2025 PRACE JĘZYKOZNAWCZE XXVII/2
ISSN 1509-5304 DOI 10.31648/pj.11309 185–199
eISSN 2450-0801

Rafał Krzysztof Matusiak
Uniwersytet Opolski
ORCID: https://orcid.org/0000-0001-5288-6016
e-mail: rkmatusiak@gmail.com

Fatal offences versus *Przestępstwa przeciwko życiu*: the degree of equivalence of the terms: *murder, manslaughter, zabójstwo* and *nieumyślne spowodowanie śmierci*

Fatal offences a *Przestępstwa przeciwko życiu*: stopień ekwiwalencji terminów: *murder, manslaughter, zabójstwo* i *nieumyślne spowodowanie śmierci*

Abstract
The article offers insight into the distinctions between various types of homicide made in the English and Polish legal systems. The general term *homicide* semantically encompasses all kinds of acts that result in the death of another person, regardless of whether they were committed intentionally or unintentionally, unlawfully or under the right of self-defence. The criminalised form of *homicide* is typically divided into two main crimes: *murder* and *manslaughter*. The English term *murder* has no statutory definition and is traditionally cited after Sir Edward Coke (1797). Initially, one can have an illusory impression that the Polish term *zabójstwo* fully corresponds to English *murder*. Nevertheless, as demonstrated in the article, even as regards the seemingly isosemantic terms of crimes, it is possible to discern differences between their features in both legal systems. Similarly, the term *manslaughter* does not have a statutory definition, and its scope of meaning can be reconstructed based on the boundaries of various mitigating circumstances (defences), which are to be found in numerous laws and court rulings. Hence, the term *manslaughter* covers six types of criminal acts. The juridical-semantic problem appears when it comes to finding functional equivalents for particular kinds of *manslaughter* in the Polish language and the Polish Penal Code. Thus, the article can be of interest to both legal discourse analysts and legal translators, and it may stimulate discussion on the (un)translatability of asymmetrical legal concepts.

Keywords: fatal offences, murder, manslaughter, language of the law, legal interpretation, legal translation

Abstrakt
Artykuł ukazuje rozróżnienie pomiędzy różnymi nazwami typów zabójstwa w angielskim i polskim systemie prawnym. Ogólny termin *homicide* semantycznie obejmuje wszystkie rodzaje czynów, które skutkują śmiercią innej osoby, niezależnie od tego, czy zostały popełnione umyślnie czy nieumyślnie, bezprawnie czy w obronie własnej. Penalizowana forma *homicide* jest tradycyjnie podzielona na dwa główne przestępstwa: *murder* i *manslaughter*. Angielski termin *murder* nie ma ustawowej definicji i jest tradycyjnie cytowany za Sir Edwardem Cokiem (1797). Początkowo można odnieść złudne wrażenie, że polski termin *zabójstwo* w pełni odpowiada angielskiemu *murder*. Niemniej jednak na gruncie obu systemów prawnych nawet pomiędzy pozornie izosemantycznymi określeniami przestępstw można dostrzec różnice w ich znamionach. Podobnie pojęcie *manslaughter* nie posiada definicji legalnej, a jego zakres znaczeniowy można rekonstruować na podstawie granic poszczególnych okoliczności łagodzących (*defences*), które zostały rozproszone po licznych ustawach i orzeczeniach. Termin *manslaughter* obejmuje zatem sześć typów czynów zabronionych. Pojawia się w związku z tym problem jurydyczno-semantyczny, związany ze znalezieniem funkcjonalnych ekwiwalentów dla poszczególnych typów nieumyślności na gruncie języka polskiego i polskiego Kodeksu karnego. W związku z tym artykuł może być interesujący zarówno dla analityków dyskursu prawnego, jak i tłumaczy prawniczych, a ponadto jest głosem w dyskusji na temat (nie)przekładalności asymetrycznych pojęć prawnych.

Słowa kluczowe: przestępstwa przeciwko życiu, zabójstwo, nieumyślne spowodowanie śmierci, język prawa, wykładnia prawnicza, tłumaczenie prawnicze

1. Introduction

The umbrella term *fatal offences* encompasses all criminal offences which result in the demise of another person. Its Polish functional equivalent would be *przestępstwa przeciwko życiu*[1]. The group of fatal offences includes *murder, voluntary manslaughter, involuntary manslaughter, corporate manslaughter, child destruction, infanticide*, and *causing death by dangerous driving* (Herring 2014: 234). The term *homicide* should not be treated as a synonym of the category of fatal offences since it semantically embraces acts of killing committed both lawlessly and lawfully (Monaghan 2018: 96). Thus, *homicide* additionally covers all instances of justifiable man-killing, such as self-defence or capital punishment. *Murder* and *manslaughter* are two main types of unlawful man-killing distinguished in the common law, whereas *manslaughter* might be committed involuntarily or voluntarily. In the Polish legal jurisprudence, the word *zabójstwo* appears to be a more general term than *morderstwo*, which alludes to an aggravated kind of causing

