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Preface

This volume of *Comparative Legilinguistics* contains six articles and two reviews. Two papers refer to legal language and terminology, two deal with legal language teaching and two touch upon legal translation.

The first one written by Elena CHIOCCHETTI, Natascia RALLI, Vesna LUŠICKY and Tanja WISSIK (authors from Italy and Austria) titled *Spanning bridges between theory and practice: terminology workflow in the legal and administrative domain* focuses on the workflow for the elaboration of multilingual legal and administration terminology. The second article titled *A parametric description of deontic modality in the Polish and Spanish civil codes* authored by Joanna NOWAK-MICHALSKA (Poland) presents a parametric approach to determining the meaning of exponents of deontic modality in statutory instruments.

Mike GARANT from Finland (*Case Study: Teaching Finnish–English Language for Specific Purposes (LSP) Legal Translation at the University of Helsinki*) touches upon the problems of teaching legal translation in blended learning environment. Kataryna BALABUKHA from Ukraine (*Ways of immersion programs implementation in teaching legal English*) discusses selected features of immersion approach in teaching legal languages as second languages.

The next section contains two papers dealing with legal translation. The attention of Agnieszka DOCZEKALSKA from Poland (*Comparative law and legal translation in the search for functional equivalents – intertwined or separate domains?*) focuses on the neverending search for equivalents for partialy equivalent or non-equivalent concepts functioning in specific legal realities. Marcus GALDIA (Monako), in turn, in his paper titled *Strategies and tools for legal translation* deals with a wide array of problems which may be faced by legal translators when rendering ther commissions.

The last two texts in the volume are two reviews written by Łucja BIEL (Poland) and Karolina GORTYCH-MICHALAK (Poland) respectively. The first one provides an insight into *The Grammatical Structure of Legal English* written by Bázlik, Ambrus and Bęcławski published by TRANSLEGIS Publishing House. The second one deals with *Language, Culture and the Law. The Formulation of Legal Concepts across Systems and Cultures* by Vijay K. Bhatia, Christopher N. CANDLIN and Paola Evangelisti ALLORI (eds) published by Peter Lang.

The editors hope that this volume of our journal will be of interest to its readers.

SPANNING BRIDGES BETWEEN THEORY AND PRACTICE: TERMINOLOGY WORKFLOW IN THE LEGAL AND ADMINISTRATIVE DOMAIN

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Abstract: The purpose of this paper is to illustrate the workflow for the elaboration of multilingual terminology in the legal and administrative domain. Next to giving a short overview over each single step in the workflow, we focus on two important aspects that make multilingual terminology work in the legal domain so challenging and partly different from multilingual terminology work in other domains: the micro-comparative approach and the strong involvement of domain experts. Finally, we discuss a series of practical aspects that distinguish work in the legal domain from terminology work in other domains and partly even clash against some of the requirements set by general terminology theory and practice.

ZWISCHEN THEORIE UND PRAXIS BRÜCKEN SCHLAGEN: DER ARBEITSABLAUF FÜR DIE ERARBEITUNG VON TERMINOLOGIE IM BEREICH RECHT UND VERWALTUNG

Abstract: Dieser Beitrag stellt kurz die einzelnen Arbeitsschritte zur Erarbeitung mehrsprachiger Terminologie vor. Der Fokus liegt auf den Bereichen Recht und Verwaltung, die für TerminologInnen sowohl sprachlich als auch begrifflich stets eine besondere Herausforderung darstellen. Besondere Aufmerksamkeit wird dabei den Faktoren geschenkt, die die Terminologiearbeit in diesen Bereichen von der mehrsprachigen Terminologiearbeit in anderen Fachbereichen unterscheidet. Dies sind die Mikrovergleichung und die enge Zusammenarbeit mit den Fachexperten. Schließlich folgt eine Übersicht über jene Aspekte, in denen sich die rechtsterminologische Arbeitspraxis teilweise von den praktischen und theoretischen Grundsätzen der Allgemeinen Terminologielehre unterscheidet.

BUDUJĄC MOSTY MIĘDZY TEORIĄ I PRAKTYKĄ:
ROZWÓJ TERMINOLOGII W RAMACH PRAWA I ADMINISTRACJI

Abstrakt: Celem artykułu jest zilustrowanie rozwoju terminologii multilingwalnej w ramach dziedziny prawa i administracji. Przedstawione są kolejne kroki tego procesu ze szczególnym uwzględnieniem tych aspektów, które powodują, że praca z terminami multilingwalnymi stanowi poważne wyzwanie i różni się od multilingwalnej terminologii stosowanej w innych dziedzinach. Ponadto omówione są praktyczne aspekty wynikające z tych różnic.

Introduction

Several studies have been carried out on terminology work in general and on legal terminology work in particular (cf. e.g. Sandrini 1996; Mayer 2000; Arntz 1993, 1999; Arntz and Sandrini 2007), but their focus was not on workflow research. Workflow research can be seen as part of process research concerning workflow management and cooperation. Within the EU-funded project LISE (Legal Language Interoperability Services)[1] researchers carried out a workflow analysis to study and to model the steps and roles involved in terminology work, with particular attention to the legal and administrative domain, in order to streamline and improve collaborative terminology work.

Workflow research can follow different approaches, a quantitative, a qualitative or a mixed approach. For this study we followed a mixed approach, but in this paper we report on the qualitative part of the research[2]: 17 semi-structured expert interviews within 16 terminology centres/units were carried out between 2011 and 2012, using a definition by Meuser and Nagel (cf. Meuser and Nagel 1991, 443) which considers experts as part of the sphere of activity that forms the object of research. The 16 terminology centres/units are part of organisations and institutions in Europe and beyond acting at local/regional, national and international level. The selected sample aims at representing all different types of terminology work and approaches that can be found in literature (cf. Wright and Budin 1997, 1 ff.): monolingual vs. bilingual/multilingual, prescriptive vs. descriptive, translation-oriented vs. multipurpose, ad-hoc vs. systematic vs. text-based, proactive vs. a posteriori. The sample consists of international institutions (e.g. FAO), supranational institutions (e.g. EU institutions), governmental bodies (e.g. ministries of foreign affairs), regional bodies (e.g. Canton Bern) and other organisations (e.g. TNC).

Prior to the interviews we prepared a semi-structured interview protocol with questions on general aspects, methodology, terminology management, terminology management systems and terminology planning. Nearly all of the interviews were conducted face-to-face, only one person was interviewed via conference call. The interviews were recorded, provided that the interviewees had granted their consent to do so and later transcribed to facilitate the analysis (cf. Chiocchetti and Ralli 2013, 11). The interviews were also anonymised. Therefore, when referring to a specific interview in this paper we use the code INT followed a number, for example: INT1.

[1] The LISE project has received funding from the EC (ICT-PSP) under Grant Agreement n° 270917. More information on the project can be found on the project website: www.lise-termservices.eu.

[2] The quantitative approach consisted in circulating an online survey containing a questionnaire on all issues treated within the interviews. The results of both the quantitative and qualitative part of the research confirm each other.

The terminology workflow

The interviews have shown that the terminology elaboration workflows differ from one terminology centre/unit to another (cf. Chiocchetti and Ralli 2012, 13). This is due to various factors, *inter alia* the main purpose of terminology work (e.g. standardisation-oriented or translation-oriented), organisational structure (e.g. single terminologist, team), job profiles (e.g. terminologist, translator/terminologist, lawyer-linguist), number of stakeholders involved (e.g. in-house, intra-institutional, inter-institutional target groups), stages in text/translation production when terminology is produced (before, during and after text/translation production), number of languages (monolingual, multilingual terminology work) (cf. Wright and Budin 1997, 1 ff.; Lušicky and Wissik 2013). Notwithstanding these differences, when abstracting from single peculiarities the core steps that are common to every terminology elaboration process can be identified as follows:

(i) needs analysis,
(ii) defining priorities,
(iii) documentation,
(iv) term extraction,
(v) term selection,
(vi) elaborating terminological entries,
(vii) revision and quality assurance,
(viii) dissemination,
(ix) maintenance.

In prescriptive or standardisation-oriented terminology work there will be a further step before dissemination, namely standardisation. Standardisation-oriented terminology work follows particular rules[3] and will not be discussed in this paper.

The needs analysis step serves to identify the specific needs for terminology work. Two parameters are especially important during this first phase, the time frame of terminology elaboration and the terminological issues that should be dealt with (cf. Chiocchetti et al. 2013, 15). After having completed a detailed needs analysis and having defined the priorities (i.e. which needs will be addressed and processed first), the documentation phase starts. Not all types of sources collected during documentation are textual sources like documents, legal documents and terminological databases. Also domain experts can be used as a source of information. According to the purpose, content and target users of terminology work, some types of sources will be considered more or less relevant for terminology work and more or less authoritative. The next step consists in extracting terms from the available collection of documents, either manually by reading texts and excerpting candidate terms, or (semi-)automatically by using dedicated tools (Chiocchetti et al. 2013, 21). This activity produces a list of candidate terms that have to be validated in the term selection phase in order to be further elaborated and included in the terminological database. During the elaboration of the complete terminological entries further information is added at different levels (i.e. entry level or concept level, language level, term level). This information can be

[3] Concerning standardisation see for example Chiocchetti et al. 2013, 31 ff.; Chiocchetti et al. 2006; Ralli and Stanizzi 2008.

definitions, contexts of use, equivalents in other languages, synonyms and variants in the same language, sources of definitions and contexts, linguistic information (e.g. grammatical information) and additional information, such as notes (cf. Chiocchetti et al. 2013, 23 ff.). All these types of information should be entered in separate specific data categories as defined in the ISO TC 37 Data Category Registry[4] to facilitate future exchange or mergers of data.

In the following revision phase three different stages of quality check can be performed (cf. Chiocchetti et al. 2013, 28 ff.):

(i) linguistic revision, to check the linguistic correctness of the entry, e.g. typos (cf. "all data in [our database] have to be verified and validated by native-speaker terminologists" (INT7));

(ii) formal revision, to make sure that all formal rules have been respected, e.g. completeness of the entry, form of the definition, presence and correctness of source quotations, working cross references (cf. "wir machen Qualitätssicherung […], das Gegenlesen oder Korrekturlesen, […] und dann validiere ich und sage: „Bitte, formale Kriterien einhalten" […]"[5] (INT1));

(iii) content revision, to verify whether the concepts are defined properly, the equivalents or the synonyms/variants are correct, etc.

Different people with different roles and profiles can be involved during revision, depending on the internal organisation of the terminology centre/unit and on the scope and purpose of terminology work.

The last step – and one of the most important ones – in the terminology workflow is dissemination. The elaborated terminology should reach the intended end users, usually translators, technical writers, legal drafters and/or the general public. Depending on the purpose of terminology work and on the type of end users, the results of the workflow just described can be disseminated via different channels. Typically terminology can be published in

(i) public terminological resources (e. g. freely available online terminological databases)

(ii) internal terminological resources (e. g. terminological databases on the intranet)

(iii) dictionaries (paper or online dictionaries)

(iv) thematic glossaries and lists of terms (cf. Chiocchetti et al. 2013, 38).

Figure 1 below illustrates the core steps in terminology work in a linear graphic. Maintenance activities are not shown in the figure, as maintenance is usually not a workflow step that is performed at a certain point in time within the terminology workflow. Maintenance can occur before or after dissemination or even at the documentation stage. Its frequency also depends on the terminology centre/unit: it might take place e.g. on a daily or on a monthly basis or whenever a certain step in the terminology elaboration process has been completed. Maintenance activities can be

[4] ISO TC 37 Data Category Registry "ISOcat". Available online at: www.isocat.org.

[5] "We do quality assurance […] checking or correcting […] and then I validate and say: 'Please, respect formal criteria' […]" (translation by the authors).

event-driven (like a spelling reform or legal reforms) or can be motivated by the need to ensure and maintain the quality of the terminological resource.

Example 1: Regular maintenance steps

> Vor dem definitiven Import einer thematischen Sammlung in die Datenbank führen wir […] eine automatische Dublettenkontrolle auf eine oder zwei Sprachen in der Datenbank durch (INT12)[6].

Now that we have seen the core steps in terminology work, in the following section we will focus on two important aspects that make multilingual terminology work in the legal domain so challenging and partly different from multilingual terminology work in other domains: the micro-comparative approach and the strong involvement of domain experts.

Focus: the role of micro-comparison in legal terminology work

Terminology work in the legal and administrative domain is particularly challenging in the terminology elaboration phase (see step *vi* above), as we will explain in the following two sections.

Micro-comparison

Legal terminology is the expression of a specific culture. It is deeply connected to the legal system it belongs to (de Groot 1999a, 206; 1999b, 12 ff. calls this phenomenon *Systemgebundenheit*) and is strongly influenced by cultural, social and economic factors (cf. Sandrini 1996, 138, Šarčević 1997, 232). Legal terms evolve together with these factors, which vary from time to time as they keep up with prevailing values. Legal terminology is also the instrument used to express the rule of law. It serves as a means of communication for the implementation of law and, at the same time, as a means through which the law regulates the rights, duties and rules of behaviour for all individuals in social life (Ralli 2006, 69). For all these reasons, legal terminology needs to be as precise, correct and clear as possible. In multilingual environments (e.g. the EU, Canada, Switzerland) fulfilling these requirements becomes essential to ensure the possibility of expressing exactly the same legal concepts, contexts and rules in more than one language.

When dealing not only with more than one language but also with distinct legal systems, a further challenge adds to the purely linguistic one: next to linguistic differences also the similarities and differences between the legal systems under analysis must be considered. Kerby (1982 in de Groot 1999b, 18) stresses that translating legal texts or even just finding an equivalent term in another legal system does not merely consist in finding a linguistic label, i.e. in the simple transfer from one language to another, but in moving from one legal system to another. Consequently, the translation of legal texts and terms requires – besides linguistic and cultural knowledge about the source and target languages – also knowledge about the legal context of the source and the target legal systems (Chiocchetti and Ralli 2011, 137).

[6] "Before the final import of a thematic collection into the database we run […] an automatic check for doublettes over one or two languages in the database" (translation by the authors).

In order to better understand legal terms, terminologists usually apply the method of micro-comparison in their researches for equivalents in other legal systems. This method is used in comparative law for the study of single legal concepts (e.g. marriage, employment contract) in a contrastive perspective (Ralli and Stanizzi 2008, 65), as opposed to macro-comparison, which analyses entire legal families. In terminology work micro-comparison helps analysing and acquiring more detailed knowledge on concepts that belong to different legal systems in order to spot similarities, differences, inconsistencies and gaps, both from a conceptual and terminological perspective as well as from the perspective of the effects and function of each concept within its system (Pizzorusso 1995, 138; Chiocchetti et al. 2009, 3; Ralli 2009; Chiocchetti et al. 2013, 12). On this basis, it is possible to evaluate whether a legal concept (or in a broader sense, legal knowledge) can be fully or partially transferred from one legal system to another. This aspect is particularly important from the point of view of international cooperation and legal interpretation. In practical terminology work using the approach of micro-comparison helps identifying equivalent and nearly equivalent legal terms in the legal systems that are being investigated, as well as avoiding the use of false friends.

Steps of micro-comparison

Micro-comparison can take place at two levels (Ralli et al. 2010, 129; Chiocchetti et al. 2013, 12):

(i) at interlinguistic level, i.e. between legal systems using different languages;

(ii) at intralinguistic level, either 1) within the same legal system and language or 2) between different legal systems using the same language. Situation 1) occurs, for example, when the terminological analysis is enacted at local vs. regional or national vs. federal level. In such cases different designations expressing the same concept may be encountered. In Switzerland, for example, the President of the Federal Council is a *Landammann*, *Präsident des Staatsrates*, *Regierungspräsident* or *Präsident des Regierungsrats*, depending on the Canton (Wissik 2012, 51). Situation 2) applies, for example, when a legal concept must be translated into German (without any specification of which kind of legal German!). In that case it will be necessary to consider the law in Germany, Austria and Switzerland. In these countries the language is, of course, the same, but each of these legal Germans refers to different realities with their own legal *realia* and their specific cognitive structures and taxonomies (Šarčević 1997, 232).

Regardless of whether micro-comparison takes place at interlinguistic or intralinguistic level, when applied to multilingual terminology work it requires the following steps (Sandrini 1996, 165 ff., Mayer 2000, 299 ff., Arntz et al. 2004, 219 ff.):

(i) delimiting the domain under analysis,

(ii) creating small thematic glossaries (e.g. when analysing penal law, a glossary on “offences”),

(iii) collecting relevant source documentation,

(iv) selecting the terms to be treated in the source language and source legal system,

(v) identifying the conceptual relations between the terms of the domain,
(vi) repeating the same work for the target legal system(s) and language(s),
(vii) comparing single concepts in the two resulting concept systems (steps *v* - *vi*) in order to define their degree of equivalence and thus be able to assess whether they are similar or not (cf. Arntz 1993, 6; Palermo and Pföstl 1997, 51-52).

It is clear that micro-comparison requires a great deal of efforts and a close cooperation between terminologists and domain experts (see dedicated section below). Probably this is the reason why contrastive terminological and legal analyses are carried out quite rarely in daily terminology practice, as our investigation shows. In fact, most terminology centres working on legal and administrative terminology usually deal with one legal system, even though in several languages, since they often support their national or local bodies and translation services. Consequently, they have only one legal frame of reference and apply to legal terminology the same methodology used for elaborating terminology in other domains (e.g. medicine, biology, etc.).

Example 2: Multilingual legal terminology work without legal comparison

> Meistens ist es ja so, dass unsere Hauptquellen wirklich die [bundesstaatlichen] Erlasse sind, Botschaften [Mitteilungen], Gesetze... und dahinter verbirgt sich ja wirklich meistens dasselbe System. […] Und deshalb haben wir meistens schon entsprechende Begriffssysteme (INT12).[7]

Only few organisations make legal comparison their core activity and regularly specify the legal system of reference for every term (cf. also Chiocchetti and Ralli, 2013, 25-26). In other words, a limited number of terminology centres systematically compare legal terminology across legal systems; most do it occasionally or not at all.

Focus: the role of the domain experts in legal terminology work

Terminology work requires carrying out very varied and often highly specialised tasks. Ensuring high quality in each step in the workflow often means that tasks and roles need to be allocated to a team of people with diverse competences and skills. Teams may consist of linguists and domain experts, either working alongside together, or domain experts checking and revising the work done by linguists.

The exact constellation and roles of the team involved in terminology work depend on various factors, including the size of the organisation, the type of terminology work (either ad hoc or systematic), objectives and scope of the project, the domain that is being treated, and resources (financial, human, time). In general, the following profiles are involved in terminology work: staff with terminology-related expertise (e.g. terminologist, translator-terminologist), staff with management-related expertise (e.g. coordinator of terminology unit), staff with domain-related expertise (e.g. domain experts, lawyer-linguists), staff with expertise in information technology (e.g.

[7] "Usually it is like this, that our main sources really are the [federal] decrees, communications, laws... and behind them there usually is the same system, actually. […] And that is why we usually do have corresponding conceptual systems" (translation by the authors).

IT specialist, computational linguist), and users of terminology (e.g. translators, interpreters, legal drafters, but also domain experts) (cf. Chiocchetti et al. 2013, 40 ff.).

Domain experts

Domain experts or subject-matter experts are experts in one or more specific subjects that are being treated in the course of terminology work. Unlike terminologists, domain experts are often not required to be multilingual. Within the framework of terminology work, domain experts can act as: consultants, revisers, standardisers or terminologists (cf. Chiocchetti et al. 2013, 40-48).

Domain experts may initiate terminology work by spotting a terminological gap and voicing a need for terminology work. In their role as consultants, domain experts are on the one hand considered to be a source of information for terminologists (other sources being written sources, such as legal documents, standards, documents that are recognised by the scientific community, and other documents). They may help terminologists by explaining a concept or providing a definition of a concept. On the other hand, they may be asked to advise on written sources. They may be involved in the very beginning by selecting reference material or recommending documents for further research. Furthermore, they may also instruct on authority and hierarchy of documents. In the legal and administrative domain, the advice of domain experts is of uttermost importance in micro-comparison, as discussed above.

In their role as revisers, domain experts are ideally involved in the terminology workflow for content revision. Domain experts are often not familiar with the principles of terminology work or terminology revision. This need for a systematic approach in order to familiarise domain experts with the principles of terminology work was expressed in the interviews:

Example 3: Domain expert as reviser in terminology work

> Also dass wir dem […] Experten klar machen mussten, eine Definition besteht aus einem Satz. Grundsatz (INT10)[8].

