendant, the desire to please the public, to meet the expectations of friends. *Irremediable doubts* are doubts that cannot be eliminated through the careful and comprehensive analysis of the evidence presented.

In the example just quoted, we see that the explanation provides structural and dynamic information in terms of the properties of the phenomenon. The nature of the legal concepts is described by including their main features. The analysis revealed that all the definitions that appeared in the corpus were limited to a few words (34%) or a clause (66%), and never extended throughout large sections of discourse.

Interesting for our study is that sometimes descriptions are offered before the legal concepts have been introduced. The following example illustrates such a case:

- (10) Показания подсудимого, потерпевших, свидетелей, заключения и показания экспертов, протоколы следственных действий, вещественные доказательства и различные документы, оглашенные в ходе судебного следствия, – это *доказательства по делу*, которые вам следует оценить, проанализировать в совещательной комнате.

Testimony given by the defendant, victims, and witnesses, expert opinions, investigation reports, material evidence and documents read out during the trial are *evidence in the case*, that you must evaluate and analyse in the deliberation room.

In Example (11), the legal concept “прямой умысел” (“direct intent”) is explained by offering a description which is followed by concrete examples.

- (11) Посягательство на жизнь сотрудника правоохранительного органа может быть совершено только с *прямым умыслом*. То есть при производстве выстрелов в одного или нескольких потерпевших стреляющий осознает неправомерность своих действий и не просто допускает, а предвидит возможность наступления в результате его выстрелов смерти человека и желает лишить жизни сотрудника милиции.

Infringement on life of a law enforcement officer can be committed only with a *direct intent*. That is, when firing shots at one or several victims, the shooter realises the illegal nature of his actions, not only admits, but

foresees the possibility of a death as a result of his shots, and wants to kill the police officer.

What follows is an example where a definition and a description go together explaining an unknown word and an unknown phenomenon. This analysis identified 27 occurrences of this combination.

- (12) *Умышленное убийство из хулиганских побуждений*, то есть убийство, совершенное на почве явного неуважения к обществу и общепринятым нормам морали, когда поведение виновного является открытым вызовом общественному порядку и обусловлено желанием противопоставить себя окружающим, продемонстрировать пренебрежительное к ним отношение. Это преступление совершается без повода или с использованием незначительного повода как предлога для убийства. При убийстве из хулиганских побуждений выбор жертвы бывает случайным. Суть в том, что виновное лицо желает противопоставить свое «Я» другому человеку. Хулиганские побуждения бессмысленны и безрассудны с точки зрения здравого смысла, но являются реальными и достаточно сильными побудительными мотивами к совершению преступления. Виновное лицо как бы самоутверждает значимость своей персоны в глазах других при совершении убийства.

A premeditated murder for molester motives, that is, a murder committed due to obvious disrespect for society and generally accepted moral norms, when the behavior of the perpetrator is an open challenge to public order determined by the desire to oppose others and demonstrate a disdainful attitude towards them. This crime is committed without reason or using a minor reason as a pretext for murder. When murdering for molester motives, the choice of the victim is random. The bottom line is that the guilty person wants to oppose himself to another person. Molester motives are senseless and reckless in terms of common sense, but they are real and strong enough to commit a crime. The guilty person sort of asserts his own significance when committing this kind of murder.

The definition is followed by a description, as it needs the help of a description to be understood better.

Table 5 presents the relative and raw frequencies of occurrences of the types of description in the corpus. It should be therefore stated that explanatory procedures combine and overlap, always with the aim of presenting information that the jurors may find complex.

| Description markers | Relative frequency (%) | Raw frequency | Normalised frequency |
|---|------------------------|---------------|----------------------|
| Description + legal concept | 37.2 | 59 | 2.4 |
| Legal concept + description | 32.1 | 51 | 2 |
| Legal concept + definition + description | 16.8 | 27 | 1.1 |
| Legal concept + description + exemplification | 13.9 | 21 | 0.8 |
| Total | 100 | 158 | 6.3 |

Table 5. Frequency distribution of the types of description in the corpus.

