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The formation of legal terms in the Spanish language: the influence of Roman law, the role of the Spanish monarchy and borrowings

Abstract. The author examines the historical development of legal terminology in the Spanish language, focusing on its multifaceted origins and the lasting influence of various legal systems. Special attention is paid to the 13th century. Central to this exploration is the legacy of Roman law, which laid the foundation for many key legal concepts and terms still used today in the world. Moreover, the author also highlights the impact of linguistic borrowing, particularly from Latin, Greek, English, French, and German languages, reflecting Spain's complex and rich cultural history. The role of Spanish monarchs, especially Ferdinand III and Alfonso X the Wise, in codifying and standardizing legal language is examined in detail, revealing how their legal reforms shaped the trajectory of Spanish law. By tracing these linguistic and legal influences, the author provides a comprehensive and unique understanding of how historical, cultural, and political factors have influenced the development of Spanish legal terminology. Ultimately, the author offers insights into how the legal language of Spain reflects broader shifts in European legal traditions and continues to influence modern legal discourse in Spanish-speaking countries.

Keywords: legal terms; Spanish legal terms; borrowings; Spanish monarchy; calcification; Latinisms; Greekisms; Alfonso X the Wise; Roman law; suffixes

Introduction

Legal language is not just a means of communication in the legal sphere, but also a reflection of the cultural and historical development of a society. Spanish, one of the most widely spoken languages in the world, is characterised by a rich legal terminology that has evolved over many centuries. The most important sources of these terms are Roman law, whose deep roots still influence the legal systems of most countries, and the numerous borrowings from other languages that have arisen in the course of the development of Spanish legal culture. In this context, the Spanish monarchy

has played a key role in guiding the evolution of legal norms and linguistic expressions according to the needs of the country and its legal system. The aim of this article is to explore the main factors that have influenced the formation of Spanish legal terms, focusing on the influence of Roman law, the role of the Spanish monarchy in the development of the legal system and borrowings from other languages.

Main part

Before turning to the topic of Spanish legal terms, it is worthwhile to refer to the basic concepts (in particular, term, legal terms). A term is «a word or phrase denoting a special concept and having a clear scope of application» [1]. The concept of «term» is part of «the general lexical system of a language, but only through a specific terminological system (terminology)¹». Considering the science of term management — terminology, linguists note that this science is associated with the name of the Austrian scientist O. Wüster, the founder of the terminology system. Wüster, the founder of terminology, who published his works in the thirties of the twentieth century. Later, «in the 90s of the twentieth century, terminology is distinguished into a science of theoretical and practical importance with many directions, and studies the essence and nature of terms, the structure of terminosystems, its origin and functioning». ² The next concept to consider is the legal term. Legal terms are «an element of legal technique, verbal designations of state-legal concepts, with the help of which the content of normative-legal prescriptions of the state is expressed and fixed³». These terms are «a support in the process of cognition of phenomena and are related to the function of law [2]». Specialists in the field of law and linguistics emphasise the need to study legal terms from the point of view of functioning and perception of these terms by ordinary speakers. The science that studies legal terms is legal terminology. According to S.P. Khizhnyak, this science can be divided into «terminology of law and terminology of jurisprudence» [3]. This division is associated with «different spheres of functioning of legal terminology: official-business and scientific» [4, с. 80].

The influence of the Spanish monarchy, represented by Alfonso X the Wise, on the formation of legal terms

The thirteenth century was an era in Spain in which steps were taken towards the establishment of legal terminology as part of the terminological systems and the Castilian language. For the history of the Iberian Peninsula, this century was important. It was the «Renaissance of the thirteenth century», since it was during this period that a huge number of works were produced. A huge role in the development of Spanish legal terms was played by King Alfonso X the Wise of Spain. It is not without reason that «the famous medieval Spanish writer Juan Manuel (1282–1349) spoke enthusiastically about the activities of King Alfonso X the Wise»⁴ as follows: «Non podría decir ningun omne cuánto bien este noble rey fizo sennalada mente en acrescentar et alumbrar el saber».⁴

¹ Linguistic encyclopedia / chief editor V.N. Yartsev. — 2nd ed., add. Moscow: Bolshaya Rus. encycle. — 2002. — С. 508.