[1] It is worth noticing that the full name of the whole chapter where fatal offences are codified in the Polish Penal Code is *przestępstwa przeciwko życiu i zdrowiu* (*crimes against life and health*), hence it encompasses also other English crimes against the person except for sexual offences.

the death of another person (Gardocki 2008: 230). The term *nieumyślne spowodowanie śmierci* refers to taking the life of another without intent to murder. Analogously to the common-law categorisation, Polish criminal law also offers further categories of fatal offenses: *dzieciobójstwo* (*infanticide*[2]), *zabójstwo eutanatyczne* (*euthanasia*), *pomoc w samobójstwie* (*assisting in suicide*), and *aborcja* (*abortion*).

From a lexicographic point of view, the degree of equivalence of the analyzed terms resembled a folding ladder whose opposing parts consist of rungs of different numbers and sizes. Polish dictionaries of legal terminology (Jaślan i Jaślan 1991; Łozińska-Małkiewicz 2007; Ożga 2018; Myrczek-Kadłubicka 2024) provide *morderstwo* and *zabójstwo* as the main equivalents of the term *murder*, in addition the notion of *mord* appears as a third possible equivalent in three of them. The degree of equivalence becomes more vague in the case of the concept of *manslaughter*, which is translated differently each time: nieumyślne pozbawienie życia, nieumyślne zabójstwo, zabójstwo bez premedytacji (Jaślan i Jaślan 1991); nieumyślne zabójstwo (Łozińska-Małkiewicz 2007); nieumyślne zabójstwo (spowodowanie śmierci) (Ożga 2018); zabójstwo zwykłe (bez premedytacji) (Myrczek-Kadłubicka 2024).

2. Goals and research questions

The present article aims to scrutinise to what extent the legal terms *murder zabójstwo, manslaughter*, and *nieumyślne spowodowanie śmierci* might be regarded as functional equivalents. In addition, a solution will be put forward for rendering these notions into Polish. The degree of equivalence between other English and Polish fatal offences will be beyond the scope of this study.

The research material will contain both statutory and case law. The common-law sources will be limited to the criminal law of England and Wales since the United Kingdom has pluricentric legislation[3]. The criminal law of England and Wales is not codified. Hence, a constellation of crimes is scattered over the statutory cosmos whose focal points, from the perspective of this paper, are solely two statutes: the Homicide Act 1957[4] (HA hereinafter) and the Coroners and Justice Act 2009[5] (CJA hereinafter). As far as Polish

[2] All translations from/into Polish are mine.

[3] Hereinafter the adjective *English* describes the legal system of both England and Wales (Scotland has a separate legal system).

[4] Retrieved 27/08/2020 from https://www.legislation.gov.uk/ukpga/Eliz2/5-6/11/contents

[5] Retrieved 27/08/2020 from https://www.legislation.gov.uk/ukpga/2009/25/contents

law is concerned, all fatal offences are codified in chapter XIX of the Penal Code, announced on 6 June 1997[6] (KK hereinafter). Owing to the dearth of statutory definitions or due to their linguistic indeterminacy, case law and legal doctrine will be cited as well. When it comes to quoting judicial decisions, English and Polish styles of traditional judicial citation will be adopted with some required adjustments to the language of this paper; all case-law bibliographical notes (as opposed to book references) will be footnoted so as not to make the main body too arduous to read.

As Duběda emphasises, more than 30 different types of equivalence can be found in the literature on legal translation, and the difference between some types seems to consist only in different nomenclature (2021: 60). The typological triad of equivalence of legal terms proposed by Šarčević will be used in the analysis. The author distinguishes (1) near equivalence, where concepts A and B share all essential and most secondary features (A ~ B); (2) partial equivalence, where the terms A and B share most essential and some minor features (A ± B), and (3) non-equivalence, where the concepts A and B share only some or no essential features (A ≠ B) (1997: 238–239).

Terminological equivalence refers to the equivalence of legal effect (Šarčević 1997: 48). Therefore, the aim of translating a legal text is to achieve the same interpretation in the source and target languages. As Šarčević emphasises, lawyers are aware of the semantic and conceptual differences between languages and legal systems, but interlingual interpretation is expected to remain the same (1997: 246). Hence, legal terminology should not be rendered in isolation from the law as its meaning is (being) interpreted within that system. The key point here is the distinction between legal translation and legal interpretation.

There is a plethora of views concerning the mutual relationship between legal translation and legal interpretation. Some scholars regard legal interpretation as the most pivotal part of legal translation (Chromá 2008: 5), a case of intralingual translation (Smith 1995: 180), or "two sides of the same coin" (Engberg 2002: 375). Further, translation is deemed the cumulation of the interpretation (Galdia 2017: 386). However, academic opinions about the different natures of both phenomena are not isolated (cf. Bajčić 2017: 109; Stefaniak 2013: 64).