It is therefore highly recommended to develop guidelines or checklists for revisions done by domain experts. On the basis of such guidelines, domain experts may revise terms, definitions, variants or synonyms, or even whole terminological entries.

In their role as standardisers, domain experts are usually members of standardisation committees. In the case of standardisation-oriented terminology work, domain experts represent a core role of the workflow, often expressing the need for standardising terminology in a specific domain (cf. Chiocchetti et al. 2013, 31 ff.). Domain experts may also act as terminologists proper, although this is rarely the case in practice. Dissemination of terminology is an important final task carried out by the domain experts. They are also on the recipient side of terminology as end-users.

As manifested in the interviews, there is often a wide divide between terminological theory and practice, especially regarding the involvement of domain experts in terminology work. The main reasons are reportedly of financial or organisational nature. Nevertheless, some institutions reported establishing *sui generis*

8 "Well that we had to make it clear to the […] experts that a definition consists of a sentence. In principle" (translation by the authors).

profiles that have emerged from their specific needs or historical development. For example, in the Court of Justice of the European Union domain experts are assigned a specific, double role of lawyer-linguists, which implies that they must also be language experts next to legal experts.

The roles taken by domain experts in terminology work call for a close collaboration with terminologists. The degree of formality of collaborative work between terminologists and domain experts may be:

(i) institutionalised
(ii) formal
(iii) informal.

The collaboration of domain experts and terminologists may result from the organisational structure, in which both profiles work together in an institutionalised setting (e.g. a committee). Digital collaborative tools, such as collaborative platforms, reflect this institutionalised form of collaborative work, especially in the case of distributed teams. The needs analysis based on the interviews confirmed a high demand of such collaborative environments for terminology work (cf. Lušicky and Wissik 2012).

Example 4: Need for tools supporting cooperation and communication

> Was uns vielleicht fehlt momentan, ist so dieses Kommunikations-…, diese Plattform, so… zu kommunizieren (INT5).[9]

In the case of formal collaboration, the terminologists' institution establishes formal links with domain experts outside of their institutions. Translators-terminologists in some EU institutions reported having established formal contacts with domain experts in ministries and agencies in their respective member states. These contacts are available to staff as lists of contacts. Terminologists surveyed also reported relying on their informal network of domain experts. These experts are usually not available to other actors in the terminology workflow and are not accessible to other staff through a formal list of contacts.

Regardless of the current degree of collaboration, interviewees from different institutions voiced the need for closer collaboration and deeper integration of the domain experts in the terminology workflow:

Example 5: Need for closer collaboration with domain experts

> First, [I would wish] to have one lawyer-linguist by language in our team […]. One or two or three. Because for me, it is really important that these people that work in the terminology section are really close to the lawyer-linguists (INT8).

Due to the specifics of terminology work in the legal and administrative domain and its implications, terminology work in these domains calls for special attention and efforts in the collaborative approach by both terminologists and domain experts.

[9] "What we maybe lack at the moment is this communication… this platform,… to communicate" (translation by the authors).

General terminology theory vs. terminology work in the legal domain

Terminologists working on multilingual legal and administrative terminology face a series of challenges that are not common to other domains or even partly clash against some basics of the General Terminology Theory (GTT)[10]. Several aspects of work in the legal domain have been motivated and largely discussed (among others, by Arntz 1999; Arntz et al. 2004, 170-178, de Groot 1999a; 1999b, Šarčević 1997, 229 ff.; Sandrini 1996, 1999) due to their strong theoretical and methodological implications and consequences. Other aspects however pertain so much to daily practice that they are mentioned quite rarely. In the following paragraphs we will try to give an overview, albeit a limited one, over the most important aspects that cause some specific methodologies and procedures commonly applied in legal and administrative terminology work to differ from the more general ones of GTT.

In GTT terms in a given language "designating the same concept" (ISO 704: 2009, 7.2.4) are considered synonyms (e.g. 'touchpad' and 'trackpad', 'wedding ring' and 'wedding band'). In the legal domain this requirement must be further specified: not only the natural language but also the legal system must coincide. In fact, two terms in the same natural language but pertaining to two different legal languages, i.e. to two legal systems using the same natural language (e.g. Austria and Germany, France and Belgium), cannot be treated as synonyms. For example, parental leave is called *Elternzeit* in Germany and often *(Eltern)Karenz* in Austria, but in legal contexts the two terms cannot be used interchangeably. Therefore, they are never to be treated as synonyms but rather as equivalents[11], because they share the same *natural* language but not the same *legal* language. As we have seen above, an indissoluble relation exists between all legal terms and the legal system that produced them (cf. Sandrini 1996, 138; de Groot 1999a, 203). The domain of law being relatively poor of material objects (cf. Sandrini 1996, 39), it rather consists of abstract concepts that are expressed, described, created and modified through natural language (cf. Fioritto 2007, 408). As a consequence, legal terminology is embedded in the specific system of concepts it expresses and the exact meaning of each term can be understood and interpreted only within this system. The practical implications for daily terminology work in the domain of law include, for example, the need of creating separate records for terms indicating the same concept in the same natural language but in different legal systems.

Example 6: Same language but different terminology

> […] sometimes we have different terminologies for the same language. German you can have… [German, Austrian]. In Belgi[um], it's the same with Dutch. You can have the Belgian Dutch or the Dutch. So maybe you have different terminologies and maybe you don't want to use the term from either one of them because it would be misunderstood (INT6).

[10] We are aware that GTT has been a subject of debate in various circles and that new theories have been formulated, notably by Cabré 1999, Gaudin 2003, Temmerman 2000. However, the basic considerations on multilingual legal terminology we discuss in this paper would be relevant also if compared against other theoretical frameworks which are more oriented towards a communicative, socioterminological and sociocognitive approach.

[11] In multilingual terminology work equivalence designates the conceptual correspondence of terms in different natural languages (cf. Arntz et al. 2004, 148).

In GTT the method applied to determine equivalence between terms in two languages consists in comparing the characteristics of the concept designated by one term with the characteristics of the concept expressed by the other term. Terms can be considered equivalent when their conceptual characteristics correspond (cf. Arntz et al. 2004, 148). This procedure of terminological comparison should be integrated with a legal comparativist approach when dealing with terminology that belongs to different legal systems. Not only must the characteristics of the concept be analysed, but also the broader legal context, thus taking into consideration the effects and consequences of a legal concept as well as its position within the legal system and the relations with other neighbouring concepts (see section on micro-comparison above). Due to the many conceptual differences between legal systems, the elaboration of multilingual legal terminologies poses not only a linguistic but also a legal challenge (cf. Arntz et al. 2004, 171).

Example 7: Legal comparison for legal terminology

> We tried to cover all the national systems and the EU system and […] we have done a comparison between each system and […] the EU (INT8).

Some exceptions with regard to general practice in GTT apply also in the selection of sources to be used in order to compile terminology entries in the legal domain. The generally synchronic character of terminology work implies that the source material used should be as recent and up-to-date as possible (cf. Arntz et al 2004, 221; DTT 2010, M2-5.2). Especially in domains which are in constant development or are undergoing deep changes, it is paramount for terminologists to avoid any reference to old and outdated sources. This ensures the greatest possible usability of the terminology at the moment it is released and avoids compiling terminological entries that are already outdated at the moment of production. Also the legal domain is in constant evolution, like any other specialist domain. However, while it is evident that using sources written a few decades ago to produce the terminology of automotive industry or of telecommunications would lead to completely useless results because of the huge technical developments and radical changes that affected these domains, in the legal domain it might be quite necessary to refer to laws and regulations that were drafted several years or decades earlier. This holds true even for domains that have undergone recent changes, since the main reference text for certain terms and concepts might still be the older ones. Also, in many countries some parts of the original Constitutions and of the Codes written after World War II and even earlier remain essential references and sources of legal terminology and should not be excluded from the corpus of documents used in terminology work.

A similar exception applies to translated documents in the legal domain. Usually the reference material for terminology work is selected among the works written by native speakers (cf. Arntz et al 2004, 221; KÜDES 2002, 5.1.2; DTT 2010, M2-5.2) in order to avoid recording variants and usages that are actually wrong or not common among the native language experts of the domain. However, in the legal domain the translations with legally binding status are considered relevant and legitimate reference material (cf. KÜDES 2002, 5.1.4). In some national and supranational multilingual legal systems, e.g. Switzerland or the European Union, translated documents might even be the only possible source of terminology in some

languages and specific subdomains. In addition, in such multilingual legal systems legislation is not necessarily always drafted by native speakers. The same exception concerning translated material applies to many international conventions and agreements that are translated and ratified at national level and which might be the primary sources of terminology that is then further used in other national legal texts.

When selecting the reference material for a terminology project different factors apply, among others: the domain or subdomain under analysis, the aims of the terminological collection, the languages treated, the potential target users as well as the availability of material (in paper or electronic format). According to these factors, different types of sources will be considered more or less relevant, that in turn might or might not be available in a given language. For example, when working with technical subjects the relevant industry standards will probably be relevant sources, while the terminology of social media might rather be found in relatively short-lived online sources. Also in the legal domain the above-mentioned factors will influence the selection of source material. Nevertheless, it should not be forgotten that a specific hierarchy of sources exists in the legal domain (international, supranational, national, regional and local legislation, jurisprudence, etc.), which will influence the collection of source documents and practical terminology work. In fact, texts with different positions in the legal hierarchy, e.g. codes, decrees or administrative texts, might contain different designations and variants for the same legal concept (cf. Chiocchetti et al. 2013, 17). For example, while the Italian traffic code *Codice della strada* uses and defines (cf. CdS art. 123, co. 1) the term *autoscuola* (driving school), other legal texts all use the synonym *scuola guida*. Another example comes from the the German social security code *Sozialgesetzbuch VI*, which never uses the term *Hinterbliebenenrente* (survivor's pension) but lists different specific types of survivor's pensions (cf. SGB VI § 33, Abs. 4). However, the umbrella term *Hinterbliebenenrente* is commonly present in all documents drafted by institutions offering social protection schemes, e.g. social security funds, pension funds, welfare funds or insurance companies (Wissik 2011, 287). Especially in prescriptive terminology work, the legal hierarchy of the source texts becomes one of the guiding principles when deciding which variants should be recorded in the terminological database and labelled as main term or preferred term. Still, the intrinsic relevance of any source documentation must be assessed separately for every legal subdomain treated, as not all types of sources might be equally important. For example, international treaties are definitely essential for work on human rights terminology, while urban planning terminology is contained primarily in national and regional/local legislation (cf. Chiocchetti et al. 2013, 17). Also, the Italian terminology of criminal law is often not directly contained in the Penal Code, which would normally be regarded as the main source of reference, but rather in the books of legal doctrine. Similarly, when dealing with legal phraseology certain types of texts with a strongly applicative rather than normative character[12] (e.g. case records, notary deeds, contracts, etc.) might lead to better and richer results.

[12] Mortara Garavelli (2001, 25-34) distinguishes between legal texts of a normative, interpretative and applicative nature. The first type includes, among others, constitutions, laws and statutes. The second category consists of works explaining and discussing the theoretical backgrounds of law, such as manuals, essays, scientific articles, etc. The last group comprises all types of court records and documents, administrative deeds and any kind of private act (contracts, wills, etc.).

The traditionally preferred form for definitions in GTT is the intensional definition, which is considered the most explicit and precise way of defining a concept (ISO 704: 2009, 6.1), as it clearly reveals the characteristics of a concept within the concept system it belongs to. Intentional definitions begin "with a predicate noun stating the broader generic (superordinate) concept associated with the concept being defined, together with delimiters indicating the characteristics that delimit the concept being defined from coordinate concepts" (ISO 704: 2009, 6.3.2). According to standard terminological practice, a definition is a statement which does not necessarily form a complete sentence. Also, the substitution principle applies: the definition should be able to replace the designation of the concept being defined in discourse without loss of or change in meaning (ISO 704: 2009, 6.3.4). However, in legal terminology work such well-structured but rather scanty definitions may clash against the availability of ready-made definitions in legal text (called *Legaldefinitionen* in German) on the one hand and against the complexity of the domain treated on the other hand. Experience proves that intensional definitions for legal terms might not be easily accepted by the legal experts, who would expect to see the official definition provided in the legal texts whenever possible. Intensional definitions might be of limited use also for language experts, e.g. translators and interpreters, who often need further information (besides the superordinate concept and the differences delimiting the concept being defined from the coordinate concepts) to fully understand a concept and to be able to correctly use and/or translate the corresponding designation.

Example 8: Definitions for translators

> [I]f you go around writing definition[s] in convoluted language, maybe you don't necessarily help towards an understanding of it. […] Just give a hint as to how [the term] should be used. Because at the end of the day, if you are dealing with translators or writers, you can assume […] that they would know if you just say "This should be used in the legal context" (INT15).

Additional information can obviously be stored in notes. Still, in legal terminological databases, especially when the target audience is a mix of legal experts, language mediators, legal drafters, etc., it is very common to find different types of definitions: legal definitions proper, traditional intensional definitions, mixed forms and even encyclopaedic definitions, because the compilers of the terminological resource considered the needs of their users and tried to meet them as much as possible.

Concluding remarks

In this paper we have illustrated the terminology workflow in general and explained which aspects particularly distinguish terminology work in the legal and administrative domain from work in other domains. The micro-comparative approach and the role played by legal experts within the legal terminology elaboration workflow are two fundamental aspects we wished to discuss. In addition, we have illustrated some very practical aspects that cause some specific procedures and requirements of work in the legal and administrative domain to be different from those pertaining to other domains. Several aspects treated in this paper are further detailed and elaborated on in the "Guidelines for collaborative legal/administrative terminology work" (Chiocchetti et al

2013) that were produced as an output of the LISE project (see introduction). In offering a clear picture of the peculiarities of terminology work in the legal and administrative domain we hope to contribute in spanning bridges between terminology work in various domains and between theory and practice.

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A PARAMETRIC DESCRIPTION OF DEONTIC MODALITY IN THE POLISH AND SPANISH CIVIL CODES

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Abstract: The article presents a parameter-based method of description of deontic modality in the Polish and Spanish civil codes. The described units are clauses conveying deontic meanings: obligativity, prohibitivity, permissivity and immunitivity. The clauses are excerpted from the corpus on the basis of criteria proposed for this purpose. Clauses conveying deontic meanings are characterized by various properties. Homogeneous properties are classified into parameters (dimensions). As a theoretical framework for a consistent description of the clauses, eight parameters have been proposed on the basis of an analysis of all clauses conveying deontic meanings. The method proposed for describing clauses conveying deontic meanings makes it possible to characterize them systematically and compare them intra- and interlingually. The comparison of the clauses also enables the entire texts of the Polish and Spanish civil codes to be compared.

OPIS PARAMETRYCZNY MODALNOŚCI DEONTYCZNEJ W POLSKIM I HISZPAŃSKIM KODEKSIE CYWILNYM

Abstrakt: Artykuł przedstawia parametryczny (bazujący na wymiarach) aparat teoretyczny służący do systematycznego opisu modalności deontycznej w polskim i hiszpańskim kodeksie cywilnym. Jednostkami opisu są zdania przenoszące następujące znaczenia deontyczne: obligatywność, prohibitywność, permisywność i immunitywność. Zdania te wyodrębniono z kodeksu na podstawie zaproponowanych kryteriów. Zdania wykazują cechy różnego rodzaju. Cechy, które są ze sobą porównywalne, czyli tego samego rodzaju, pogrupowane zostały w zbiory nazywane parametrami. Na podstawie analizy wszystkich zdań przenoszących znaczenia deontyczne zaproponowano osiem wymiarów. Zaproponowana metoda pozwala porównywać zdania przenoszące znaczenia deontyczne ze sobą zarówno w obrębie jednego języka, jak i między oboma językami. To z kolei pozwala na systematyczne porównanie całych tekstów polskiego i hiszpańskiego kodeksu cywilnego.

1. Introduction

Deontic modality, that is modality related to such meanings as obligation, prohibition or permission, is a crucial concept in legal language. The aim of this study[13] is to provide a systematic description and comparison of deontic modality in the texts of the Polish and Spanish civil codes, a subject which has not yet been studied sufficiently, especially in comparative perspective. In order to describe deontic modality in the Polish and Spanish civil codes systematically, a new parameter-based methodology will be proposed in this paper. The employed method is synchronic and descriptive. The study concerns two domains, law and language, however, the description of clauses conveying deontic meanings is carried out with the use of the theoretical apparatus of linguistics. The corpus of texts under investigation includes the Spanish and Polish civil codes. However, since the Spanish Civil Code also contains regulations concerning family law, which in Poland form a separate code (The Family and Guardianship Code), these parts of the Spanish Civil Code are excluded from the analysis. These are: titles (títulos) IV, V, VI, VII, X of Book I (Libro Primero) and title III of Book IV (Libro Cuarto).

2. General remarks about deontic modality

As a linguistic category, modality (*modus*) can be conceived of as one of the obligatory components of a clause, along with the propositional content (*dictum*). The *modus* expresses the attitude of a speaker toward the *dictum*, i.e. the content of the statement. The *modus* and the *dictum* always co-occur with one another (Karolak 1999, 121). The concept of modality in language is complex and has been defined and classified in various ways (e.g. Rytel 1982, Jędrzejko 1987, Lyons 1977, Palmer 1998, Portner 2009). Usually, alethic, epistemic, and deontic modalities are distinguished. Deontic modality has been defined in various ways. As Jędrzejko puts it, it „refers to the world of norms and judgements and concerns actions of human beings which are imposed on them or allowed to them by virtue of the will of an individual or collective actor"[14] (Jędrzejko 1987, 19). According to Lyons, deontic modality refers to "the necessity or possibility of acts performed by morally responsible agents" (Lyons 1977, 823). As understood by Rytel, this modality "expresses an assessment of an event by means of specifying obligation, prohibition or permission thereof"[15] (Rytel 1982, 83). In the opinion of many other scholars, it defines what is good or wrong according to a specific system of rules (e.g. Portner 2009, 15). "Deontic modality also implies an authority, or 'deontic source' – which may be a person, a set of rules, or something as vague as a social norm – responsible for imposing the necessity (obligation) or granting the possiblity (permission)" (Depraetere and Reed 2006, 274). In the case of legal language, this deontic source is always a legislator.

In order to describe deontic modality, concepts of "deontic necessity" and "deontic possibility" can be used, which can both be negated (Palmer 1998, 98-99).

[13] This article presents a part of the results of my research which is presented in detail, however only in Polish, in the book *Modalność deontyczna w języku prawnym na przykładzie polskiego i hiszpańskiego kodeksu cywilnego* (Nowak-Michalska 2012).

[14] "odnosi się do świata norm i ocen i dotyczy działań człowieka, które z woli indywidualnego lub zbiorowego sprawcy są mu nakazane lub dozwolone".

[15] "wyraża ocenę zdarzenia poprzez stwierdzenie jego obowiązku, zakazu i przyzwolenia".

Negated possibility results in the absence of possibility, i.e. prohibition, and negated obligation results in the absence of obligation. These are the four deontic meanings that can be conveyed by clauses. They will be referred here to as:

(i) obligativity (deontic necessity, obligation),
(ii) prohibitivity (absence of deontic possibility, prohibition),
(iii) permissivity (deontic possibility, permission) and
(iv) immunitivity (absence of deontic necessity, absence of obligation).

3. Method of the analysis

The units described in this study are clauses conveying one of the four deontic meanings introduced above. They have been excerpted from the corpus as a result of an analysis of all clauses contained in the texts of the Polish and Spanish civil codes.

A clause is conceived of as a syntagm[16] containing one predicate (Bańczerowski et al. 1982, 293)[17]. Only main clauses and non-restrictive relative clauses are taken into consideration in this study. The linguistic means of signifying various modal meanings, which are here referred to as significators[18], used in legal language differ from those occurring in general language. For example the imperative mood is not used in legal language. This is one of the reasons why it is interesting to investigate deontic modality in legal texts in detail. The deontic meanings can be signified by various significators: by the grammatical forms of words, by special words, special syntagms, or context alone.

In the present description, auxiliaries used in periphrastic forms are not considered to be words but interpreted as parts of them; for instance, Polish *jest zobowiązany* '(he/she) is obligated' is described as one word. Periphrastic passive forms of verbs are categorized as verbs; for instance, *jest zobowiązany* is described as a passive verb (its active form being *zobowiązać* 'to obligate'). By contrast, the synonymous expression *jest obowiązany* is categorized as an adjective because there is no corresponding active verb (**obowiązać*) in contemporary Polish.