4.3. Exemplification

Exemplification was the third most common explanatory strategy found in the corpus, with a total of 124 instances (5 per 10,000 words). Being a communication process through which meaning is explained, it is based on case-based processes and allows jurors “to focus on a more familiar experiential concept, which otherwise may remain expressed in abstract terms, and to link that concept to concrete and specific situations” (Anesa & Butler, 2015, p. 123). In the type of interaction addressed in the corpus, the exemplification strategy is a resource judges frequently select to present legal knowledge by making it accessible to a lay audience, including jurors. This strategy is a form of formulation applied to the semantic-conceptual level of discourse. It includes the resources deployed by speakers to explain complex concepts in terms of everyday experience (Brünner, 1999; Ciapuscio, 2003). Baguley et al. (2017) point out that it is difficult to alter legal concepts without changing their legal meaning. The exemplification technique provides factual examples of legal concepts with the aim of making these concepts less abstract and improves jurors’ comprehension when factual, case-specific examples are used. Such examples are often easier to remember than everyday knowledge and hence are quite useful as an explanatory device in expert-lay interactions (Calsamiglia & Dijk, 2004). Apart from conveying the specific features of the legal phenomenon, the judge brings them closer to the jurors’ experience by means of comparison with everyday objects or scenarios that help them to form mental pictures of the concepts. The judge feels it necessary to ensure that legal concepts are understood by the jury and provides highly comprehensible explanations.

The following example illustrates such a case.

- (13) Изложенное в законе понятие о *неосторожных преступлениях* сложно для понимания. Поэтому я вам расскажу о классических примерах совершения убийства по неосторожности. *Например*, лицо, не желая смерти потерпевшего и не допуская ее наступления,

наносит удар в голову потерпевшего. У здорового человека от такого удара имелись бы только легкие телесные повреждения. Но в данном случае у пострадавшего было заболевание сосудов головного мозга, и от нанесенного ему одного удара произошло кровоизлияние в мозг, человек умер. *Другой пример.* Лицо также наносит удар, не желая и не допуская смерти потерпевшего, который падает, ударяется о твердое, допустим, бетонное покрытие и умирает от черепно-мозговой травмы, полученной при падении, а не непосредственно от полученного удара. При таких обстоятельствах налицо *неосторожные убийства*.

The legislative concept of *reckless crimes* is difficult to understand. Therefore, I will tell you about classical examples of negligent homicide. *For example*, a person who does not intend to kill the victim strikes him on the head. A healthy person would have only minor bodily injuries from such a strike. But in this case, the victim had a disease of the brain vessels, and the strike evoked cerebral haemorrhage, and the person died. *Another example.* The person also strikes, not wanting and not foreseeing the death of the victim, who falls, hits the hard surface, let it be a concrete surface, and dies from a head injury caused by the fall rather than by the hit. Under these circumstances, these are reckless murders.

Here, the legal concept “неосторожное убийство” (“reckless murder”), which the judge obviously considers opaque for the jury, is explained by offering an example that helps the lay audience immediately understand the meaning. The word “например” (“for example”) signals the exemplification strategy.

This analysis revealed that the preferred means of introducing the exemplification strategy is by making reference to specific situations that are closer to the jury’s everyday experience (58% of occurrences). Examples in the corpus were signalled by just four exemplification markers: “например” (“for example”), “в частности” (“including in particular”), “в том числе” (including), and “такие как” (“such as”). Example (14) contains the exemplification marker “в частности” (“in particular”):

- (14) *К огнестрельному оружию относятся, в частности, винтовки, карабины, пистолеты и револьверы, охотничьи и спортивные ружья, автоматы и пулеметы, минометы, гранатометы, артиллерийские орудия и авиационные пушки, иные виды огнестрельного оружия независимо от калибра.*

A firearm is a type of gun, in particular rifles, carbines, pistols and revolvers,

hunting and sporting rifles, machine guns, mortars, grenade launchers, artillery and aircraft cannons, and other types of firearm, regardless of their calibres.