The present article poses two research questions. The first will attempt to establish the degree of equivalence of the criminal offences under study; legal interpretation will be chosen as a tool for proposing a legal translation

[6] Retrieved 27/08/2020 from http://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU19970880553/U/D19970553Lj.pdf

of *murder* vs *zabójstwo* and *manslaughter* vs *nieumyślne spowodowanie śmierci*. The second will answer the question of what type of equivalence the analysed terms represent according to Šarčević's typology.

3. *Murder* vs *Zabójstwo*

There is no statutory definition of *murder*. Its legal *definiens* was coined by Sir Edward Coke in 1797 and reads as follows: "When a man of sound memory and of the age of discretion unlawfully killeth any reasonable creature in being and under the King's peace, with malice aforethought, either expressed or implied by law, the death taking place within a year and a day" (as cited in Cecil Turner 1964: 126).

The euphemistic expressions *of a man of sound memory* and *the age of discretion* characterise the perpetrator who must be neither mentally ill (the insanity defence) nor under ten years of age (the defence of infancy)[7]. The phrase *King's/Queen's peace* refers to the *status quo* of public order maintained by the sovereign power (Dubber 2016: 605). *A contrario*, this wording serves as exculpation for killing an outlaw (capital punishment) or an enemy in wartime (*casus belli*) (cf. Cecil Turner 1964: 126–127). The time expression *within the year and a day* will be doomed to silence as being abolished by section 1 of the Law Reform (Year and a Day Rule) Act 1996[8]. The adverb *unlawfully* refers to these types of defence, which either exonerate a perpetrator ultimately (self-defence, insanity, infancy, automatism, and the principle of double-effect) or reduce criminal liability for *murder* to *voluntary manslaughter* (loss of control, diminished responsibility, suicide pact, and infanticide) (Monaghan 2012: 325).

The reading of *malice aforethought* deserves a separate paragraph. As explicated in *R v Cunningham*[9], this obsolescent wording in the context of Coke's definition is updated to mean *intention to kill* (*dolus directus*). In *Cunliffe v Goodman*[10], the notion of *intention* denotes "a state of affairs which […] he decides, so far as in him lies, to bring about, and which, in point of probability, he has a reasonable prospect of being able to bring about, by his own act of volition" (p. 253).

---

[7] The minimum age of 10 for criminal responsibility stems from section 50 of the Children and Young Persons Act 1933. Nevertheless, Elliot (2003) espouses increasing the age of *doli incapax* to 14 because children at the age of 10 are still incapable of perceiving the distinction between doing right or wrong (p. 308).

[8] Retrieved 29/08/2020 from https://www.legislation.gov.uk/ukpga/1996/19

[9] [1982] AC 566.

[10] [1950] 2 KBD 237 (CA).

It should be emphasised that the notions of *intention* and *foresight* differ in meaning in the context of criminal law since the latter is just a manifestation of the former[11]. In a similar vein, *motive* and *intention* are not legal synonyms because, as elucidated in *R v Moloney*[12], the term *motive* means a primary *raison d'être* which spurs one into unlawful action. In contrast, *intention* refers to one's willingness to reach a malicious goal (cf. Redondo 1999: 26–28). Undoubtedly, both concepts are inseparably linked as it seems inconceivable that intention could not be preceded by motive (Norrie 2001: 36). Furthermore, *premeditation* is repeatedly confused with *intention,* whereas the former is prior to the latter. As a result, every premeditated action precedes intention. Still, not each intended action follows premeditation (Katz 1987: 68). As an illustration, emperor Nero acted only with intent when he killed a messenger after having read that Agrippina the Elder, his mother, had survived an attempt on her life. *Au contraire*, while Agrippina the Younger was poisoning emperor Claudius, she was acting with both premeditation and intention, since before assassinating her husband, the empress had thought over the mariticide strolling about the forest and picking up some mushrooms *en passant*. Despite everything, the common law associates the commission of *murder* with intention exclusively.

Moreover, intent (*dolus*) in English criminal law can be either direct (*dolus directus*) or oblique (*dolus indirectus*). Indirect intent instantiates an aim to produce a deadly outcome, whereas oblique intent occurs when a transgressor knows that their action or omission can deliver a fatal result as a matter of course (cf. Williams 1987: 424). The murder of the message-bearer by Emperor Nero epitomises direct intent. To continue this Roman thread, Nero damaged his mother's boat to make it inhale water when in the open sea. Had Agrippina the Elder drowned then, the emperor would have committed the matricide with oblique intent.