Within a deontic clause, various semantic categories can be distinguished which will be used in the analysis:

(i) the deontic action, i.e. the action to which the deontic modality applies, in other words: the action which is the object of obligation, prohibition, permission or lack of obligation;
(ii) the agent of the deontic action, i.e. the entity which, according to law, has to/does not have to/may or may not perform the deontic action;
(iii) the patient of the deontic action.

These categories are exemplified in the following clause:

Example. 1.

Art. 892. *El testador* (agent of the deontic action) *podrá nombrar* (deontic action) *uno o más albaceas* (patient of the deontic action).

[16] A syntagm is a grammatical expression composed of at least two words (Bańczerowski et al. 1982, 192).
[17] The thematic-rhematic structure of a clause is not taken into consideration in this description.
[18] The term 'significator' is taken from (Bańczerowski 2008, 236, 239).

> [The testator (agent of the deontic action) can appoint (deontic action) one or more executors (patient of the deontic action)][19].

For some clauses, the category of modal causer is also distinguished. It is understood as a fact – an entity, an action or a state of affairs – that causes a deontic situation. It is illustrated below:

Example 2:

> ***Art. 1295.*** *La rescisión* (modal causer) *obliga a la devolución* (deontic action) *de las cosas* (deontic patient) *que fueron objeto del contrato con sus frutos, y del precio con sus intereses;* (...)
> [Rescission (modal causer) obligates one to return (deontic action) the things (deontic patient) which constituted the subject of the contract, together with their fruits and the price thereof with interest].

In the present study, only clauses in which the deontic action is explicitly expressed are taken into consideration. The *dictum* of such a clause always includes a deontic action and its agent (and, facultatively, other elements). As we are interested in the linguistic means of signifying deontic meanings, clauses from which the deontic action can only be deduced, without being explicitly expressed, have been excluded from the analysis. Therefore, for instance, the following clause is not taken into consideration:

Example 3:

> **Art. 1527** *El deudor, que antes de tener conocimiento de la cesión satisfaga al acreedor,* ***quedará libre de la obligación****.*
> [The debtor who, prior to becoming aware of the assignment, pays the creditor, shall **be released from the obligation**].

Only clauses which contain verbs denoting a volitional action are understood as conveying deontic meanings because one cannot force or allow someone to do something which is beyond control of his or her will. Consequently, the following clause is not considered deontic:

Example 4:

> ***Art. 982.*** *Para que en la sucesión testamentaria tenga lugar el derecho de acrecer,* ***se requiere:*** (...) *2.* ***Que uno de los llamados muera*** *antes que el testador, o que renuncie la herencia, o sea incapaz de recibirla.*
> [The following is required for the right of accretion to occur in testamentary successions: (...) 2.**One of the persons called must die** before the testator, reject the inheritance, or be incapable of receiving it].

[19] The English translations of the Spanish clauses are based, with modifications, on the translation of the Spanish Civil Code by Sofía de Ramón-Laca Clausen published by the Spanish Ministry of Justice in 2009: http://www.mjusticia.gob.es/cs/Satellite/es/1288774502225/ Texto Publicaciones.html. Phrases in brackets with the description 'literally' are added by the author of the paper.

4. Proposed parameters for a description of clauses conveying deontic meanings

Clauses conveying deontic meanings show, or are characterized by, various properties. Homogeneous properties are classified into parameters (dimensions). As a theoretical framework for a consistent description of the clauses, eight parameters have been proposed based on an analysis of all clauses conveying deontic meanings that occur in the corpus. If a clause is uncharacterizable by any property from a particular parameter, it is described as showing the property 'INDEFINABILITY' (which, for the sake of brevity, is not repeated in the description of every parameter).

4.1. Parameter 1. Kind of deontic meaning

This parameter contains the following properties:
{OBLIGATIVITY, PROHIBITIVITY, PERMISSIVITY, IMMUNITIVITY}

These properties are illustrated in the following examples:

OBLIGATIVITY:

Example 5:

> ***Art. 537*** *§ 2. Sprzedawca, który otrzymał cenę wyższą od ceny sztywnej,* ***obowiązany jest zwrócić*** *kupującemu pobraną różnicę.*
> [A vendor who has received a price higher than the fixed price **shall** refund the difference to the buyer[20]].

Example 6:

> ***Art. 1500.*** *El comprador* ***está obligado a pagar*** *el precio de la cosa vendida en el tiempo y lugar fijados por el contrato.*
> [The purchaser **is obliged to pay** the price of the things sold in the time and place set forth in the contract].

PROHIBITIVITY:

Example 7:

> ***Art. 944.****§ 2. Testamentu* ***nie można sporządzić*** *ani* ***odwołać*** *przez przedstawiciela.*
> [A testament **may neither be made nor revoked** by a representative].

Example 8:

> ***Art. 1557.*** *El arrendador* ***no puede variar*** *la forma de la cosa arrendada.*
> [The lessor **may not alter** the form of the thing subject to the lease].

PERMISSIVITY:

Example 9:

> ***Art. 109[7].*** *§ 1. Prokura* ***może być*** *w każdym czasie* ***odwołana.***
> [Procuration **may be revoked** anytime.]

[20] English translation of the Polish clauses, made available to me by Aleksandra Matulewska, have been rendered by Iwona Grenda, Tomasz Żebrowski and Aleksandra Matulewska.

Example 10:

> ***Art. 892.*** *El testador* ***podrá nombrar*** *uno o más albaceas.*
> [The testator **can appoint** one or more executors].

IMMUNITIVITY:

Example 11:

> ***Art. 394.*** (...) ***obowiązek*** *zapłaty sumy dwukrotnie wyższej* ***odpada****.*
> [(...) **the duty** to pay twice the value of the earnest **shall be extinguished**].

Example 12:

> ***Art. 1045. No han de traerse a colación y partición*** *las mismas cosas donadas, sino su valor al tiempo en que se evalúen los bienes hereditarios.*
> [**It is not required to bring to collation** the things which were given themselves, but their value at the time of appraisal of the estate].

Since an exemplification of all the properties contained in all the parameters would occupy too much space, two clauses, one from the Polish Civil Code (Ex. 13) and another from the Spanish Civil Code (Ex. 14), have been chosen that will be characterized with respect to every parameter[21]:

Example 13:

> ***Art. 839.*** *Przechowawcy nie wolno używać rzeczy bez zgody składającego, chyba że (...)*
> [A keeper shall not (more literally: *It is not allowed for the keeper to*) use the thing without the consent of a depositor, unless (...)].

Example 14:

> ***Art. 1286.*** *Las palabras que puedan tener distintas acepciones serán entendidas en aquélla que sea más conforme a la naturaleza y objeto del contrato.*
> [Words which may have different meanings shall be understood in the meaning which is most in accordance with the nature and subject matter of the agreement].

With respect to parameter 1, the clause of example 13 shows the property PROHIBITIVITY and the clause of example 14 – OBLIGATIVITY.

[21] For more examples see (Nowak-Michalska 2012).

Parameter 2. Semantic category of the subject

This parameter reflects the variety of semantic categories which can function as the subject of a deontic clause. The subject can be a word denoting the agent or the patient of the deontic action, the deontic action itself, or some other concept. There are also clauses that have no subject at all.

This parameter contains the following properties:
{AGENT AS THE SUBJECT, PATIENT AS THE SUBJECT, DEONTIC ACTION AS THE SUBJECT, QUALIFICATUM OF THE SYNTAGM WHICH IS THE SIGNIFICATOR AS THE SUBJECT, MODAL CAUSER AS THE SUBJECT, AGENT OF THE MODAL CAUSER AS THE SUBJECT, SUBJECTLESS CLAUSE}

With respect to this parameter the clause of example 13 shows the property SUBJECTLESS CLAUSE and the clause of example 14 – PATIENT AS THE SUBJECT (*palabras* 'words').

4.2. Parameter 3. Means of signifying the deontic meaning

The deontic meaning can be signified, for instance, by the context alone, by special verbs, adjectives, substantives, or various syntagms (with or without negation). Since the particular significators of deontic modality are numerous, they are grouped into broader categories. Besides making the description more transparent, this solution makes it also possible to compare Polish and Spanish clauses with respect to this parameter.
This parameter contains the following properties:
{CONTEXT WITHOUT NEGATION, CONTEXT WITH NEGATION
PROPER ACTIVE VERB WITHOUT NEGATION, PROPER ACTIVE VERB WITH NEGATION
PROPER PASSIVE VERB WITHOUT NEGATION, PROPER PASSIVE VERB WITH NEGATION
IMPROPER VERB WITHOUT NEGATION, IMPROPER VERB WITH NEGATION
ADJECTIVE WITHOUT NEGATION, ADJECTIVE WITH NEGATION
VERBO-VERBAL SYNTAGM[22] WITHOUT NEGATION, VERBO-VERBAL SYNTAGM WITH NEGATION
VERBO-SUBSTANTIVAL SYNTAGM WITHOUT NEGATION, VERBO-SUBSTANTIVAL SYNTAGM WITH NEGATION
SUBSTANTIVO-VERBAL SYNTAGM WITHOUT NEGATION, SUBSTANTIVO-VERBAL SYNTAGM WITH NEGATION
SUBSTANTIVO-ADJECTIVAL SYNTAGM WITHOUT NEGATION
SYNTAGM WITH MORE THAN TWO COMPONENTS}

With respect to this parameter the clause of example 13 shows the property IMPROPER VERB WITH NEGATION ('nie wolno') and the clause of example 14 – CONTEXT WITHOUT NEGATION.

[22] The first part of the name of a syntagm refers to the qualificatum, i.e. the qualified word, the second one to the qualificator, i.e. the qualifying word.

The property termed CONTEXT refers to those clauses which do not contain explicitly expressed deontic significators; it is only the context in which they occur – in this case it is the context of a normative text – that makes them interpretable as deontic. Outside the context of a normative text such clauses would not be deontic but only informative (their modality would be assertoric). Admittedly, the context of a normative text applies to every clause occurring in the civil code; however, in some clauses there are also other, special significators of deontic modality.

In order to illustrate how diversified and numerous the significators of deontic modality are, the significators of two deontic meanings, OBLIGATIVITY and IMMUNITIVITY, used in clauses in which the subject is the agent of the deontic action are presented in the tables below[23].

Symbols used in the tables:
P – present tense
F – future tense
* – rare significators

Table 1. Significators of obligativity used in clauses in which the subject is the agent of the deontic action

Polish	**Spanish**
Context without negation	
AGENT + finite active verb (P/F)	AGENT + finite active verb (F)
Proper active verb without negation	
AGENT + powinien + active infinitive (P)	AGENT + debe/deberá + active infinitive (P/F)
—	AGENT + ha/habrá de + active infinitive (P/F)
—	AGENT + tiene/tendrá que + active infinitive (P*/F*)
AGENT + zobowiązuje się do + deverbal substantive (P*)	—
Proper passive verb without negation	
AGENT + jest zobowiązany + active infinitive (P*) AGENT + jest zobowiązany do + deverbal substantive (P*)	AGENT + está/estará obligado a + active infinitive (P/F) AGENT + está/estará obligado a + deverbal substantive (P/F)
— —	AGENT + queda obligado a + active infinitive (P) AGENT + quedará obligado a + deverbal substantive (F)
—	AGENT + se halla obligado a + active infinitive (P*)
Adjective without negation	
AGENT + jest obowiązany + active	AGENT + queda sujeto a + deverbal

[23] For detailed lists of all significators see (Nowak-Michalska 2012).

infinitive (P) AGENT + jest obowiązany do + deverbal substantive (P)	substantive (P*)
Verbo-substantival syntagm without negation	
AGENT+ ma obowiązek + active infinitive (P*) AGENT + ma obowiązek+ deverbal substantive (P*)	AGENT+ tiene/tendrá obligación de + active infinitive (P/F) AGENT + tiene/tendrá la obligación + active infinitive (P/F)
—	AGENT + tiene el deber de + active infinitive (P*)

Table 2. Significators of immunitivity used in clauses in which the subject is the agent of the deontic action

Polish	Spanish
Context with negation	
—	AGENT + finite active verb (F*)
Proper active verb without negation	
AGENT + może + NEG active infinitive (P*)	—
Proper active verb with negation	
—	AGENT + NEG deberá + active infinitive (F*)
Proper passive verb without negation	
—	AGENT + estará dispensado de + active infinitive (F*)
—	AGENT + queda relevado de + deverbal substantive (P*)
Proper passive verb with negation	
—	AGENT + NEG está/estará obligado a + active infinitive (P*/F)
—	AGENT + NEG queda obligado a + active infinitive (P*)
—	AGENT + NEG queda obligado a + deverbal substantive (P*)
Adjective with negation	
AGENT + NEG jest obowiązany do + deverbal substantive (P*)	—
Verbo-substantival syntagm without negation	
AGENT + zostaje zwolniony od obowiązku + deverbal substantive (P*)	AGENT + queda exento de la obligación de + active infinitive (P*)
Verbo-substantival syntagm with negation	
AGENT + NEG ma obowiązku + active infinitive (P*) AGENT + NEG ma obowiązku + deverbal substantive (P*)	AGENT + NEG tiene/tendrá obligación de + active infinitive (P*/F*)

As showed in the tables, the diversity of significators is considerably wider in Spanish than in Polish. One of the causes of this phenomenon is that in Spanish the same significators occur in the present and in the future tense. In Polish the present tense prevails and the future is used (interchangeably with the present) only in the clauses in which the only significator is CONTEXT.

4.3. Parameter 4. Tense of the predicate

The predicate of a clause conveying a deontic meaning can be either in the present or in the future tense. The future tense is more often used in Spanish Civil Code and the present tense in the Polish. The choice between the present or future tense does not bear on the deontic modality of Spanish clauses.
Parameter 4 contains the two following properties:
{PRESENT TENSE, FUTURE TENSE}

With respect to this parameter the clause of example 13 shows the property PRESENT TENSE and the clause of example 14 – FUTURE TENSE.

4.4. Parameter 5. Means of denoting the deontic action

The deontic action can be denoted by means of words belonging to various parts of speech, which may be negated or not. If the word is a verb, it can be in the active or in the passive voice. The deontic action may also be denoted by a subordinate clause.

The parameter which reflects these facts contains the following properties:
{PROPER ACTIVE VERB, PROPER PASSIVE VERB,
ACTIVE INFINITIVE WITHOUT NEGATION, ACTIVE INFINITIVE WITH NEGATION,
PASIVE INFINITIVE WITHOUT NEGATION, PASIVE INFINITIVE WITH NEGATION,
DEVERBAL SUSTANTIVE WITHOUT NEGATION, DEVERBAL SUSTANTIVE WITH NEGATION,
ADJECTIVE WITHOUT NEGATION, ADJECTIVE WITH NEGATION,
SUBORDINATE CLAUSE}

With respect to this parameter the clause of example 13 shows the property ACTIVE INFINITIVE WITHOUT NEGATION (*używać* 'to use') and the clause of example 14 – PROPER PASSIVE VERB (*serán entendidas* 'shall be understood').

4.5. Parameter 6. Syntactic category of the word denoting the deontic action

This parameter reflects the fact that the deontic action can be denoted by means of words belonging to various syntactic categories.
It contains the following properties:
{PREDICATE, OBJECT, SUBJECT, ATTRIBUTE}

With respect to this parameter the clause of example 13 shows the property OBJECT (*używać* 'to use' is the object of the verb *nie wolno* 'it is not allowed to') and the clause of example 14 – PREDICATE (*serán entendidas* 'shall be understood').

4.6. Parameter 7. Part-of-speech category of the word denoting the agent of the deontic action

The agent of the deontic action may be denoted by means of words belonging to different parts of speech: the substantive or various types of pronouns.
This parameter contains the following properties:
{SUBSTANTIVE, PERSONAL PRONOUN, RELATIVE PRONOUN, INDEFINITE PRONOUN[24], NEGATIVE PRONOUN}

With respect to this parameter the clause of example 13 shows the property SUBSTANTIVE (*przechowawca* 'the keeper') and the clause of example 14 – INDEFINABILITY (because it contains no word denoting the agent of the deontic action).

4.7. Parameter 8. Syntactic category of the word denoting the agent of the deontic action.

This parameter reflects the fact that the agent of the deontic action may be denoted by means of words belonging to various syntactic categories. It contains the following properties:
{SUBJECT, GENITIVAL ATTRIBUTE, DIRECT OBJECT, INDIRECT OBJECT}

With respect to this parameter the clause of example 13 shows the property INDIRECT OBJECT (*przechowawcy* 'for the keeper') and the clause of example 14 – INDEFINABILITY (because this clause contains no word denoting the agent of the deontic action).

[24] I.e. the pronoun with the meaning 'everybody'.

5. A comparison of the Polish and Spanish civil codes based on the proposed parameters

The proposed parameters make it possible to systematically characterize clauses conveying deontic meanings and to compare them, intra- and interlingually, in various respects. The parametric comparison of clauses can be used for a comparison of the texts from which they have been excerpted, i.e. the civil codes themselves. Such a comparison reveals that these texts differ most with respect to Parameter 3, i.e. 'Means of signifying the deontic meaning'. The examples in the tabular lists of the significators of particular deontic meanings been presented above show that the significators are highly diversified. Generally, the diversity of significators is stronger in Spanish than in Polish. One of the reasons for this is that in the Spanish Civil Code a significator may occur either in the present or in the future tense without this entailing any change in meaning. For example, the VERBO-SUBSTANTIVAL SYNTAGM WITHOUT NEGATION used as a significator of permissivity has only one realization in Polish:

ma prawo (Eng. 'has the right') + active infinitive or deverbal substantive

while in Spanish it has six:

(i) *tiene derecho a* + active infinitive (in the present or future tense)
(ii) *tiene el derecho de* + active infinitive,
(iii) *tendrá derecho para* + active infinitive,
(iv) *tiene facultad para* + active infinitive,
(v) *tiene la facultad de* + active infinitive,
(vi) *tendrá poderes para* + active infinitive.

The last four are rarely used.

Such a wide diversity of significators implies that some of them are synonymous, in other words, that heterophonic (formally different) significators signify the same deontic meaning. For example, the obligation of performing the action of 'bringing to collation' is expressed in the Spanish Civil Code by means of three different significators (examples 15-17):

(i) CONTEXT (*colacionarán* 'will bring to collation')
(ii) PROPER PASSIVE VERB WITHOUT NEGATION (*estará obligado* 'will be obligated')
(iii) ADJECTIVE WITHOUT NEGATION (*serán colacionables* 'will be collatable')

Example 15:

> ***Art. 1038.*** *Cuando los nietos sucedan al abuelo en representación del padre, concurriendo con sus tíos o primos,* ***colacionarán*** *todo lo que debiera colacionar el padre si viviera, aunque no lo hayan heredado.*
> [When grandchildren inherit from their grandparents in representation of the parent, and are to inherit together with their uncles or cousins, they **shall bring** (literally: 'will bring') **to collation** everything that the parent ought to have collated if he/she had been alive, even if they have not inherited it].

Example 16:

> ***Art. 1040.*** (...)*; pero, si hubieren sido hechas por el padre conjuntamente a los dos, el hijo* ***estará obligado a colacionar*** *la mitad de la cosa donada.*
> [(...) however, if they have been made by the parent jointly to both of them, the child shall be (literally: 'will be') obliged to bring to collation half of the thing given].

Example 17:

> ***Art. 1043. Serán colacionables*** *las cantidades satisfechas por el padre para redimir a sus hijos de la suerte de soldado, pagar sus deudas, conseguirles un título de honor y otros gastos análogos.*
> [Amounts paid by the parent to prevent his children from being drafted into the military, to pay their debts, obtain an honorific title and other similar expenses shall be subject to collation (literally: 'will be collatable')].

Synonymy occurs in the Polish Civil Code as well. For instance, the verb *powinien* 'should' is synonymous with the adjective *jest obowiązany* 'is obligated'. Interestingly, these two siginificators have been used in the same article:

Example 18:

> ***Art. 608.*** *§ 1. Jeżeli w umowie zastrzeżono, że wytworzenie zamówionych rzeczy ma nastąpić z surowców określonego gatunku lub pochodzenia, dostawca* ***powinien*** *zawiadomić odbiorcę o ich przygotowaniu do produkcji i* ***jest obowiązany*** *zezwolić odbiorcy na sprawdzenie ich jakości.*
> [If it has been stipulated in the contract that things must be manufactured from raw materials of a specified kind or origin, the supplier **must** notify the recipient when such materials are ready for use in the manufacturing process, and he **must** also allow the recipient to inspect their quality.]

