Lecture 1 Professional& Fast

Translationservices Legaltranslations

Legaltranslation is translation of documents that regulatelegalrelationships. It involvestranslation of legaldocumentsnecessary for bringingvarioustypes of internationalrelationsintopracticeas well astranslation of legal texts for thesake of exchanginginformation and experienceamonglawspecialists of different countries. This type of translation is considered to be one of the mostdifficultas it does not only require for the translator to have sound languageskills, he/she alsoneeds to haveexcellent knowledge in law, variouslegislations and internationalstandards. For this reason it is necessary for the translated text to be adequate from the legalpoint of view in order to attain a precise and professionalresult.

 Types of legaltranslation:

1. translation of contracts, agreements and arrangements, purchase-salescontractsas well aspremisesleaseagreements, labouragreements and licensearrangements,
2. translation of establishmentdocuments (Articles of Association, resolutions, minutes of meetings, registrationcertificates, etc.), legalization of documents,
3. translation of legislationacts of governmentalauthorities of variouscountries (laws, minutes of meeting, resolutions, orders and regulations),
4. translation of local legislationacts (translation of regulations, provisions, etc.),
5. translation of courtdocuments (applications, petitions, courtjudgements, instructions and resolutions), legalization of documents,
6. translation of all types of auxiliarydocuments (powers of attorney, certificates, licenses and permits), legalization of documents.

 Translation of legaldocumentsincludessuchspheres of jurisprudenceasconstitutional, administrative, civil, commercial, tax, criminal, internationallawas well asothertypes of legalrelationships.

 The specificcharacter of legalrelationshipslies in the fact that anyerror or impreciseness in the documents can causeseriouslegalconsequences. An innocenttypingerror or a minorinadequacy can have an effect of, say, non-registration of a transaction and alsomay not preclude the possibility of propertydamages and claimslodged at court. For this reasontranslation of legaldocumentsrequirescertainqualification - legaltranslations are performed by professionaltranslators who haveeithersubstantialworkexperience in the sphere or additionaleducation in law.

 Legaltranslationposesspecialrequirements for the use of language and style - correctuse of style ensurespreciseness in formulations, logicalstructure and a 100% authenticity of the content. In this regard, high-qualitytranslation of legaldocumentsinvolves not only the necessaryamount of legalexpertise, butalsoexcellentcommand of specificlegallanguage. Of course, it is necessary to consider the purpose of translation, astranslation can be usedjust for information, it may be an officialtranslation of documents or required in order to performnotarialcertification.

An additionalcomplexity of legaltranslation is related with the fact that not only the language and style differs, the legalsystemvariesamong the countries, as well. The original text is formed following the rules established in the country of origin, using the appropriatelanguage. The text in the translateddocumentmustreflect the contents of the original and all of itslegalparticularitiesaccurately. In the same time it should be constructedobserving the rules of the legalsystem of the countrywhere the translation is going to be used and using the terms that are appropriatethere.  
Great difficulties in translatinglegaldocumentsarisedue to terminology. This is related with the variety of areas of law and the specificterminologyused in each of them.In addition to the specificterms, there are alsolegalcliches - phrases that carry a specificlegalmeaning. Legaltranslation of suchphrases is even more complicatedsince it requires a fairlydeep knowledge of the legalsystem and intelligentselection of linguisticstructures.In general, translation of legal texts consists of manynuances and it demandshighprofessionalism.  
An experiencedtranslator can providehigh-qualitytranslation of about 6-7 sheets of the originallegal text perday. Urgentlegaltranslations of a largevolume are performed by severalspecialists at the same time, each of themhavingtheirownvision, knowledge, experienceas well asotherqualities. This all hassomeinfluence on the outcome. In such a case it is important to ensurestrictunity and unambiguity of the termsused and the languagewhich are one of the importantcriteria for highqualitylegaltranslation of agreements and otherdocuments.  
Our specialists in the legaltranslationactivelyuseboth - printedsources of legalinformationas well asmodern software solutions.

Lecture 2

Legal and linguistic aspects of translating English legal terminology

Active interaction with countries of the world community raised a wide range of issues concerning international business activities. Foreign and multinational corporations as well as domestic companies are involved in international deals all over the world. With rapid growth of international business transactions and, consequently, international commercial disputes, the problems of legal translating acquired vital importance.Nowadays the English language has become the language of choice for conducting an international business. In addition, the English language has become prominent as the operational language of many law firms and multinational corporations. Thus, interest in studying English legal terminology and legal translating has recently grown up. In this context, the article reviews general peculiarities of legal terms and focuses on linguistic and legal aspects of translating English legal terminology.While exploring legal terminology we have to determine the unit of this terminological system. In this article we define a term as a word or a word combination belonging to the specific field of usage, either specially created or borrowed for determining a specific concept and based on a definition. In that way, "a legal term is a word or a word combination which stands for a general name of a legal concept, has a specific and definite meaning, and is often used in legislation and legal documents" [6; 7, p. 64].Contemporary language of law makes several requirements relating to legal terms that should be taken into consideration in the process of translating. The legal term should meet the following important requirements:

a) satisfy the rules and norms of a corresponding language,

b) be systematic,

c) correspond to a certain definition oriented to a certain concept,

d) be relatively independent of the context,

e) be precise,

f) be as concise as possible,

g) aim at one-to-one correspondence (within the certain terminological system),

h) be expressively neutral,

i) be euphonical.

The language of law as a special sublanguage has its own content and a set of specific characteristics which vary depending on a language system. However, irrespective of a language, the major part of its distinctive features and peculiarities are explained by the influence of historical, cultural, social and political factors on the language community.

The English legal language is characterized by a specific set of terms. First of all, it comprises numerous Latin words and phrases (ex. lex loci actus, res gestae, corpus delicti, lex domicilii, etc.). It also has words of the Old and Middle English origin, including compounds which are no longer in common usage (aforesaid, hereinabove, hereafter, whereby, etc.). Besides, the English legal language includes a large amount of words derived from French (appeal, plaintiff, tort, lien, estoppel, verdict etc.). The language of law also uses formal and ceremonial words (I do solemnly swear, Your Honour, May it please the court...) and technical terms with precise meanings (defendant, negligence, bail etc). Thus, the present content of the English language of law is due to the influence of different languages and that has a historical explanation [2, p. 386; 3; 5, p.187 ]. Considering Russian legal terminology, we should keep in mind that it comprises fewer borrowings and compounds than the English one. A considerable part of legal terms is of a national origin including Old Russian (for example, истец, ответчик, право). This may be explained by the history of Russia and its legal system development as well. At the same time, contemporary Russian legal language has been enriched by the new law terms derived from English (лизинг - leasing, антитрестовский - antitrust, корпоративный - corporate, факторинг - factoring etc.) [1; 3; 4]. Thus, English and Russian legal languages are characterized by their own specific features which are explained by the historical, political, social and cultural influences.

Dealing with the language of law implies two forms of transferring from one language to another – legal interpreting and legal translating.

Legal interpreting is meant for people who come before the courts (litigants, defendants, witnesses etc.) and who cannot communicate effectively in the language of legal procedures. According to the law, individuals who do not communicate in the language of legal proceedings have a right to speak their native language in court and use the interpreting services. Similar regulations are provided by the new Russian legislation - Arbitration Procedure Code (2002), the Civil Procedure Code (2002) and the Criminal Procedure Code (2001). The interpreter's goal is to interpret from one language to another everything what is said in court, preserving the tone and level of the original language, adding and deleting nothing. The legal interpretation should be adequate, complete and correct. Legal translating first of all implies translating legal documentation (laws, acts, judicial decisions, legal rules, contracts, agreements, administrative papers and other law-related documentation). This kind of translating has been recently prevailing in the process of international relations development.

Faced with a legal text to translate, a legal translator must deal with the dual challenge of language and law, which he or she must reproduce as correctly as possible in the target language. This complex procedure of transferring from one language to another involves a number of risks inherent in language. That is why it is rather difficult to transfer the entire message of the source text from one language to another. Legal translation requires reproducing both form and content of the legal text. The latter also implies transferring text from one legal system to another. Therefore, legal translating is subject to various difficulties of transferring a meaning of a legal term and a translator must strive for a functional equivalence.

As it was mentioned before, any kind of translation has to meet the principal requirements of adequacy, accuracy and completeness. While accuracy and completeness are mainly aimed at the form of the legal text, adequacy is referred to its content. Adequacy of the legal translation is mostly achieved by following the principal rules of legal terminology in the target language. Translating implies transferring the meaning of the original, but not only the words. While translating it is important to know the legal terminology in both languages. The substitution of a legal term of the source text by its synonym (a word of common usage) in the target language may result in misinterpretation in terms of law. The distortion of a meaning of a law term may influence upon legal consequences.

For example, the legal phrase "the party domiciled abroad" is not equal to its Russian translation «зарубежная сторона» or «сторона, проживающая за рубежом». The correct way to express the same meaning in Russian legal terminology will be «сторона, домицилированная за рубежом». It should be noted that a domicile as a legal term means "a place of permanent living" (if an individual is implied) or "a seat of a corporation /a principle place of business" (if juridical person is implied), while the general meaning of this word is "a place where someone lives" [1; 3; 4]. Besides, as the legal term party (сторона) implies either an individual person or juridical person/entity involved in a legal agreement or dispute, the second way of incorrect translation mentioned above relates only to an individual person and hence, is unequal to the legal term used in the source text. Inadequate translation obviously may influence on the objective evaluation of jurally facts.

Thus, it should be taken into consideration that a legal translator or interpreter is liable for the correctness, completeness and adequacy of his legal translating. "The translator must appear before the court and translate completely, correctly and in proper time" (the Arbitration Procedure Code of the Russian Federation, 2002: article 57 clause 4). On the one hand, the procedural codes mentioned above provide criminal liability for a wittingly false translation (the Arbitration Procedure Code of the Russian Federation, 2002: article 57 clause 6; the Criminal procedure code of the Russian Federation, 2001: article 59 clause 5). On the other hand, interpreters are humans and making a mistake is possible. When an interpreter unintentionally makes a mistake, he or she is obligated to correct it immediately, and is expected to do the same in case of written legal translating. The Russian law provides a right of a court interpreter to ask questions in order to clarify the translation. Indeed, unprofessional (in its legal sense) translation may cause injustices. Rarely, but some cases have successfully been appealed because of interpreter issues.

Therefore, it is obvious that the major drawback of traditional language training and document translation services currently available is that these organizations have little or no experience and knowledge of the law. In order to provide the effective communication in English about specific legal concepts and ideas it is crucial for legal translators and interpreters to have a profound knowledge of the legal terminology in both languages. All mentioned above allow us to determine the essential requirements that provide excellence in legal translating (interpreting) in the process of international communication. First, one of the important requirements is a language proficiency which implies ample vocabulary, knowledge of standard grammar and stylistic components of legal language. The mastery of the target language must be equivalent to that of an educated native speaker. Second, the high level of excellence requires up-to-date knowledge of the subject material and legal terminology in both languages. These are due to the translator's competence in legal language. Third, understanding of the procedures used in court as well as familiarity with principal legal concepts is necessary. In addition, a wide general knowledge, mental and verbal agility of an interpreter contributes to the effective legal translation as well.

Taking into consideration the aforesaid, we come to a conclusion that legal translators and interpreters should meet the essential requirements mentioned above in order to provide a complete, correct and adequate translation. Deep knowledge of legal language and proficiency in legal terminology of both languages are the main factors providing the effective intercultural communication of legal professionals in the process of international cooperation.

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Lecture 3 LEGAL TRANSLATION AS AN INTERSPACE OF LANGUAGE AND LAW

Introduction Legal texts represent one of the most translated types of texts in today’s world as a result of the processes of unification of Europe and economic globalisation. However, it was not until very recently that researchers in Translation Studies started to give due attention to it. Legal texts represent an instance of pragmatic texts since their aim is essentially to convey information without aiming to produce aesthetic effects as it is the case with literary translation. Legal texts are realized through the use of legal language, which is a specialpurpose language or an LSP according to Cao (2007) and on this account legal translation can be termed an instance of specialized translation. It is at the same time the type of translation that has the closest affinities with general translation as reflected by this paper. The title advances a widely held view in the literature today, namely that legal translation is halfway between language and law. In legal translation language is the tool, the process and the product. Both language and law are social phenomena; although legal language is a specialized language, it is also part of the common language since in legal language common words often acquire a legal or specialized meaning. This is called the parasitic (Shauer quoted in Cao 2007) or composite nature of legal language (Jean-Louis Sourioux and Pierre Lerat quoted in Sferle 2005). In other words, legal language, similarly to other specialized languages, is parasitic on ordinary language. According to Vinnai (2010) both language and law are stochastic systems unlike mathematics or physics, for example. This means that, although legal language is considered to be precise and clear, the truth value of a statement in language or in law can be ascertained only by reference to a given context or situation. The same author looks at the legal procedure in crimes as a continuous intralingual translation from ordinary language to common language and vice versa, thus, providing further evidence of the symbiotic relationship between language and law: the layperson relates their incident in ordinary language, which is put down in the minutes in legal language; throughout the trial the story is treated in the same legal language whereas in the final stage of verdict delivery it is backtranslated into the layperson’ language. As a recognition of this symbiotic relationship, legal translation is nowadays treated as an interdisciplinary field both by the profession and by theorists. The disciplines that can provide help to legal translation are jurilinguistics, comparative law and translation studies. Jurilinguistics was initiated in the French-speaking world by Gérard Cornu, Jean-Claude Gémar and Louis Jolicoeur having as its object of study legal terminology and legal discourse. Comparative law studies the individual legal systems, therefore, it can be an indispensable tool for legal translation in its search for equivalents across legal systems. The importance of translation studies cannot be overlooked either since being a linguist or a lawyer does not suffice as neither can successfully substitute the routine and special competences of a translator.

The Nature of Equivalence in Legal Translation From the above considerations on the symbiosis between language and law it follows that the legal lexicon in any language contains culturally loaded words that reflect the history and traditions of that people (Gémar 2002). Since culturally marked texts present real translation difficulties for the translator and given that legal texts require equivalence on three levels – equivalence of meaning, effect and intent – this raises doubts about the translatability of legal texts and the degree and nature of equivalence in legal translation. Gémar (2002) defines the legal text as ‘un texte normatif disposant d’un style et d’un vocabulaire particuliers [emphasis in the original].’ This means that legal texts have a normative-prescriptive nature being aimed at modifying the behaviour of the parties through the imposition of obligations, rights, permissions etc. This also means that they have a specific style which can be termed as formal, impersonal or even archaic at times. The third characteristic that marks them off from other specialized texts is, of course, vocabulary, which accounts for what Sferle (2005) calls the paradoxical nature of law: it is a social phenomenon but at the same time it is inaccessible to the average person. While it is expected that legal texts be precise and clear, they also need to correspond to the criterion of generality and necessary ambiguity or vagueness in order to fit possible future situations. In the light of the above scholars unanimously agree that equivalence in legal translation is something ‘aleatoric’, a ‘myth’, a ‘compromise’ (Gémar 2002) or a futile search (Cao 2007). This implies that the kind of equivalence to be looked for in legal texts is necessarily a functional one. Functionalism presupposes that translators do not translate literally as this has already proved to be impossible on account of the incongruity of legal systems. From word meaning the emphasis is shifted to global meaning and this entails that the unit of translation is the text itself. Concepts are incongruous and unique to each legal system – a major obstacle to equivalence –, therefore, they need to be defined separately in a first phase of the translation process. Fidelity is no more with the source text, though many lawyers still think even today that literal translation is the best approach. However, the urge for comprehensibility as well as the diversity of legal contexts and legal texts make it necessary for the translator to take into account the receiver, the purpose and the status of the target text. Monjean-Decaudin (2010) lists four possible contexts in which legal translation might occur: public international law, private international law, judicial context and scientific context.