The Polish legal definition of *zabójstwo* (*man-killing*) is extremely concise as being verbally condensed into one verb: "kto zabija człowieka" (art. 148 § 1 KK) (*Whoever kills a human being*). Literally, Polish lawmakers put emphasis only on the fatal result of one's action or omission. The criminal offence of *zabójstwo* may be perpetrated both *in dolus directus* (direct intent*, zamiar bezpośredni*) and *dolus eventualis* (possible intent*, zamiar ewentualny*). Similarly to the English jurisprudence, direct intent arises when an offender achieves their prime purpose by killing. The Court of Appeal

[11] *R v Hancock & Shankland* [1986] AC 455 (HL).
[12] [1985] AC 905 (HL).

in Łódź[13] made it plain that the concept of *dolus eventualis* embodies cases when a perpetrator is aware of the risk of causing death by their action or omission, but they accept this likelihood. On the whole, possible intent entails instances of inflicting such grievous bodily harm that will most likely bring about the death of an injured person shortly afterwards, for example, raining heavy blows on a victim's head, which resulted in a brain fracture and brain injury[14], firing numerous shots blindly at people[15], or dousing a person with some flammable substance and setting them on fire[16].

Only after perusing other types of Polish *zabójstwo* can the nature of its primary category emerge. The norm of article 148 KK distinguishes three kinds of *zabójstwo*: primary (*typ podstawowy*, art. 148 § 1 KK), aggravated (*typ kwalifikowany*, art. 148 § 2–3 KK), and privileged (*typ uprzywilejowany*, art. 148 § 4 KK). The aggravated types are perpetrated when a victim's life is taken away (1) in a particularly cruel way, (2) in connection with committing another transgression (hostage taking, rape, and robbery), (3) as a result of motivation that deserves severe condemnation, or (4) with the use of explosives (art. 148 § 2 KK). The subsequent paragraph adds three more conditions under which a killer might be found guilty of an aggravated murder: (5) killing more than one person, (6) having been previously convicted of murder, and (7) assassinating a civil servant on duty (art. 148 § 3 KK). The commission of an aggravated type of *zabójstwo* is penalised more severely, *id est* the lower term of imprisonment is twelve years in lieu of eight years for a primary type. As Daszkiewicz states, the lawmaker initially divided *zabójstwo* into *zwykłe* (*ordinary*) and *ciężkie* (*heavy*), though, from the semantic perspective, the Polish word *morderstwo* can be applied in reference to the aggravated type of *zabójstwo* instead (2000: 19). Conversely, Marek expounds that only two instances of aggravated *zabójstwo* (1 and 3) should be categorised as *morderstwo* (2006: 427). The privileged crime of *zabójstwo w afekcie* is perpetrated when one kills another human being under the influence of a strong emotion justified by the circumstances.

As enumerated above, the Polish Penal Code introduces seven aggravated circumstances of committing the crime of *zabójstwo*. A detailed analysis will entail only two of them whose phrasings are referentially open-ended. One vague wording is *in a particularly cruel way* (*ze szczególnym okrucieństwem*), which was clarified in the ruling issued by the Court of Appeal in Cracow[17]

[13] 19/07/2001, II AKa 120/01, Prok. i Pr. 2002, № 7–8, pos. 12.
[14] The Court of Appeal in Warsaw, 4/09/2017, II Aka 172/17, Legalis.
[15] The Court of Appeal in Warsaw, 8/03/2017, II AKa 14/17, Legalis.
[16] The Court of Appeal in Lublin, 2/10/2007, II AKa 211/07. KZS 2008, № 4, pos. 76.
[17] 20/09/2001, II Aka 195/01, KZS 2001, № 10, pos. 22.

as involving unnecessary suffering from the point of view of causing a victim's demise. In light of the above, the phrasing can be epitomised by immolation[18], physical and mental torture[19], or by leaving a dying person outside when it is frosty[20]. No quality of a particular murder weapon itself can determine cruelty[21]; as a result, slitting one's throat with a blade is as barbarous as suffocating with a silk scarf.

The other imprecise phrasing is *motivation that deserves severe condemnation* (*motywacja zasługująca na szczególne potępienie*). The level of condemnation is estimated through the prism of moral standards which prevail in society. The Court of Appeal in Katowice[22] highlights that an offender's acts must be greeted with widespread public outrage and abhorrence to meet the requirements for severe condemnation, consider man-killing for fun[23], murdering with intent to get money for alcohol and drugs[24], or eliminating those who are deemed to be second-class citizens according to a murderer[25].

As the Supreme Court of Poland paved the way[26], the privileged type of *zabójstwo w afekcie* is committed under the influence of a strong emotion triggered externally and justified by the circumstances. The legal interpretation of the phrase *a strong emotion* (*silne wzburzenie*) was offered by the Supreme Court as early as 1933. In that ruling, the *mens rea* of the privileged man-killing was amalgamated firmly with "emotional process which dominates the intellect to such an extent that the controlling function of the mind is limited" (as cited in Peiper 1935: 457). Accordingly, it does not suffice that an offender is experiencing a controlling emotion throughout the time of man-killing. Were it not for that intense emotion, a defendant would habitually act differently[27], to wit, in a less murderous manner. An offender cannot self-induce an overwhelming emotion; therefore, it cannot originate in intoxication[28].