It should be stressed here that synonymy is a phenomenon that is undesirable in legal language as it may make the text less clear, especially to non-specialists.

The texts of the two civil codes also differ considerably with respect to parameter 4, 'Tense of the predicate'. The majority of the clauses in the Polish Civil Code have the predicate in the present tense. By contrast, in the Spanish Civil Code the number of clauses with the predicate in the future tense is higer than those with the predicate in the present. Another important difference is that in the Spanish clauses in the future tense various significators are used: context, verbs, adjectives and sytagms, whereas in the Polish clauses in the future tense only one type of significator is used, viz. context. Additionally, in the Spanish code, a clause with the predicate in the future tense may convey any of the four deontic meanings whereas in the Polish they convey only obligativity.

Another difference is that in the Spanish text, the predicate of a clause is nearly always in the future tense if context, with or without negation, is the only significator whereas in the Polish the present tense is used in such clauses.

In neither of the texts does the choice of a particular tense bear on the deontic modality of a clause. In other words, the tense is not a significator of any deontic meaning. It may be observed that in conditional clauses in the Spanish Civil Code, the use of a particular tense in the main clause is in some way related to the mode and tense of the subordinate clause.

The differences with respect to the remaining parameters are not too significant. For example, with respect to parameter 2 'Semantic category of the subject', it can be observed that subjectless clauses are more frequent in the Polish Civil Code than in the Spanish, which is related to the fact that the former makes use of improper verbs such as: *można* ('one may'), *nie można* ('one may not'), *wolno* ('it is allowed'), *nie wolno* ('it is not allowed'), *należy* ('one should'). In the Spanish Civil Code such impersonal forms are used less frequently. By contrast, the passive voice is used more frequently there than in the Polish text.

Obviously, there are also similarities between deontic clauses in the Polish and Spanish civil codes analyzed in the light of the proposed parameters, for example, with respect to parameter 3. In both texts, the following analogous significators of deontic modality are used with apparently similar frequency:

(i) CONTEXT,
(ii) PROPER VERB WITHOUT NEGATION, e.g. *puede/może* 'he/she may', *debe* 'he/she should', *ha de/powinien* 'he/she should',
(iii) PROPER VERB WITH NEGATION, e.g. *no puede/nie może* 'he/she may not',
(iv) VERBO-SUBSTANTIVAL SYNTAGM WITHOUT NEGATION, e.g. *tiene [la] obligación/ma obowiązek* 'he/she has the duty', *tiene [el] derecho/ma prawo* 'he/she has the right',
(v) VERBO-SUBSTANTIVAL SYNTAGM WITH NEGATION, e.g.: *no tiene obligación/nie ma obowiązku* 'he/she does not have the duty'.

Finally, it should be added that for both Polish and Spanish, significators of deontic meanings used in the legal texts differ from those used in general language.

6. Concluding remarks

The proposed parameter-based method for describing clauses conveying deontic meanings makes it possible to characterize them systematically and compare them intra- and interlingually. The comparison of the clauses conveying deontic meanings enables us to compare the entire texts of the Polish and Spanish Civil Codes in respects that are of interest to us. In particular, the comparison of the significators of deontic meanings can be used in legal translation and facilitate determining possible translation equivalents. Since the method can also be applied to texts other than legal, it can also be employed to compare significators of deontic modality used in legal language with those occurring in everyday language, both in Polish and Spanish.

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CASE STUDY: TEACHING FINNISH - ENGLISH LANGUAGE FOR SPECIFIC PURPOSES (LSP) LEGAL TRANSLATION AT THE UNIVERSITY OF HELSINKI

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Abstract: Finland is widely recognized as one of the top countries to live in, with transparency and an excellent education system, which provides for top English proficiencies. The applied English translation case study that is examined in this paper focuses on Finnish into English legal translation teaching coupled with studying at the University of Helsinki. Scrutiny of the course structure, teaching materials and teaching methods was undertaken as part of the empirical research and the efficiency of the new teaching method and course structure inspired this paper. Methodology also included interviews/surveys to obtain up to date data.

The case study in brief illustrates that students at the outset of the course acquired the basic concepts of Finnish and comparative law. This was done in a blended learning environment with reverse classroom makeups and small group discussions being used instead of teacher-fronted lectures. Students were also asked to look up information on the Internet and undertake translations comments, company visits, and translating an entire court case. From the teacher's perspective Moodle was used as a file managements system. Results suggest that the students are satisfied with this method and see it as beneficial. It can be used for benchmarking for legal translation courses in others settings.

STUDIUM PRZYPADKU: DYDAKTYKA TŁUMACZENIA FIŃSKO-ANGIELSKIEGO JĘZYKA SPECJALISTYCZNEGO NA UNIWERSYTECIE W HELSINKACH

Abstrakt: Finlandia jest uważana za jeden z najlepszych krajów do życia, biorąc pod uwagę przejrzystość systemu i wysoki poziom edukacji, którego efektem jest wysoki poziom znajomości języka angielskiego. Artykuł koncentruje się na nauczaniu tłumaczenia prawnego z języka fińskiego na język angielski na Uniwersytecie w Helsinkach. Badaniom empirycznym poddana została struktura kursu, materiały i metody dydaktyczne. Inspiracją tego artykułu stały się efektywność nowych metod badawczych oraz struktura kursu. W celu potwierdzenia danych zostały przeprowadzone wywiady i ankiety.

Studium obrazuje, że w trakcie kursu studenci nabywają podstawy wiedzy z zakresu prawa fińskiego i komparatystyki prawa. Zastosowano zintegrowaną metodę kształcenia (blended learning) zamiast tradycyjnych wykładów, wykładowcy stosowali platformę Moodle. Rezultaty wskazują, że studentom odpowiada taka metoda prowadzenia zajęć. Metoda ta może zostać zastosowana także w kursach o innej tematyce niż tłumaczenie prawne.

Introduction

Finland was recently listed as one of the happiest countries in the world (Willet 2013). It also comes in top as one of the best places to live in (The Economist 2009) and it has been rated as having a leading education system both at the elementary level as demonstrated by PISA scores (PISA 2010) and for lifelong learning (Eurostat 2012). The city of Helsinki has also collected numerous commendations, including being rated as one of the most honest cities in the world (Businessinsider 2013). Due to the the afore mentioned international ratings, along with many others, it is common for delegations from other countries to visit Finland in order to carry out benchmarking activities in the hope of improving their own national systems. Of interest is whether the teaching of Finnish into English legal translation can also be seen as an example of good practice or whether there is in fact room for improvement. This paper will examine how Finnish into English legal translation is taught.

Teaching legal translation in Finish universities has traditionally been problematic. The customary method has included undertaking general and specialized translation courses, a traineeship as well as the completion of a thesis. The traineeships varied in locations: factories, pharmaceutical companies, legal offices, legal translation firms or other companies. This would determine the novice translator's specialization. In 1995, Finland joined the European Union (Europa 2013), and this created a greater need to train Finnish - English legal translators. In 2011, the Finnish patent office began accepting, in addition to Finnish and Swedish, applications in English. This was because of the number of companies that wanted to register their work both nationally and internationally (European IPR Helpdesk, 2013). This naturally increased the need for English translators with a specialty in legal translation. A recent Translation News (2011) article stated:

> The Finnish authorities are desperate to find good professional translations experts, who can help translate all their legal documents to the queen's language, and fast. The growing demand for apt professional translations services across the country has only confirmed the fact that Finland need translators and on a priority basis.

In reaction to this need, the translation section of the Department of Modern Languages at the University of Helsinki responded by creating a specialization in legal translation and interpretation for Finnish, Swedish, English, German, Russian and French. This is the first of its kind in Finland. This paper will focus on the Finnish into English component of this specialization.

To-date there is a large amount of research undertaken on legal translation (Sarcevic 1997, 2012, Cao 2007, Alcaraz Varo and Hughes 2002). There is also a fair amount of research on transition training and translation teaching and learning (Gaudadec 2007, Kelly 2005, Kiraly 1997, 2000, Gonzales Davies 2004). However, a problem arises when trying to link the theory to practice in a particular setting.

Education systems and educational cultures vary between nations (See Bruner 1996, Garant 1997), additionally learner proficiency in target languages vary. Recent studies have shown that, generally speaking, Spanish and Italian undergraduates have lower English proficiency than their Finnish equals (ETS 2012, Education First 2011).

This invariably affects how university level translation courses are taught in various counties and educational settings. Therefore, there is a great need for case studies linked to specific educational settings and specific language pairs. At the outset this paper will set the background of the Finish into English translations courses. It will then go onto present a case study of author's course structure and method for teaching Finnish into English LSP legal translation at the University of Helsinki. Subsequently a discussion of the proposed teaching course will follow. The author will address the following questions: What is the main literature that relates to the topic? How legal translation is taught in at Finnish setting at the University of Helsinki? What makes it Unique? How does one link legal translation background and theory to the classroom?

This paper is situated within the theoretical framework of socio-cultural translations in which translation education is the focus (Garant and Garant 2001, Garant 2009, Garant and Walker 2008, Pym , Slesnger, Jettmorova 2006, Gonzalez Davies 2004, Tennet 2005).

Background and setting

In Finland, legal translation has traditionally been taught by legal translators or lawyers who have no pedagogic training. In both instances their teaching is short lived: the tutor is a third party hired from the outside who teaches the course once or twice, is paid at an hourly rate and then resigns. The institution is subsequently faced with the challenge of finding a new tutor. Interviews with nine (N = 9) of these part-time instructors, including those who have taught law translation in the past, were undertaken as part of empirical research. This included all of the part-time teachers within the department in the last 7 years. Results suggested that they fell into three basic categories with some overlap between their motives. Some stated that they agreed to teach such courses because they thought it would be fun. However, upon realising that it is a time consuming job they resigned. In other cases, translators agreed to teach university courses as a strategy to recruit new personnel for their own translation companies and when they had found their new employees they too resigned. A third group stated that they taught legal translation courses because they hoped it would lead to full-time employment at the university, however if this did not materialize they often found permanent full-time work elsewhere.

This high turnover of staff created great inconsistencies in course content and training programs. The legal translators who taught were usually too busy to produce a good systematic course syllabus and the lawyers were usually there to train lawyers, not legal translators. Therefore, there was a need to produce a way of teaching legal translators for legal translators, not law for lawyers. Further, despite the fact that there is a great need for Finnish into English translators at the moment only two such courses are offered at the University of Helsinki. This creates a shortage of trained personnel for the workplace. A clear gap exists and there is a need to increase the number of these type of courses.

This section will now present a brief overview of English translation students within the setting. Entry into English translation studies at the University of Helsinki is competitive. Generally speaking, the students who are accepted into the department are native speakers of Finnish or Swedish who have studied English as a foreign language formally for 10 years or more. In order to be admitted to the English translation

department, applicants must pass demanding entrance examinations. Furthermore it is expected that applicants have top marks for English in their high school matriculation tests. As such when they enter the English translation department their proficiency in the target language is excellent. This has a major implications: remedial language training for English translation learners is unnecessary and they can begin training for real world tasks very early in their academic careers. This is not the case for Finish university based translation programs in other languages such as German or Russian where entrance requirements are much lower. Nor, is it true for other countries where university courses are spent teaching language skills. Incoming students generally have a variety of backgrounds. In recent year the department at the University of Helsinki has admitted a number of non-traditional mature students who are over 25 years of age, have work experience in addition to their translation studies. This enriches the student body as the traditional recent upper high school graduates interact with other students who have more life experience. This is quite different from some other educational settings like Russia or Japan where virtually all undergraduates are 21 or less.

Literature review

The author has undertaken a literature review on relevant research related to the teaching of Finnish into English Language Legal Translation in Finnish Universities. The key notions that were researched were *translation teaching* and it was found that there are a number of available sources on legal translation in Finland and abroad as well as on translation teaching and learning. Źrałka (2007), like most studies found, did not directly address teaching but instead discussed English and Polish specialized legal texts and analysed them according to layout, vocabulary, grammatical constructions, style of language and other aspects. For this study, layout vocabulary, style and other aspects are important for teaching. Balabukha (2013) discussed an English Law (LSP) emersion program in the Ukraine. This is an interesting concept and, like in the Ukraine, there are only some English emersion courses in the Finnish setting whereas most courses are conducted in Finnish. Kościałkowska-Okońska (2013) discussed legal translation training and learner expectations. Learner expectorations are also taken into account in the Finnish setting. Other articles and books focus on LSP and legal translation teaching; however they will not be addressed in this paper as they do not deal with Finnish into English translation LSP courses in Finnish tertiary educational settings.

Tiersma and Solan (2012) have presented a large number of legal topics but they spend very little time discussing teaching legal translation. Šarčević (2012) suggests that legal translation is possible but not perfect and students should be aware of this. She points out the growing amount of research and an increase in scholarly publications in the area. These include Šarčević (1997), Cao (2007), and Alcaraz Varo and Hughes (2002). The first chapters of Ciao (2007) are useful as they outline features of legal English and are utilized in the teaching method presented in this paper. Šarčević writes, in connection with parallel legal texts, “While lawyers cannot expect translators to produce parallel texts which are equal in meaning, they do expect them to produce parallel texts which are equal in legal effect. Thus, the translator’s main task is to produce a text that will lead to the same legal effects in practice” (1997, 71). This is

affirmed by Leung (2004). One aspect of teaching translation in the setting described is, locating and identifying appropriate parallel texts. Theoreticians tend to agree (Alcaraz Varo & Hughes 2002) that legal translators need not necessarily be experts of the law but must nevertheless be highly competent in legal conventions of the target and source texts (Šarčević 2001). Therefore, in teaching, one should strive to provide an overview of law rather than try to train lawyers. Experience shows that actual lawyers rarely make good legal translation teachers.

Having given an overview of some of the research related to legal translation in some parts of Europe, legal translation research in Finland will now be addressed. Mattila (2006) addresses comparative legal linguistics and can be used as a theoretical basis for some of the teaching. Koskinen (2000, 2001) examines how legal language in Finland has been affected by the EU and how institutional constraints affect translation. Koskinen (2008) examines how translation works in European institutions. These works are useful for the Finnish translation student because they give Finnish insight into aspects of legal translation. However, they do not address legal translation teaching and learning and as such there is a clear gap in knowledge, which this study hopes to address. Of interest is the method presented by Garant (1997) on understanding English as a foreign language teaching and learning by addressing the educational culture as a whole. In this case, elements of this method have been adapted to Finnish into English LSP translation education.

Much work has been done on professional translation (See Gaudadec 2007) and translation training Kelly (2005). The main objective of this paper is to describe how these theories can be applied in the Finnish setting. Kiraly (1995) and Kussmaul (1995) suggest that a teaching method that utilizes error correction tends to be seen as negative by the learners. This will be investigated. Kelly (2000) stresses the need to build confidence in the learners in order to let them develop into professional translators. How is this put into practice? Garant and Eskelinen (2012) state that the Internet is a key component of classroom translation teaching. How is this manifested in real life? This paper will address the following questions: How legal translation is taught in at Finnish setting at the University of Helsinki? What makes it Unique? How does one link legal translation background and theory to the classroom?

Case: Teaching legal translation

Introducing basic legal concepts and language

The first part of the course in Finnish into English Language for Specific Purposes (LSP) Legal Translation takes place over twelve to fourteen weeks and meets for two hours each session. It is designed for second or third year English translation minors and majors and is worth 3 credits (ETCS). The first stage in the teaching process involves teaching about the legal content. The results of surveys suggest that students know almost nothing about Law as a field, and about legal translation. They are usually unaware of concepts such as the difference between Common Law and Civil Law. Therefore, broad general legal concepts are covered in the opening lectures which include: Common, Civil, Traditional, Religious and Socialist Law; an outline of the European Union, appeals processes and other relevant aspects. Additionally the course includes a study of the classifications of legal English; such as Latin roots (*habeas*

corpus), French roots (*bailiff*), archaic lexis (*witnesseth*) repetition of terms (aid and abet) and other linguistic aspects. The emphasis is on how to identify and classify these and find the appropriate sites on the internet to explain their meaning and integrate them into learner's English legal writing. The plain English trend in legal writing which stresses understandable texts that are not overly legalistic is also discussed. This is similar to the method described by Źrałka (2007). Subsequently in the course program, there is an in-depth study of Finnish law and this is undertaken in English.

Garant (1997, 46-49) states that the textbooks and learning materials represent the visible heart of the curriculum. Kelly (2005) recognises this and stresses the need for more research into translation textbooks. The author has also taken note of Stewart (2001) who examined Italian into English translation textbooks in great detail. An analysis of the available textbook is inherently crucial to any research into teaching courses.

A suitable course book in English on Finnish law is *Access to Finnish Law* (Surakka 2005a, 2012). It is designed for teaching an outline of Finnish law in English primarily to business students in Finnish universities of applied sciences. The eighteen chapters of the book cover the basics of all the main areas of Finnish law, both private and public. The book also encourages students to use the Finlex website and explains how to use it. Finlex is an Internet service on legal information, owned by the Finnish Ministry of Justice. It is a public service, available free of charge. On the site students can find the English names for most Finnish Acts as well as translations of legal words and phrases between English and Finnish. Surakka's book is useful, not only for students in international degree programs, but for any expat who wants to understand Finnish legislation and find further resources for Finnish law in English. It is also an excellent source for English translation students. In the University of Helsinki, teaching Finnish into French legal translation, for example, is problematic because of the lack of such a textbook in French. Examples of the textbook will now be presented in order to show what goes on in the teaching in the setting. The topics that are covered by the textbook are listed in Table 1.

Table 1. Law Translation Topics

• The Roots of Finnish Law • Sources of Law • Translating Legal Texts • Branches of Law • The Finnish Constitution • European Community Law • Legal Personality • Privacy and Equality • Contracts • Adjustment of Contracts • Sale of Goods and Hire-Purchase • Sale of Real Estate • Freedom of Trade • Forms of Enterprise • The Trade Register • Competition • Debt • Interest	• Collateral • Cheques and Bills of Exchange • Interpretation Contracts • Sale of Consumer Goods. • Damages • Leases • Employment Contracts • Termination and Being Laid-Off • Marriage • Inheritance • Civil Procedure • Procedural Law and Enforcement • Appeals • Criminal Law • State Administration • Local Government • Open Government • Intellectual Property Rights

Adapted from Surakka (2005b)

Although the topics listed in Table 1 are not exhaustive, they do provide an overview of the field. The traditional teaching methodology includes going over a topic in the book, which, is followed by the students completing a translation exercise related to the material, and then going over it in class. Today, there are increasing discussions regarding a blended learning structure where students watch videos on the Internet and subsequently discuss them in class (Clark 2003). This usually refers to a teaching method where students watch lectures via the Internet outside of class and then come to class and do/go over 'homework' related to the lesson in the class. In other words, at home the students watch a video and complete a workbook coupled with an assignment in the form of questions. Afterwards, the learners come to class and discuss the answers. Interaction and discussion rather than teacher fronted lectures are a key component of the teaching and learning in this setting. In order to prevent "free-riders", the course has a rule: no completed workbook, no admission to class. As such people who do not complete the homework are forced to drop out. The teacher acts as a facilitator during the lessons rather than correcting errors per se. Kiraly explains his social constructivist approach to translator education by saying "Through assessment, teachers construe how students are constructing knowledge, which can help the teachers re-direct their instructional efforts to facilitate those construction processes" (2000, 140). He further adds, "And by the time they graduate, learners must have internalized sufficient self-assessment skills to be able to undertake and complete professional tasks without an omnipotent teacher standing by to provide corrections" (140). This is the kind of empowerment that translation assessment practices should promote.

Surakka (2005a, 2005b) also provides an excellent workbook complete with a key. The key is essential because it provides the correct answers so the instructor does not need to be an expert in law. The instructor facilitates discussions (Kiraly 2000) based on the workbook. It is worth noting that the workbook does not spend very much time going over legal terminology specifically. One example would be:

Example 1:

> How would you translate the following expression: "Työsopimuslain 7 luvun 12 §:n 2 kappaleen (momentin) 3 kohta"?
>
> Find the text of chapter 7, section 12, subsection 2, paragraph 3 of the Employment
> Contracts Act using Finlex. Write the text in Finnish.
> (Surakka 2005b)

Such questions give the learners a basic knowledge on contrastive Finnish into English legal terminology. It is important that the learners learn about such terminology from the outset, as often they do not have sufficient background knowledge when they begin the course. The workbook spends more time going over legal concepts such as illustrated in Example 2.