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In the case of the first category legal translation takes place in international institutions and organisations (EU, UN etc.) and it refers to the translation of international instruments like treaties, agreements, conventions etc. In this case simultaneous drafting also exists alongside translation, which is part and parcel of the legislative process. Simultaneous drafting also occurs in bilingual and multilingual countries like Canada and Switzerland, where all language versions have the status of originals. Private international law refers to transnational private relations and it involves the translation of commercial contracts and authentic legal documents like marriage certificates etc. Translation is needed because the parties speak different languages and in order to guarantee equal treatment. The third type of legal translation is carried out for courts and tribunals as part of the civil, criminal or administrative procedure. It is primordial for the translator to be aware of the stakes and legal effects of this type of translation. Finally, the scientific context refers to the translation of both doctrinal and normative texts (constitutions, laws, codes etc.). In this case translation serves the purpose of promoting knowledge. A diversity of legal texts can be related to the above-mentioned legal settings each employing a distinctive terminology and phrasing. As to the purpose of the translation, this can be informative, normative or both. The translation of a monolingual country’s legislation serves mere descriptive functions whereas in a bilingual country the translation has a prescriptive function and the citizen has to abide by it. However, this same authoritative text can serve informative purposes for citizens of a third country. Translation difficulty is related to the affinity of the legal systems first of all and then to linguistic differences as well. Cao (2007: 30–31) describes four possible situations:

when the two legal systems and the languages concerned are closely related, e.g. between Spain and France, or between Denmark and Norway, the task of translation is relatively easy; (2) when the legal systems are closely related, but the languages are not, this will not raise extreme difficulties, e.g. translating between Dutch laws in the Netherlands and French laws; (3) when the legal systems are different but the languages are related, the difficulty is still considerable, and the main difficulty lies in faux amis, e.g. translating German legal texts into Dutch, and vice versa; and (4) when the two legal systems and languages are unrelated, the difficulty increases considerably, e.g. translating the Common Law in English into Chinese.

Once the text is translated equivalence is established arbitrarily in legal translation by an external authority, which can be the judge, a notary, the law or a convention. In the case of international instruments the 1969 Vienna Convention grants equal authenticity to all versions of a treaty. Therefore, it seems that in the case of legal translation equivalence is ultimately artificial. Naturally, the real test of the translation will be its ultimate interpretation and application in practice (Šarčević 2000).

Characteristics of Legal Language Legal language is a hypernym or an umbrella term covering a more or less related set of legal discourses. It covers not only the language of law but all communications taking place in a legal setting (Cao 2007). Damette (2010) conceives of legal discourse as legal acts realised through language,

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360 therefore, legal acts are legal language acts. They put into action the legal languagesystem and expose a particular logic and way of reasoning that is typical to law and lawyers. Given also the essential function of legal discourse to regulate, prescribe and set out obligation, prohibition and permission we can conclude that legal language has a performative character. This is evident in the extensive use of declarative sentences, modal verbs (‘shall’, ‘may’, ‘shall not’, ‘may not’) and performative verbs (declare, undertake, grant etc.). Ambiguity, vagueness and indeterminacy characterize all the three disciplines involved in legal translation: linguistics, translation theory and law. Languages internalize more than they convey outwardly, argues Steiner (1977), therefore, translation is only an approximate operation, desirable and possible but never perfect. Language indeterminacies lead to legal indeterminacies in cases where the referent is not clearly defined in the text or when several interpretations are possible due to an error in punctuation, for example, the incorrect use of articles in English etc. To avoid misinterpretations, contracts usually contain a separate section where the meaning of each term is defined as it is being used throughout the document. Since total reading in the sense in which Steiner (1977) used this phrase is impossible as languages are subject to mutation all the time and no two people ever interpret a text in the same way because of differences in world and textual experiences, legal contentions arise which the law, an indeterminate system itself, is called upon to solve. However, ambiguity can be intentional also as in the case of international instruments like agreements, for example, and in such cases it reflects a partial consensus. Ambiguity in this case is the result of a compromise that was eventually achieved after a lengthy process of negotiation. Therefore, any attempt on the part of the translator to clarify such ambiguities can endanger or destroy the agreement. The ability to differentiate intentional ambiguity from unintentional obscurities in the text is a measure of the translator’s professional competence. Ambiguity is supported by polysemy in legal texts. Sferle (2005) distinguishes external polysemy from internal polysemy. The former refers to words of ordinary language that have acquired a legal meaning (‘amprentă’, ‘incident’, ‘parchet’, ‘a achita’, in Romanian, or ‘offer’, ‘consideration’, ‘remedy’, ‘performance’, in English) whereas the latter relates to legal terms that have acquired more than one meaning in law. A relevant example in English taken over from Cao (2007) would be ‘equity’, which in legal usage can stand for one of the two main bodies of law, namely Common Law and Equity, but it can also refer to ‘justice applied in circumstances covered by law yet influenced by principles of ethics and fairness.’ In Romanian the term ‘obligaţie’ according to the Dictionary of Civil Law has the following meanings: ‘civil judicial report’, ‘debt to be paid by the debtor’, ‘commercial paper’ etc. (see Sferle 2005 for other examples). In the case of external polysemy priority should be given to the legal meaning whereas in the case of internal polysemy the context generally helps to establish the correct meaning. It is probably clear by now that the translator should have some knowledge of the legal systems involved in the translation. Translation and negotiation phases being separate from each other, the text-producer cannot be consulted most of the time so it is the translator’s task to deal with ambiguities in the most appropriate way. System-bound terms (Šarčević 1997) that legal language abounds in represent further arguments in favour of the necessity of acquiring this kind of knowledge. Telling examples are ‘solicitor’ and ‘barrister’ in Common Law, which have no equivalent in other languages.

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The two major divisions in law are Common Law and Civil Law. Common Law has developed in Anglo-Saxon countries and is inseparable from English language. Civil Law has its roots in Roman law and cannot be associated with one particular language. Common Law builds on analyzing previous cases and decisions by judges, which set a precedent, thus leaving less room to judges for interpretations than Civil Law, which builds on interpreting abstract principles that address unforeseen future situations, and applying them to concrete situations. This preoccupation with leaving as little room for interpretations as possible as well as the need for contracts to cover every foreseeable situation, event or contingency explains the presence and obligatory use of archaic, alliterative and often redundant expressions in English contracts. Examples include: ‘made and entered into’, ‘by and between’, ‘null and void’, ‘terms and conditions’. Such expressions are often translated with a single word because the literal translation could be misleading. An example given by Gémar (1988) is ‘terms and conditions’, which refers to the conditions of a contract. The literal translation into French would be ‘termes et conditions’, a mistranslation because ‘termes’ means ‘words’ in French and not ‘conditions’. However, a loss of emphasis can be noticed in these renderings as compared to the original. The all-encompassing and self-contained nature of legal texts explains also the tendency for complex and long sentences. Sentences often have the logical structure of an ifclause, as noted by Cao (2007), conditional expressions and exceptions being frequently employed: ‘except’, ‘unless’, ‘in the event’, ‘in the case’, ‘if and so far as’, ‘if, but only if’, ‘provided that’, ‘subject to’ and ‘notwithstanding’. Formal tone is supported by the extensive use of passive voice. This construction has the added advantage of allowing lawyers to avoid directly referring to the doer of the action. Of course, it is not obligatory to retain this construction in the TL if the given language does not use passives with predilection. English legal language is by far not homogeneous and this is the natural consequence of the fact that English is official and officious language at the same time in several organizations (EU, UN, NATO etc.). An interesting parallel to draw concerns Common Law English and EU jargon. Although there are 23 other official languages currently in the EU, English is by far the most widely used. The principle of multilingualism presupposes that all legislative and non-legislative texts be translated into all the official languages of the EU. All these versions have equal status. Consequently, translation equals law-making in the EU and it often takes the form of simultaneous drafting. As a result translation mistakes in this context can be regarded as drafting errors. Translators in all translation departments of the EU work to the highest quality standards on account of the responsibility attached to these documents, some of them being binding and directly applicable in all Member States, but also in order to fulfill the explicitly stated goal of ‘helping citizens to understand EU policies’1[italics added]. Binding documents are regulations, directives and decisions. Non-binding EU documents are recommendations and opinions. These two categories are known as secondary legislation being derived from treaties constituting primary legislation. The EU is a unique supranational body that needs its own unique tools that legitimate it and regulate its functioning. It is a federation of states each

1 Directorate-General for Translation – European Union website, consulted at http://ec.europa.eu/dgs/translation/translating/index\_en.htm on 23 November, 2013.

SECTION: LANGUAGE AND DISCOURSE LDMD I having its own legal system. In order to make its discourse intelligible across its Member States the EU needed to create its own legal language through a process of generalization, simplification, standardization and necessary deculturalization that blurred the boundaries between national legislations. This attempt to harmonize legal systems to make the language of EU legislation easily understandable paradoxically risks to produce an opposite effect and to lead to ambiguity. Here again the incongruity of legal systems and the so-called systembound terms represent the major translation difficulties. The most frequently used methods to overcome this barrier are literal translation or formal equivalence (Nida and Taber 1982), functional equivalence, descriptive equivalence or paraphrase, borrowing and calque. Literal translation is to be used cautiously as it may lead to denaturalized equivalents or mistranslations, especially in the case of false friends. Borrowing is taking over one word without translation, therefore, the borrowed word is generally italicized. Although it seems to be the most practical method, it cannot be used without taking into consideration the context, the receiver who may not be familiar with the meaning of the foreign word, the target culture and its conventions etc. Finally, consistency is the order of the day in legal translation and it is especially so in EU translation where it is at the same time a principal means of consolidating a language and a terminology that is still in the making as each new Member State means an added challenge to legal harmonization. Consistency here refers to terminology (translating a term with the same word throughout the document), register and layout.

The legal translator and their competence We have seen that behind each word there is the history and age-old (legal) customs of a people. Moreover, words in legal language represent acts that can lead to facts in real life. All this added to their social embeddedness and sanctification through use and custom explains why in our opinion any tendency to reform or, more precisely, to simplify legal language has limited chances of success. The binding nature of law implies that the legal translator has to weigh each and every word consciously and with responsibility. Receiver-orientation – the current tendency in present-day legal translation (Šarčević 2000) – means the translator must have linguistic creativity to avoid using ST-oriented methods in translation and to be able to achieve communicative equivalence in the TT. The requirement not to clarify intentional ambiguities in the ST entails that legal translators should have a solid textual competence, meaning familiarity with legal text-types including their terminology and format, the legislative process and last but not least the specific context in which it was produced. Irrespective of the genre of the legal text and the purpose of the translation we can claim that the translator should generally have a better understanding of legal texts than laypersons in order to be able to make other people understand as well. This double role of receiver and text producer obliges the translator to have some kind of background in law, more exactly to know the legal systems involved in the act of translation. However, as noted by Cao (2007), the translator does not need to be a specialist in law. On account of their responsibility for the later interpretation of the translated text, it is also important that translators dispose of legal reasoning competence. Apart from intense reading and practice in translation, this type of competence can be acquired through interaction with the judiciary (legislator, lawyer, scientist

SECTION: LANGUAGE AND DISCOURSE LDMD I 363 etc.), an opening-up which, as a matter of fact, is highly encouraged and acclaimed by scholars like Cao (2007), Šarčević (1997) or Monjean-Decaudin (2010). Isolation is indeed detrimental for any discipline in the 21st century. Interaction between translators and domain specialists is also motivated by the urge for accuracy, which is omnipresent in the field of specialized translation. In sum, legal translation is a form of translation where routine, specialization and continuous training are not only welcome but highly recommended. This paper has sketched the major translation difficulties that have to do with the multiplicity of texts and contexts in legal translation as well as the characteristics of legal language. By exposing some of the major implications of translating legal texts it is our hope that we have managed to raise awareness of the most important pitfalls in this field.

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Lecture 4

ERRORS AND DIFFICULTIES IN TRANSLATING LEGAL TEXTS

JEL Classification: K0 Introduction Legal translation needs the services of an expert that is highly knowledgeable in legal terms and practices. Translating legal documents needs accurate and correct translation and is one of the most difficult among all translation work. There are many things that need legal translation, including birth certificates, application letters, technical patent confirmation, deposition records, financial statement, evidence documents, litigation materials and business contracts. Translators should not only possess general knowledge of legal terminology, they should also be well versed in statutory requirements and the legal intricacies of foreign cultural and legal systems. Translating legal documents in foreign languages are considered more difficult than other technical translations. The legal terminology is what makes it difficult because each country has its own legal terminology as well as legal system. More often than not, this is also different from another country even if the language they speak is identical. A legal translator must have the competencies in three areas: competency in the target language's particular writing style, familiarity with the pertinent terminology and general knowledge of the legal systems of the source and target languages. There is no room for word for word translation when translating legal documents. Due to this, the professional translator of legal documents must be part detective, legal scholar and linguist with the amount of research work that needs to be done to be able to decode the source and write its actual meaning that will never, in any circumstances, deviate from the originate content, even if an exact translation is not possible. Methods The main methods I have used in this article are the content analysis method of various Romanian and foreign authors’ works, of the reference sources and of the texts chosen to exemplify the case studies and examples in point, the comparative approach through qualitative research, and the observation method starting from empirical research in the field. 1 PhD Lecturer, Constantin Brâncoveanu University, Pitesti, cameliachirila2004@yahoo.com 488