Table 6 presents the most frequent exemplification markers as a percentage of all such markers in the corpus. There seems to be an evident preference for the marker “*например*” (“for example”) comprising 50.1 % of all exemplification markers found in the corpus.

| Exemplification markers | Relative frequency (%) | Raw frequency | Normalised frequency |
|-------------------------------------|------------------------|---------------|----------------------|
| <i>например</i> for example | 50.1 | 62 | 2.5 |
| <i>в частности</i> in particular | 21.3 | 26 | 1 |
| <i>в том числе</i> including | 16.9 | 21 | 0.8 |
| <i>такие как</i> such as | 11.7 | 15 | 0.6 |
| Total | 100 | 124 | 4.9 |

Table 6. Frequency distribution of the exemplification markers in the corpus (% of total).

Thus, examples refer to the act of presenting expert knowledge to a lay audience. They play a significant role in legal-lay interactions, contributing, as Kucelman (2016, p. 111) points out, to “the creation of a coherent text by providing an easily accessible link between a more abstract, general statement of high complexity and its particular, specific instances”.

4.4. Metaphorisation

The fourth most common explanatory strategy in the corpus used to communicate law-related information was metaphorisation (65 occurrences). The frequency per 10,000 words was 2.6. Metaphors perform three main functions: they attract the reader’s attention, structure and explain specialised concepts, and organise the text into a narrative (Camus, 2015). In the courtroom, according to Bugliosi (1996), it is not difficult to keep the jurors’ attention for several days if the lawyer can deliver a discourse “that is sprinkled with example, metaphor and humor”.

Metaphorisation offers a series of advantages, including the tangible quality of images from the physical world used to represent abstract and often complex concepts that would otherwise be difficult to define (Gotti, 2008). This is especially true in the case of legal-lay interactions, whereby a number of concepts are defined and explained in terms of conceptual metaphors.

The analysis revealed a widespread use of sports and military metaphors (“битва”, “противник”, “состяжание”, “вторгаться”, “позиция защиты”, “арсенал правовых средств”, “правила игры”), providing support for the thesis that these often frame trial procedures. What follows is an example from the corpus where an abstract concept is explained by means of the sports metaphor “марафон” (“marathon”):

- (15) *Судебное заседание* – это многомесячный длительный *марафон*, в котором представители государственного обвинения и защитники спорят друг с другом, оспаривают те или иные положения ... А вы в этом *марафоне* являетесь судьями, арбитрами.

Courtroom trial is a long-term *marathon*, in which the prosecution and the attorney argue with each other, challenge each other’s statements... And in this *marathon* you are judges, arbiters.

The simple, concrete, and memorable comparison with a familiar sports activity makes it possible to grasp the abstract legal concept “судебное заседание” (“trial”). The metaphorisation allows the judge to explain the nature of a jury trial which is conceptualised as a long distance race, and helps the jurors to understand the abstract legal phenomenon by associating it with a familiar sports event. In the following example, a combination of two explanatory strategies is employed:

- (16) Ваша задача – тщательная работа с *фундаментом*, с *существенными фактами*. И выбрав, *например*, доказательство, подтверждающее вину, вы должны проанализировать, имеются ли другие доказательства, которые дополняют или обуславливают этот фундамент. И если это так, то тогда доказательства становятся убедительными, не оставляющими сомнений. Это и есть *оценка доказательств в их совокупности*.

Your task is to thoroughly work with *the building base*, *with substantial facts*. And after having chosen, *for example*, incriminating evidence, you have to analyse whether there are other types of evidence that support or determine *this building base*. If this is the case, the evidence becomes convincing, beyond doubt. This is exactly what *the weight of evidence* is.

In presenting the legal information, the judge seeks to align with everyday experience through the mention of a concept that is typical of daily life. The metaphor “фундамент” (“building base”) allows the jurors to immediately understand the meaning of the legal concept by establishing a link between

two domains of experience – construction and law. The example of the legal procedure “оценка доказательств в их совокупности” (“weight of evidence”) is introduced by the exemplification marker “например” (“for example”).