What is more, a strong emotion should feature suddenness and transience; on that account, all planned homicides must be excluded from the

[18] The Court of Appeal in Lublin, 27/10/1998, II AKa 155/98, Legalis.

[19] The Court of Appeal in Lódź, 13/12/2001, II AKa 168/00, Prok. i Pr. 2002, № 7–8, pos. 24.

[20] The Court of Appeal in Katowice, 23/03/2006, II AKa 14/06, KZS 2006, № 11, pos. 55.

[21] The Court of Appeal in Lublin, 27/06/2006, II AKa 162/06, Prok. i Pr. 2007, № 2, pos. 22.

[22] 21/02/2013, II AKa 394/13, Legalis.

[23] The Court of Appeal in Cracow, 16/01/2002, II AKa 308/01, KZS 2002, № 2, pos. 92.

[24] The Court of Appeal in Szczecin, 30/05/2017, II AKa 58/17, LEX № 2304340.

[25] The Court of Appeal in Wrocław, 29/09/2004, II AKa 275/04, KZS 2005, № 5, pos. 53.

[26] 29/05/2003, III KK 74/03, Legalis.

[27] The Court of Appeal in Cracow, 21/01/2003, II AKa 369/02, № 10, pos. 11.

[28] The Court of Appeal in Warsaw, 6/12/2013, II Aka 396/13, Legalis.

extent of this criminal offence[29], though this does not prevent the occurrence of an emotional tension that has been building up straw by straw until a defendant's psychic back is broken and a strong emotion possesses their reasoning entirely[30]. A mere feeling of anger or vexation cannot give grounds for trying a case of *zabójstwo w afekcie*[31]. Even if a defendant was suddenly seized with a possessing emotion when a victim-to-be called him a ne'er-do-well, no circumstantial justification took place since circumstances and emotions must counter-balance when put on the scales of justice, compare the judgement pronounced by the Court of Appeal in Katowice[32]. Furthermore, a wrongdoer is not allowed to raise cultural differences as a rationale for his emotional outburst[33].

Besides, there is a handful of legal defences for man-killing in Polish criminal law*:* infancy[34] (*doli incapax*)*,* self-defence (art. 25 § 1 KK), a state of higher necessity (art. 26 § 1 KK), or insanity (art. 31 § 1 KK).

4. *Manslaughter* vs *Nieumyślne spowodowanie śmierci*

The crime of *manslaughter* is traditionally divided into *voluntary* and *involuntary manslaughter*. Notwithstanding being also perpetrated intentionally, *voluntary manslaughter* is less nefarious than *murder* since it is grounded upon one of the three kinds of statutory partial defence: diminished responsibility (s. 2(1) HA), suicide pact (s. 4(3) HA), and loss of control (s. 54 CJA). As regards *involuntary manslaughter* is committed unintentionally and requires the presence of one of the three attenuating circumstances: recklessness, gross negligence, or an unlawful and dangerous act (constructive manslaughter).

The statutory reading of *diminished responsibility* concerns medical abnormality of mental functioning (s. 52 (1) CJA). Pragmatically, case law recognises a multitude of mental diseases as the reasoning behind the defence of diminished responsibility, for example, Asperger's syndrome[35],

[29] The Court of Appeal in Cracow, 22/09/2005, II Aka 157/05, KZS 2005, № 10, pos. 27.
[30] The Court of Appeal in Bialystok, 4/03/2014, II Aka 34/14, Legalis.
[31] The Court of Appeal in Cracow, 10/12/2013, II AKa 241/13, Legalis.
[32] 13/11/2003, II AKa 244/03, Prok. i Pr. 2004, № 12, pos. 20.
[33] The Court of Appeal in Cracow, 16/06/2009, II AKa 94/09, KZS 2009, № 7–8, pos. 57.
[34] The limit of *doli incapax* is higher in Poland; it is generally 17 years but this age can be lowered to 15 in the case of *zabójstwo* and some other crimes, *vide* art. 10 KK.
[35] *R v Jama* [2004] EWCA Crim. 960.

battered woman syndrome[36], depression[37], epilepsy[38], Othello syndrome[39], paranoia[40], premenstrual tension and postnatal depression[41], psychopathy[42], schizophrenia[43], to name a few. Admittedly, none of the mental diseases can diminish a defendant's responsibility for murder unless it substantially impairs their understanding, rational judgement, and self-control (s. 52 (1A) CJA).

A suicide pact describes the *casus* when two or more persons agree to die together, and they decide that one will kill another. Subsequently, he/she will commit suicide–presuming that a defendant proves the existence of such agreement and the intention of *felo de se* after taking their suicidal partner's life.