The main aim was to emphasise the need and the usefulness of analysing the translation of legal texts, without the assistance of specialists, in order to underline the main threats and risks generated by this type of translation. This translation analysis can be thus seen as a way of allowing the researcher/translator to identify possible problems. Background In an era of globalization, we are bombarded with the demand for constant and instant communication, which incorporates many different languages and cultures, and which very often involves legal terminology. All translators are aware of their responsibility to produce adequate and easily understandable translations, particularly when dealing with legal texts. It is for this reason that the ability to use appropriate strategies, based on properly chosen theories, is so important in such work. The theories must always be read in conjunction with the pragmatic rules that govern the trade, although the reality is that many of these rules are dictated by theory. Legal texts involve a number of different types of translation problems and require specific methods with which to make a translated text understandable for the reader in the target language, while simultaneously reflecting the original character and unique features of the legal system of the source language country. These requirements force a translator to take great care with the constant connection of the translated text to the source language’s culture, by using strategies such as borrowing original terms, naturalizing some specific terms into the target language, using language calques, or introducing descriptive translation, in which some explanations are mandatorily included. Sometimes it is enough to utilize equivalent terms that are used comparatively in the target and source languages, or, alternatively, the translator must localize some elements in order to make them understandable. To solve the problem of which strategies are dominant, comparable analyses of a number of legal texts written in Romanian and English have been carried out, leading to the conclusion that the most useful strategy is the ability to maintain the source culture’s features and not deprive the texts of their specific character, although localization is sometimes necessary. Some terms also necessitate simple equivalent translation, as they function simultaneously in both language cultures. To perform such a translation, a two-fold approach is necessary on the part of a translator. Firstly, he is obliged to decipher all of the meanings included in a source text through the detailed analysis of its contents. Such analysis will not only be of a linguistic nature, but it also necessitates some specialist legal knowledge of the text’s contents if it is to be understood properly. This means that the translator must engage in the analysis of some of the legal bases of the text’s meaning. The best way to do this is to either study the actual Acts and Regulations which govern the shape of a document, or find some other accessible information or credible consultants through which any possible doubts can be dispelled. Following this, if the translator is sure about what each part of the source text exactly means, the next level of the translation can take place, namely seeking out the best vocabulary and linguistic structures with which to express the meanings in the source text. There are three ways to do this: 1. By retaining some cultural-specific elements, such as the names of institutions, the titles of officials, or actual legal regulations etc. In such circumstances, some translator’s notes will be needed to explain the sense of ideas, particularly when the source information is left in the original language; 2. By localising common elements within the meaning that are different in form in the source and target language, such as different formats of dates, times, currencies, weights, measures, and more specific legal terms; 3. And, most easily, by the equivalent translation of content that is similar in form and meaning in both cultures. Comparative analyses that utilize comparative corpora, term databases, glossaries, websites, etc. are of great help when carrying out the work mentioned in points 2 and 3 above. Yet the translator should always bear in mind the most common rule of translation of such culturally-rooted texts, namely first be faithful to the source language culture’s principles. There is a further level to be included in the process of translation, which relates to its recipient. The kind of reception that the work receives is the final proof of how correct, or otherwise the translation is. Accordingly, obtaining such feedback information may be an additional factor of interest to the translator. Case study The present work is addressed first of all to the juridical specialists being connected with the terminology in the domains of public and private law. It includes the English, American and European law terms of Latin origin because some of them do not have exact structural correspondences in the Romanian language, this leading to difficulties in finding an equivalent in the process of translation of the English juridical texts into Romanian. This part is a practical approach on translation. Using a number of case studies (legal texts extracted from various documents and articles), the case study illustrates the diversity of situations which can arise as a result of translation errors and difficulties. This section is an analysis of the translations of economic texts and the errors that may occur in the attempt to give an accurate and correct translation of the original text. Law as an abstract concept is universal as it is reflected in written laws and customary norms of conduct in different countries. Legal concepts, legal norms and application of laws differ in each individual society reflecting the differences in that society. Legal translation involves the translation from one legal system into another. 1. Working with a corpus of juridical texts we came across a big quantity of Latin juridical expressions. Latin being in the Middle Ages the language of law on the territory of Western Europe influenced immensely the formation of the juridical terminology of the majority of the European languages, not to speak about the fact that Latin was the basis of many Romance languages, and also the English language, because English was not an exception. All the possible languages borrowed both roots of Latin origin of words, wordcombinations, winged expressions as well. Thus, a basic linguistic difficulty in legal translation is the absence of equivalent terminology across different languages. The English juridical vocabulary included such elements from Latin. In the domain of jurisprudence the so-called “Latin layer” or “the antique heredity” was very important, for example, sub judice – în cursul judecătii; subpoena ad testificandum – citaţie adresată unui martor pentru a se prezenta şi a depune mărturie; salvo jur e– fără prejudiciu, bona fide – bună credinţă; mala fide – rea credinţă, etc. 2. Another source of difficulties in legal translation is represented by cultural differences, “culture” being defined as a “semiotic system” and “a system of meanings” or information encoded in the behaviour potential of the members of the society. Translation involves trust on the side of the reader or user. The audience that does not know the original meaning of the terms of the text believes that the translation is a fair representation of it. Hence, the translator should be ready, whenever possible, with observance of all cultural details to translate the legal lexicon in the texts of legal documents. 3. Translation of words having equivalents in the Romanian language but specifying the realities not inherent for the Romanian legal culture. In such cases the literal translation demanding some notes or approximate translation when the specific term in the English language is translated by the patrimonial term in Romanian is possible. Anyhow, such units demand either the use of the intra-linguistic compensation, i.e. a word is translated by the phrase, or intercultural compensation when a translation demands some commentary. A typical example is the use of such pair as jail-prison translated usually as închisoare or penitenciar. It is not necessary to define the difference between these two words in all contexts but the translator should know that jail is a place where people are kept during the process of investigation or the offenders, serving time punishments till 1 year for not severe crimes. Prison is an establishment of execution of punishments where the persons who have committed grave crimes and serving time punishments more than for 1 year are kept. It also should be noted that the modes of the maintenance of prisoners in establishments of these two types are various on severity degree, as well as on financing sources. In the English language there are some nouns with the meaning infracţiune/delict/crimă from which one, murder, is patrimonial, and others – specific terms: homicide (premeditated murder) and manslaughter (unpremeditated murder). The example of functioning of such words as crime – felony – misdemeanor is similar. The noun crime designates a crime in general (unlike an administrative offence), while misdemeanor (not severe crime) is punished with either the penalty, or serving a term of punishment in local prison (jail), and felony – the heavy criminal offence punishable with a long term of imprisonment in a state or federal prison. 4. The literal translation of word-combinations demanding detailed explanation on the part of a translator if, of course, the translator is competent to give such comment. Let’s consider the translation of such word-combinations, as limited divorce, indeterminate sentence, Index crimes, Crime index, sensibility training and verbal judo. In all these cases, word-combinations designate the realities which do not exist in the practice of the Russian judicial-legal system and consequently demand to compensate objective discrepancy of translation with the cultural comment. So, limited divorce is separaţie de corp, indeterminate sentence is sentinţă fără soluţie/nerezolvată. Crime Index is clasificarea infracţiunilor, a list from 8 of the most grave crimes, among which 4 types of crimes are against the person (murder, sexual assault, robbery, aggravated assault) and 4 – against the property (burglary, larceny, car theft, arson). Accordingly, Index crimes are the types of crimes listed above. Comprehension and equivalent translation of such word-combinations as sensibility training or verbal judo demand from the translator not only the linguistic competence, but penetration into the sphere of the professional culture of the police as well. We think that it is the most difficult case for the translator who is not a specialist in this area to find the equivalents in the target language. So, sensibility training is pregătire pentru stârnirea emotivităţii (negotiating with terrorists; interrogation of the victims who are in a condition of a psychological trauma, etc.). Verbal Judo often translated as atac verbal. The translator should know that it is a technique of application of certain language means with the purpose to achieve the results with the help of a dialogue. 5. When it comes to certificates and diplomas, with the cultural-specific elements widely used, the aim of which is the delivery of personal information, its recognition and application, the strategy is generally to retain original forms without cultural adaptation. This normally means using the simplest translation equivalents as suggested by dictionaries, glossaries, encyclopedias or other credible sources. Moreover, some elements must also be left untouched (e.g. addresses, names of people and places). Borrowings, calques, naturalizations or descriptive translations are commonly used because the first and most critical rule in the translation of such texts (apart from being communicative) is the retention of the source cultural elements. This is done with official names of countries, institutions, job titles, and the forenames of the holders of the documents. We also retain the sense (or names) of administrative units, the names of normative acts governing the formats of the documents if they are mentioned, and the references to all forms of proof of authenticity – stamps, watermarks etc. It is even possible to somehow adjust the format of the documents to assure the target reader that the document they are dealing with is the official one, albeit in a different language. 6. When it comes to the names of institutions, it is sometimes difficult to find a foreign language equivalent in accessible sources like dictionaries, glossaries, or corpora. If the institution itself does not suggest the officially established and acceptable version of its name, the only solution is to borrow the original name and add the translator’s version of descriptive translation, or sometimes a calque (the only excuse for using the name of an equivalent institution in the target culture is the situation in which the functions of both institutions are similar and there is no better solution). However, we must remember that the translation is introduced after the first appearance of the original term for informative purposes, as the most appropriate strategy is still to use the original versions of such names. 7. There should be no doubt about the appropriate way of translating the official functions of the individuals referred to in the documents. Again the rule is to retain the sense and not to try to adapt the functions to the target culture’s requirements. If the translator has doubts about choosing an equivalent for a function which does not correspond to the target culture, the best way forward is to read the actual legal regulations relating to the translated documents, which usually provide detailed information about the principles behind their usage, their contents and issues. For example, a British or Romanian translator, in whose countries there are comparable rules for the solemnization of a civil marriage, may wonder why we find such terms as judge or clerk and not registrar, in American marriage certificates (e.g. in the State of Illinois). But after the analysis of the contents of chapter 40, paragraph 209 of the “Illinois Marriage and Dissolution of Marriage Act” (750 ILCS 5/), which states that the marriage ceremony must proceed in the presence of a judge or a county clerk, the translator can be sure that the simplest non-adapted terms that are chosen according to the strategy of word-for-word translation, are the most appropriate, even if they may not correspond to the target culture. Having read the act referred to, the translator will have no doubts about the function of the certificate itself since its title, “Marriage License,” does not directly suggest that the document is a marriage certificate. According to the laws in Illinois, the document acquires the power of a marriage certificate after being signed by an appointed individual in the space provided and sent to the institution responsible for keeping marriage records. When it comes to the title, it should be translated literally, possibly with some translator’s notes, again to keep the source culture’s rules. Generally, as has already been stated, the translation process in the type of texts described should be reduced to an attempt to render the meaning of the source information within the target language, according to the principle that the strict correspondence of meaning is retained by word-for-word, literal or technical translation. The main rule of translation should be the parallelism of terminology and using grammar and stylistic rules that are adequate to the target language’s conventions. All of these will mainly be applied to the titles of documents, headings that refer to personal data, school subjects and some formulations of certification. A completely different strategy, based on cultural adjustments and the attempt to express the same ideas but in different ways, will be needed when the source and target languages differ in some aspects of cultural and linguistic traditions, but the ideas expressed are universal. This applies to elements such as dates, times, systems of measures and weights or some more detailed legal terms. In situations where the traditions differ and there is only minimal correspondence between culturally-rooted ideas, like with scales of school marks, scientific titles, currencies, it is better to leave the original versions untouched and add the translator’s notes by way of explanation.

Conclusions The case study that we have accomplished gives us the possibility to make some conclusions: - the principal group of Latin words which came into English has no analogies there. They represent “law” itself and present a certain linguistic interest. 492

- some Latin juridical words and word combinations are translated in a descriptive way; - juridical terms have always only one meaning, are not polysemantic, their meanings do not depend on the context. The proper equivalent translation of the legal texts requires from the translator a high level of his linguistic and cultural competence. As a rule to get a sufficient degree of completeness and accuracy the translator often uses the inter-language and intra-language compensations. The greatest difficulty for the translator is caused not by the use of terms and phrases which are fixed in specialized dictionaries but the use of those linguistic units which are connected with the cultural aspects regularly used in legal texts. It is difficult to overestimate the importance of the translational notation which allows to provide complete understanding of the translated legal text, to fill lacks of the background knowledge of the reader of the target text and to resolve the conflict of cultures in the professional area. As can be seen from the texts chosen, legal translation requires appropriate knowledge, skill and methodology. Bearing in mind how often such texts arise these days, and the inadequate number of properly qualified translators, it is obvious that the pedagogical contribution towards the development of those skills is a big challenge for the academic community. Also worth mentioning here is that translation is no longer a process exclusively based on traditional tools and methods. This should be borne in mind by scholars when dealing with scientific issues concerning the field. New opportunities are available as a result of developing technology. It is for this reason that attempts to facilitate the process of translation and unify its results, need to continue. The problem for future decades is how to ensure that there is awareness of these new translation tools and that they are more widely used. References: 1. Bassnett, Susan. Translation Studies. London: Routledge, 1988. 2. Beaupré, Michael. Interpreting Bilingual Legislation, Toronto: Carswell, 1986. 3. Bocquet, Claude. Pour une méthode de traduction juridique, Prilly: CB Service, 1994. 4. Chirilă, Camelia and Georgiana Mîndreci. “Linguistic Changes in the Context of European Regional Development,” Management Strategies Journal, 4th year, Special issue, 2013, Independenţa Economică Publishing House, ISSN 1844-668X, p. 185-189. 5. Hardy, Jean, The Interpretation of Plurilingual Texts by International Courts and Tribunals, The British Yearbook of International Law 1961, no. 37, pp. 72-155. 6. Kuner, Christopher. The Interpretation of Multilingual Treaties: Comparison of Texts versus the Presumption of Similar Meaning, Comparative Law Quarterly, no. 40:4, pp. 953-964, 1991. 7. Landers, Clifford, E. Literary Translation: A Practical Guide. Vol. 22. Clevedon: Multilingual Matters, 2001. 8. Leviţchi, Leon. Limba Engleză – Manualul Traducătorului. Bucureşti: Teora, 2000. 9. Mîndreci, Georgiana. J. D. Salinger Abroad. Analysis of his Novel’s Tow Romanian Translations and Their Impact on Romanian Readership. Lambert Academic Publishing (LAP), Germany, ISBN – NO: 978-3-8383-4406-5; 2010. 10. Munday, Jeremy. Introducing Translation Studies. Theories and Applications. London: Routledge, 2001. 11. Newmark, Peter. Approaches to Translation, Oxford: Pergamon Press, 1984. 12. Nord, Christiane. Translating as a Purposeful Activity, Manchester: St. Jerome, 1997. 13. Schroth, Peter. Legal Translation, American Journal of Comparative Law, pp. 47-65, 1986. 14. Snell-Hornby, Mary. Translation Studies: An Integrated Approach, Amsterdam: Benjamins, 1988. 15. Vîlceanu, Alina. “Being a Translator / Interpreter.” Language and Literature: European Landmarks of Identity 23-25 May 2008 Piteşti. Vol. III. Piteşti. Editura Universităţii din Piteşti, 2008. 16. Venuti, Lawrence. ed. The Translation Studies Reader. London: Routledge, 2000Legaltranslation, like anyothertype of translationwork, is the replacement of the sourcelanguage with the targetlanguage. However, legaltranslation is different becauselaw is culture-dependent.

It uses content and termswithin the legalsystemprevailing in the countrywhere the sourcedocumentoriginated. As the world becomes more globalized, the need for legaltranslationescalates.

Aside from the languagebarriers, the differences in legalsystems make legaltranslationverycomplex

There are countrieswherethere is a cleardivisionbetweensecular and religiouslaw. But in othercountries, these two laws are not clearlyseparated.In Saudi Arabia, the country'slegalsystem is greatlyorganizedaround the laws of Islam, but the governmentalsoaddedsomesecularcodesbecause of the country'sdesire to be a major player in globalbusiness. Morocco on the otherhandhas a legalsystem that is a combination of French law and Islamiclaw.

What is LegalTranslation?

Trying to understandwhat is involved in legaltranslation? It is more complexthanstandard or regulartranslation that needsstraightforward (transposition) writing.

Legaltranslation is required to use the officiallanguage of the pertinentjurisdiction, thus it covers a widevariety of texts. It can be identitydocumentation, financialdocuments, official reports, transcripts, filedpatents, precedents and legalrulings and witnessstatements. Legaltranslation is alsoneeded for immigrationdocuments, litigationpapers, articles of incorporation, wills and trusts.

Translationservices for legaldocumentsmustonly be done by specialists/subjectmatterexperts (SMEs) with deep knowledge of the laws of the source and targetcountries/languages to avoidmistranslations.

Regulations for LegalTranslators

Eachcountryhasitsownset of regulations for legaltranslators. In manycountries, legaltranslatorsmusthave a degree in business and legaltranslation. In Argentina and Brazil, legaltranslatorsmust be certified by the state. Countries like The Netherlands, Sweden and Spain requiretranslators to swearlegaloaths. Moreover, they are regularlyexamined to ensuretheir good practice and proficiency. They are alsocentrallyregulated. In Italy however, all legaltranslationsmust be certified/notarized by a professionallegalpractitioner.

The situation is different in the United Kingdom and the United States. These two countries are not verystrictaboutaccreditation of legaltranslators. Manylanguageservicesproviders (LSPs) providecertificates of accuracy if requested by the client. Somejointradeassociations and independentbodies that offermembership and qualifications, to signifyaccreditation. It is alsousedas a qualitybenchmark.

WhatMakesLegalTranslation Different? Still in the darkas to whatlegaltranslation is? As mentioned, it is one of documenttranslation'smostcomplexforms. Mistakes, ambiguity or misinterpretation, no matter how small, have no place in legaltranslationbecause the translateddocument can become void. Further, there are hugelegal and financialcomplications that can resultdue to even a simpleerror.Adding to the complexity of legaltranslation is itsuniqueterminology, coupled with culturalfactors and difference in language. In legaltranslation, it is not justaboutreplacing a word with another. The translatormusttranspose the legalconceptsintoanotherlanguage. Because of difference in legalexpressions and traditions, the translatormust be veryspecificaboutwhatlanguage to usewithin the targetjurisdiction

There is a specifictype of language in legal text and if a judge or a lawyersees that wrong words wereused, the entiretranslationmay no longer be trusted. Moreover, the translatormustfit the purpose of the legaltranslation. There is a differencebetweenlegallybindinglegalese and legaltranslation for public consumption.