Example 2

> A child, who is six years of age, buys some candies. They cost 1 euro. Is the agreement binding?
>
> A boy, who is 12 years of age, buys
> a) a CD containing music. Its price is 25 euro, and
> b) a digital camera. Its price is 220 euro.
> Are the agreements binding?
> (Surakka 2005b)

Here, the learners would look up the correct answers and discuss them in class. As previously stated, course participants are not able to sit in the class unless they have done the homework. Students discuss the concepts and principles which familiarized them with the terminology as well as the basics of Finnish contract law. In the case of Example 2, the contract with the six-year old is binding because of the small amount of money involved. With the twelve-year old, the CD contract is binding but the 220 euro camera depends of the financial situation of the minor's parents. Some children from wealthy families regularly spend sums equal to or above 220 euros without putting a burden on their family, therefore they would not need parental approval. However, for many families, 220 euros is a significant amount for a 12 year old to spend and consultation with the parent would be normal; in this instance the parent could cancel the contract if they do not approve of the purchase.

A third goal of the course is to familiarize the learners with the principles of legal concepts that will help them in their life such as the Finnish laws on inheritance as shown in example 3.

Example 3

> INHERITANCE
> A and B are spouses and C and D are their children. A dies. The spouses have a reciprocal marriage settlement that covers all their property. A has drawn up a will for the good of The Merciful Cat Friends' Association. The bequest is as much as 50,000 euro. A's property is 80,000 euro and B's property 60,000 euro. The widow does not want to keep possession of the common marital home because she is moving to the nursing home. Distribute the undivided estate.
> (Surakka 2005b)

Unlike countries such as the United States, Finnish inheritance law is governed by legislation, which protects the offspring and ensures their right to a certain share of their parent's property in all circumstances. In this case, the offspring are entitled to 50% of parent A's property so he or she cannot bequeath 50,000 euro to the Merciful Cat Friends' Association. Parent A's estate is valued at 80,000 euros, so only 40,000 euro (50%) can go to the organization. The children get the rest but will have to go to court to change the will; this is a simple procedure as it is clearly governed by law. After that, the children spilt the remaining 40,000 euro equally. Discussing such matters in class strengthens the learner's knowledge of legal terminology and concepts, as well as their writing abilities.

The next major hurdle to cross is where to find parallel texts (Veronis 2000, Somers 1996) that can be used as models for translated texts. Finding Finnish laws that have been translated into English is crucial in designing an effective Finnish into English legal translation course. Eurlex (2013) which provides translation of European Union law is available in Finland as well as other countries. Fortunately, in Finland there is also Finlex (2012), which provide English translations of Finnish legislation. In addition, websites such as the Finnish Parliament (2013) website are also useful. Eskelinen and Garant (2012) state that Finnish translation students use the Internet almost exclusively for their research. A major obstacle in designing effective law translation courses in other languages is the lack of such well-made net-based resources that are common in Finland. During the course, the learners are trained to locate such resources and use them. They do this independently outside of the classroom. They are encouraged to help and share with each other and indeed they do so. In order to do this, they complete the workbook and discuss the answers in class rather than sitting through long lectures that they may deem as boring. That is the point of utilizing the blended learning and reverse classroom strategy in the course.

Short Translation assignments

The second stage of the program consists of identifying elements of legal translation and teaching them in short translation assignments. The first step is identifying and classifying the topics to be covered during the course. They are listed in Table 1. In the first course, learners are put into groups and told to find legal texts and suggest them as translation assignments for the course. This encourages the learners to buy into the course since they participate in the planning. In fall 2013, the students suggested an official bill (proposed law), an unofficial bill (proposed law) made by a citizens public advocacy group, an employment contract for audio-visual translators, a contract from the Finnish Kennel Club, a court case, the Act of Child Welfare, and a disclosure

agreement from a media company about public and private information. From these, the group chose to translate parts of the employment contract for audio-visual translator, the sales contract from the Finnish Kennel Club, and the disclosure agreement from a media company about public and private information. They also chose extracts from the Act of Child Welfare however it was found that the Act has already been translated into English officially and is available on the Internet, as are most Finnish laws. Once they have chosen the writings the learners translated the text and included comments at the end where they described their feelings about the text, what it is like to translate, the resources they used to translate it and other aspects. Comments ranged from 100 to 400 words. The comments show how the learners develop as translators and provide on-going feedback for the instructor.

Long Translation assignments

Stage three of the teaching and learning is done during the second course in Finnish into English Language for Specific Purposes (LSP) Legal Translation and it is taken in the third or fourth year of study. The course in worth 5 credits (ETCS). In this course the group translates a whole case involving wrongful dismissal between a former employee and their former employer. This case was provided by a district court judge and is an excellent example to use for translation. It consists of the complaint, response, meeting minutes, judges notes, preliminary hearing, hearing and judgment. Unlike the first course where a great deal of time is spent covering theoretical concepts and background information, this course is fully a translation course. All theoretical discussions take place in relationship to the case. This course meets seven or eight times for two hours a session every two weeks. This gives the learners more time to complete larger assignments.

Example 4

Compensation for groundless termination of an employment contract

According to subsection 1 of section 2 in chapter 12 of the Employment Contracts Act, an employer that has terminated an employment contract contrary to the grounds laid down in this Act shal be ordered to pay compensation for unjustified termination of the employment contract. According to subsection 2 of section 2 in chapter 12, depending on the reason for terminating the employment relationship, the following factors must be taken into account in determining the amount of compensation: estimated time without employment and estimated loss of earnings, the remaining period of a fixed-term employment contract, the duration of the employment relationship, the employee's age and chances of finding employment corresponding to his or her vocation or education and training, the employer's procedure in terminating the contract, any motive for termination originating in the employee, the general circumstances of the employer and other comparable matters.

Example 4 shows a corrected version of a student submission of an extract of the case in question – the original Finnish is not included because this article is meant for an international audience. The example is included to give an illustration of the level that the students are at and the type of texts used. The example includes the name of an act,

and what it entails. Students submit their translations a week before class. They are then corrected and handed back during the lesson where they are discussed. Following the discussion, course participants correct their translations and re-submit them. At the end of the course, they compile all of their translations into a portfolio that they can then use to present to potential future employers.

The entire case is 47 pages and sections are chosen that are translated and gone over during class sessions. Initial assignments are around 3 pages and they progress to as many as 7 pages. The class meets at two-week intervals in order to allow sufficient time to complete the larger assignments. Translation are completed individually, marked by the instructor and then discussed in class. It is possible for the tutor to mark all the translation because there are usually around 10 students in the course. At this moment in the course layout is covered as is lexis, terminology and overall text construction. Students translate around 25 pages or around 8,500 words in English in all. Using an entire case is an effective way to demonstrate the repetitive nature of court cases. Informal discussions with translation instructors from other setting suggest that they do not translate so much text in their courses. Since the learners receive an entire case, they get a good idea of the extent of translating such a project.

As the assignments come from the same case, the students learn that repetition is the mother of learning. Since the text is an entire case discussing the same subject, there is a great deal of repetition in terminology and content. They find that the text is so repetitive that they can cut, paste and edit large sections as the course progresses. By the end of the course, they are able to translate this type of legal text quite smoothly with very few mistakes. This is the major difference in translating and entire case as opposed to undertaking the translation of a large number of smaller texts from different genres of legal writing, i.e. a contract or an excerpt from a contract, an excerpt from a law or act, an excerpt from a court decision and other text types. A number of smaller translations do not give the learner the ability to become familiar with a certain genre of legal text and the learners tend to make the same mistakes over and over again because each genre or text type has its own peculiarities. Translating an entire case is a better method of allowing the learner to become fully familiar with one type of legal text and do it well by the end of the course. Learner feedback suggests that this method gives them the confidence to try to become legal translators which they generally think is impossible at the beginning of the two courses. It should also be noted that one week at the end of the course is devoted to private tutorials with the students where they discuss their portfolio with the tutor.

Administration and Other Course Components

The learning platform Moodle is used for file management- Moodle is an online course management system that educators can use to create effective online learning sites. All of the course materials are available on the Moodle site and the students use this as the main resource for the course. The assignment return system is also done using Moodle. This facilitates a smooth running of the course as well as allows for the upkeep of clear records. Moodle based chat forums are also used for communication by the instructor and between the students. Online websites such as Finlex (2013) and Eurlex (2013) are used for the core of the online resources as are other websites. Eurlex (2012) is available internationally but many countries do not have a national site like the Finnish Finlex

where most national laws are translated into English. Assignments are distributed via the learning platform and assignments are returned there.

Northcott & Brown (2006) stressed the need for cooperation between LSP teachers and practicing professionals. In order to do this, the course usually arranges visits to the courts, public advocacy firms, the European Commission office, law firms and other potential employers. This familiarized the learners with some of the possible places where they may find jobs in the future. It is common for the students to get work or internships after such visits which, in turn, may lead to careers in legal translation

One key aspect of the course is the interaction and discussion in the classroom. Finnish students have a great ability in using the English Language; thy are able to express themselves in English whilst discussing the material in an eloquent, educated and academic manner. The author has used the textbook and work book (discussed afore) in mixed groups of Finnish and Foreign students in English language international business programs at Tampere University of Applied Science and has found that exchange students from countries with lower English proficiency such as Viet Nam, France, Japan and Russia do not have the same level of English at the Finnish students. They do not openly discuss the materials and remain silent in the classes. This suggests they do not always have the proficiency to discuss Finnish Law in English. When they do discuss it, they make language and grammar mistakes that Finnish students usually do not make because of the basic education system and the stringent selection process.

Lastly, the course includes the viewing of real court cases from YouTube, such as Judge Judy and Judge Mathis, so that the students can practice hearing real legal English in an entertaining way while at the same time becoming more familiar with American law and the legal language in addition to their discussions in class.

Conclusion

The traditional methods of teaching, dominated by teacher-fronted lectures coupled with students translating a number of short legal texts, are not immune from critique. As such a new teaching strategy is currently being used at Helsinki University to teach Finnish into English legal translation; it is interwoven with a modern approach to teaching that makes use of up to-date recourses such as the Internet and places emphasis on student interaction. This paper examined the course structure, teaching materials and teaching methods with regard to the new course taught at the University. The objective is to illustrate why these methods work and how they can be transcended to different Finnish and even non Finnish settings, in other words this paper hopes to contribute to the discourse on best practices of teaching legal translation. Of interest it was noted that there continues to be a limited amount of empirical research undertaken in this domain, and as such the author would encourage future researchers to contribute to the field.

The described case study of teaching Finish to English Legal translation included a number of components. At the outset it was described how students acquired the basic concepts of Finnish and comparative law through a teaching methodology that relies on blended learning, the reverse classroom and small group discussions. This methodology breaks away from the traditional teacher-fronted lectures. Wide ranges of topics are covered at this stage (See Table 1) in order to give the student and overview

of Finnish Law. The main stress during this stage of the courses is to teach the learners how to look information up on the Internet so they have the skills to find such information later in their careers.

Subsequently students went onto identify elements of legal translation and were then taught using short translation assignments. Learners were put into groups and told to find legal texts and suggest them as translation assignments for the course. In phase three of the English into Finnish legal translation course, the group translated a whole case involving wrongful dismissal between a former employee and their former employer. As mentioned afore this case was provided by a district court judge and is an excellent example to use for translation. On average students translate around 25 pages in all depending on the year. Through the course the Moodle system is used for file management. The described case study also highlights the importance of company/organisation visits. All in all, survey results indicate that students are satisfied with this course and see it as beneficial. It can be used for benchmarking for legal translation courses in others settings.

This proposed structure can easily be transcended to other settings as it is not culturally sensitive; and although Finland has the advantage of having a wide pool of Internet resources it is envisaged that other countries will catch up with this. The main finding from conducting a study of the afore mentioned teaching approach is that the course is both effective and enjoyable. At the outset many students believe that legal translation is difficult and make numerous mistakes. However, by the end of the two courses, they are able to produce well-written clean translations in English; a task many thought was virtually impossible at the beginning of the course. This is done by focusing on a method the emphasised what the students can do instead of what they cannot do. More time is spent discussing the text and the terminology and other aspects than is error correction. Kiraly (1995) and Kussmaul (1995) suggest that a teaching method that utilizes error correction tends to be seen as negative by the learners. Kelly (2000) stresses the need to build confidence in the learners in order to let them develop into professional translators. Student feedback re-affirms these theories in this setting. These theories have been confirmed in this case study.

The author's research suggests that the method proposed in this paper approach is successful and feedback from the learners has rated it as excellent. There is still room for further research and development into Finnish into English legal translation courses in the setting. That said, perhaps this method of teaching has the potential to be replicated to other language and in other LSP Translation courses.

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WAYS OF IMMERSION PROGRAMS IMPLEMENTATION IN TEACHING LEGAL ENGLISH

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Abstract: In this article the author examines the specific features of immersion approach in second language learning, gives brief information concerning the origin and further development of immersion programs. The article provides the description of closely related methods which are considered to be the theoretical basis for immersion programs.

The author discloses the relevant elements and objective advantages of the approach mentioned above. The core features and possible modes of the method under analysis are defined. The article presents the way of applying immersion programs which has been worked out to prepare future lawyers for professional communication in a foreign language and introduced at National University "Odessa Academy of Law", Ukraine.

ШЛЯХИ ВПРОВАДЖЕННЯ МЕТОДУ ЗАНУРЕННЯ ДО ПІДГОТОВКИ МАЙБУТНІХ ЮРИСТІВ

Резюме: У статті автор розглядає основі характеристики та особливості методу занурення у навчання іноземної мови, аналізує його зв'язок з іншими близькими за принципами методами, такими як інтегроване навчання предметного змісту та мови, експеренційне навчання та метод конструктивізму. Стаття описує практику впровадження методу занурення у підготовку студентів вищої школи в Україні.

Мета статті визначити переваги використання методу занурення у навчанні англійської мови для професійного спілкування, та дослідити вплив означеного методу на вивчення іноземної мови у юридичному ВНЗ.

Автор подає результати семирічної практики використання методу занурення у Національному університеті «Одеська юридична академія», Україна.

IMPLEMENTACJA PROGRAMÓW STOSUJĄCYCH METODĘ ZANURZENIA W JĘZYKU PRZY NAUCZANIU JĘZYKA PRAWNEGO

Abstrakt: W artykule autorka bada specyficzne cechy metody zanurzenia w języku obcym w trakcie jego nauki, analizuje początki i rozwój tego typu programów oraz opisuje metody, które mogą stanowić dla nich bazę teoretyczną. Przedstawione zostają istotne elementy i zalety powyższej metody, a także sposoby ich implemetnacji w programach przygotowujących prawników do profesjonalnej komunikacji w języku obcym wprowadzone na Uniwersytecie Narodowym "Odessa Academy of Law" na Ukrainie.

Introduction

Teaching English for Specific Purposes in Ukraine today gains greater importance as one of the essential labour market requirements is a good command of foreign languages (at least English). Unfortunately, Ukrainian researchers underline that traditional methods of teaching English for professional communication failed to provide the students with sufficient level of foreign language speaking. One of the reasons for this is the absence of widespread practice of up-to-date so called non-traditional methods of foreign language teaching, such as immersion programs, content and language integrated learning, experiential learning and constructivist approach (Korneeva 2011, 80, Tarnopolski 2008, 20).

Nevertheless, there are a few high educational establishments in Ukraine which developed and put into practice immersion programs for economic students. But no theoretical or practical material concerning immersion programs implementation for law students has been elaborated.

Taking into consideration everything mentioned above, it is obvious that there is a vital need for introducing modern methods of foreign language teaching in Ukrainian Law School to make its graduates competitive on international labour market.

The main purpose of the article is to explore the advantages of immersion programs implementation in Teaching English for Specific Purposes and to disclose the impact of the mentioned approach on second language acquisition in Law School.

The objectives of the article are to analyse the connections of immersion approach with other closely related techniques, such as content and language integrated learning, experiential learning and constructivist approach.

The article describes the practice of introducing immersion programs into students training in tertiary education and presents the result of seven years' practice of immersion programs at National University "Odessa Academy of Law", Ukraine.

Origins and further development of immersion programs

More than thirty years of language immersion instruction in different European and Western countries (the USA, Canada, France, Spain and others) have produced an impressive body of research demonstrating its benefits to students. But in Ukraine there is no widespread practice of introducing immersion programs in foreign language teaching especially teaching English for Specific Purposes in tertiary education.

The immersion approach that was pioneered in the mid-1960s in Montreal was a predecessor of and, indeed, one of the first programs to emphasize the importance of using the foreign language as a vehicle for teaching content. Immersion programs were initially created to provide English-speaking students in Quebec with an opportunity to acquire Canada's two official languages – English and French. Since 1965, immersion programs have been developed in a variety of other languages (e.g., Hebrew-English; Hawaiian-English; Mohawk-English; Japanese-English; Basque-Spanish; Swedish-Finnish) and for a variety of purposes (Johnson and Swain 1997).

Immersion language programs took root in areas such as North America, Canada, and the USA, where educators felt that more than one language was necessary for children's future economic and social prosperity. Program designers wagered that

making the second language the sole medium for teaching core subject content, instead of teaching the second language separately, would result in more students reaching higher levels of proficiency. These early immersion programs started by committing one-half or more of the school day to teachers and students to work only in the second language. Students were socialized to adopt the new language for all classroom communication and subject learning (Fortune 2012, 10).

This approach to second-language and literacy development proved itself to be the most successful school-based language program model available. English-proficient immersion students typically achieve higher levels of minority (non-English) language proficiency when compared with students in other types of language programs (Campbell et al. 1981, 44-54). Immersion students who begin the program as English speakers consistently develop native-like levels of comprehension, such as listening and reading skills, in their second language. They also display fluency and confidence when using it. Further, the more time spent learning through the non-English language, the higher the level of proficiency attained.

According to K. Clark, immersion is "an approach to teaching a new language where learners receive all or most of their instruction in the new language together with others who are learning that language (Clark 2000, 24).

It also can be defined as a method of teaching language, usually a second language, in which the target language is used as both curriculum content and media of instruction.

Immersion programs and other closely related approaches

The immersion program is closely related to other current approaches to second language teaching, such as, content and language integrated learning, experiential learning and constructivist approach.

On the one hand, language immersion represents a set of methods of teaching foreign languages, in which language and subject area content are learnt in combination. This set of methods is known as **Content and Language Integrated Learning (**CLIL) (Coyle 2007). It describes any learning activity where language is used as a tool to develop new learning from a subject area or theme.

The advantages of CLIL especially in acquiring a foreign language for professional communication are that it allows language to be used for real purpose and in context; it can be a very effective way of establishing interdisciplinary connections. It often involves the use of authentic resources from the country whose language is being learnt and discussing other points of view and can contribute to intercultural understanding.

Language immersion programs as well as CLIL belong to the well-known pedagogic approach which was founded by J. Dewey and got the name **"experiential learning"** in modern methodology. It is defined as "the process whereby knowledge is created through the transformation of experience. Knowledge results from the combination of grasping and transforming experience" (Dewey 1938). The key feature which makes it different from CLIL is that experiential learning/teaching suggests using any extra-linguistic activity but not only specifically connected with studying certain disciplines for foreign language acquisition. The experiential learning is an educational orientation which aims at integrating theoretical and practical elements of learning,

emphasizing the significance of experience for learning. Experiential learning creates an opportunity for students to engage and to apply academic understandings through hands-on experience, while simultaneously learning new information concerning professional field. Through experiential learning, students arrive to class eager to share their experiences in the field.

Experiential learning/teaching as a practical realization of CLIL in teaching foreign languages for specific purposes particularly in tertiary education is based on principles of constructivism, a theoretically broader approach, developed by Jean Piaget, Lev Vygotskii, who is its founder, Jerome Bruner and John Dewey.

In his turn, Ukrainian professor Oleg Tarnapolski, who works on immersion programs in tertiary education, emphasizes that constructivist language teaching, especially for professional communication, increasingly gains popularity in modern methodology of foreign language teaching. He adds that constructivism is probably one of the most efficient approaches to teaching English for Specific Purposes, especially when it concerns tertiary education students (Tarnopolski 2008, 24). It is so because under the conditions of constructivist teaching/learning the process of acquiring a foreign language for professional communication becomes quite similar to the process of learning majoring disciplines, thus turning it into an organic constituent of professional training. In general, the constructivist approach to teaching/learning any subject (including foreign languages and English for Specific Purposes among them) may be defined as the approach providing students with opportunities of constructing their own knowledge and skills through practical experience in real-life or modeled activities. In this case, students acquire their knowledge and skills as a by-product of their real-life or modeled activities, thus internalizing the knowledge and skills and not just learning them.