² Sivkova, N.V. The formation of Spanish scientific terminology in the era of Alphonse X (based on the works of the Royal Chancellery) (final qualifying work) / N.V. Sivkova // St. Petersburg State University. — 2018. — 80 s.

³ A large legal dictionary / edited by A.Ya. Sukharev, V.D. Zorkin, V.E. Krutskikh. — М.: INFRA-M. — 2009. — С. 782.

⁴ Ivanova, A.N. The Code of Laws of Alfonso X the Wise «Siete Partidas» (1256–1265) as a reflection of the medieval Spanish language picture of the world: specialty 10.02.05 — «Romance languages»: dissertation for the degree of Candidate of Philological Sciences / Ivanova Angelina Nikolaevna; Lomonosov Moscow State University. — М.: 2014. — 233 s.

During the reigns of Kings Alfonso X the Wise and his father Fernando III, the Kingdom of Castile and Leon grew in size through the conquest of new territories.

Alfonso X the Wise received a decent education and «learnt Latin, Arabic and later Galician-Portuguese. In his youth he wrote a treatise on gemstones, and later (around the first year of his reign) he began to draft a unified code of law based on previous laws for the kingdom in Old Castilian».² According to some researchers, this body of legal content called «Fuero Real» was published in 1255, that is, three years after Alfonso X's accession to the royal throne. The corpus is based on the texts of the local Castilian-Leon law (in particular, the charters, privileges and charters of the «Fuero Huzgo»). It is worth noting that «the Royal Fūero Code of Law corresponded to the establishment of the King's monopoly of law-making and the end of the system of free composition of law that existed in Castile and Extremadura» [5]. The Code of the Royal Fuero spread to all the cities of the kingdom within a few years. After the Royal Fuero, the Kingdom began work on the «Especulo» (1258). Of the planned seven parts, only five could be completed. The next work of Alfonso X the Wise is the Codex «Laws of the Partidas» (1265) or «Seven Partidas» («Siete Partidas»). A study of the codex suggests that there are few simple term units in structure (e.g. debito, fiijo, fuero, juez, parte, poder, prueua, rey, tuerto). It should be noted that among the suffixes the following predominate: -ero/-dor (in the words: consejero, fiador, guardador, personero, traydor), -ista, -miento (in the words: arrepentimiento, escarmiento). This code is one of «the first legal documents in Old Castilian and the most famous monuments of law-making in medieval Spain, as well as the first monument of the reception of Roman law».⁴ This document was «invaluable in the establishment and development of the legal system in the Iberian Peninsula, and in the creation of a system of legal vocabulary».⁴ For example, the seventh part of the code deals with offences and punishments and can be equated with the general part of modern penal codes. The «ideas expressed in the Seven Partidas were far ahead of their time and were not accepted by thirteenth-century Spanish society. However, in the fourteenth century, the state was ready to reform the country's legal system along the lines of Roman classical law».⁴

Moreover, «the analysis of the lexicon of twelve works of the thirteenth century shows the importance of internal mechanisms in the formation of new lexical units of the language (76,6 % — 83,9 % are native words)» [6]. In this century, «783 words of the 5 000» [6] thousand contemporary most used words of the Spanish language have been documented.

The initiative of the Castilian court played «a notable role in the process of Castilian language development. Moreover, if we compare the language policies of the Castilian-Lyon kings Fernando III (1217–1252), Alfonso X the Wise (1252–1284) and Sancho IV the Brave (1284–1295), it becomes clear that it was Alfonso X the Wise who legitimised the use of Castilian (written) as a national language and contributed to the birth of its transformation into an official language, which lasted several centuries, and also took the initiative in creating a number of texts, the likes of which had not yet existed in that era»². Numerous texts were devoted to various fields, including the legal field. In particular, some of the writings of Alfonso X the Wise described the language policy of the kingdom.

The influence of Roman law on legal terms

Roman law is «the law of a civilisation that stretched from the Mediterranean Sea to the North Sea, from Byzantium to Brittany. Until the 19th century, Roman law was taught in all universities and its study formed the basis of education» [7]. The study of Roman law «united the peoples of Europe while respecting their differences, without which Europe would not be what it is» [7]. The brevity and simplicity of Roman law allowed Latin terms to spread throughout the countries of Europe. In addition, «the history of the formation of legislative precepts was conditioned for many states by the significant influence of late Roman laws and the retention of some Roman terms and concepts» [8].