Anyonefamiliarwilllegal text understands that legalese is wordy. Legal English contains different subjects and the sentencestructures are usuallycompound and complex. The tone for legal English is veryformal and it is usual for legaldocuments to be written in the passivevoice. It can be challenging for a translator to translate a passivevoice to an activevoice, assomeforeignlanguages are.

HumanTranslatorsRequired

Legaltranslationrequires a veryhighdegree of accuracy, whichcannot be delivered by machine translation. It's becauselegaldocuments are usedasofficialpapers for anylegaldocumentation, e.g., for scholarlywritings, contracts, birthcertificates, affidavits and courtevidence.

Translationautomation is not advisedbecause of the complexity of the two legalsystemsinvolved. Direct translations are not possiblebecausethesemay not make sense to the target reader. The legaltranslatormustensure that the titles, reasoning and technicalterms are validlegally.

The legalexpressions in the sourcelanguagemany not havespecificequivalent in the targetlanguage. In suchcases, conceptualequivalents are used, which machines cannotproduce. Theremay be instanceswhen the exactlegalexpression from the sourcelanguagemust be included in the translation, along with the paraphrase of the expression for emphasis.

Legaltranslationtakes time to produce, as it is not the easiestform of translationwork. It requires the highestdegree of accuracy. It is important for the client to work with a professionallanguageservicesprovider that haslegaltranslationexpertiseas well asyears of experience in the subject

Remember that a singleerrorcosts money plusotherlegalramifications. For more information, you can readabout our legaltranslationserviceshere.

Find a Legal Translator

It is important that thoselooking to employ a legaltranslatorensure that candidateshavedemonstrablelegal and linguisticunderstanding of the languagesused in both the originaldocument (the source text) and the finishedarticle (the target text). The abilities of a prospectivetranslator can be ascertained by consideringtheircertification, theirqualifications, theirmembership of the aforementionedtradeassociations and theirrelativeexperience with the languagesinvolved. The U.S. Consortium of LanguageAccess in the Courtsadvises that ‘In general the best result is obtained if the chosentranslator’s mother tongue is in the targetlanguage (the language that the materialwill be translatedinto)’.

High profile or sensitivecasesmayneed the translator to be securitycleared. Different levels of securityexist in eachcountry and where NDA is not considered to be highenoughadditionalaudittrails and securitymeasures can be applied to projects. Translatorshavebeen known to work on secondmentwithin client premises/networks if securityteamsdeem it necessary.

It is alsooften a requirement to transcribematerial. This is when the source ‘text’ is containedwithin audio format (mp3, CD, tapeetc). This doessometimesincludetranslation (as the originalmight not be in the language you need) and sowilltherefore follow the sameprocessaslegaltranslation, this service is refered to asmultilingualtranscription.

Legaltranslationspresentparticularproblems to translatorsbecause of the relationshipbetween the source text and the particularlegal and culturalconventions of the jurisdiction in which it originated. As suchprovidingliteraltranslations of source texts can result in target texts failing to convey the preciserights and dutiesset out by the source. This lack of comparability can haveimportantlegalramifications, asoutlinedabove. Therefore the translatorhas to consider a number of factorswhenundertakingtheirwork. As well ascontending with accidentallinguisticgaps and structuraldifferencesbetween the source and targetlanguages the translatormustconsiderculturallydependenttextualvariations. As such it is necessary for the translator to workaccording to a variety of standards of cultural and social equivalenceratherthanproviding a simpleverbatimlinguistictranslation in order to avoidlosingimportantlegalcontext and consequence from the source text. Thus the legaltranslatorwilloftenchoose to maintain the functionality and overarchingmeaning of the source text ratherthanfocusing on the relativecomparability of individualterms or words within the text.

Lecture 6

DIFFICULTIES AND STRATEGIES IN THE PROCESS OF LEGAL TEXTS TRANSLATION

1. English as an international language of legal communication Globalisation and the growth of international organisations (e.g. UN, EU, NATO, WTO) have brought an increasing interest in legal documentation (e.g. legislation, regulations, agreements) using English as a common language. The importance of legal English lies expressively in its being the medium for international (including electronic) commerce. English is the standard language for many companies, for take-over bids, for international commercial contracts, for arbitration, for all cross border legal transactions and international legal issues in particular” despite all national language legislation. English is the language of international law and multidisciplinary professional service firms. In addition, English may be either source or target language, even the medium or relay language between source and target languages. Legal English is in course of conquering the world while the other major languages are incapable of posing a threat to the position of English as the “lawyer’s lingua franca.

2. Cultural factors in producing and translating legal texts These circumstances as thus described imply the necessity for meaningful communication of information and ideas. At the same time, increased global interaction means that the capacity to communicate interculturally in the world using a common means, in our case the English. If the language is perceived as a social practice, culture becomes the fundamental principle of language teaching. The relationship between language and culture is both complex and elaborate; in addition communication problems may arise from cultural differences; moreover, these factors become particularly acute in professional setting when interacting parties use the same linguistic code (i.e. English), but not the same cultural style. Thus also English can be defined as a device for mutual understanding, it can also be discussed that English “can also act as a medium and subject of global misunderstanding.”2 In the legal context, these factors play a role, since language and law are closely related and are generated through social practices. Indeed, language is the core of the law, since the law is substantially formulated through language. The development and status of both ordinary and legal language reveal the relatively autonomous development and status of legal cultures and legal systems. The

1 Lector dr., Universitatea din Pitesti, adela\_dum@yahoo.com 2 Spinchtinger, D., “The Spread of English and its Appropriation”, p. 66, Master’s Thesis: Vienna University. Available at http://www.geocities.com/dspichtinger/dipl.htm last visited 02 September 2014 result is that “the technical language of jurists is extremely system-bound. Since legal systems vary from state to state, each country has its own independent legal terminology.”1 Legal translation is often more difficult than other types of technical translation because of the system-bound nature of legal terminology. Unlike scientific or other technical terminology, each country has its own legal terminology (based on the particular legal system of that country), which will often be quite different even from the legal terminology of another country with the same language. The system-bound nature of legal text means that successful translation into another language requires competency in at least three separate areas: 1. basic knowledge of the legal systems, both of the source and target languages; 2. familiarity with the relevant terminology; 3. competency in the specific legal writing style of the target language. Without these skills, the translator’s interpretation will be a word-for-word translation that is often incomprehensible. Personally, I find translation of legal documents to be one of the most interesting and challenging areas of translation, because they often require both a combination of the creativity of literary translations and the precision of technical translations. Thus, the professional legal translator must be part linguist, part legal scholar and part detective, willing and able to search out and define legal concepts expressed in the source language of a document that may not even have an equivalent in the language or legal system of the target text. The translator must first decode the source text and reconstruct its meaning in the target text. In many cases, the translator is limited to finding a functional equivalent for a word or phrase or a parenthetical explanation because an exact translation is impossible. Translation of legal documents tends to involve more culture-specific than universal components. In contrast to what happens with mathematics or chemistry, where there is an objective common knowledge base, legal terminology is based on the particular legal system of each country. Each legal system has its own history, social values and political context, and has been designed to meet the needs of a particular nation, which obviously differ from one country to another. For instance, the Anglo-Saxon and Continental legal systems differ in many respects. Due to this diversity of legal systems, one of the major difficulties faced by legal translators is finding exact terminological equivalents. A particular concept in the Romanian legal system may not necessarily exist within the framework of the English system, or, it may exist, but refer to a different concept. In many other countries, public jury “trial” processes do not exist, but there are other judicial systems. In these situations, a literal translation of the word “trial” might mislead the reader. Translators of legal texts must have a complete understanding of legal classification, legal processes and the systems of both of the source and target languages. Terminology mistakes in the translation of legal documents may have serious repercussions, such as losing a case or causing liability issues. A good legal translator also knows that even within the legal field there are completely separate areas of law that require specific translation techniques: a contractual document has little in common with a will, an administrative certificate, a judicial decision or a statute, to name a few examples.

1 Mattila, H., Comparative Legal Linguistics, p. 106, Ashgate, 2006 The legal decoder knows that he or she must consult not only a monolingual legal1 dictionary, but also an important documentation regarding the subject matter, and that bilingual dictionaries, while useful, should be used with caution. When faced with international disputes involving different languages and legal systems, legal counsel and their clients would be well advised to obtain the services of translators able to successfully bridge the divide of legal systems, as well as language and culture, in order to provide literate rather than literal translation2

3. Legal Terminology & Style Legal terminology and phraseology is the major concern for the legal translator as he/she may bring to a common two or more legal systems which are sometime extremely diverse and culture-bound. I have chosen legal terminology as point of this lecture because this is the key characteristic of language which actually connects a variety of legal genders and is one of the most important aspects in legal translation. Each legal language has its own specific and complex vocabulary, phrases, and denominations. This more than often faces the translator with the impossibility to find a correspondent in the target language, i.e. the problem of non-equivalence. Legal languages differ greatly when it comes to using a specific terminology. For example, the lexicon of legal English, abundant in archaism, Latinism, terms of Norman and French origin, terms with flexible meanings, has traditionally been a source of wonder for the common people and at the same time the source of many debates concerning its demanded renewal among specialists in the legal and the linguistic fields: “Legal English […] has traditionally been a special variety of English. Mysterious in form and expression, it is mixed with law Latin and Norman French, heavily dependent on the past and unashamedly archaic”3. Comparing it to other legal languages, legal Romanian has a relatively restricted terminology. In the contemporary Romanian language, legal vocabulary is an organized body of terms, statistically characterized by restricted wealth and high concentration. The legal terminology used by the Romanian specialists includes a variety of neologisms, especially from French, as this language favoured the development of derivational process “by adapting an inventory of neologic affixes and affixoids from the classical languages”4 A generalized feature of all legal terminologies is the mixture of strictly legal terms with terms of belongings to other specialized fields. In community law, for example, one is likely to find terms pertaining to a variety of disciplines, ranging from medicine (the approval of a new drug for example) to agriculture (ex. Grant contracts for farmers specifying the type of crop, chemicals allowed and forbidden etc.) The example below is an excerpt from a European Council document.

Commission of the European Communities Comisia Comunitaţilor Europene Brussels, 9.10.2009 COM(212)662 final Proposal for a COUNCIL DECISION on the conclusion of an Agreement in the form of Exchange of Letters between the European Community and Barbados, Belize, […] on the Bruxelles, 9.10.2012 COM(212)662 final Propunere de DECIZIE A CONSILIULUI privind încheierea unui accord sub forma unui schimb de scrisori între Comunitatea Europeană şi Barbados, Belize, […] privind preţurile garantate

2 By the dychotomy of literate translation and literal translation we want to point out the difference between a well-documented translation and a word-for-word translation. 3 Butt, P., Castle, R., Modern Legal Drafting, New York: Cambridge University Press, 2006, p. 1 4 Cazan, O., Procedee de formare a terminologiei juridice româneşti,în revista “Philologica Romanica”, 9, p. 226 available online at http://www.romaniaminor.net/ianua/Ianua09/09.pdf guaranteed prices for cane sugar for the 2008/2009, 2009/2010, 2010/2011, and from first July 2011 to 30 September 2011 delivery periods and on the conclusion of the Agreement in the form of Exchange of Letters between the European Community and the Republic of India on the guaranteed prices for cane sugar for the same delivery periods. EXPLANATORY MEMORANDUM 1. Protocol 3 on ACP sugar attached to Annex V to the ACP –EC Partnership Agreement, and the agreement on sugar between the European Community and the Republic of India provide for a Community undertaking to purchase and import at guaranteed prices cane sugar which the exporting countries concerned cannot market in the Community at prices equivalent to or higher than the guaranteed prices.

pentru zahărul din trestie pentru perioadele de livrare 2008/2009, 2009/2010, 2010/2011, şi de la 1 iulie 2011 până la 30 septembrie 2011 şi a unui accord sub formă de schimb de scrisori între Comunitatea Europeană şi Republica India privind preţurile garantate pentru zahărul din trestie pentru aceleaşi perioade de livrare.

EXPUNERE DE MOTIVE 1. Protocol nr. 3 privind zahărul ACP ataşat la anexa V la Acordul de parteneriat ACP –EC, şi acordul privind zahărul încheiat între Comunitatea Economică Europeană şi Republica India prevăd angajamentul Comunităţii de a cumpăra şi a importa, la preţuri garantate zahăr din trestie pe care ţările exportatoare în cauză nu îl pot comercializa în Comunitate la preţuri echivalente sau mai mari decât decât preţurile garantate.

As can be clearly seen from the example, legal terms and phrases like decision, proposal, conclusion of an agreement, explanatory memorandum, guaranteed prices, delivery periods, to provide for are used alongside economic terms like to purchase and import, exporting country, while the object of the decision is related to agriculture, more specifically, cane sugar. The mixture of special-purpose language is another peculiarity of legal language which gives rise to many translation problems. The translator of legal documents must not only be familiar with the source and target languages, the two legal systems involved, but also with the subject matter of the document to be translated. The fact that the audience of such legal texts is often the common person has been neglected in the choosing simpler terms, closer to common language. Nevertheless, legal terminology is shed from the major changes by the barrier of legal precision and accuracy. The next topic of our lecture will deal with aspects of legal language more likely to suffer changes in this era of communication and interaction. Under the umbrella of style we can discuss all the other peculiarities of legal language which cannot be accounted for in the category of legal lexicon. The use of oldfashioned syntax, lengthy and complex sentences, the redundancy discourse, the overuse of performative verbs, conjoined phrases and lists of words, preference for impersonal constructions and so on. These are the most important features which allow us to distinguish legal style from the style of the common language or other LSP. One of the defining characteristics of legal style is the use of long sentences. Peter Tiersma concluded that the ground for the preference of complex and long sentences in English is the “desire to place all information on a particular topic into one self-contained unit”1. The author is nevertheless worry about choosing this approach in order to rid the language of the supposed ambiguity created by the use of separate sentences. The example below will support the author’s scepticism and stress the reverse of this motivation for the use of long sentences, i.e. the fact that the ambiguity is likely to arise particularly in such long and complex sentences. The excerpt chosen to illustrate this is taken from an agreement of distribution, drafted in bilingual versions Romanian and English:

La terminarea prezentului contract, Distribuitorul va proceda imediat, pe cheltuiala proprie la :

On termination of this Agreement the Distributor shall proceed, at his expense:

1 Tiersma, P., Legal Language, Chicago/London: The University of Chicago Press, 1999, p. 56

a) întreruperea şi scoaterea din uz şi/sau expunere, directă sau indirectă, a oricărui nume, marcă de commercializare şi a oricărui material tipărit, de reclamă şi propagandă, care conţine astfel de nume sau mărci; b) retragerea din utilizare şi/sau expunere directă sau indirectă, a oricărui nume, marcă de comercializare, cuvânt ştanţat sau combinaţii de cuvinte asemănătoare numelor sau mărcilor de comercializare utilizate sau reclamate de către Exportator, care ar putea conduce la confuzii şi nesiguranţă inducând în eroare consumatorii şi publicul, şi care va deveni efectivă în cadrul unei perioade de timp rezonabile convenite între părţi.

a) to cease or take out any direct or indirect display, the use of any name, trade mark, printed materials used as advertisement or for any other publicity purposes; b) to cease using or displaying either directly or indirectly any name, trade mark, stencilled words or word combinations similar to the names or trade marks utilized or advertised by the Exporter which might make confusion or uncertainty, thus misleading the consumers, this cease taking effect within a reasonable period agreed upon by the parties.