Taking in account everything mentioned above it could be assumed that implementing immersion programs in law students training today is likely to be one of the most efficient ways to prepare future lawyers for international cooperation in the professional sphere.

Elements and objective advantages of immersion programs

Experiences in immersion programs illuminate the practice of foreign language teaching and indicate effective ways of attaining high levels of academic content mastery and target language proficiency. Evaluations of a variety of immersion programs suggest at least three elements of general relevance for second language instruction:

(i) instructional approaches that integrate content and language are likely to be more effective than approaches in which language is taught in isolation;

(ii) an activity-centered approach that creates opportunities for extended student discourse is likely to be beneficial for second language learning;

(iii) language objectives should be systematically targeted along with academic objectives in order to maximize language learning.

There can be observed a number of objective advantages of immersion programs over conventional ways of foreign language teaching. They are as follows.

(i) First, language is acquired most effectively when it is learned for communication in meaningful and significant social situations. The academic content of the curriculum can provide a meaningful basis for second language

learning, under the circumstance that the content is of interest or value to the learners.

(ii) Second, the integration of language and content instruction provides a substantive basis for language learning. Important and interesting content, academic or otherwise, gives students a meaningful basis for understanding and acquiring new language structures and patterns. In addition, authentic classroom communication provides a purposeful and motivating context for learning the communicative functions of the new language. In the absence of content and authentic communication, language can be learned only as an abstraction devoid of conceptual or communicative substance.

(iii) Third is the relationship between language and other aspects of human development. Language, cognition, and social awareness develop concurrently in students. Integrated second language instruction seeks to keep these components of development together so that second language learning is an integral part of social and cognitive development in educational settings.

(iv) Finally, knowing how to use language in one social context or academic domain does not necessarily mean knowing how to use it in others. The integration of second language instruction with subject content respects the specificity of language use (Short 1993).

Core features and modes of immersion programs

Immersion represents the most intensive form of content-based foreign language instruction (Snow et al. 1989). In an immersion program, English is not the subject of instruction, rather it is the medium through which a majority of the academic content is taught. Immersion is a specific type of integrated instruction. Immersion programs have proved to be successful; the academic achievement of immersion students is comparable to that of students educated through their native language. This indicates that the students in immersion programs acquire the second language skills they need to master the academic skills and information appropriate for their grade level. R. Johnson and M. Swain summarize eight core features of immersion programs as follows:

(i) foreign language is a medium of instruction;
(ii) the immersion curriculum parallels the local native language curriculum;
(iii) overt support exists for the native language;
(iv) the program aims for additive bilingualism;
(v) exposure to the foreign language is largely confined to the classroom;
(vi) students enter with similar (and limited) levels of foreign language proficiency;
(vii) the teachers are bilingual;
(viii) the classroom culture is that of the local native language community; (Johnson and Swain 1997).

As for the mode of teaching process within the immersion program, following a number of researchers, we can point out some models of training practice. They are:

(i) total immersion – with no native language support in teaching certain disciplines (Johnson and Swain 1997);

(ii) partial immersion – when native language is used at primary stage of studying and is gradually pulled out from the teaching process (Genesee 2004, 547-576);

(iii) sheltered or structural immersion – when a certain discipline is studied in foreign language but the usage of native language is adjusted by the teacher to the needs of students according to their foreign language level (Cummins 2000);

For immersion education to attain its maximum potential it must be integrated into an educational philosophy that goes beyond just the discipline of Applied Linguistics. Students must have opportunities to communicate powerfully in the target language if they are going to integrate their language and cognitive development with their growing personal identities. This is a challenge that educators are only beginning to address in immersion and bilingual programs around the world but it is in these programs that there is the most potential for truly preparing citizens who can make highly significant contributions to their own and our global societies. For this to happen, however, immersion educators must explicitly locate their pedagogy and educational vision in the realm of global education and ensure that language policies operating in the tertiary education are consistent with this philosophy of global education.

Practice of immersion programs at National University "Odessa Academy of Law"

It has been 7 years since the practice of immersion program started at National University "Odessa Academy of Law". Its purpose is to provide students with profound knowledge of core law subjects as well as good command of a foreign language for professional communication and to make them competitive on international legal arena.

Our practice of immersion programs is developed on the basic principles and conceptions of immersion education listed above and can be characterized as total immersion when content of various discipline (civil law, criminal law, sociology, contemporary business culture, etc.) is taught completely in a foreign language (particularly in English) without any native language support at the lectures and seminars. The teachers, who deliver lectures and conduct seminars are bilingual.

A number of researchers argue that immersion programs especially for the students who study English for Specific Purposes should start with sheltered or structured immersion, that is with certain native language support because of their insufficient level of language proficiency (Korneeva 2011, 80, Tarnopolski 2008, 20).

In our case we solved this problem by means of selecting students with the language level sufficient for language immersion program. At primary stage of our immersion program all first year students take a language test. It enables to select students with the level of language proficiency which corresponds to B2+ or C1 according to CEF (Common European Framework of Reference). The students are assessed according to the following criteria:

(i) Lexical competence
(ii) Grammatical competence
(iii) Semantic competence

According to the results of the test a group of about 100 students is formed every year.

The students who are selected to join the immersion program, which is referred to as "A course of lectures and seminars on law disciplines in English", have three or four classes within this program twice a week during four years of studying. The rest of the classes are attended by them according to general curriculum. Every course of lectures and seminars in different disciplines accounts 6 lectures and 6 practice classes for each of them. For the purposes of the latter ones the general group of students is divided into 3 smaller groups to enable the realization of such studying activities as:

(i) project work (when students do profession-oriented learning projects using the target language);
(ii) brainstorming,
(iii) case studies and discussions on professional issues in the target language;
(iiii) students' presentations on some professional issues delivered in the target language;
(iv) students' search for professional extra-linguistic information through target language sources (internet, audio, audio-visual, and printed ones), that search being undertaken for finding some particular information required for doing profession-oriented learning assignments.

Under the condition of the immersion program described the development of language awareness would include not just a focus on formal aspects of the language but also certain kinds of activities or projects focused on deepening students' knowledge of language and multicultural issues .

Of particular importance in the success of any immersion program are the resources that are required to enable it to function adequately and the continued high level of commitment of all involved in the program, from teachers to students. Close and fruitful cooperation of foreign language department of National University "Odessa Academy of Law" with other law discipline departments contributes greatly to realization of immersion program.

Concluding remarks

Seven-years' practice of immersion programs in National University "Odessa Academy of Law" indicates that law students, who are enrolled in immersion programs, can gain proficiency in a second language and develop cultural awareness as well as their knowledge in studying subjects. Within the process of legal training immersion programs not only contribute to efficient foreign language acquisition but stimulate development of academic skills, personal and professional qualities as well as managing abilities of future lawyers. This positive impact of immersion programs can be proved by the fact that about 15% of our graduates (compared with 3% seven years ago) are gaining their Master's degree in educational establishments of Europe and the United States.

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COMPARATIVE LAW AND LEGAL TRANSLATION IN THE SEARCH FOR FUNCTIONAL EQUIVALENTS – INTERTWINED OR SEPARATE DOMAINS?

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Abstract: There are no two identical languages, and there are no two identical legal systems; this is the challenge for both comparative lawyers and legal translators. Legal comparison is necessary to obtain the adequate legal translation, which in turn is applied to give comparative lawyers information about foreign legal systems. Although comparative lawyers and legal translators often face similar quandaries when engaged in the translation of legal terms, they operate within distinct theoretical frameworks and make use of different methodologies. In order to determine whether the functional method developed for comparative legal studies can be a useful tool for legal translators, this paper compares this method with the methodology applied by legal translators to find functional equivalents.

PRAWO PORÓWNAWCZE I PRZEKŁAD PRAWNY W POSZUKIWANIU FUNKCJONALNYCH EKWIWALENTÓW – OBSZARY POWIĄZANE CZY ODDZIELNE?

Abstrakt: Przekład prawniczy oraz rezultaty badań komparatystyczno-prawnych są źródłem wiedzy o systemach prawa. Nieodłącznym elementem badań prawno-porównawczych jest przekład tekstów prawnych. Tłumaczenie prawne i prawnicze wymaga porównania pojęć i instytucji należących do źródłowego i docelowego systemu prawnego. Nie ma dwóch identycznych języków, jaki i nie ma dwóch identycznych systemów prawnych. Dlatego zarówno tłumacz tekstów prawnych, jak i komparatysta porównujący systemy prawne poszukują ekwiwalentów funkcjonalnych. Komparatysta odwołuje się do funkcjonalizmu, z którego wywodzi się jedna z najstarszych metod badań komparatystycznych, wciąż uznawana za metodę dominującą. W oparciu o założenie, że wszystkie społeczeństwa zmagają się z podobnymi lub nawet takimi samymi problemami, funkcjonalizm poszukuje w różnych systemach prawnych funkcjonalnych ekwiwalentów, czyli takich instytucji i uregulowań prawnych, których celem jest rozwiązanie podobnego problemu. Czy tłumacz uzna za przydatne ekwiwalenty wskazane przez komparatystę? Czy może posłużyć się tą komparatystyczną metodą? Aby odpowiedzieć na te pytania, w artykule porównuję metody ustalania ekwiwalentów funkcjonalnych stosowane przez komparatystów prawnych i tłumaczy tekstów prawnych.

Introduction

Since the cultural turn in translation studies, it has been acknowledged that translation is made not only between languages but also between cultures (Pommer 2008, 17). This cultural transfer is observed especially when legal texts are translated, since legal translation is performed between legal languages, which are deeply rooted in the legal culture and the legal system of a particular country. Unlike other specialized fields (e.g., science, medicine), law has not developed an international and universal language and terminology (Brand 2009, 22; de Groot 2006, 423). Instead, each legal system has its own legal terms, known as system-bound terms, to denote concepts specific to that system. This is evident when legal systems use different languages; however, even in cases where legal systems apply the same ethnic language to create legal texts (for instance, English used by American and British law), the legal systems utilize different terminology, or the same terms are applied to denote concepts that are not exactly the same.

Therefore, in order to carry out a proper legal translation, language and translation skills alone are not sufficient; familiarity with *legal* languages is also necessary. The latter cannot be acquired without a deep understanding of legal systems and of the differences between them. Some authors argue that legal translation is better performed by a "law graduate who is acquainted with at least one or two foreign languages" than by a "translation graduate who has taken legal translation courses" (Manganaras 1996, 64ff). Law students, however, focus mainly on their domestic legal system and, to a lesser extent, on international and supranational law. Hence, most law graduates will not be extensively familiar with other legal systems or with the differences between them. Thus, both law and translation studies graduates might lack the knowledge necessary to perform a correct legal translation. However, there exists a discipline focused on recognizing and comprehending the differences and similarities between legal systems; that discipline is comparative law. With no claim to exhaustiveness, this paper aims to analyze whether comparative law can provide legal translators with the knowledge and tools needed to attain an accurate translation of legal system-bound terms. The main focus will be on the functional method, which is applied in comparative law to identify and compare functional equivalents. This method will be compared with the decision-making process performed by legal translators to identify functional equivalents in a target language. Before tackling the question of whether methods of comparative law (especially functionalism) meet the needs of legal translators, this paper explains why legal translators need comparative law.

Divergence and incongruence of legal systems: The challenge for legal translators

If the discipline of law shared a common system of reference like the discipline of science, medicine, and technology, legal translation would be much easier. When translating a manual for a mobile phone user, for example, all the translator needs to know is how the device works. The mobile model will operate in the same way, regardless of where or by whom it is used. In order to call someone, the user, will dial a number and then press the same icon or button, to the same effect, regardless of whether it is labeled as: 'anruf', 'appel', 'call', 'chamar', 'opkald' or 'połącz'. However,

when a legal term is translated, the translator must consider carefully what meaning it denotes and what legal effect it causes in the source legal system in order to transfer the same meaning and legal effects into the target legal system. For example, let us consider the word 'marriage', which is used not only by lawyers but also by laypersons in ordinary, everyday language. In Poland, only two persons of the opposite sex can legally get married, whereas in Portugal two people of the same sex can also enter into a legal marriage. Marriage to a 13-year old girl is considered void in all European countries, while it is valid in South Sudan[25]. In Israel, a follower of Judaism cannot marry a person not recognized as a Jew by the Orthodox Chief Rabbinate (U.S. Department of State 2011, 3-4), yet such a marriage can take place just a short flight away in Cyprus, and it will then be recognized in Israel (*ibid.*). Marrying a woman while already validly married to another is recognized as an offence (bigamy) in many countries, whereas, in others, especially those governed by Sharia (Muslim) law (e.g., Saudi Arabia) polygamist marriages are considered valid.

These examples illustrate how differently the concept of marriage can be understood in various legal systems. What one legal system recognizes as a valid marriage can, in another, be considered a criminal offence. Can we denote these various concepts with the same term 'marriage'? The above comparison, which is based merely on juxtaposition, not on comparative analysis, relies only on one criterion; that is, who can legally enter into marriage. Other criteria, like rights and obligations of spouses, matrimonial property regime, or divorce, should also be taken into consideration to determine the full meaning of the concept under a given legal system. The first chapter of the Polish Family and Guardianship Code of February 25, 1964, titled "Marriage", includes 61 articles, and these are not the only Polish legal provisions that directly refer to the institution of marriage[26]. In order to grasp the meaning of the concept of marriage in Polish law, a lawyer must analyze not only legal acts, but also case law and doctrinal works, which provide the interpretation of legal provisions on marriage. A legal translator does not need to know all details and nuances associated with a legal concept to such an extent, but mere awareness of the complexity of legal concepts and differences between them in various legal systems might not be sufficient to make appropriate translation decisions in order to produce a good legal translation.

If we regard translation as a cultural transfer, and legal translation as the translation from one legal system into another (de Groot 1987, 807; Doczekalska 2009b, 120; Šarčević 2000, 13), then we must admit that legal translators should know how legal concepts and institutions operate in both the source and target legal systems, or they should at least have a method to acquire this information. A legal translator should be able to recognize the differences between concepts in source and target cultures and to evaluate significance of the divergence or, in the words of Šarčević (2000, 236), the degree of equivalence, if any. A translator should identify whether the concepts form functional equivalents for each other or, conversely, whether they do not have

[25] In South Sudan, marriage is governed by customary or religious law (including Sharia), according to which "girls are considered ready for marriage as soon as they reach puberty - at around 12" (Human Rights Watch 2013, 77).

[26] For instance, one can find the provisions that refer to the concept of marriage in the Criminal Code of June 6, 1997 (art. 206 on bigamy), the Personal Income Tax Act of July 26, 1991 (provisions on joint taxation of spouses), or the Civil Code of April 23, 1964 (e.g., provisions on succession).

"comparable counterparts in other legal systems" (Šarčević 2000, 233)[27]. In order for translator to make a correct decision when choosing term in a target language to denote a concept of a source legal system, some comparison of source and target concepts, institutions and terms is required. Therefore, according to Bocquet (Bocquet 1994, 7; as cited by Šarčević 2000, 237), the comparison of concepts and institutions is an obligatory step in the legal translation process.

There is an understanding among translators that translation is not about replacing one word with another, but rather that it is the meaning that is translated[28], thus the translator must go beyond the language in order to provide adequate translation (Poon Wai-Yee 2005, 323). Nevertheless, the primary source from which we derive the meaning of the text is the (source) language. Moreover, a (target) language is used to render this meaning in a translated text. Therefore, it is important to use a method and strategy that makes it possible to find the adequate term in a target language denoting a legal concept of the source legal system. This legal concept, as a rule, is autonomous (in legal language)[29] and system-bound (in the language of translation studies). The choice of what strategy or method is used depends on the type of legal translation. Two criteria apply when making this decision: (i) the purpose of the legal translation, and (ii) whether the translation occurs within one legal system or between two legal systems. The purpose of the legal translation is defined by the intended communicative function of the translated text in the target legal system. Functions of source and target texts are not always the same (Cao 2007, 10). Hence, the translation process sometimes provides a shift of function (i.e., source and target texts have different functions), and sometimes does not (i.e., source and target texts have the same function). Based on the criterion of the purpose of translation, at least two types of legal translation can be identified[30].

(i) Translation for informative purposes (Cao 2007, 11), performed when the translated text will merely provide its readers with information about foreign law. If the source text has force of law in the source legal system, then translation for informative purpose can be referred to as non-authentic translation (Šarčević 2000, 277). However, legal information can be rendered not only in legal acts but also in contracts, writings of doctrine or even in fiction novels[31].

(ii) Translation for normative purposes, made when translation of a legal text (usually a legal act) that has binding force will also have a legal effect and will bind its addressees. Although in translation studies the terms 'authentic

[27] Terms denoting concepts that do not have "comparable counterparts in other legal systems or legal families" are defined by Susan Šarčević (2000, 233) as "system-bound terms", which "designate concepts and institutions peculiar to the legal reality of a specific system or related systems".

[28] The 'word-to-word' versus 'sense-for-sense' debate is described and analyzed, e.g., in Baker (1997, 320ff).

[29] For instance, the European Court of Justice refers to the concepts that are of the law of the European Union (i.e., that are specific to the EU legal system) as 'autonomous concepts'; see *int. al.* paragraph 45 of the judgment in Case C-373/00 *Adolf Truly GmbH* v *Bestattung Wien GmbH* [2003] ECR I-1931, or paragraph 27 of the judgment in Case C-498/03 *Kingscrest Associates Ltd and Montecello Ltd* v *Commissioners of Customs & Excise* [2005] ECR I-4427; see also Doczekalska 2009a, 131, 242ff.

[30] Deborah Cao (2007, 10-12) distinguishes three types of legal translation: translation for informative purposes, translation for normative purposes and translation for legal or judicial purposes in order to provide certain information needed in court proceedings.

[31] See, e.g., Pontrandolfo (2012), comparing translation procedures applied when translating (into English and Spanish) the legal terms used in the Italian legal thriller *Testimone Inconsapevole* by Gianrico Carofiglio.

> translation', 'authoritative translation' (Šarčević 2000, 19-21) or 'normative translation' (Cao 2007, 11) are used, in legal language a text that has the force of law will not be referred to as a translation, even if the text is prepared by means of translation (Correia 2003, 41, Doczekalska 2009a, 316).

When a text is translated for informative purposes, the translator can choose the equivalents that convey some elements of foreignness while at the same time providing the reader with the adequate associations about the meaning of the text. When a translated text will bind its addressees, the translator will focus mainly on finding wording for the target text such that it will have the same effect as the source text[32].

Translation for informative purposes usually transfers a legal text from a source legal system into a target legal system and, as mentioned earlier, involves comparison of legal concepts and institutions. Translation for normative purposes usually occurs when one legal system produces its laws in two or more languages. Thus, all authentic language versions of a legal act are applied within the same legal system, and consequently the legal terms in various language versions of the legal act refer to the same legal concepts and institutions. It would seem that translation performed to draft multilingual laws does not require any comparison; however, in practice, the comparison of legal concepts is often necessary when multilingual law is produced. For instance, the European Union has developed supranational and autonomous law drafted in its 24 official languages. These languages are also the official languages of EU Member States and are used to draft their national laws. In order to avoid confusion between national legal concepts and EU legal concepts, terms denoting EU concepts should be chosen carefully. The *Joint Practical Guide*[33] particularly requires that "terminology specific to any one national legal system [be] used with care" (guideline 5). Therefore, when legislative drafters choose terms from 24 languages that denote an autonomous EU legal concept, this EU concept is compared with the equivalent national legal concepts, and national legal terms denoting national concepts that could be regarded as functional equivalents are replaced with neutral terms (i.e., terms that are not specific to any national legal system) or neologisms. Therefore, if EU legal acts seem to be awkward or difficult to understand, this is the result of the conscious decisions of legislative drafters and translators, not their mistakes.