Moreover, Roman law found its continuation in the writings of King Alfonso X the Wise, who was in favour of the principle of sovereignty. He endeavoured to spread Roman law and regarded law as «a tool for restructuring the system of political and social relations, a means of transition to absolute monarchy. It was not without reason that the scribes of King Alfonso X changed the legal significance of local collections of customs and gave priority to the foundations of Roman canon law».²

However, it should be emphasised that «legal traditions and the legal system are important when translating legal terms from Spanish into another language and vice versa» [8]. The «legal system in Spain has inherited unique concepts, procedures and terms from Roman law that differ from the legal systems of other countries» [8]. For example, there are many specialised legal terms in the Spanish language. Some of them can be unambiguously translated, while others require contextual understanding. The legal term «derecho» means not only «right» but also «rights» depending on the context.

Thus, precision clarity and simplicity of wording is a hallmark of Roman law. Roman law is the primary source of the emergence of legal vocabulary for many of the world's languages, including Spanish. A great deal of Roman legal terminology is still in use today and is the heritage of most modern legislative institutions.

The role of linguistic borrowing

Borrowing is «an element of a foreign language (word, morpheme, syntactic construction) transferred from one language to another as a result of linguistic contacts, as well as the process of transition of elements from one language to another⁵». Language borrowing has «deep historical roots and is one of the regularities of the development of lexicology» [8]. «The language of Spanish jurisprudence has been greatly influenced primarily by Latin, Greek, French, English and German terms and concepts» [8].

Let us consider the terms and concepts of each of the above languages separately.

- English language. This language has enriched the Spanish legal system of terms with the following examples of terms: «leasing», «trust/fondo», «hacker/pirate». In particular, the English word «hacker» is «a person who commits various kinds of illegal actions in the field of informatics⁶». Taking into account the fact that one of the ways of borrowing is calcification, let's consider the word combination «solución de compromise». This word-combination is calque from the English word combination «compromise solution».

- Greek language. The most common Greek language terms are: «autonomia» — self-government; «grammata» — reading, writing, in international law — credentials [8]). The first example of a legal term derived from Greek is «képhalos» and is translated into Spanish as acefalo. A second example is «αμνηστία» (in Spanish — «amnistia»), which refers to amnesia, memory loss and forgetfulness. «There are structurally complex terms that simultaneously contain borrowings from Greek and Latin» [8]. For example, the Spanish legal «term «biocida» is derived from the Greek word «bio» (life) and the Latin word «cidae» (destroy)» [8] and means «an international crime against humanity directed only against humans and other living beings, the deliberate and massive destruction of humans and wildlife by means of weapons of mass destruction⁷». A second example is the «term

⁵ Dobrodomov, I.G. Borrowing / I.G. Dobrodomov // Linguistic encyclopedic dictionary/under the general editorship of V.N. Yartsev. — M.: Sov. Encyclopedia. — 1990. — pp. 158–159.

⁶ Barikhin, A.B. The Great Encyclopedic Dictionary of Law. — M.: Book World. — 2005. — p. 720.

⁷ Barikhin, A.B. The Great Encyclopedic Dictionary of Law. — M.: Book World. — 2005. — p. 47.

«genocidio» which is made up of the Greek word «genos» (genus, tribe)» [9] and the Latin word «cīdium» (murder).

- Latin is «one of the Italic languages of the peoples who inhabited middle Italy with a center in Rome (8th century BC). The conquests of slave-holding Rome led to the spread of Latin to North Africa, Spain, Germany, Dacia, and elsewhere. During the Renaissance, Latin was favored in church and classical writing» [10]. During the Renaissance, Latin was favoured in ecclesiastical and classical writing. Examples of Latin terms are: abrogatio, advocatus, alibi, articulus, argumentum legis, arte, calumnia, causa mortis, circulus vitiosus, crimen, culpa, damnatus, de facto, de jure, dominium, error juris, falsus, fraus/fraude, hereditas, obligatio, impossibilium, pluralis, sanctioned terminus. Many Latin terms are universal and well-established. According to A.B. Barikhin, the Latin «term «arbogatio» means ‘the cancellation of an obsolete law due to its uselessness [its] contradiction[s]» [12, c. 5]. In Spanish, the following legal terms derive from Latin: abogado (from Latin. — advocatus), aborto (from Latin. — abortus), abuso (from Latin. — abusus), acción (from Latin. — agere, obrar), and others. Consequently, Romance languages, including Spanish, use legal Latinisms with little or no change to the original spelling and structure.