Both languages seem to adopt the same style when it comes to delimitating the chunks of information contained in this sample of legal discourse. The information is nevertheless divided into three main groups with the use of the colon and the two lettered paragraphs, but there is still no sign of formal marking at the end at the clause like a full stop and a capital letter for the first world of the next sentence. The use of full stop is not the main problem when it comes to understanding this paragraph. The most striking feature, which probably led to adopting this laborious style of the two clauses, is the extensive use of conjoined prepositional phrases: “to cease using or displaying either directly or indirectly any name, trade mark, stencilled words or word combinations similar to the names or trade marks utilized or advertised by the exporter which might make confusion or uncertainty, thus misleading the consumers…” The quest for precision is also behind the use of common names as proper names and the recurrence of some terms making the legal discourse so redundant. The style of legal language and particularly the one used in written documents is therefore just as different as the systems of law differ from one country to another. Thus the legal translator must be aware of and familiar with these stylistic peculiarities of the legal language in general and with the stylistic features specific to each legal language (source and target) in order to be able to render a functional translation of the original text. The source text should obey the stylistic rules at use in the target language and not import the style of the source text.

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Lecture 7

The Challenges and Opportunities of Legal Translation and Translator Training in the 21st Century

CATHERINE WAY Universidad of Granada, Spain

The 21st century offers all professions myriad opportunities to face new challenges and redefine their current positions. Legal translation has a long tradition in translation studies and practice; nevertheless, it seems that the moment has come for profound changes in the legal translation profession’s position in society and for legal translator training. After a brief overview of legal translation, this article focuses on important challenges and opportunities for legal translators and for legal translator trainers. I revise initial steps already taken to address the challenges and to seize the opportunities of the 21st century and discuss those still requiring attention.

Introduction

Like it or not, the law pervades every area of our lives, from accepting terms and conditions when downloading an app to withdrawing money from an ATM. We spend much of our lives completing administrative forms and being processed on the basis of preexisting administrative categories, which support and influence the decisions that will be taken and finally affect our personal and professional lives. The law—and, as a consequence, the legal system of any country—is a result of the historical, political, and cultural development of its people. Legal texts are intricately connected to this development and reflect the complexity of the legal, political, administrative, and social systems they represent. Even in one’s own language, legal texts can be obscure and incomprehensible, because legal language has a tendency to present even simple ideas in complex, archaic language (Williams, 2011). If we take into account globalization and increased population mobility in the 21st century, legal translators undeniably have a vital role to play.

Traditionally subservient position of the legal translator in communicative acts has led to poor self-concept and a lack of projection and respect for the profession in general. Although legal translation now holds a consolidated position in translation studies and has attracted considerable academic inquiry and research, legal translator training has not always embraced innovations. Several new approaches based on critical discourse analysis (Way, 2008a, 2012), complexity theory, decision making, and problem-solving (Prieto Ramos, 2014; Way, 2014) push the frontiers of the current translator competence models to new horizons to prepare legal translators for the challenges of professional practice.

Explaining Legal Translation

Legal translators repeatedly have to explain exactly what they do. The widespread confusion between speaking a language and translating professionally is the scourge of a translator’s daily life. No, I do not teach English at the university, nor do I magically press a button behind my ear to immediately reproduce what one person is saying in one language into another while listening to the public prosecutor’s legal reasoning in a courtroom. Similarly, when I receive a contract for the construction of sports installations (which must reach the client in perfect legal English today) or must burn the midnight oil to provide a frantic mother with the documents proving that she has custody of the children whom her ex-husband has just kidnapped, I still cannot find that marvelous button that all translators are believed to possess. Unless you have used the services of a legal translator, you are unlikely to know of their existence. As Cao (2014) notes, interpreters are physically present in legal settings and hence visible to the other agents in the communicative situation. Translators, on the other hand, remain largely invisible, posing the question: “Who are the invisible translators and, more importantly, who are the monitors of such translation, ensuring the quality and integrity of the tasks performed? And above all, who may be considered a qualified or competent legal translator?” (p. 313). Court translators and interpreters or those who work in international organizations such as the United Nations have more immediate visibility and have, perhaps, advanced more in terms of recognition and organization of their professional practice. Translators who work as freelancers or for agencies, translating the multitude of documents that citizens require on a daily basis, however, are in a far worse situation. This invisibility and the fragmented nature of the profession are partly to blame for legal translators’ current situation. Legal translators do, however, exist and have been practicing their profession for centuries.

According to Hilf (1973, as cited in Soriano Barabino, 2006), the first documented mention of legal translation dates from 1271 B.C. in Egypt, with the translation of the Egyptian–Hittite peace treaty. Initially, because literacy was so rare, translation was often limited to such treaties. Another milestone for legal translation was the translation of the Emperor Justinian’s Corpus Iuris Civilis into Greek in the 6th century. Between the 7th and 13th centuries, translation activity in the Arabic-speaking world mushroomed as major works (including legal texts) were translated. As empires extended their borders, translation and interpreting became essential to rule the new cultures that were conquered. Nevertheless, scarce research exists tracing the history of legal translation, with the exception of Gémar (1982), Sarcevic (1997), Peñarroja (2000), and, more recently, Cao (2007).

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As legal and administrative systems evolved parallel to growing population mobility, the creation of civil registers to record births, deaths, and marriages marked the onset of administrative control of every area of our lives, and, thus, the need for the documents emanating from official institutions to be translated increased. Consider, for example, the European Commission Directorate-General of Translation, which translated more than 2 million pages in 2013 for European Union citizens into the 24 official languages at a cost of about €1 billion per year (European Commission, 2014; One Europe, 2013). Research, however, into the practice of legal translation was relatively uncommon until the end of the 20th century, although it has increased enormously in the 21st century and is now thriving.

The question is why, if legal translation is so necessary, has it been relegated to the side lines for so long. Legal translation, as it dealt with the law, and especially the word of the law, was often likened to Bible translation. As Sarcevic (1997) points out, initially translators were forced to translate literally, although there was a steady progression to more idiomatic translation and finally to codrafting of legal texts. These early restrictions, when combined with early translation studies debates about faithfulness to the original text, were not conducive to research other than linguistic questions. Translation studies have, thankfully, evolved to consider that loyalty to the communicative function of the original text is paramount (Nord, 1997) and that accuracy concerns the content and communicative intention more than strict adherence to the words in the text.

Translation has long been considered a linguistic activity. It was not generally considered a social activity until the appearance of the polysystem theories (the 1970s), of the skopos theories (the 1980s), and of postcolonialism (the end of the 1980s and the 1990s).1 The agents involved in translation did not occupy an important role in the translation process. Their participation remained outside the debates on equivalence, which, linked to the concept of faithfulness (generally understood as linguistic faithfulness), ignored the needs of the agents involved in social processes. Any form of translation (adaptation, summary) that did not imply the faithful reproduction of linguistic equivalents was often not considered to be true translation. Despite the fact that translation theory proposes strategies to follow, the final decision in any translation depends on the translator, who is a human capable of making decisions, guided by his or her experience and expertise. Research into legal translation also has been scarce for several reasons. One of the most difficult obstacles to overcome is the private nature of a vast amount of legal translation work, making it practically impossible to collect a large corpus of texts for research purposes. Hence, much of the earlier research deals with international legislation that is available to the public.

All translation involves code switching from one language to another, with all the cultural baggage that this entails. In recent years, due to increased population mobility, the presence of languages other than those normally taught at secondary and undergraduate levels, and hence in undergraduate translation degrees, has highlighted the pressing need to address this demand, which is most obvious in the courtroom. Because these languages are usually confined to immigrant populations, the fact that they are often neither voters nor taxpayers tends to relegate any action at the government level to a plethora of good intentions that are rarely implemented. This situation often leads to blatant violation of immigrants’ basic rights, as was highlighted by the case reported in a 14-page essay by Erik Camayd 1 For a series of video lectures by translation studies scholars, see Intercultural Studies Group (2015).

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Freixas (Preston, 2008). Some attempts have been made to provide training for these languages. For example, the FITISPos research group at Alcalá University in Spain has provided short courses in public service translation and interpreting since 2001.

The EU has recognized this growing problem and has recently passed the Directive 2012/13/EU on the Right to Information in Criminal Proceedings (EUR-Lex, 2012) and the Directive 2010/64/EU on the Right to Interpretation and Translation in Criminal Proceedings. Although the idea is to create national lists of qualified translators and interpreters—allowing cross-country access to unusual language combinations, promoting continuous training, and facilitating quality services—the final product is often diluted due to economic restraints, particularly in the current crisis in the European Union. Translation costs money, and, despite the fact that the right to a translator or interpreter is imbedded in international treaties and many national legislations, it is still often considered a strain on public finances. Governments have yet to learn that poor translation services are much more costly in the long run, as has been demonstrated recently in the United Kingdom (“Court translation,” 2012).

Legal translation bears the added burden of taking into account legal aspects that are not found in other texts. Legal translators must work not only between two languages and two cultures but between legal systems that are very different due to the strong sociocultural and historical influence exerted on them. This is aggravated by the fact that the systems are not even synonymous with countries: Common law, as the basis of the legal system, may apply in the United States, England, and Wales, but not in Scotland; nor entirely in the state of Louisiana, which has a mixed legal system due to the French influence there; Australia may use common law, but this has developed according to its own sociocultural context. In the United States, the division of federal law and state law also complicates the task. Roman law extended from Spain to much of South America, where it evolved differently within each system and is subject to the linguistic variations of each country. This added complexity is partly to blame for the neglected field of legal terminology.

Other fields, such as the sciences, provide universal concepts that can be managed easily in large databases: oxygen is oygène is oxígeno. Legal concepts are much more challenging. Marriage, for example, may seem to be an easy term to translate. The conceptual content, however, is not even identical in the United Kingdom, where the legal age for marriage in England and Wales is 18, or 16 with parental consent, and in Scotland, where such consent is not required and citizens may marry at 16. Likewise, the requirements to file for divorce vary enormously from one system to another, or even within the same system—requiring different or no periods of prior separation, for example. These differences in conceptual content pervade legal translation, requiring a quasi-expert understanding of the law and considerable research skills on the part of the translator, who cannot possibly be an expert in all the legal systems, nor all the fields of law, in the texts to be translated.2 Legal translators are not permitted the luxury of becoming experts in a narrow field, but must be prepared to face myriad areas of not only the law but many other fields in the texts they translate.

These differences in legal systems and legal concepts are particularly problematic for certain languages covering a plethora of legal systems and countries, such as English, Spanish, and Arabic. As if this 2 Legal translators must comprehend legal concepts sufficiently to handle them in the texts they translate. They are not, nor do they purport to be, legal experts.

International Journal of Communication 10(2016) Legal Translation and Translator Training complexity were not enough, consider the use of English as a lingua franca in legal translation. International business often resorts to English as the common language; hence, commercial documents from Portugal for China will often be in English. Here, translations are needed that embrace the correct use of legal English (which legal English?) and simultaneously consider the legal differences between the two systems involved but that are represented by the language of another legal system. This is not always an easy task. The EU is acutely aware of the problems of the interconnections of law, language, and culture as the EU countries include Roman and common law systems. Recent developments in the EU, partly due to the problems created by translating from English as a lingua franca, have prompted a move toward the creation of a neutralized EU legal culture and EU legal language with uniform concepts that will not be constricted to concepts from either Roman or common law (Sarcevic, 2015).

Legal translation is the label given to the translation of not only legislative texts and international treaties but court documents and administrative, commercial, and financial texts. Because the law affects almost every part of people’s lives, legal documents have a universal nature with content that may involve almost any field, from treaties on environmental issues to a love letter or suicide note in a court case. Although greater attention has been paid to the translation of legislation in the past, much of legal translators’ work is concerned with the much more mundane world of administrative documents. The growing demand for the translation of administrative documents for different authorities is, in part, due to increased population mobility in the 21st century. The authorities process citizens on the basis of the information they receive in these documents, and the subsequent decisions taken on this basis will affect citizens’ personal and professional lives.

Administrative documents are based on procedures that commence with the petition for and collection of information, which is then processed in different ways depending on the authorities involved, labeling citizens as clients/students/applicants and the information as a case to be solved. Information is processed on the basis of administrative categories that support and influence the decisions taken in each case. These categories do not always coincide in different cultures. The author of the text is an authority, and often also its receiver, whose perception of the translation will depend on the information being processed. Traditionally in translation studies, administrative documents have been forgotten or included nominally in the classification of legal texts. Generally considered to be the documentary evidence of an administrative act, they are the documents that are issued or received by the authorities, intervening in people’s daily lives to describe and define social identity. The structure of these documents is a reflection of the institutional role they play (Charrow, 1982).

The superficial similarity of administrative documents disguises completely different ways of conceiving society, different degrees of importance given to the information contained in them, masking different social realities and different receiver expectations when reading them.3 If, as critical discourse analysis has shown (Sarangi & Slembrouck, 1996), imbalances often exist between the administrative construct of the citizen and the reality of the citizens’ situation, we can imagine the difficulties that arise on crossing linguistic and cultural frontiers when translating these documents. The cultural specificity of 3 A detailed study of the translation of academic degrees is available at Way (2003); or see Way (1997, 2005b). 1014 Catherine Way International Journal of Communication 10(2016) administrative documents, closely tied to administrative structures and produced for receivers of the same culture, creates multiple translation problems.

Translators have long been considered third parties outside the direct communication between the original text author and the target text receiver. As such, communication between all the parties in the communicative act has excluded the role of translators for centuries. This has changed considerably in recent decades, and translators now form an integral part of the communication process. Translators are central figures who work in a social context, where the importance of their role may vary according to their interaction with the other agents involved (author, initiator/client, receiver). The position of translators is, in fact, a privileged one, as they are familiar with the possible obstacles in the communication process due to cultural and linguistic differences between the agents involved. Therefore, if translators intervene and participate on an equal footing with the other agents, they will assume a more active and more visible role in society. This type of visible activity increases the translator’s social capital within the social practice in question.4 Translators are obviously preoccupied by their field of action, but they also depend on relations with other social agents. To achieve legitimacy for translators as social agents, it is important to not only translate (and translate well) but engage with the other agents involved in the social process.

Translators offer a service and have long been considered a secondary profession, particularly when dealing with members of the well-established legal profession. As Schäffner (1998) noted, “It is widely felt in many places that there is a lack of respect for translators” (p. 4). Despite the fact that translation is one of the oldest professions in the world, it has existed as an academic discipline for a relatively short time and is still struggling to be accepted by other disciplines, which tend to confuse it with language learning.

Awareness of this situation has led to attempts to remedy it. In an intrauniversity collaborative authentic project between translation and law undergraduates (Way, 2002, 2004, in press), we discovered that, before the project, when translation students worked with law students who had to resolve a practical case of international private law by providing research, summaries, and translations, the law students had the preconceived idea that such tasks were better performed by lawyers with language skills than by translators. On completion of the project, however, the law students had completely changed their opinion and considered the translation students to have been invaluable in completing their task. This problem has much to do with the image of the translation profession and the self-concepts of the translators themselves. When the translation students were asked before the project about the image that the legal profession has of translators, 10% considered that they had a positive image, 63% no definite image, 21% a negative image, and 6% a very negative image. This is possibly due to the fact that the translation students believe that they are considered as a services profession, secondary to other, more prestigious professions. After completing the project, 95% believed that the image of the translation profession had improved, and only 5% believed that the project had not helped to improve the image of 4 Social capital is defined by the Organisation for Economic Co-operation and Development (2007) as “networks together with shared norms, values and understandings that facilitate co-operation within or among groups” (Keeley, 2007, p. 103).

International Journal of Communication 10(2016) Legal Translation and Translator Training 1015 translators held by the legal profession. A similar project is planned with comparative law students for 2015–2016. Despite the poor image generally held of translation by other disciplines, after years of close collaboration with the law faculty, the tide is turning, and discussions have begun recently to design undergraduate and postgraduate degrees combining translation and law.