Hence, notwithstanding the purpose of translation and the number of legal systems involved in the translation process, translation requires comparison of both legal concepts and legal terminology. According to some authors, "[t]ranslation of legal documents is actually comparative law" (de Groot 1987, 809), and others assert that "[t]he ideal legal translator is a comparative lawyer" (Goddard 2009, 169). While this would in fact be the ideal situation, Obenaus (1995, 253) notes that it is unrealistic to expect a translator to be an expert in the field of law; however, a translator may be

[32] Word-by-word or literary translation is not necessary to produce the same legal effect in two language versions. The example of co-drafting (which in fact does not even include any translation elements) of English and French versions of Canadian federal legal acts illustrates that both language versions can have the same legal effect even when the wording or even the structures of a legal provision differ widely; see examples at McLaren 2010-2011, 299-300.

[33] *Joint Practical Guide of the European Parliament, the Council and the Commission for persons involved in the drafting of legislation within the Community institutions*, available at http://eurlex.europa.eu/en/techleg/index.htm, last accessed August 30, 2013; see Doczekalska 2009a, 124ff.

expected to be able to find the right information quickly. Can comparative law provide a translator with such information or with the method to acquire it?

Do methods of comparative law meet the needs of legal translators?

The use of the word 'law' in the term 'comparative law' is misleading. It can suggest that the term refers to positive law that has the force of law, or to a branch of law, like civil or criminal law, that encompasses a set of legal norms[34]. Despite its name, however, comparative law is an academic discipline or a branch of legal science, not a body of legal rules. The German term *Rechtsvergleichung* (Michaels, forthcoming, 3) or the Polish term *komparatystyka prawnicza* (preferred to *prawo porównawcze*, comparative law), which mean 'comparison of laws' better describe this concept[35]. The German and Polish terms bring the act of comparing into focus. Comparison of laws is the subject matter of this discipline. Comparative legal scholars compare different legal systems (macro-comparison) or legal institutions, concepts, rules, legislations and solutions to social problems (micro-comparison)[36]. Such legal comparison or its results can be interesting to legal translators. However, has comparative law developed any methods that can be applied efficiently and successfully for the purpose of legal translation?

For some authors, comparative law is nothing more than a method (Gutteridge 1971, as cited by Palmer 2005, 281), yet as Palmer (2005, 262) observes, the seminal books on comparative law do not even mention methodology. According to Brand (2007, 408) "the methodological malaise of comparative law" results not from the lack of methodology but from pluralism of the different schools of methodological thought that "do not engage in constructive discourse". Brand (2007) analyzes four methodological approaches to comparative law - functionalism, comparative law and economics, comparative law as a hermeneutic exercise and critical comparative law - which are deeply rooted in philosophy of law. Both Brand and Palmer note that methods applied in comparative legal research are limited in their application[37].

Setting aside the evaluation of comparative law methods and discussions of whether comparative law has developed or should develop its own methodology and whether plurality of methods will enrich or jeopardize the results of comparative legal research, I will focus on the very first method that has been consciously developed for the purposes of the comparison of legal concepts and institutions. Different names have been applied to this method, including functionalism (Brand 2007, 408), equivalence functionalism (Michael 2012, 20), functional method[38], or problem-solution approach (Brand 2009, 31).

[34] Interestingly, the noun 'law' is used in the term denoting comparative law in this misleading way not only in English but also in Romance languages; for example, in French, *droit compare*; in Italian, *diritto comparato*; in Portuguese, *direito comparado*; and in Spanish, *derecho comparado.*

[35] Some scholars use the term 'legal comparativism', which is closer to the aforementioned German and Polish term; see the recently published book on methods of comparative law (Monateri 2012, 7ff) or Monateri 2009, 9ff.

[36] According to de Cruz, the terms 'macro-comparison' and 'micro-comparison' are attributed to Rheinstein (de Cruz, 1993, 37); see also Örücü 2004, 40ff.

[37] Brand proposes a new conceptual approach to comparative law methodology, while Palmer suggests a more pragmatic and inclusive view of this methodology.

[38] According to Michael (2012, 3) the term 'functional method' is a misnomer.

The reasons to take this method into consideration are twofold:

(i) Although criticized, it is still the dominant and the most often used method in comparative legal research (Brand 2007, 405);

(ii) It aims at identifying functional equivalents. Thus, this method or at least its findings can interest legal translators.

In order to evaluate to what extent the functional method can be useful for legal translation, I will compare:

(i) how the concept of functional equivalent is understood in translation theory and comparative law, and

(ii) how functional equivalents are identified for purposes of legal translation and comparative legal research.

Throughout the 19th century, when comparative law was still developing (it was recognized as a new branch of legal science in the second half of the century), comparative legal studies focused on the investigation of legislation (Stramignoni 2002, 747) and were based mainly on textual analysis (Michaels, forthcoming, 3). At the beginning of the 20th century, the approach towards comparative legal research changed and scholars noted that positive research based on legal texts and legal language does not actually provide the full picture of the law. The analysis of legal provisions does not explain how a judge will interpret them and what legal effects they will actually provide. Therefore, the focus of the research moved from the 'law in books' (i.e., what legal texts, especially legislation, say) to the 'law in action' (i.e., how the law is applied)[39]. Moreover, because scholars distrusted language, they decided that legal research should be conducted beyond language. This approach is reflected in the method developed for the comparative study of law in the first half of the 20th century by Ernst Rabel who expressed a desire to "get behind the façade of language" and focus on the 'living law' (Gerber 2001, 199, 201). Instead of analyzing domestic and foreign legal texts, he compared the solutions to a particular social problem in different legal systems (Gerber 2001, 199). This method is based on the assumptions that (i) all societies face similar or even the same social problems or human needs and, (ii) the role of law is to provide solutions to these problems (Michaels, forthcoming, 2; Örücü 2006, 443-444)[40]. If two institutions deal with the same or similar problems, they are regarded as functional equivalents and are seen as comparable, even if "they display different doctrinal structures" (Michaels, forthcoming, 2). The focus of the comparative legal research is not on language or terminology but rather on the set of legal norms that create a legal concept or institution. Language is considered to be a barrier to comparative law (Brand 2009, 18ff) or at least of no assistance for a comparative legal study (Örücü 2006, 448). The functional method thus facilitates the research conducted beyond language and helps to omit pitfalls of terminological false friends.

The legal translator is aware that the use of the same or similar names to denote legal institutions in two different legal systems does not mean that the institutions are

[39] This approach to the concept of law and legal studies developed within legal realism derived especially from O. W. Holmes's theory of law (Holmes 1897, 461ff) and sociological jurisprudence; see Pound 1910, 12ff.

[40] See also Brand (2007, 410) who indicates the third presumption of the functional method (i.e. "that legal systems tend to resolve practical questions in the same way").

identical. Terminology can be of as little assistance to a translator as it is to a comparative lawyer. Translators look for adequate terms in the target language to denote the concepts and institutions of the source legal system. In the event that they cannot find the exact equivalent, one of the methods that can be used is the search for a functional equivalent. In translation theory, however, functional equivalent is not a concept or institution but rather, as Šarčević (2000, 236) defines it for the purpose of legal translation, "a term designating a concept or institution of the target legal system having the same function as a particular concept of the source legal system".

Šarčević (2000, 237ff) explains how a functional equivalent should be determined and identifies the criteria of acceptability for the found term. The process that leads to the choice of an adequate functional equivalent has at least three stages:

(i) conceptual analysis that aims at identifying essential and accidental features first of the source concept and then of the target concept;
(ii) comparison of the conceptual features in order to classify the equivalence as: near equivalence, partial equivalence or non-equivalence;
(iii) determination of the acceptability of functional equivalents (*ibid.*).

According to Šarčević (2000, 241), near equivalence is always acceptable, whereas non-equivalence is never acceptable. When partial equivalence is determined, the functional equivalent can be considered acceptable only if it corresponds with the source term in terms of structure/classification, scope of application, and legal effects (Šarčević 2000, 241-242).

Thus, a comparative lawyer and a legal translator search for functional equivalents, but do they look for the same equivalent? Do comparative lawyers and legal translators apply the same method? The answer to these questions is important in order to determine whether they can learn anything from each other and whether they can apply the results of their findings in legal research and legal translation. In order to answer the questions, I will compare the methods applied in comparative law and legal translation and consider the following criteria: (i) the purpose of the methods; (ii) the starting point for each method; (iii) what a comparative lawyer and a legal translator actually compare; (iv) how the term 'functional equivalent' is understood; and (v) how the concept of function is understood.

Legal translators search for functional equivalents in order to find adequate terms to denote source legal concepts that do not have exact counterparts in the target legal system. The investigation undertaken by comparative lawyers does not have a terminological character. Comparative legal scholars apply the functional method in order to find the solutions to social problems. The results of such legal comparison can, for instance, help to reform, unify or harmonize law. Therefore, they do not look for the terminology but rather for legal regulations that resolve certain problems. Consequently, the identification of the social problem or need is the starting point of their research, whereas in legal translation the term that does not have the exact equivalent is the starting point for the translator to look for the functional equivalent.

A given social problem may be addressed by a whole branch of law or by a single legal norm that does not create any legal concept or institution. Hence, a comparative legal researcher will compare legal regulations and legal norms. The considered norms may or may not form legal concepts or institutions. Moreover, even if

applied to study legal concepts and institutions, a comparative functional method focuses on functional relation of legal concepts and institutions to social problems rather than on their essence (Michael 2012, 14). Conversely, a legal translator concentrates on identifying essential features of the compared concepts or institutions in order to find terminological equivalence. The functional relation of the legal concept or institution to a social problem can be one of the essential features, but it probably will not be the only one taken into consideration by a legal translator. Consequently, the subject matter of the comparison performed by a comparative legal scholar and by a legal translator may not be the same.

What a translator and a comparative lawyer regard as functional equivalents can differ as well. Although functional equivalents must share the same function for the purposes of legal translation and comparative legal studies, the term 'function' does not necessarily have the same meaning in the two domains. A comparative lawyer will regard two institutions as functionally equivalent when those institutions aim at dealing with the same social need. Michael describes functions as "relations between institutions and problems" (2012, 22). A social need can be satisfied in diverse ways, and legal norms shaping the institutions in various legal systems can have different legal effects (Michael 2012, 16). On the other hand, according to the aforementioned equivalence acceptability criteria, two terms are recognized as functional equivalents in legal translation when they denote concepts or institutions that have corresponding legal effects. Thus, the term 'function' refers mainly to the legal regulation's aim in comparative law but to its results in translation studies.

As a consequence of the aforementioned differences in the approaches towards functional equivalence in legal translation and functional comparative law, two institutions recognized by a comparative lawyer as functional equivalents are not always identified as such by a legal translator. However, this does not mean that the comparative functional method can be regarded as incompatible with terminological search in legal translation.

Response to the same social problem is the criterion of both functional equivalence and comparability. That is, if two legal institutions respond to the same social problem, they are considered to be functionally equivalent and comparable. The recognition of functional equivalence and hence comparability of two institutions by a comparative legal scholar can be a first step for terminological search performed by a legal translator. For a translator the statement that two institutions are comparable because they carry out the same function is not sufficient to make a terminological decision. The institutions can be recognized as sufficiently equivalent to provide the terminological solution only after fulfilling the equivalence acceptability criteria described by Šarčević.

The aim of a legal researcher who applies the functional comparative method is not to find similar institutions but rather to discover how law in two or more legal systems approaches the same social problem. Therefore, a legal translator who wants to apply the research results of legal functional comparison as a first step in searching for terminological functional equivalents should take into consideration that:

(i) the functional comparative method recognizes functional equivalence of legal institutions or concepts despite the similarity or divergence of their structural and systematic embedding (Michaels, forthcoming, 2).

(ii) different institutions or concepts can tackle the same problem in various ways;

(iii) a single institution or concept usually faces more than one problem and thus might have more than one function, and different institutions or concepts do not always share all functions that they perform.

The following question may be faced by a legal translator who applies the results of the functional comparative method: if two institutions responding to the same social problems (i.e., functional equivalents in comparative law) propose different solutions, may they be regarded as terminological functional equivalents in translation studies? To make a terminological decision in this situation, a legal translator should ascertain whether the function of the institutions that makes them functional equivalents for a comparative legal scholar is the *main* function and what the other functions of the institutions are, and especially whether the functions of the institutions and differences in their solutions are essential features of these institutions. If the only similarity between institutions or concepts is the function they share, the terms denoting them are not terminological equivalents.

Moreover, when legal translators determine a functional equivalent, they are required not only to confirm that legal effects and functions of legal concepts correspond but also to evaluate whether the structural and systematic embedding of the concepts are similar (e.g., whether both concepts belong to the same branch of law; de Groot 2006, 425; Šarčević 2000, 242).

Concluding remarks

This comparison of the methods applied by legal translators and comparative lawyers who look for functional equivalents revealed more differences than similarities. It has been shown that comparative law and legal translation – although intertwined and interdependent – are actually separate domains. They are interdependent in the sense that they serve as tools for each other. Legal comparison is necessary to obtain the adequate legal translation, and in turn a comparative lawyer applies legal translation to gain information about foreign legal systems. There are no two identical languages, and there are no two identical legal systems; this common challenge intertwines comparative law and legal translation. They aim, however, at different purposes and this separates these domains and causes them to use different methods. A legal translator uses the knowledge obtained by the comparison of legal systems, concepts and institutions to render the source text in a target language, while comparative lawyers apply this information to better understand, reform, harmonize or unify law.

The differences between these methodological approaches do not necessarily indicates that the functional method, or the results of comparative legal research based on this method, cannot be used for the purposes of legal translation. It is, however, important to be aware of the differences between these approaches in order to determine when the functional method of comparative law facilitates or hinders the search for the adequate terminological equivalent.

The crucial difference between the two approaches that cannot be ignored by a legal translator is the fact that the functional method is oblivious to the correspondence of legal effects and to the similarity of structural and systematic embedding of the compared concepts. Hence, if legal translators decide to use the

results of comparative research obtained through the functional method, they must confirm that the equivalents identified are actually structural equivalents that provide corresponding legal effects.

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STRATEGIES AND TOOLS FOR LEGAL TRANSLATION

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Abstract: The article deals with translation strategies in their relation to translation tools. It reflects the theoretical requirements for professional legal translations in the light of the legal-linguistic equivalence and the skopos-theory. The author stresses that developing translatorial strategies as well as designing and using translation tools are theory-dependent activities. What remains to be developed is the explicit model of hitherto implicitly followed particular translatorial strategies in relation to all types of translation tools. In the institutional setting the relevant translatorial strategies are influenced by guidelines that regulate many issues that are subject to choices made by individual translators. These guidelines often also determine the use of translation tools. As of now, on-line translation tools widen considerably the traditional lexicographical notions and they contribute to work rationalization in that they offer the translator a survey of already existing translation alternatives. However, available translation tools, traditional and digital, tend towards solving problems of translatorial routine.Their multitude corresponds with the number of dynamic problems in legal translation that cannot be rigidly determined. Therefore, creative legal translation remains an essentially human activity. Meanwhile, the multitude of existing approaches might lead in future to the emergence of a legal-linguistic thesaurus that would display the totality of legal speech acts that constitute the legal discourse. The legal-linguistic thesaurus, that would constitute the main translation tool, does not preclude developing of other goal-oriented translation tools of limited scope. Therefore, notwithstanding the on-going changes, strategically responsible choice of translatorial strategies and the corresponding informed choice of translatorial tools are essential techniques for daily translation work.

STRATEGIE I NARZĘDZIA TŁUMACZENIA PRAWNICZEGO

Abstrakt: W artykule omówione zostają problemy wynikające w relacji pomiędzy strategiami translatorskimi i narzędziami wspomagającymi tłumaczenie. Punkt wyjściowy stanowią teoretyczne wymagania dla profesionalnych tłumaczeń tekstów prawnych wynikające z pojęcia ekwiwalencji legilingwistycznej oraz teorii skoposu. Autor podkreśla, że planowanie strategii translatorskich, jak również stosowanie narzędzi wspomagających tłumaczenie są działaniami zależnymi od wyboru teorii. W tym kontekście koniecznym wydaje się rozwinięcie eksplicytnego modelu strategii translatorskich związanych z wyborem narzędzi wspomagających tłumaczenie, które dotychczas są jedynie domyślne w praktyce translatorskiej. Ponadto, w instytucjach w których wykonywane są przekłady mają zastosowanie dyrektywy dla tłumaczy, które regulują kwestie związane z wyborem i zastosowaniem narzędzi wspomagających tłumaczenie. Cyfrowe narzędzia wspomagające przekład rozszerzyły dotychczasowe pojęcia leksykograficzne i przyczyniły się do racjonalizacji trybu pracy udostępniając tłumaczowi do wyboru przegląd ekwiwalentów tłumaczeniowych. Jednakowoż, tradycyjne i cyfrowe narzędzia wspomagające są pomocne głównie przy rozwiązywaniu rutynowych problemów przekładów. Ich znaczna liczba odpowiada ilości problemów przekładu prawnego o charakterze dynamicznym, które nie mogą

być rozwiązane w sposób sztywny. Z tego powodu kreatywne tłumaczenie prawne pozostaje działalnością wykonywaną przez ludzi. Jednakże istniejąca mnogość podejść do identifikacji strategii translacyjnych mogłaby w przyszłości doprowadzić do stworzenia tezaurusu języka prawa dokumentującego całokształt prawnych aktów mowy, które tworzą dyskurs prawny. Tezaurus języka prawa, który mógłby stać się głównym narzędziem wspomagającym, nie wyklucza jednak rozwoju innych narzędzi mniejszego pokroju wspomagających przekład. Dlatego, pomimo zachodzących zmian, odpowiedzialny wybór strategii translatorskich i narzędzi wspomagających przekład pozostaje jedną z podstawowych umiejętności zawodowych tłumacza w jego codziennej pracy.

Strategies and tools in the theory of legal translation

The theory of legal translation has set up numerous requirements that must be considered when translator's practical work shall lead to satisfying results. More precisely, taking these theoretical requirements into consideration is necessary in order to provide a professional legal translation and not only a work that may satisfy some urgent daily needs. The translation theory that structures all professionally relevant activities starts with the most salient point in translation that is rooted in the concept of linguistic equivalence. The equivalent transfer of meaning between the source language and the target language is its fundamental postulate. Based on this fundamental postulate particular theories were developed in order to determine the conditions under which equivalent semantic transfer may take place in the translation process. Within the theory of legal translation they can be positioned on a scale between two extremes, ranging from the principal impossibility to reach equivalence to 'everything goes'-approaches (Galdia 2009, 226). Moderate theories of equivalence which give the tone in the contemporary translation debate expect from the translator the accomplishment of the semantic transfer along skopos-theoretical determinations (Matulewska 2013, 15). The skopos-theory developed by Reiss and Vermeer (1984) helps determine the equivalence in translation. It demands from the translator the determination of the goal that should be achieved with the envisaged translation (cf. Šarčević 2012, 190). Yet, the translation of legal texts includes not only terminological problems but also the necessity to comply with a multitude of instructions and guidelines which are issued by institutions that commission translations. Translators have to develop specific professional strategies in order to integrate such formal requirements into their working habits. Therefore, translating means making strategical choices about language use that are goal-oriented; translation is not a downright "derivative of language competence" (Ramos Prieto 2011, 18). Thus, theory steers practice. In fact, since the skopos-theoretical re-orientation of translation studies translators are not lost in translation any more as the translation process has been clearly characterized in epistemological terms. As a result of the epistemological clarification of the translation process the translation has been liberated from previously dominating 'traduttore-traditore'-myths and it became a rational linguistic practice that can be taught and learned. In the past, education regarding legal translation was limited to abstract methodology as no sufficient experience was there to set up translatorial strategies. Equally, translation tools were scarce or not available for many languages. Nowadays, legal translation as a professional practice develops more than ever in interrelation between translatorial strategies and the choice of translation tools.