The mitigating condition of loss of control requires a defendant to experience fear of serious violence from a victim and to have a justifiable sense of being seriously wronged, which *in toto* should constitute circumstances of extremely grave character (s. 55 (3)–(4) CJA). The lawmaker opts for a subjective test for this defence, though the jury is obliged to take into account both the sex and age of a defendant as it is hard to find "an old head on a young shoulder"[44]. As a result, a householder cannot use a fright of great violence as an excuse to shoot a burglar dead on all occasions[45]. Furthermore, an accused cannot rely on the state of being seriously wronged as an extenuation if a victim's pugnacity consists of empty abusive remarks at the most.*In fine*, neither break-up[46] nor infidelity[47] are deemed to be extremely grave.

The legally binding concept of recklessness was revised in *R v Cunningham*[48], meaning that one exposes another to harm or loss regardless of foreseeing such a risk. Rarely has the English prosecution filed criminal charges of recklessness manslaughter since every time an instance of recklessness might be evidenced dimly, it is feasible to prove gross negligence or a constructive act with clarity (cf. Herring 2020: 137–138). One oft-quoted

[36] *R v Hobson* [1997] EWCA Crim. 1317.
[37] *R v Swan* [2006] All ER 208.
[38] *R v Campbell* [1997] Crim. LR 495 (CA).
[39] *R v Vinage* (1979) 69 Crim. App. R. 104 (CA).
[40] *R v Simcox* [1964] Crim. LR 402.
[41] *R v Reynolds* [1988] Crim. LR 679.
[42] *R v Hendy* [2006] EWCA Crim. 819.
[43] *R v Erskine* [2009] EWCA Crim. 1425.
[44] *R v Camplin* [1978] AC 705 (HL).
[45] *R v Martin* [2002] 2 WLR 1 (CA).
[46] *R v Hatter* [2013] WLR 130 (DC).
[47] *R v Mohammed (Faqir)* [2005] EWCA Crim. 1880.
[48] [1957] 2 QBD 396.

case of conviction for recklessness manslaughter is *R v Lidar*[49], where the pedestrian was fatally knocked down by the defendant while driving off suddenly. The accused driver was reckless because the victim was leaning through a window of the defendant's vehicle, and he was able to predict the harmful effects of his sharp manoeuvre.

The case of *R v Bateman*[50] laid the foundations of gross negligence, whose sense can be encapsulated as a gross violation of a duty of care that ends in one's decease. The danger of causing death is taken into consideration when the jury assesses the grossness of an action or omission[51]. In contrast to subjective Cunningham recklessness, the peril should be predictable objectively from the perspective of a reasonable person; therefore, a defendant need not foresee any risk[52]. In the main, a range of professional relationships typifies a legal obligation of a duty of care, such as a patient's dependence on an anaesthetist[53] and a passenger's reliance on a driver[54].

Pleas to *involuntary manslaughter* on the grounds of constructive manslaughter may be accepted when both an unlawful and dangerous act is performed. An act is dangerous when involving the peril of inflicting actual bodily harm[55]. *À propos* of the sense of the phrase *unlawful act,* its reading embraces acts against criminal law, excluding torts (cf. Martin & Storey 2013: 330). The criminal law does not penalise the act of hurling a rock down *expressis verbis;* in consequence, it cannot constitute *actus reus* of constructive manslaughter even if it caused the death[56]. In such a case, the conviction for *manslaughter* can be founded on the defence of gross negligence. What is more, an unlawful and negligent act might coincide, as held in *R v Willoughby*,[57] where the defendant ordered some explosives to be placed by a victim with intent to extort money from the insurance company (an unlawful act), the blast turned out to be too massive (gross negligence), as a result, the arsonist lost his life.

The criminal offence of *nieumyślne spowodowanie śmierci* (*causing death unintentionally*) is codified in a breviloquent manner in art. 155 KK that reads: "Kto nieumyślnie powoduje śmierć człowieka" (*Whoever causes a human being's death unintentionally*). To differentiate it from *zabójstwo,*

[49] *R v Lindar* [2000] 4 Archbold News 3.
[50] (1925) 19 Crim. App. R 8.
[51] *R v Rudling* [2016] EWCA Crim. 741.
[52] *R v Singh* [1999] Crim. LR 582 (CA).
[53] *R v Adomako* [1995] 1 AC 171 (HL).
[54] *R v Wacker* [2003] Crim. LR 108 (CA).
[55] *R v Carey* [2006] Crim. LR 842.
[56] *R v Franklin* (1883) 15 Cox CC 163.
[57] [2004] EWCA Crim. 3365.

the lawmaker does not use the verb *zabija,* which implies acting with intent. To put it differently, it is not intentional *dolus* that constitutes this type of criminal man-killing but unintentional *culpa* (fault), which embraces *lekkomyślność* (*luxuria, recklessness*) and *niedbalstwo* (*neglegentia, negligence*) (cf. Marek 2006: 318).