Challenges and Opportunities for Legal Translation

A great deal of discussion has surrounded the future of translation in the 21st century, including the TAUS webinars and debates (TAUS Videos, n.d.).Many of the questions raised and challenges suggested are common to all fields of translation. Legal translators, however, do face some unique problems in their field.

Legal Translation and Technology

Although most major translation businesses are moving from a project-oriented approach to face the reality of real-time translation required in this digital, globalized age, this new approach may be valid only for legal translators in international institutions and businesses handling large translation projects. Translators who still work mainly with original texts delivered on paper, signed and sealed by the authorities, are unlikely to receive these texts in digital format and hence, find will find less use for translation memories and computer-aided translation tools. Nevertheless, these tools are a vital part of communication today, and legal translators need to embrace their use, when pertinent, and overcome their trepidation toward IT while also recognizing its limitations. It is clear that machine translation will never replace human translators, as was rumored in the 20th century, and thus IT tools are not to be feared but rather used to translators’ advantage.5 When used properly and efficiently, IT tools make translators’ jobs much easier. Consider, for example, translating a legal document from Nigeria before the Internet, online dictionaries, and databases existed.

Legal Translation and the Profession

The 20th and 21st centuries have seen a shift from knowledge being prized to information mining and information management achieving prominence. How much a translator knows is no longer as important as knowing how to find reliable information and filter, select, and use it correctly. Translators are at an advantage in this new world, where professionals from any field are expected to not only handle their own field of specialization but move easily between different fields in different languages and cultures. Translators, and particularly legal translators, have been doing this for centuries. The challenge now facing legal translators is the metamorphosis from producing a product (the legal translation) to providing a much wider service that draws on all the competences used in translation.

Recently TAUS founder, Jaap van der Meer (2014), in a talk titled “The Convergence Era: Translation as a Utility,” highlighted the fact that translation will soon be embedded in people’s everyday lives—particularly in digital lives, where real-time communication becomes paramount, often sacrificing 5 For e-resources for legal translators, see Salinas and Torres-Hostench (2011).

1016 Catherine Way International Journal of Communication 10(2016) accuracy and linguistic perfection. This is plausible for gist translation, in which the receiver requires only an idea of what is in the text and which may be ideal for many fields. In legal translation, however, this is rarely the case. These services are sometimes required when a legal professional needs to know the basic content of a sentence or lawsuit, and legal translators must make their clients aware that they can provide such a service. Although it is true that in non-English-speaking countries the passive level of English among professionals in most fields has evolved sufficiently for most of them to consider reading texts in English without a translator’s help, rarely are they proficient enough to produce a text in English. Even if they do, revision, proofreading, and editing skills, which legal translators can also provide, are usually necessary. For non-English A language translators,6 this poses the question of translating into their B language, a practice previously frowned upon but now an increasingly important part of legal translators’ workloads.7

Translators are intercultural mediators, and legal translators are ideally positioned to collaborate with their clients and demonstrate that they can provide solutions rather than representing a problem in the communication flow. This requires serious changes in legal translators’ mind-set. Translators have traditionally awaited their clients’ call rather than actively building up a client base and marketing their services. The translation profession seems to have spiraled into a paradoxical situation in which the translators themselves have a negative self-concept in relation to other professions (Way, 2002, 2004, in press).8 This negative self-concept has been reinforced by the traditional isolation caused by being excluded as a social agent in communicative situations requiring translation.

Charging for Legal Translation

How legal translators charge for their services is a major challenge for the future, because it involves a minor revolution in the perception of legal translation as a service by shifting the focus away from the product (i.e., the legal translation itself). For centuries, the modus operandi has been to charge per word translated—or per line, in the case of German, for example. In some cases, translators also charge a single fee for a document that has only one page. This system has much to do with the fact that scriveners or scribes, who painstakingly copied texts before printing became widely available, were often paid per word for their labor. More recently, translators have introduced payment per hour—thereby including the time for their research, translation, revision, editing, and other tasks involved in the translation process—or per service—charging for each task separately.9 The pressures of professional practice, which normally involve tight deadlines and added stress when attempting to provide a quality translation (despite the fact that many translations are requested at the last moment and often as an afterthought in the communication process)10 have helped to sustain the subservient self-concept among translators, who must combat the widely held opinion that translation is a necessary and expensive evil. 6 In translation studies, languages are coded as: A language—native proficiency, B language—near native proficiency used actively, C language—passive use of the language. 7 For a detailed review of directionality in translating, see Kelly, Martin, Nobs, Sanchez, and Way (2003). 8 See Fox (2012) for an example of how this dilemma is discussed by the profession. 9 See McKay (2008) for thoughts on this debate. 10 As illustrated in the song “5000 Words” by Sharon Neeman (2009).

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Translation agencies have advanced more rapidly in this sense, disassembling the whole translation process into separate service packages that are priced according to their complexity and the quality required by the client. Freelancers, and especially legal translation freelancers, still face a major battle in training their clients to accept this adjustment in their pricing practices.

Quality in Legal Translation

Quality and excellence are buzzwords that pervade businesses and professions today. Obviously, poor or inadequate legal translations will have drastic consequences for clients, because translated texts affect their lives directly. The poor general perception of legal translators is, in part, due to elevated expectations for quality, which hinge on the fact that legal translation demands enormous expertise in all the elements of translator competence, particularly in thematic or field competence (law), but also in intercultural and communicative competence given the complexity of the legal systems and cultures and the legal languages involved. Much debate is under way concerning quality in the translation market, with particular attention being paid to defining exactly what a quality legal translation is and, more importantly, how quality is to be assured and who is qualified to assess such quality (TRANSIUS Conference 2015).

Once more, the standards that may be applied to translation in general are not necessarily adequate for legal translation. Some measures have been adopted, such as the EN 15038:2006 standard for translation service providers (European Committee for Standardization 2006),although they do not envisage vital parameters ruling decision making in legal translation, where adequacy or accuracy are far more than linguistic questions, governed more by the legal context surrounding the text. The legal translation profession faces the challenges of establishing quality benchmarks that contemplate the specificity of the communicative situation surrounding legal translation and how such benchmarks can be incorporated into legal translators’ working methodology and legal translator training.

Legal Translators and Society

What challenges exist, then, for legal translators as active agents in society? As Tymoczko (2000) stated: “In fact it can be argued that most translators undertake the work they do because they believe the texts they produce will benefit humanity or impact positively upon the receptor culture in ways that are broadly ideological” (p. 26). Legal translation is one field where translators’ work may have an immediate impact, affecting people’s lives directly (cf. Molina Gutiérrez, 2002).

Professional associations have attempted to remedy the traditional situation of exclusion from the social processes in which translators intervene by actively participating with legislative bodies and other social agents to induce changes, detected from the privileged position held by translators observing the whole communication process. One such example is the EULITA project (http://www.eulita.eu/) in the European Union. In the project, legal and translation professionals and academics work closely with the EU to improve the translation and interpreting services, which in turn facilitate the legal process and, more importantly for politicians, improve cost effectiveness. A spin-off is the QUALETRA project (http://www.eulita.eu/qualetra), which aims to ensure quality in translation in legal proceedings by combining input from academics and professionals to guarantee adequate training, efficiency, and quality 1018 Catherine Way International Journal of Communication 10(2016) control. These projects are excellent examples of the road to follow in underlining the role legal translators may play in social processes by exploiting their expertise.

Other examples include Way (2003, 2005b), who discusses the translation of academic degrees and the effects that translators may have on the social process of recognition of foreign qualifications. In the case described, interaction with the Spanish Education Ministry, by offering suggestions concerning the difficulties posed in the recognition process that translators had observed from their privileged position, led to a modification in Spanish legislation which simplified the procedure for all concerned.

Molina Gutiérrez (2002) offers an example of how multilingual institutional texts (EU Schengen visa applications) can lead to applicants being treated unequally because of decisions on whether to translate parts of the texts containing key information for the success of their applications. Research in translation studies is often accused of being removed from the reality of professional practice. We contend that translation studies research may be undertaken that will have an impact on not only translation practices but the society in which we live and where we act as intercultural communicators, and thus as social agents. These examples illustrate how results of research involving the legal translation profession have provided the opportunity for translators to perform as mediators, actively participating in society, by modifying the social processes under scrutiny.

Legal Translators and Ethics

Legal translators are confronted with communicative situations from their dual perspective as intercultural communicators and as members of society. Traditionally, translators have been trained to be a mere channel for the transmission of information from one language or culture to another, to be invisible or unobtrusive when they complete their tasks. This stance has, however, begun to change in the 21st century. For Tymoczko (2007), “It has become increasingly clear since World War II that translation can no longer be conceived as an objective activity, independent of interpretation. There is a responsibility to be aware of our own frameworks as we ourselves translate”.

A serious conflict may arise when translating legal texts: the dilemma of what to do when one encounters practices that lead to social injustice. It is the translator’s job to reflect the author’s intentions and to deliver the best possible rendering of the original text. Nevertheless, translators are social agents who participate not only in the communication process but in society as a whole. The fact that translators hold a particularly privileged vantage point to discover anomalies in translated texts, or to observe the difficulties posed when citizens of different countries are faced with legal and administrative obstacles, often as immigrants, has been a source of debate and uncertainty among legal translators. Although codes of ethics do exist for legal (especially court) interpreters, this thorny subject has remained largely untouched by translators. The legal translation profession has, surely, advanced sufficiently to come of age, as Cao (2014) reminds us:

Ethics is integral to the job of the legal translator and interpreter, not infrequently challenging us as a moral person and a professional, impacting on the quality of our work as well as our moral

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stance. A standardized code of ethical principles is a sign of maturity and professionalism of a profession, and translation and interpreting is no exception. Adhering to such a code of moral principles is required, although not legally, but ethically, of every practising translator and interpreter. Reaching a consensus on ethics in translation—and particularly in legal translation—remains a major challenge for the legal translation profession and legal translator training.

Legal Translator Training in the 21st Century

One of the greatest challenges for legal translation in the 21st century is to train qualified, highly proficient legal translators.11 Translation studies, as a discipline, has seen enormous progress over the last 30 years, with particular attention having being paid to translator training in the last decade (Baer & Koby, 2003; González Davies, 2004; Kelly, 2005; Kiraly, 2000). Researchers have investigated new paths and new technologies in the search for the key to improving translator training, many of them using the different models of translator competence12 as their starting point. Until the 1990s, little had been written about legal translator training. Since Gémar (1979) defended the fact that legal translators can actually be trained, Sparer (1988) noted that legal translators can be trained without necessarily being legal experts, and Hickey (1996) proposed legal translator training that established a series of rules applicable to various situations or circumstances based on his experience in both law and translation, a considerable amount of literature has been written.

Legal translator training must obviously face all the challenges mentioned above, and it does, in fact, integrate them into training programs. Here, nevertheless, I will describe the fundamentals of how to approach a legal translation and the ever-present concerns that haunt all trainees: decision making and uncertainty.

In an endeavor to encourage trainees to integrate all their competences in the later stages of legal translator training, two approaches have been proposed: a critical discourse analysis approach (Way, 2003, 2005a, 2005b, 2012) combined with a decision-making approach (Way, 2014). The combined approach is used in a student-centered (Kiraly, 1995, 2000), project management–based methodology that monitors the trainees’ individual translator competence development (Way, 2008a, 2009).

Legal translation students frequently have little or no grounding in the field of law. This poses considerable problems for legal translator trainers when attempting to introduce students to the legal discourse community, requiring them to translate texts that are completely alien to their prior experience and social practices (see Prieto Ramos, 2014) The peculiar nature of legal translation, which perhaps requires the culture-bridging skills of the translator more so than other fields of specialized translation, is 1020 Catherine Way International Journal of Communication 10(2016) aggravated by several factors that have been detected over 25 years of training legal translators. There are three main reasons for the continuing difficulties encountered by legal translator trainees:

1. an obsession with words due to their prior pedagogical translation experience in language learning or

2. an obsession with terminology in later stages of their training and

3. lack of vital experience.

Few students have participated in a court case, bought a house, or signed a contract. These social practices are completely alien to them. This generates a lack of confidence when translating legal texts in fields with which they are unfamiliar, leading the students to rely heavily on resources that are more familiar to them and with which they feel confident, by immediately searching for any unfamiliar terminology in an attempt to understand their original texts. As legal, and particularly administrative, texts are rife with suppositions and references to social practices that students have never experienced, their searches are often unsuccessful and they experience enormous difficulty discriminating between the possible solutions they encounter. Recent process research by Dam-Jensen (2012), for example, discusses decision making and dictionary use by MA students in Denmark, highlighting the fact that students often make unjustified decisions with which they are not particularly convinced. This led us to the adoption of a new approach to overcome these difficulties during training and to provide students with a methodology they will be able to use in the future when faced with new fields and texts.

Applying discourse analysis is not new in translation studies, where the analysis of texts through discourse, used as a means of structuring social practices or fields of knowledge, has been applied to different fields of translation. Critical discourse analysis, however, has not been used as widely in translation studies research. During my PhD research (Way 2003, 2005a, 2005b, 2008b), I used the perspective of critical discourse analysis for the study of the problems posed in a social practice that requires the intervention of a certified/sworn translator. I adopted the three-dimensional model suggested by Fairclough (1992, 1995), suggesting the description of a text, the interpretation of the discursive practice (production, distribution, and reception of the text), and the explanation of how the discursive practice is related to the social process. I also examined how the three elements relate to one another by adding translation as a new element in the process. The model can be represented as shown in Figure 1.

Text

Social practice

Discourse practice (production, distribution, consumption)

Source text

Social practice

Discourse practice (production, distribution, consumption)

Target Text

Figure 1. A discourse analysis approach to translation (Way, 2012).

This model provides students with the tools to develop a structured analytical process when approaching the translation of legal texts. Traditionally, translation classes revolve around the text to be translated—and, more specifically, the terminology that poses problems for the students. In this model, students are guided through a step-by step procedure that first situates the text within social processes and social events. By locating the text within the discursive practice (production, distribution, consumption), students become familiar with the internalized social structures and conventions governing the text, allowing them access to what Fairclough (1995) calls “members resources.” When this information is combined with the social practice in which the text participates, seemingly obscure elements in the text become immediately clearer. The process is then applied in the target language and target culture to discover whether parallel discursive and social practices exist, thereby leading to parallel or similar texts. Only then does the translation process proper begin.

The three-stage discourse analysis approach pries students gently away from the three main difficulties mentioned earlier. Familiarity with the discursive and social practices surrounding the original text and the parallel process in the target culture dissipates many of the initial potential problems that students detect in the original text. As a result, the hurdle of lack of vital experience is overcome; the complete approach eliminates, to a great extent, the need to search for unfamiliar terms because their research attenuates this lack of familiarity with the terminology and the discourse required. Finally, the habit of immediately delving into a dictionary becomes a thing of the past quite effortlessly.

The second approach involves the complex question of decision making as a pillar of the translation process. This troublesome issue has been visited by other researchers (Darwish, 1995, 1999; Holmes, 1972/1988; Jumpelt, 1961; Levy, 1967; Séguinot, 1991; Toury, 1985, 1995; Wilss, 1994) from different perspectives. More recently, emphasis has turned to a combination of these two approaches by

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reflecting upon the construction of a framework for decision making in the translation classroom, based upon translator competence, which students may then tailor to their own competences and refine during their translation programs and, later, in their professional practice. Legal translator trainers often encounter recurring difficulties when attempting to enable trainees to establish an overarching framework for decision making rather than specific decision-making processes for individual translation problems. Such a framework of decision making draws upon different subcompetences to solve different problems, and hence provides strategies central to the translation process. Decision making plays a vital role in the translator’s performance (process) and the end translation (product). In fact, the assessment methods measure the success or failure of trainees’ decisions. The move from product-oriented to process-oriented approaches means that, at different stages of training, more emphasis is placed on assessing the process than on the final product itself, but both still rely heavily on the trainees’ decision making. Decision making and problem solving are obviously intertwined (Wilss 1998), thereby bringing into play both declarative/theoretical and operative/practical knowledge, as suggested by González Davies and ScottTennent (2005). To solve a problem, we must make a decision.