- German. Examples of Spanish legal terms borrowed from German are: «bancarrota» (banktrota), «renta» (renta), «trazador» (trazador).

- French language. The language of jurisprudence in Europe has long been French. In particular, the following Spanish legal terms [10] were borrowed from the French language: «arbitraje» (arbitration), «procurador» (prosecutor), «garante» (guarantor) and others [8]. Paying special attention to the Spanish term «garante», it is worth noting that «in French the word «garantir» means the state, legal or natural person who gives a guarantee, as well as the guarantor» [12, c. 99].

The analysis of the vocabulary of some Renaissance works allowed us to conclude that «7–12 %» of the terms were borrowed from Latin and Greek, and «2–5 %» [8] — from other languages.

Conclusion

Taking into account the fact that scholars «are faced with the problem of studying, understanding and interpreting legal terms» [11], the topic of this article is relevant. Thanks to the great king Alfonso X, there was a flourishing of culture and science in the territory of the Iberian Peninsula. The monuments of Spanish literature, created by his order, determined the development of the literary Spanish language and literature, and made an invaluable contribution to the lexical, grammatical, syntactic and orthographic structure of the language. The extant texts cover more than 20 000 pages. For the first time in the history of Spanish literature, the focus of an entire large-scale work was on the laws in relation to the unified power concentrated in the hands of the king⁴ and their application to a particular territory. The study of the monuments of Spanish literature of Alfonso X «provides an opportunity to penetrate into the depth of time, creates conditions for semantic interpretations, reconstructions of the linguistic picture of the world, sheds light on the mechanisms underlying the language nomination and term formation». ⁴To conclude, the formation of Spanish legal terms is a complex process in which the influences of different legal traditions, cultures and historical events are intertwined. Roman law, as the foundation of the Western European legal system, was a fundamental source for Spanish legal terminology, laying the foundations for the concepts and principles that are still used today. The Spanish monarchy, in turn, contributed to the consolidation

⁸Barikhin, A.B. The Great Encyclopedic Dictionary of Law. — M.: Book World. — 2005. — p. 5.

⁹Barikhin, A.B. The Great Encyclopedic Dictionary of Law. — M.: Book World. — 2005. — p. 99.

and development of legal norms, playing an active role in the formation of a unified system of law and the introduction of specific terms. Borrowings from other languages have also played an important role in this process, reflecting the open nature of the Spanish legal language to external influences and the adaptation of new concepts.

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Формирование юридических терминов испанского языка: влияние римского права, роль испанской монархии и заимствований

Аннотация. Автор рассматривает историческое развитие юридической терминологии в испанском языке, уделяя особое внимание ее многогранному происхождению и длительному влиянию различных правовых систем. Особое внимание уделяется 13 веку. Центральное место в этом исследовании занимает наследие римского права, которое заложило основу для многих ключевых юридических концепций и терминов, до сих пор используемых в мире. Кроме того, автор также подчеркивает влияние лингвистических заимствований, особенно из латинского, греческого, английского, французского и немецкого языков, отражающих сложную и богатую культурную историю Испании. Подробно рассматривается роль испанских монархов, особенно Фердинанда III и Альфонсо X Мудрого, в кодификации и стандартизации юридического языка, а также то, как их правовые реформы повлияли на развитие испанского права. Проследив эти лингвистические и юридические влияния, автор дает всестороннее и уникальное представление о том, как исторические, культурные и политические факторы повлияли на развитие испанской юридической терминологии. В конечном счете автор предлагает понимание того, как юридический язык Испании отражает более широкие изменения в европейских правовых традициях и продолжает влиять на современный юридический дискурс в испаноязычных странах.

Ключевые слова: юридические термины; юридические термины испанского языка; заимствования; испанская монархия; калькирование; латинизмы; грецизмы; Альфонсо X Мудрый; римское право; суффиксы