Notwithstanding the fact that an accused person did not intend to cause the death, he/she can still bear criminal liability for their actions or omissions if it was feasible to prevent their fatal consequences[58]. Thus, an objective test is applied when the court estimates the probability of fatality. A defendant's *culpa* should be examined regarding knowledge typical of an average-minded adult[59]. Pragmatically, the death may be brought involuntarily in connection with a blocked flue or ventilation duct (carbon monoxide poisoning), a secured construction site, violation of safety rules at work, exercise of any physical force against a person, leaving children unattended, or in the course of operating vehicles, agricultural equipment, machinery and technical devices (Łagodziński 2011: 24). An exemplification of inflicting physical violence that falls within the scope of causing the death involuntarily is the case where a woman died after having been punched on the side of her neck in the area of the carotid sinus[60].

The catalogue mentioned above should be extended with a medical error. This adverse effect of medical care requires an answer to the question of whether or not the conduct of a physician or a surgeon, taking into account all the data that a doctor had or could have had at their disposal, complied with the requirements of current medical knowledge and generally accepted medical practice[61].

5. Discussion and Concluding remarks

The research method employed in this article entailed a componential (feature) comparative analysis of both statutory and case law regarding criminal offences. This method was used as an oracle to determine the degree of equivalence of legal terminology in the United Kingdom and Poland, culminating in the following conclusions.

[58] The Court of Appeal in Wrocław, 16/07/2014, II AKa 191/14, Legalis.

[59] The Court of Appeal in Cracow, 26/04/2006, KZS 2006, № 5, pos. 36.

[60] The Court of Appeal in Katowice, 29/05/2002, II Aka 105/07, Prok. i Pr. 2008, № 1, pos. 29.

[61] The Supreme Court, 10/12/2002, V KK 33/02, Legalis.

The term *homicide* is the most general of all the notions discussed in the paper. Hence, it is supposed to correspond semantically to the Polish expressions like *pozbawienie człowieka życia* (*taking one's life*) or *spowodowanie śmierci człowieka* (*causing one's death*). Nonetheless, the wording *spowodowanie śmierci człowieka* can be branched off verbally into *nieumyślne spowodowanie śmierci* (*causing one's death involuntarily*) (art. 155 KK) and *umyślne spowodowanie śmierci* (*causing one's death voluntarily*) which functionally equates *zabójstwo* (art. 148 § 1 KK) because this crime can be committed only volitionally (*in dolus directus/eventualis*). As regards the common-law crime of *murder* (Coke's definition), it should not be rendered into Polish as *morderstwo* because this would contract the scope of reference to its aggravated types (art. 148 § 2–3 KK). The translation as *zabójstwo* appears to be (un)fitting *partim* in view of the fact that the Polish *zabójstwo* may be committed both *in dolus directus* and *in dolus eventualis*. In contrast, the English *murder* can be perpetrated *in dolus directus* and *indirectus*. The idea of *dolus eventualis* has not been implemented into English law. The function of *dolus eventualis* moderately reflects the concept of recklessness based on the common law. Still, this reflection is distorted because recklessness is not regarded as a kind of intent (*dolus*). According to Blomsma, English recklessness should be situated between intention and negligence (2012: 98). The complete gamut would include a quadripartite spectrum of homicidal *mentes reae:* direct intent (*dolus directus*), oblique intent (*dolus indirectus*), recklessness (*luxuria*), and negligence (*neglegentia*). The concept of *dolus directs* is understood alike in both legal doctrines. In brief, the difference between *dolus indirectus* and *dolus eventualis* is that the former rests on a perpetrator's knowledge of the malicious effects of their action or omission. At the same time, the latter refers to an accused's foresight of such malignant results (Snyman 2008: 183). The Polish criminal doctrine strayed from the *via iuridica Romana* less, and homicide can be committed voluntarily (*dolus*) or involuntarily (*culpa*). The former (*dolus, wina umyślna*) might be direct (*directus, zamiar bezpośredni*) or possible (*eventualis, zamiar ewentualny*), and the latter (*culpa, wina nieumyślna*) includes recklessness (*luxuria, lekkomyślność*) and negligence (*neglegentia, niedbalstwo*). To sum up, the hierarchies of *mentes reae* of homicide in England and Polish criminal law are congruous only on the terminological surface. At root, Polish *niedbalstwo* and *lekkomyślność* exemplify acting involuntarily (→ *nieumyślne spowodowanie śmierci*), while English *recklessness* and *negligence* instantiate an action which has been performed voluntarily (→ *voluntary manslaughter*).