Translation studies, has, however, tended to dwell on decision making for isolated translation problems (institutional names, metaphor, etc.) rather than on establishing an overarching framework. Dissatisfied with the results of research to date, I turned my attention to other fields where decision making is vital. In decision theory, I discovered a possible solution: organizing the presentation of translation problems to students by categorizing decision-making situations. The Cynefin framework for leaders developed by Snowden and Boone (2007) has been instrumental in this organization of translation problems.13 This framework proposes five contexts for decision making defined by the nature of the relationship between cause and effect: simple, complicated, complex, chaotic, and disorder. Leaders are expected to diagnose situations and to act in contextually appropriate ways in the first four contexts. In the fifth context, disorder, it is difficult to decide which of the first four contexts predominates.

If we apply these categories to translation, we find that simple contexts involve stable problems where clear cause-and-effect relationships are evident—in other words, situations in which translation norms or accepted behavior could be used. In this context, the decision maker must consider or identify the problem, categorize it, and then resolve it by using established translation practices. Simple contexts, nevertheless, may still be more complex than expected: If the problem is not identified correctly or if the decision maker falls into what the authors call “entrained thinking”—by implementing a conditioned response acquired through previous experience or training and success—or she or he may become complacent when facing apparently familiar problems (see Robinson’s [1997] example of an alarm system). In complicated contexts, on the other hand, multiple right answers may exist to the problem, requiring the decision maker to analyze the diverse possible solutions before implementing them, which will often be time-consuming, because more than one right answer may be viable. These problems should be introduced gradually in translation courses, because they require greater diagnostic skills and expertise. Complex contexts involve problems with a wide array of interacting elements, which are 13 “Cynefin is a Welsh word that signifies the multiple factors in our environment and our experience that influences us in ways we can never understand” (Snowden & Boone, 2007, p. 2).

International Journal of Communication 10(2016) Legal Translation and Translator Training dynamic and nonlinear, and imply that minor changes may produce disproportionately serious consequences, often impeding predictions of the outcome. They are unpredictable and often require creativity and innovative approaches. These problems are less common in translation than in interpreting, but they are found occasionally. Chaotic contexts are full of unknowns because of constantly changing circumstances. These contexts involve high tension and multiple decisions and are characterized by a lack of time, as, for example, in interpreting. Contexts with disorder are extreme—likened by Snowden and Boone (2007) to the events of 9/11—and unpredictable.

Using this classification to select translation problems in training allows the trainer to progressively increase the complexity of the problems posed. With careful structuring, the trainer can also exemplify the dangers of decision making based only on past patterns of success and failure rather than on a clearly defined framework of decision making. For example, it is not uncommon for students in introductory legal translation courses to rely heavily upon glossaries, understood as lists of static equivalences without contextualization. If the student does not reflect carefully upon the original text and skopos, a term that was used successfully and appropriately in another context will be misused. Building a framework for guided decision making, especially in the initial stages of legal translator training, must, then, be central to teaching. Legal translation courses are often structured according to the degree of abstraction of legal terms and concepts used to identify a text as being more or less specialized. The framework suggested here, however, provides a sequencing pattern of increasing difficulty dependent on the activation of all the subcompetences and not just subject area/thematic competence. Translator trainers, then, may help students to create a decision-making framework that will gradually enable them to internalize problem-solving strategies through structured, controlled training. These processes will then become automatic to a certain extent, facilitating their translation work and increasing their efficiency and confidence. We attempt to convey these initially controlled processes to students so that they can internalize certain mechanisms to provide solutions as reflex actions or habits and reduce their decisionmaking load, and thus their uncertainty and lack of confidence.

Conclusion

Despite the somewhat fraught and stony path of legal translation throughout history, submitting the practice of the profession, due to the legal context, to more external pressure than other fields, the 21st century provides a tremendous opportunity for legal translators. Translators are increasingly perceived as expert intercultural communicators; the question is how to improve this perception of the role of the translator to achieve a balance that is acceptable to all the agents intervening in the social processes that require the translation of legal documents. Translating has long been seen as a secondary service and the translator as a subordinate; perhaps in the 21st century, we can improve the perception of the role of the translator, intervening more actively in social processes involving two or more cultures and languages. To achieve this, legal translator training must keep its finger on the pulse of the profession and anticipate future challenges to consolidate training as the foundation upon which quality, ethical legal translation practice will be constructed. Legal translation is a fascinating profession, and the privileged position held by legal translators at the heart of international legal communication provides an opportunity for legal translators to intervene in social processes as expert intercultural mediators by assuming an active communicative role between cultures. If legal translators are to facilitate communication, it is time

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to face the new challenges posed in the 21st century and seize the opportunities within our grasp by revising outdated translation practices and assuming the social role required of legal translators today.

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JEL Classification: K0

Introduction Legal translation needs the services of an expert that is highly knowledgeable in legal terms and practices. Translating legal documents needs accurate and correct translation and is one of the most difficult among all translation work. There are many things that need legal translation, including birth certificates, application letters, technical patent confirmation, deposition records, financial statement, evidence documents, litigation materials and business contracts. Translators should not only possess general knowledge of legal terminology, they should also be well versed in statutory requirements and the legal intricacies of foreign cultural and legal systems. Translating legal documents in foreign languages are considered more difficult than other technical translations. The legal terminology is what makes it difficult because each country has its own legal terminology as well as legal system. More often than not, this is also different from another country even if the language they speak is identical. A legal translator must have the competencies in three areas: competency in the target language's particular writing style, familiarity with the pertinent terminology and general knowledge of the legal systems of the source and target languages. There is no room for word for word translation when translating legal documents. Due to this, the professional translator of legal documents must be part detective, legal scholar and linguist with the amount of research work that needs to be done to be able to decode the source and write its actual meaning that will never, in any circumstances, deviate from the originate content, even if an exact translation is not possible.

Methods The main methods I have used in this article are the content analysis method of various Romanian and foreign authors’ works, of the reference sources and of the texts chosen to exemplify the case studies and examples in point, the comparative approach through qualitative research, and the observation method starting from empirical research in the field.

The main aim was to emphasise the need and the usefulness of analysing the translation of legal texts, without the assistance of specialists, in order to underline the main threats and risks generated by this type of translation. This translation analysis can be thus seen as a way of allowing the researcher/translator to identify possible problems.

Background In an era of globalization, we are bombarded with the demand for constant and instant communication, which incorporates many different languages and cultures, and which very often involves legal terminology. All translators are aware of their responsibility to produce adequate and easily understandable translations, particularly when dealing with legal texts. It is for this reason that the ability to use appropriate strategies, based on properly chosen theories, is so important in such work. The theories must always be read in conjunction with the pragmatic rules that govern the trade, although the reality is that many of these rules are dictated by theory. Legal texts involve a number of different types of translation problems and require specific methods with which to make a translated text understandable for the reader in the target language, while simultaneously reflecting the original character and unique features of the legal system of the source language country. These requirements force a translator to take great care with the constant connection of the translated text to the source language’s culture, by using strategies such as borrowing original terms, naturalizing some specific terms into the target language, using language calques, or introducing descriptive translation, in which some explanations are mandatorily included. Sometimes it is enough to utilize equivalent terms that are used comparatively in the target and source languages, or, alternatively, the translator must localize some elements in order to make them understandable. To solve the problem of which strategies are dominant, comparable analyses of a number of legal texts written in Romanian and English have been carried out, leading to the conclusion that the most useful strategy is the ability to maintain the source culture’s features and not deprive the texts of their specific character, although localization is sometimes necessary. Some terms also necessitate simple equivalent translation, as they function simultaneously in both language cultures. To perform such a translation, a two-fold approach is necessary on the part of a translator. Firstly, he is obliged to decipher all of the meanings included in a source text through the detailed analysis of its contents. Such analysis will not only be of a linguistic nature, but it also necessitates some specialist legal knowledge of the text’s contents if it is to be understood properly. This means that the translator must engage in the analysis of some of the legal bases of the text’s meaning. The best way to do this is to either study the actual Acts and Regulations which govern the shape of a document, or find some other accessible information or credible consultants through which any possible doubts can be dispelled. Following this, if the translator is sure about what each part of the source text exactly means, the next level of the translation can take place, namely seeking out the best vocabulary and linguistic structures with which to express the meanings in the source text. There are three ways to do this: 1. By retaining some cultural-specific elements, such as the names of institutions, the titles of officials, or actual legal regulations etc. In such circumstances, some translator’s notes will be needed to explain the sense of ideas, particularly when the source information is left in the original language; 2. By localising common elements within the meaning that are different in form in the source and target language, such as different formats of dates, times, currencies, weights, measures, and more specific legal terms;

3. And, most easily, by the equivalent translation of content that is similar in form and meaning in both cultures. Comparative analyses that utilize comparative corpora, term databases, glossaries, websites, etc. are of great help when carrying out the work mentioned in points 2 and 3 above. Yet the translator should always bear in mind the most common rule of translation of such culturally-rooted texts, namely first be faithful to the source language culture’s principles. There is a further level to be included in the process of translation, which relates to its recipient. The kind of reception that the work receives is the final proof of how correct, or otherwise the translation is. Accordingly, obtaining such feedback information may be an additional factor of interest to the translator.

Case study The present work is addressed first of all to the juridical specialists being connected with the terminology in the domains of public and private law. It includes the English, American and European law terms of Latin origin because some of them do not have exact structural correspondences in the Romanian language, this leading to difficulties in finding an equivalent in the process of translation of the English juridical texts into Romanian. This part is a practical approach on translation. Using a number of case studies (legal texts extracted from various documents and articles), the case study illustrates the diversity of situations which can arise as a result of translation errors and difficulties. This section is an analysis of the translations of economic texts and the errors that may occur in the attempt to give an accurate and correct translation of the original text. Law as an abstract concept is universal as it is reflected in written laws and customary norms of conduct in different countries. Legal concepts, legal norms and application of laws differ in each individual society reflecting the differences in that society. Legal translation involves the translation from one legal system into another. 1. Working with a corpus of juridical texts we came across a big quantity of Latin juridical expressions. Latin being in the Middle Ages the language of law on the territory of Western Europe influenced immensely the formation of the juridical terminology of the majority of the European languages, not to speak about the fact that Latin was the basis of many Romance languages, and also the English language, because English was not an exception. All the possible languages borrowed both roots of Latin origin of words, wordcombinations, winged expressions as well. Thus, a basic linguistic difficulty in legal translation is the absence of equivalent terminology across different languages. The English juridical vocabulary included such elements from Latin. In the domain of jurisprudence the so-called “Latin layer” or “the antique heredity” was very important, for example, sub judice – în cursul judecătii; subpoena ad testificandum – citaţie adresată unui martor pentru a se prezenta şi a depune mărturie; salvo jur e– fără prejudiciu, bona fide – bună credinţă; mala fide – rea credinţă, etc. 2. Another source of difficulties in legal translation is represented by cultural differences, “culture” being defined as a “semiotic system” and “a system of meanings” or information encoded in the behaviour potential of the members of the society. Translation involves trust on the side of the reader or user. The audience that does not know the original meaning of the terms of the text believes that the translation is a fair representation of it. Hence, the translator should be ready, whenever possible, with observance of all cultural details to translate the legal lexicon in the texts of legal documents. 3. Translation of words having equivalents in the Romanian language but specifying the realities not inherent for the Romanian legal culture. In such cases the literal translation demanding some notes or approximate translation when the specific term in the English language is translated by the patrimonial term in Romanian is possible. Anyhow, such units demand either the use of the intra-linguistic compensation, i.e. a word is translated by the phrase, or intercultural compensation when a translation demands some commentary. A typical example is the use of such pair as jail-prison translated usually as închisoare or penitenciar. It is not necessary to define the difference between these two words in all contexts but the translator should know that jail is a place where people are kept during the process of investigation or the offenders, serving time punishments till 1 year for not severe crimes. Prison is an establishment of execution of punishments where the persons who have committed grave crimes and serving time punishments more than for 1 year are kept. It also should be noted that the modes of the maintenance of prisoners in establishments of these two types are various on severity degree, as well as on financing sources. In the English language there are some nouns with the meaning infracţiune/delict/crimă from which one, murder, is patrimonial, and others – specific terms: homicide (premeditated murder) and manslaughter (unpremeditated murder). The example of functioning of such words as crime – felony – misdemeanor is similar. The noun crime designates a crime in general (unlike an administrative offence), while misdemeanor (not severe crime) is punished with either the penalty, or serving a term of punishment in local prison (jail), and felony – the heavy criminal offence punishable with a long term of imprisonment in a state or federal prison. 4. The literal translation of word-combinations demanding detailed explanation on the part of a translator if, of course, the translator is competent to give such comment. Let’s consider the translation of such word-combinations, as limited divorce, indeterminate sentence, Index crimes, Crime index, sensibility training and verbal judo. In all these cases, word-combinations designate the realities which do not exist in the practice of the Russian judicial-legal system and consequently demand to compensate objective discrepancy of translation with the cultural comment. So, limited divorce is separaţie de corp, indeterminate sentence is sentinţă fără soluţie/nerezolvată. Crime Index is clasificarea infracţiunilor, a list from 8 of the most grave crimes, among which 4 types of crimes are against the person (murder, sexual assault, robbery, aggravated assault) and 4 – against the property (burglary, larceny, car theft, arson). Accordingly, Index crimes are the types of crimes listed above. Comprehension and equivalent translation of such word-combinations as sensibility training or verbal judo demand from the translator not only the linguistic competence, but penetration into the sphere of the professional culture of the police as well. We think that it is the most difficult case for the translator who is not a specialist in this area to find the equivalents in the target language. So, sensibility training is pregătire pentru stârnirea emotivităţii (negotiating with terrorists; interrogation of the victims who are in a condition of a psychological trauma, etc.). Verbal Judo often translated as atac verbal. The translator should know that it is a technique of application of certain language means with the purpose to achieve the results with the help of a dialogue. 5. When it comes to certificates and diplomas, with the cultural-specific elements widely used, the aim of which is the delivery of personal information, its recognition and application, the strategy is generally to retain original forms without cultural adaptation. This normally means using the simplest translation equivalents as suggested by dictionaries, glossaries, encyclopedias or other credible sources. Moreover, some elements must also be left untouched (e.g. addresses, names of people and places). Borrowings, calques, naturalizations or descriptive translations are commonly used because the first and most critical rule in the translation of such texts (apart from being communicative) is the retention of the source cultural elements. This is done with official names of countries, institutions, job titles, and the forenames of the holders of the documents. We also retain the sense (or names) of administrative units, the names of normative acts governing the formats of the documents if they are mentioned, and the references to all forms of proof of authenticity – stamps, watermarks etc. It is even possible to somehow adjust the format of the documents to assure the target reader that the document they are dealing with is the official one, albeit in a different language. 6. When it comes to the names of institutions, it is sometimes difficult to find a foreign language equivalent in accessible sources like dictionaries, glossaries, or corpora. If the institution itself does not suggest the officially established and acceptable version of its name, the only solution is to borrow the original name and add the translator’s version of descriptive translation, or sometimes a calque (the only excuse for using the name of an equivalent institution in the target culture is the situation in which the functions of both institutions are similar and there is no better solution). However, we must remember that the translation is introduced after the first appearance of the original term for informative purposes, as the most appropriate strategy is still to use the original versions of such names. 7. There should be no doubt about the appropriate way of translating the official functions of the individuals referred to in the documents. Again the rule is to retain the sense and not to try to adapt the functions to the target culture’s requirements. If the translator has doubts about choosing an equivalent for a function which does not correspond to the target culture, the best way forward is to read the actual legal regulations relating to the translated documents, which usually provide detailed information about the principles behind their usage, their contents and issues. For example, a British or Romanian translator, in whose countries there are comparable rules for the solemnization of a civil marriage, may wonder why we find such terms as judge or clerk and not registrar, in American marriage certificates (e.g. in the State of Illinois). But after the analysis of the contents of chapter 40, paragraph 209 of the “Illinois Marriage and Dissolution of Marriage Act” (750 ILCS 5/), which states that the marriage ceremony must proceed in the presence of a judge or a county clerk, the translator can be sure that the simplest non-adapted terms that are chosen according to the strategy of word-for-word translation, are the most appropriate, even if they may not correspond to the target culture. Having read the act referred to, the translator will have no doubts about the function of the certificate itself since its title, “Marriage License,” does not directly suggest that the document is a marriage certificate. According to the laws in Illinois, the document acquires the power of a marriage certificate after being signed by an appointed individual in the space provided and sent to the institution responsible for keeping marriage records. When it comes to the title, it should be translated literally, possibly with some translator’s notes, again to keep the source culture’s rules. Generally, as has already been stated, the translation process in the type of texts described should be reduced to an attempt to render the meaning of the source information within the target language, according to the principle that the strict correspondence of meaning is retained by word-for-word, literal or technical translation. The main rule of translation should be the parallelism of terminology and using grammar and stylistic rules that are adequate to the target language’s conventions. All of these will mainly be applied to the titles of documents, headings that refer to personal data, school subjects and some formulations of certification. A completely different strategy, based on cultural adjustments and the attempt to express the same ideas but in different ways, will be needed when the source and target languages differ in some aspects of cultural and linguistic traditions, but the ideas expressed are universal. This applies to elements such as dates, times, systems of measures and weights or some more detailed legal terms. In situations where the traditions differ and there is only minimal correspondence between culturally-rooted ideas, like with scales of school marks, scientific titles, currencies, it is better to leave the original versions untouched and add the translator’s notes by way of explanation.