It is interesting to observe that as distinct from definitions and descriptions, metaphors and examples are aimed at ensuring the jury’s comprehension by bringing the legal information closer to their everyday experience through the mention of everyday objects or events.

4.5. Synonyms

Another explanatory strategy, the least frequent in the corpus (60 occurrences or 2.4 per 10,000 words), is the use of synonyms providing alternative terms for abstract concepts that jurors may not be familiar with. It could be interesting to note that in legal-lay discourse synonyms, which are always avoided in legal language based on the principle of unambiguity, are sometimes employed to improve the comprehensibility of abstract legal concepts. As Ciapuscio (2003, p. 214) points out, synonyms imply “a certain degree of semantic equivalence between referential and treatment expressions”.

The findings showed that the only means of introducing synonyms is the linguistic marker “то есть” (“that is”) (46 occurrences in the corpus). Other tools introducing synonymic expressions (“другими словами”, “иначе говоря”) and clearly showing the reformulation procedure did not appear in the corpus.

- (17) Если показания подсудимого *непоследовательные, то есть противоречивые*, это не означает, что подсудимый сознает свою вину.

If the defendant testimony is *inconsistent, that is, contradictory*, this does not mean that the defendant is conscious of his guilt.

The less frequent use of examples, metaphors and synonyms as explanatory tools might be partly due to the fact that they make meanings more ambiguous than clear (Krapivkina, 2017b). What is more, as Baguley et al. (2017, p. 7) point out, “providing factual examples of legal concepts reduces the conceptual complexity, but also increases the amount of information. This increase in the amount of information may then negate the effect of reducing the conceptual complexity”.

5. Conclusions

Forty-two jury instructions were analysed with the aim of identifying the most common explanatory strategies employed to translate complex legal concepts into the terms of everyday life. Since they are basically tools for facilitating access to complex legal information, their function is to aid the layperson's comprehension.

The results of the present study revealed that Russian judges use five types of explanation with the aim of making legal knowledge comprehensible to a lay audience and preventing the emergence of communicative problems that could affect the jury's conclusions. These are definitions, descriptions, examples, metaphors, and synonyms.

The article's significance lies in the attempt to describe the knowledge asymmetry elimination process in the Russian judicial setting, which has scarcely been addressed in terms of the explanatory mechanisms intended to overcome communication problems that arise between legal professionals and a lay audience. Even though this article did not attempt to exhaust the analysis of explanatory strategies used by Russian judges, its main contribution is that of identifying ways of accommodating professional discursive practices towards a lay audience and improving current understandings of discursive tools for reducing knowledge asymmetry, focusing on Russian-medium texts. The content of this paper could expand our research horizons on this issue, which has important societal relevance.

I suggest that further studies be undertaken to explore this area of research, by exploring other aspects of courtroom discourse, including but not limited to the types of syntactic complexity, that interfere with comprehension. The research could be extended further by carrying out studies in other legal domains where obscure expert texts create a demand for expert-to-lay translation of the materials presented in various world languages. On the other hand, the findings of the present study refer to jury instructions and, consequently, one limitation of this analysis is its exclusive focus on written courtroom discourse. Further research is thus needed into oral legal-lay discourse in various legal settings in order to complement the findings of the present study by bringing out the distinctive characteristics of spoken legal-lay discourse.

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Olga Boginskaya is Full Professor of English Linguistics at Irkutsk National Research Technical University in Irkutsk. Her main research interests range from specialised discourse analysis to translation studies. She is currently carrying out a research project focused on popularization discourse in professional settings.

NOTES

¹ I should note that the translations provided here are literal, intended to give an idea of the explanatory structures preferred by Russian judges. Serving this purpose, they may contain unidiomatic expressions.

² The use of the dash following this demonstrative pronoun corresponds to the present tense of the verb 'to be' in English.