To conclude, every pursuit of functional equivalents for English murder (**morderstwo*), voluntary manslaughter (**zabójstwo*) and involuntary

manslaughter (*nieumyślne spowodowanie śmierci*) in Polish criminal law will turn out to be inefficacious to a greater or lesser extent. The resemblance between fatal offences in both legal systems might be compared to that between a physical body and its shadow; to shed light on it, no shade casts back all attributes of an original figure. This Plato-like play of shadows favours translating some terms in a descriptive manner: *voluntary manslaughter* as *umyślne spowodowanie śmierci* and i*nvoluntary manslaughter* as *nieumyślne spowodowanie śmierci*. Nonetheless, such *ars translationis* might obscure the legal sense of *murder* which is always perpetrated voluntarily as well. The substitution of the expression *spowodowanie śmierci* for *zabójstwo* would be rather *a nostrum* than *a panacea* seeing that the phrasing *nieumyślne zabójstwo* sounds for Polish jurists oxymoronic, whereas the wording *umyślne zabójstwo* or *zamierzone zabójstwo* might be perceived to be a tautology. To offer a light at the end of this paper, one suggested Polish translation for the English term *murder* might be *zamierzone spowodowanie śmierci* (lit. *intentional causing death*) as this description evinces intent (*dolus*) as a compulsory *mens rea* for *murder*. To sum up, the degree of interlingual equivalence between the analysed notions of fatal offences most closely corresponds to partial equivalence (A ± B) since they share a compulsory hallmark (*causing one's death*) and some minor properties (kinds of *mens rea*).

Beyond dispute, the conundrum of the mutual equivalence of the English and Polish legal terminology denoting fatal offences requires further scrutiny where other crimes against life could be discussed, and all categories of legal defence would be juxtaposed in detail.

Literature

Bajčić M. (2017): *New Insights into the Semantics of Legal Concepts and the Legal Dictionary*. Amsterdam–Philadelphia.

Blomsma J. (2012): *Mens rea and defences in European criminal law*. Maastricht.

Cecil Turner J.W. (1964): *Kenny's Outlines of Criminal Law*. 18th ed. Cambridge.

Chromá M. (2008): *Semantic and Legal Interpretation: Two Approaches to Legal Translation*. [In:] *Language, Culture and the Law*. V. Bhatia, C. Candlin, P.E. Evangelisti (eds). Bern, pp. 1–13.

Daszkiewicz K. (2000): *Przestępstwa przeciwko życiu i zdrowiu. Rozdział XIX Kodeksu karnego. Komentarz*. Warsaw.

Dubber M. (2016). *Histories of Crime and Criminal Justice and the Historical Analysis of Criminal Law*. [In:] *The Oxford Handbook of the History of Crime and Criminal Justice*. P. Knepper, A. Johanses (eds). Oxford, pp. 597–614.

Duběda T. (1997): *K typologii ekvivalentů v právním překladu*. "Slovo a slovesnost" LXXXII, No. 2, pp. 139–158.

Engberg J. (2002): *Legal Meaning Assumptions – What are the Consequences for Legal Interpretation and Legal Translation?* "International Journal for the Semiotics of Law" XV, pp. 375–388.
Galdia M. (2017): *Lectures on Legal Linguistics*. Frankfurt am Main.
Gardocki L. (2008): *Prawo karne*. Warsaw.
Herring J. (2014): *Criminal Law. Text, Cases, and Materials*. 4th ed. Oxford.
Herring J. (2020): *Great Debates in Criminal Law*. 6th ed. London.
Jaślan J., Jaślan H. (1991): *Słownik terminologii prawniczej i ekonomicznej. Angielsko-polski*. Warsaw.
Katz L. (1987): *Bad Acts and Guilty Minds: Conundrums of the Criminal Law*. Chicago.
Łagodziński S. (2011): *Sądowo-prokuratorska praktyka ścigania przestępstw nieumyślnego spowodowania śmierci człowieka*. Warsaw.
Łozińska-Małkiewicz E. (2007): *Angielsko-polski słownik terminologii prawniczej*. Toruń.
Marek A. (2006): *Kodeks karny. Komentarz*. Warsaw.
Martin J., Storey T. (2013): *Unlocking Criminal Law*. 4th ed. London.
Monaghan N. (2012): *Criminal Law Directions*. 3rd ed. Oxford.
Monaghan N. (2018): *Criminal Law*. 5th ed. Oxford.
Norrie A. (2001): *Crime, Reason and History: A Critical Introduction to Criminal Law*. 2nd ed. London.
Ożga E. (2018): *The Great Dictionary of Law and Economics*. Vol. I. Warsaw.
Peiper L. (1935): *Komentarz do kodeksu karnego i prawa o wykroczeniach*. Kraków.
Redondo M.C. (1999): *Reasons for Action and the Law*. Zimmerling transl. Dordrecht.
Smith S. (1995): *Culture Clash: Anglo-American Case Law and German Civil Law in Translation*. [In:] *Translation and the Law*. M. Morris (ed.). Amsterdam–Philadelphia, pp. 179–200.
Snyman C.R. (2008): *Criminal Law*. 5th ed. Durban.
Stefaniak K. (2013): *Multilingual Legal Drafting, Translators' Choices and the Principle of Lesser Evil*. "Meta" LVIII, No. 1, pp. 58–65.
Šarčević S. (1997): *New Approach to Legal Translation*. The Hague–London–Boston.
Williams G. (1987): *Oblique intention*. "Cambridge Law Journal" XLVI, No. 3, pp. 417–438.