- some Latin juridical words and word combinations are translated in a descriptive way; - juridical terms have always only one meaning, are not polysemantic, their meanings do not depend on the context. The proper equivalent translation of the legal texts requires from the translator a high level of his linguistic and cultural competence. As a rule to get a sufficient degree of completeness and accuracy the translator often uses the inter-language and intra-language compensations. The greatest difficulty for the translator is caused not by the use of terms and phrases which are fixed in specialized dictionaries but the use of those linguistic units which are connected with the cultural aspects regularly used in legal texts. It is difficult to overestimate the importance of the translational notation which allows to provide complete understanding of the translated legal text, to fill lacks of the background knowledge of the reader of the target text and to resolve the conflict of cultures in the professional area. As can be seen from the texts chosen, legal translation requires appropriate knowledge, skill and methodology. Bearing in mind how often such texts arise these days, and the inadequate number of properly qualified translators, it is obvious that the pedagogical contribution towards the development of those skills is a big challenge for the academic community. Also worth mentioning here is that translation is no longer a process exclusively based on traditional tools and methods. This should be borne in mind by scholars when dealing with scientific issues concerning the field. New opportunities are available as a result of developing technology. It is for this reason that attempts to facilitate the process of translation and unify its results, need to continue. The problem for future decades is how to ensure that there is awareness of these new translation tools and that they are more widely used.

Lecture 6 Legal translation is the translation of texts within the field of law. As law is a culture-dependent subject field, legal translation is not necessarily linguistically transparent. Intransparency in translation can be avoided somewhat by use of Latin legal terminology, where possible.

Intransparency can lead to expensive misunderstandings in terms of a contract, for example, resulting in avoidable lawsuits. Legal translation is thus usually done by specialized law translators. Conflicts over the legal impact of a translation can be avoided by indicating that the text is "authentic" i.e. legally operative on its own terms or instead is merely a "convenience translation", which itself is not legally operative. Courts only apply authentic texts and do not rely on "convenience" translations in adjudicating rights and duties of litigants.

Most legal writing is exact and technical, seeking to precisely define legally binding rights and duties. Thus, precise correspondence of these rights and duties in the source text and in the translation is essential. As well as understanding and precisely translating the legal rights and duties established in the translated text, legal translators must also bear in mind the legal system of the source text (ST) and the legal system of the target text (TT) which may differ greatly from each other: Anglo-American common law, Islamic law, or customary tribal law for examples.

Apart from terminological lacunae (lexical gaps), textual conventions in the source language are often culture-dependent and may not correspond to conventions in the target culture (see e.g. Nielsen 2010). Linguistic structures that are often found in the source language may have no direct equivalent structures in the target language. The translator therefore has to be guided by certain standards of linguistic, social and cultural equivalence between the language used in the source text (ST) to produce a text (TT) in the target language. Those standards correspond to a variety of different principles defined as different approaches to translation in translation theory. Each of the standards sets a certain priority among the elements of ST to be preserved in TT. For example, following the functional approach, translators try to find target language structures with the same functions as those in the source language thus value the functionality of a text fragment in ST more than, say, the meanings of specific words in ST and the order in which they appear there.

Different approaches to translation should not be confused with different approaches to translation theory. The former are the standards used by translators in their trade while the latter are just different paradigms used in developing translation theory.

Few jurists are familiar with terms of translation theory. They may ask interpreters and translators to provide verbatim translation. They often view this term as a clear standard of quality that they desire in TT. However, verbatim translation usually is undesireable due to different grammar structures as well as different legal terms or rules in different legal systems. Jurists asking for "verbatim" translation are likely making the lay misconception that an accurate translation is achieved by substituting "the correct" words of the target language one-for-one from the ST. In reality, they just want to have a faithful and fluent translation of ST, having no doubt that a good translator will provide it. They do not realize that word-by-word translations could sound as complete nonsense in the target language, and usually have no idea of different professional translation standards. Many translators would probably choose to adhere to the standard that they themselves find more appropriate in a given situation based on their experience rather than to attempt to educate the court personnel.[*citation needed*]

Legal translators often consult specialized bilingual or polyglot law dictionaries. Care should be taken, as some bilingual law dictionaries are of poor quality and their use may lead to mistranslation

What Makes Legal Translation Different?

Still in the dark as to what legal translation is? As mentioned, it is one of document translation's most complex forms. Mistakes, ambiguity or misinterpretation, no matter how small, have no place in legal translation because the translated document can become void. Further, there are huge legal and financial complications that can result due to even a simple error.

Adding to the complexity of legal translation is its unique terminology, coupled with cultural factors and difference in language. In legal translation, it is not just about replacing a word with another. The translator must transpose the legal concepts into another language. Because of difference in legal expressions and traditions, the translator must be very specific about what language to use within the target jurisdiction.

There is a specific type of language in legal text and if a judge or a lawyer sees that wrong words were used, the entire translation may no longer be trusted. Moreover, the translator must fit the purpose of the legal translation. There is a difference between legally binding legalese and legal translation for public consumption.

Anyone familiar will legal text understands that legalese is wordy. Legal English contains different subjects and the sentence structures are usually compound and complex. The tone for legal English is very formal and it is usual for legal documents to be written in the passive voice. It can be challenging for a translator to translate a passive voice to an active voice, as some foreign languages are.

Lecture 10- Legal Translation

Legal translation is a type of specialist or technical translation\*, a translational activity that involves language of and related to law and legal process. Legal translation refers to the rendering of legal texts from the Source Language (SL) into the Target Language (TL).Legal translation can be classied according to dierent criteria. For instance, legal translation can be categorised into the following classes according to the subject matter of the SL texts: (1) translating domestic statutes and international treaties; (2) translating private legal documents; (3) translating legal scholarly works, and (4) translating case law. Legal translation can also be divided according to the status of the SL texts: (1) translating enforceable law, e.g., statutes; and (2) translating non-enforceable law, e.g., legal scholarly works. As well, legal translation can be classied according to the functions of legal texts in the SL: (1) primarily prescriptive, e.g., laws, regulations, codes, contracts, treaties, and conventions; (2) primarily descriptive and also prescriptive, e.g., judicial decisions and legal instruments that are used to carry on judicial and administrative proceedings such as actions, pleadings, briefs, appeals, requests, petitions etc; and (3) purely descriptive, e.g., scholarly works written by legal scholars such as legal opinions, law textbooks, and articles, the authority of which varies in dierent legal systems (Sarcevic 1997: 11). Legal translation can also be classied in the light of the purposes of the TL texts: (1) normative purpose, i.e., the production of equally authentic legal texts in bilingual and multilingual jurisdic-tions of domestic laws and international legal instruments and other laws; (2) informative purpose, e.g., the translation of statutes, court decisions, scholarly works and other types of legal documents if the purpose of the translation is to provide information to the target readers; and (3) general legal or judicial purpose (see Cao 2007). In short, legal translation is used as a generic term to cover both the translation of law and other communications in legal settings.1. Sources of diculty in legal translationIt is oen said that legal translation is dicult and complex. In essence, the nature of law and legal language contributes to the complexity and diculty in legal translation. is is com-pounded by complications arising from crossing two languages and legal systems in transla-tion. Accordingly, sources of legal translation diculty include the systemic dierences in law, linguistic as well as cultural dierences. All these are closely related (see Cao 2007).

First of all, legal language is a technical language, but legal language is not a universal technical language but one that is tied to a national legal system (Weisog 1987: 203), deferent from the language used in pure science, say mathematics or physics. Law and legal language are system bound, that is, they reect the history, evolution and culture, and above all, the law of a specic legal system. Law as an abstract concept is universal as it is reected in written laws and customary norms of conduct in dierent countries. However, legal systems are peculiar to the societies in which they have been formulated. Each society has dierent cultural, social and linguistic structures developed separately according to its own condi-tioning. Legal concepts, legal norms and application of laws dier in each individual soci-ety reecting the dierences in that society. Legal translation involves translation from one legal system into another. Unlike pure science, law remains a national phenomenon. Each national law constitutes an independent legal system with its own terminological appara-tus, underlying conceptual structure, rules of classication, sources of law, methodological approaches and socio-economic principles (Sarcevic 1997: 13). is has implications for legal translation when communication is channelled across dierent languages, cultures and legal systems.

Law is culturally and jurisdictionally specic. ere are dierent legal systems or fami-lies, such as the Romano-Germanic Law (Continental Civil Law) and the Common Law, the two most inuential legal families in the world. As David and Brierley (1985: 19) state, each legal system or family has its own characteristics and “a vocabulary used to express concepts, its rules are arranged into categories, it has techniques for expressing rules and interpreting them, it is linked to a view of the social order itself which determines the way in which the law is applied and shapes the very function of law in that society”. Due to the dierences in historical and cultural development, the elements of the source legal system cannot be simply transposed into the target legal system (Sarcevic 1997: 13). us, the main challenge to the legal translator is the incongruency of legal systems in the SL and TL. As a result, the systemic dierences between dierent legal families are a major source of dif-culty in translation.

In addition, linguistic diculties also arise in translation from the dierences found in the dierent legal cultures and legal systems. Legal translation is distinguished from other types of technical translation\* that convey universal information. In this sense, legal translation is sui generis. Each legal language is the product of a special history and culture. It follows, for example, that the characteristics of la langue de droit in French do not neces-sarily apply to legal English. Nor do those of the English language of the law necessarily apply to French.

A basic linguistic diculty in legal translation is the absence of equivalent termino-logy\* across dierent languages. is requires constant comparison between the legal sys-tems of the SL and TL. In terms of legal style, legal language is a highly specialised language use with its own style. e languages of the Common Law and Civil Law systems are fun-damentally dierent in style. Legal traditions and legal culture have had a lasting impact on the way law is written. Written legal language thus reects the essential elements of a legal culture and confronts the legal translator with its multi-faceted implications (Smith 1995: 190-191).

Lastly, cultural dierences present another source of diculty in legal translation. Law is an expression of the culture, and it is expressed through legal language. As pointed out, “[e]ach country has its own legal language representing the social reality of its spe-cic legal order” (Sarcevic 1985: 127). Legal translators must overcome cultural barriers between the SL and TL societies when reproducing a TL version of a law originally writ-ten for the SL reader. In this connection, Weston (1983: 207) writes that the most impor-tant general characteristic of any legal translation is that an unusually large proportion of the text is culture-specic. e existence of dierent legal cultures and traditions is a major reason why legal languages are dierent from one another, and will remain so. It is also a reason why legal language within each national legal order is not and will not be the same as ordinary language.

2. Translating dierent legal textsLegal translation involves dierent legal text types. e common legal text types include private legal documents, domestic legislation, and international legal instruments.2.1 Translating private legal documentsPrivate legal documents are those that are draed and used by lawyers in their daily prac-tice on behalf of their clients. ey may include deeds, contracts and other agreements, leases, wills and other legal texts such as statutory declaration, power of attorney, state-ments of claims or pleadings and other court documents and advice from lawyers to cli-ents. e translation of these documents constitutes the bulk of actual translation work for many legal translation practitioners.

Private legal documents oen follow certain established patterns and rules in a par-ticular jurisdiction. Agreements and contracts, which are among the most commonly translated private legal documents from and into English, are oen written in similar styles. Such documents, for instance, draed in English, oen contain old or archaic words and expressions reecting the old draing style, where one frequently nds words such as ‘aforementioned’, ‘hereinaer’, ‘hereinabove’, ‘hereunder’, ‘said’, ‘such’, etc. Another com-mon usage is word strings, for instance, ‘restriction, restraint, prohibition or interven-tion’, ‘change, modication or alteration’, ‘document or agreement as amended, annotated, supplemented, varied or replaced’, ‘arrangements, agreements, representations or under-takings’. Some describe these collocations as wordiness or verbosity. Still another common linguistic feature found in private legal documents is that sentences are typically long and complex, and passive structures are oen extensively used.

2.2 Translating domestic legislation Under this category, there are two types of situation where municipal statutes are trans-lated. e rst type is found in bilingual and multilingual jurisdictions (see Multilingualism and translation\*) where two or more languages are the ocial legal languages. Examples include Canada, Switzerland, Hong Kong, and South Africa. e second type of translated legislation is found in any monolingual country where its laws are translated into a foreign language or languages for information purpose, for instance, the US and China.Generally speaking, modern statutes consist of a generic structure and standard form with the following common elements:title –date –preamble –the enacting words –substantive body: the parts, articles and sections –schedules or forms One prominent linguistic feature of legislative texts is the illocutionary force. A legis lative text as a rule-enacting document is a speech act with illocutionary forces (see Kurzon 1986). is pragmatic feature is a crucial and prominent linguistic aspect of statutes, for both domestic or municipal statutory instruments and multilateral legal instruments. It is universally important as the basic function of law is regulating human behaviour and rela-tions by setting out obligation, permission and prohibition in society. ese are expressed in language through the use of words such as ‘may’ for conferring a right, privilege or power, ‘shall’ for imposing an obligation to do an act, and ‘shall not’ or ‘may not’ for imposing an obligation to abstain from doing an act.

2.3 Translating international legal instrumentse translation of legal instruments in international or supranational bodies such as the United Nations (UN) and the European Union (EU) forms a special area of legal trans-lation practice (see Cao 2007). Such translational activities can entail translating multilingual documents such as international instruments of the UN involving several languages, and translating bilateral treaties involving two languages. e translation of such legal documents of international nature as opposed to domestic laws has its own idiosyncrasy as well as sharing the characteristics of translating law in general. One important principle in the practice of multilingual law is the principle of equal authenticity, that is, all the ocial language texts of an international treaty, whether trans-lated or not, are equally authentic, having equal legal force. As pointed out, the importance attached to the principle of equal authenticity was intended to confer undisputable authority on each of the authentic texts, de facto eliminating the inferior status of authoritative transla-tions (Sarcevic 1997: 199). is also carries with it the high level requirements for accuracy on the part of the legal translator.