Complexity of legal translation processes as networks of skills, strategies and tools

Despite all mentioned improvements, legal translation remains a professionally demanding task because it includes the necessity of strategic choices in an area where professional language is used. All too often it is still perceived as demanding mainly because it would require excellent knowledge of the translation languages that clearly is also the case. Uncompromisingly, therefore, also the legal translation theory requires from translators the most advanced level of proficiency in both translation languages. This requirement comes close to bilingual competence. Yet, bilingual competence is regularly of functional type; it is limited to certain circumstances of language use. Some models of legal translation rely therefore more realistically on continuous improvement and monitoring of translator's linguistic skills (Gortych 2009, 192). Evidently, proficiency in at least two languages is a tacit prerequisite for becoming a translator. Yet, translation is a profession that goes beyond this formal and undeniably also fundamental practical condition. Translatorial competences include the language proficiency as main logical requirement, as well as other pragmatic and technical skills. Essential in terms of linguistic pragmatics are the intercultural competence, the thematic competence, and last but not least, the translation service provision competence (Prieto Ramos 2011, 10) that enable the translator to cope with his/her task practically. Practically essential is also the awareness of auxiliary sources called sometimes "instrumental competence" or "information mining competence" (Prieto Ramos 2011, 13). It enables the translator to choose the appropriate sort of documents or tools that will facilitate the translation process. Translatorial practice is therefore best characterized as a process in which strategical decisions based on professional competences are taken towards the background of solid yet always vulnerable translator's linguistic proficiency. In addition to the linguistic requirement, legal knowledge is indispensable in order to exercise this profession in a responsible manner. In order to cope with this problem some researchers proposed to introduce a module comprising systematic legal training into the model of legal-linguistic translation (Prieto Ramos 2011, 12). Structural complexity of legal texts, especially of international conventions and longer statutory texts such as codes, excludes the possibility of translation that would be based solely on translator's linguistic proficiency and basic legal knowledge. In the search for textual continuity and cohesion in complex translation projects language proficiency and legal knowledge become effective when strategies are defined and developed and when translation tools are aptly selected. Legal translation is therefore an area where auxiliary tools play a decisive role because only relatively simple legal texts can be translated without recourse to traditional or on-line translation tools.

Multitude of translation tools

Different needs and different work conditions led to the emergence of a multitude of translation tools. Roughly speaking, every translation strategy requires specific translation tools. It is expedient to construe the notion of a 'translation tool' broadly and perceive all auxiliary (external) materials as translation tools. However, it also goes without saying that traditional and on-line databases that represent the legal language or at least the legal terminology usually dominate the translatorial practice. Professional discussion would be impoverished if the notion of translation tools would be reduced to

computer programmes and databases that are accessible on-line. The translatorial practice is complex and translatorial strategies may include different types of translation tools. A deceptive approach is sometimes adopted by experienced translators who cherish the conviction that they find more or less automatically the appropriate access to their texts. They will at best provide acceptable translations by chance. Meanwhile, professional practice cannot be based on coincidence. In fact, coincidental translations are particularly discouraged in institutional settings where textual stability guarantees the proper understanding of legal texts. Depending on the level of institutionalization of the translation process, the translator will have to consult more or less thoroughly institutional guidelines that authoritatively determine the translatorial usages in a particular institution. A perusal of auxiliary materials for legal translators, such as the NCSC Guide to Translation of Legal Materials (NCSC 2011), shows that the tendency towards standardization in the area of legal translation is growing. This holds true notwithstanding the disclaimers often used in such materials which correctly stress that the guidelines are not legally binding upon freelance translators. In practice, however, it is difficult to avoid compliance with the standards set in such documents. Freelance translators may also benefit from such guidelines because they often state best translation practices within an institution. In the institutional setting, the translation guidelines will determine most strategic decisions and the choice of appropriate translation tools. In fact, particular terminological databases and glossaries are used in practice mostly according to applicable institutional translation guidelines. Other frequently used materials include the information on domestic and foreign law involved in the translation, court decisions and scholarly writings about relevant legal issues as well as preparatory materials published by parliaments that explain the motives of the enacted legislation. In recent years, on-line translation tools gained increasing popularity and computer-assisted translation became more attractive especially in the area of full-text search and text editing. The electronic tools comprise spelling and grammar check programmes as well as terminology databanks. In institutions where considerable amount of legal texts is translated this sort of programmes aims at avoiding double work and helps identify analogous texts that can be used in further translation. Furthermore, digital databases such as the Talking Law Dictionary (2008) include pronunciation of legal terms by native speakers; this tool is particularly interesting for languages such as English where the pronunciation of legal terms may surprise even accomplished interpreters or translators. Electronic translation tools include also programmes for automated translation such as SYSTRAN used within the EU institutions. Generally, such programmes are less frequently used for legal translations as until now no programme enables a complete legal translation that would make human control of the target text obsolete. In fact, translation software facilitates the translation process with regard to terminological routine (Bogucki 2009, 19). Yet, classical translation problems remain unresolved in all approaches that aim at developing automated translation tools. With this in mind, Professor Heikki E.S. Mattila (2013, 22) concluded that "legal translation will remain an essentially human activity, at least in the near future." Further technological developments may be expected in this sector of industry as it can be assumed the interaction between humans and machines within the translation process will grow. Electronic translation tools are not only of practical importance. On-line translation tools and other IT innovations benefit from and

contribute to the development of legal informatics that enables new insights into the structure of law and its language. After all, the source and the target legal texts are embedded in a complex textual structure. Their high degree of intertextuality makes them properly understandable only towards the background of all types of translation tools that were named above.

Strategically dominated access to translation tools

What remains to be developed nowadays in the theory of legal translation is the explicit model of hitherto implicitly followed particular translatorial strategies in relation to all types of translation tools. Translation strategies that have to be construed as singular yet intertwined steps in the translation process are grounded in the main skopos-relevant translatorial choices. They are however also more complex than the basic goal determinations of the envisaged translation because they involve numerous particular strategies and also the regular recourse to external tools. The explicitly stated strategies within the translation process would enable the translator to be always perfectly aware of what part of the translation process (s)he is involved in and what other decisions and external tools are appropriate at this particular stage. The skopos-theory solves also the equivalence problem in the legal translation in that it introduces a dynamic skopos-determined equivalence between the legal source language and the legal target language (Galdia 2003b, 2). While in general translation studies the skopos-theoretical determinations were accommodated rather favourably, in the legal translation theory the skopos-based approach has not always been perceived as the last word on legal equivalence. The reason for this skeptical attitude is the dynamic solution that the skopos-theory has to offer instead of a more 'algorithmically' devised model that would be preferred by many legal translators. Legal translators who are duly concerned with the quality of their work used to look for tools that provide certainty. Both the general and the particular legal translation theories offer dynamic approaches that stress translator's responsibility for the strategic choice that functions as the starting point for professional translation. The dynamic equivalence of legal terms that belong to different legal systems is also the key to legal translation. The lack of any reliable systems of conceptual reference for legal translation makes this challenging strategy unavoidable. As far as systems of reference are concerned, L. Beaudoin (2002, 119) underlined the "absence of universal operational referents," while F. Prieto Ramos (2011, 12) stressed the "asymmetry between legal notions and structures in different legal traditions." To illustrate, when the translator of a chemical text has to translate 'water' into whatever other target language she will have no problems with it as chemistry provides her an unambiguous system of reference. The translator will, as a rule, find without unexpected obstacles the corresponding Chinese term 'shui' that is verifiable within the system of chemical elements as H_2O. Meanwhile, when the common law legal terms 'promissory estoppel' or 'domestic abuse' have to be translated into Chinese the result is less evident. The lack of any system of notional reference in micro- or macroperspective makes choices of translatorial strategies much more difficult than in the case of general translation or the translation of texts belonging to natural sciences. This concerns also the design and use of translation tools, both traditional and digital, that are expected by translators to be able to cope with problems of legal equivalence in a reliable way. One may doubt that static equivalents could be developed in the Chinese language that could

be authoritatively included in an English-Chinese on-line law dictionary as sole correct equivalents of the above named two English legal terms. This fact has consequences for the choice of translation strategies and professional tools for the accomplishment of legal translations because the certainty that many legal translators are looking for cannot be offered by the multiple existing legal translation tools. Legal language differs in its conceptual shape from one jurisdiction to another and this state of affairs is regular and understandable. It reflects the legal diversity all over the world. Legal diversity cannot be overcome but in a process of globalization of law that as of now remains a distant although realistic future.

Institutional guidelines and standardization

Translators who work in specialized international organizations or governmental agencies follow institutional guidelines that delimit their linguistic creativity. For instance, an international organization may commission a translator to translate a statute. This organization imposes in its guidelines for translators the numerical and semantical mirror image between the source and the target text. One may assume that in such a case the syntax of the target language may suffer to a certain extent under the instruction that the translator would have to apply. From the point of view of the commissioning institution such structural guidelines have advantages: they ensure reciprocal and mechanical reference between the source and the target text. Meanwhile, it is difficult to accept a translating strategy based on such guidelines from the linguistic point of view because it regularly leads to syntactic inaccuracies in the target language. However, the above example is instrumental in making plain the implications of translatorial decision making processes that take place under the requirements of the skopos-theory. Translatorial strategies and translation tools make sense only when they reflect the main postulates of this theory. In our case, it would be necessary to rethink and reformulate the guidelines imposed upon the translator. As mentioned above, such guidelines practically govern also institutionally non-organized legal translators. Within European institutions, the 'Interinstitutional Style Guide' (includes acronyms and abbreviations), the 'English Style Guide', the 'Joint Practical Guide of the European Parliament', that are accessible on-line, are examples of such documents. Such institutional guidelines will, for example, determine that in preambles to legal documents the term 'acknowledging' should be used instead of the possible 'affirming', 'adopted' instead of 'approved', 'accepts' instead of 'endorses', or 'expresses its appreciation' instead of 'expresses its thanks'. They may allow in certain cases to use legal terms in the language of their origin. The guidelines may furthermore impose upon translators of statutory texts the obligation to render the statutory provision in the target text with the number of phrases that corresponds exactly with the number of phrases in the source text. Often, plain language guidelines will be applicable, especially in English-speaking countries. In addition to international institutions, translation guidelines are particularly important in countries with several official languages such as Switzerland, Canada, Belgium or Finland. Under the conditions of official bi- or multilingualism the translation problems remain basically unchanged, the only modification being the disappearance of the problem of conceptual intersystemic incompatibility. The translator who works in a bi- or multilingual country acts within

one legal system that is expressed in different, often genetically unrelated languages. This legal system has to be rendered in several languages that have the same notional frame of reference. Many problems that are typical for bi- or multilingual countries can be avoided through parallel drafting in several languages, mostly bilingual drafting. Meanwhile, for some bilingual jurisdictions, such as Hong Kong, appropriate common law terminology must be developed to enable meaningful translations from English into Chinese (Wu 2003, 221, Cao 2005, 170). For Hong Kong, Zhao (2001, 3) stressed the necessity to avoid Anglicized Chinese in legal translations there. Furthermore, due to the number of translations in bi- or multilingual jurisdictions and the necessity to assure terminological coherence, legal translation will be inevitably exposed to institutionally determined guidelines. Particularly important for legal translators in such jurisdictions is the access to databases that are perceived as authoritative within bi- or multilingual legal systems. It is however important to bear in mind that all named types of guidelines are purely conventional and their scientific status varies. They aim at standardization of language use in the public sphere where originality and inventiveness are only reluctantly accepted. After all, statutory provisions must be understood and applied by persons other than their authors. The intersubjective element in text constitution imposes under such circumstances the choice of language use strategies that favour standardized expression.

Thesaurus of legal language and legal discourses

In order to facilitate the daily work of translators a thesaurus of legal discourses would be helpful. Such a universal translation tool would reflect the totality of the legal language, i.e. the legal speech acts that form the legal discourse (Galdia 2009, 137). Legal text types that determine legal discourses are well known. They also prefigure the translation strategies and the appropriate choice of tools for legal translation. Research into the structure of specialized discourses is already very advanced (cf. Gotti 2008) and could be used to form a thesaurus of legal discourses. In a pragmatically oriented approach to legal translation the multilingual thesaurus of legal discourses would be the main tool for any theoretical and practical translatorial activity in areas related to law. A thesaurus of this type would describe the legal discourse in a multidimensional perspective and canvass its lexis as well as the morpho-syntactic structure. It would furthermore include all textual conventions that are characteristic for the text types in question. Such a translation tool has not been accomplished yet. Instead, the available terminology databases display some characteristic features of the legal discourse, mostly in the indirect way, through the characterization of its lexical units. Available for numerous languages are law dictionaries, bi- or multilingual, legal glossaries and legal encyclopedias, in paper and in digital versions. Traditionally, the main criterion used for distinguishing dictionaries from encyclopedias is the difference made between ‘term’ and ‘concept’. It is generally maintained (Mattila 2013, 140) that dictionaries are developed around terms and that encyclopedias focus on concepts. In lexicographical practice both forms often intertwine so that legal dictionaries provide also some conceptual information and legal encyclopedias show terms in their contexts of use. T. Lundmark (1999, 2006) favours rather legal encyclopedias than bilingual law dictionaries due to unsolved and also largely unsolvable problems in translation between (at least partly) incompatible legal systems such as the common law and the civil law. As methods grounded on comparative law may bring only case oriented

approximation, translation equivalents that result from the application of these methods cannot be generalized or engender more rigidly formed equivalents. Therefore, a bilingual legal dictionary may appear as a theoretically unthinkable enterprise in the sense described by T. Lundmark. Heikki E.S. Mattila (2013, 23) referred in an analogous context to differences and similarities between law dictionaries and legal encyclopedias. He also showed the procedure that enables to add value to a legal encyclopedia through developing of indices that function as dictionary entries within the textual structure of legal encyclopedias such as the Encyclopaedia Iuridica Fennica (1994-1999). Nowadays, on-line translation tools widen considerably the traditional lexicographical notions. In the area of legal translation they contribute primarily to work rationalization in that they offer translators a survey of already existing translation alternatives. The main structural distinctive feature between the thesaurus of legal language or legal discourse and the digital translation tools is the circumstance that the thesaurus is integrative and descriptive. It does not promise the translator to provide automatically the terms that fit his/her immediate needs. Instead, it includes sufficient linguistic data that enable the conceptual analysis which leads the translator to the choice or to the creation of an appropriate legal term or legal text type. In so doing, it reflects another type of work rationalization than most digital translation tools which aim at approximation to automatic translation.

General and special dictionaries

Already existing general and special dictionaries shed light on lexicographical and lexicological problems that should be solved within the debate about the translation tools. In some broadly designed dictionaries linguistic terminology is introduced as belonging to the special register of a language (Galdia 2003a, 120). Such dictionaries are solidly founded in the view that an ambitious dictionary of a language has to cover different areas of use and include also professional language belonging to law, astronomy, or agriculture. Such a lexicographical approach is well protected against criticism. Meanwhile, general dictionaries provide the legal translator with terms such as ‘law’ or ‘crime’, ‘penal’ etc. These terms doubtless make part of the legal language. Yet professional translators are perfectly familiar with them. This notwithstanding, general dictionaries that include special registers are welcome because they witness to the reality of language use. Bilingual law dictionaries oscillate between complex dictionaries that cover the context of use and illustrate it with phraseological and other examples to hands-on glossaries and terminology lists (cf. Mattila 2012, 37). As far as bilingual law dictionaries are concerned, one might question - in the way of analogy to the problem of legal equivalence or as a result of it - the possibility to develop a law dictionary that provides stable equivalents. For instance, in a specific case concerning the German-English legal-linguistic transfer doubts have been expressed about such a lexicographical conception (Lundmark 1999). Other researchers, such as Gérard Cornu tried to respond to the theoretical challenge with reductionist means. Cornu isolated strictly legal terminology and determined circa 250-400 words as belonging to the area of exclusive use in legal contexts in the French language. He determined lexical units such as ‘emphytéose’, ‘préciput’, ‘protêt’, or ‘sursurestaire’ as exclusively legal vocabulary (Cornu 2005, 62-65). When applied upon the English language this method

would identify 'promissory estoppel' or 'habeas corpus' as belonging exclusively to the legal register as their use in other registers would be rather metaphorical or ironical. Other terms, such as 'defeasible' or 'partnership' that are used in non-legal contexts as well would not count as distinctive elements of the legal English. In contrast to the restrictive semantical approaches, Jaakko Husa (2007, 311-370) created a comprehensive corpus of legally relevant vocabulary in the legal Greek. It includes among others also the Greek equivalents of English terms such as 'mother-in-law', 'buyer', 'sister' or 'inappropriate'. As a result of Husa's attempt to define the legal-linguistic vocabulary that would be relevant for a legal dictionary, it became apparent that whatever term may become relevant for law. The context of use of a term finally determines whether a term is relevant for law. This context of use cannot be predetermined because linguistic communication is a dynamic social process. In theoretical terms, only the legal thesaurus in the sense proposed above can cope with such a definition of legal language because it portrays the totality of the legal language in the legal discourse. Meanwhile, semantically restrictive approaches are popular among legal translators as they reflect "words that are difficult to grasp or to remember." In spite of this understandable preference, the semantically restrictive approaches remain poorly founded in the linguistic theory because they underestimate the complexity of the legal language. Practically, however, the translator's problem is that most terms belonging to the legal language or potentially belonging to it can be assumed as being mastered by a professional. It can therefore appear as obsolete to state them in translation tools that are designed for practical purposes. The mentioned thesaurus of the legal language that is unavoidable for any solid legal-linguistic research may therefore prove to be cumbersome in use for translators who require much less information. However, the conflict between theory and practice is apparent because the theory acknowledges the multiplicity of translatorial strategies and the multitude of corresponding translation tools. The problem is solvable in that the translator makes the appropriate choice between the practicable strategies and the available translation tools.

Multilingual Terminology Databases

In recent years on-line databases of legal terminology (term banks) emerged as a response to practical criticism on printed legal dictionaries. Their almost unlimited storage capacities and limited costs make them look like an attractive alternative to dictionaries published on paper. For instance, the United Nations made accessible on-line its UNTERM (United Nations Multilingual Terminology Database) that was primarily designed for its Secretariat and that previously could be accessed via intranet only. It includes both terminology and nomenclature necessary for the standardization of multilingual practice in UN-related documents. The International Monetary Fund set up a multilingual directory including IMF-relevant terminology without definitions. The International Labour Organization made accessible two databases, ILO Thesaurus and ILOTERM covering the area of social and labour law. Several terminology databases developed for European institutions are publicly accessible: IATE (Inter-Active Terminology for Europe) is the European Union's main terminology base within the Translation Centre for the Bodies of the European Union. Furthermore, one can mention the EUROVOC Thesaurus, the JRC-Acquis Multilingual Parallel Corpus within the Joint Research Center, the TAIEX-CCVista-translation database, and the EuroTermBank,

a consolidated interface for EU terminology developed mainly for the needs of new EU member states. Multiple bilingual terminological databases exist in the EU members states for their particular languages (Berger 2009). Among valuable initiatives, one may also mention the Japanese-English on-line database Legal Terms Standard Dictionary (cf. Working Group - Cabinet Secretariat 2006). Meanwhile, no terminology database is perfect; for instance UNTERM's Spanish language terminology corpus has been criticized as largely following the linguistic usages of Spain and therefore being less helpful for translators in Latin America. Practically oriented guides for translators such as the NSCS Guide to Translations of Legal Materials (2011, 14) recommend therefore the use of on-line terminology databases as a starting point for translatorial searches. The results obtained should be further verified and aligned with the specific terminology of the translated text; translators must be aware of that on-line translation tools "may compromise meaning" as stated in the NSCS guide (2011, 14).

On-line databases providing legal information

Also legal information is available on-line, and it is often proposed by non-academic bodies. Many governments and supreme courts provide basic yet reliable legal information on-line. For instance, Finnish law can by consulted at finlex.fi. For France, the database legifrance.gouv.fr and for Monaco the legimonaco.gouv.mc allow access to the domestic legislation of these countries and sometimes also the translation of legal acts into English. In the institutions of the European Union, the glossary 'EUROPA: Summaries of EU Legislation' explains EU legal terms. The database 'Eurojargon' and many subject glossaries, e.g. for agriculture or taxation and customs in EU law cover particular areas of the EU legislation and its diverse policies. The EU-website N-lex.europa.eu which defines itself as a "common gateway to national law" of the EU countries provides updated texts of domestic legislation of EU countries. The site Thomas.loc.gov informs about the law of the USA. Furthermore, the legal systems of the USA, Canada and Mexico are covered by lawsource.com that includes links to databases that provide information about the state law of fifty US states. Legislation relevant for international taxation is accessible under tax-news.com. Some legal databases include quotations from legal literature and legal definitions in (printed) dictionaries: 1. the original legal term; 2. its translation; 3. definition(s); 4. explanatory notes; 5. translation of the definition(s); 6. translation of explanatory notes (cf. Working Group, 2001, 31). This very general structure is rather conventional and it allows for creativeness within a formally defined pattern. Filling this pattern with appropriate content is methodologically less consensual. The digital technology frees lexicographers from the constraints of paper-era dictionaries. Meanwhile, it also puts in jeopardy many digital lexicographical undertakings that overestimate this newly acquired liberty and aim at unlimited storage of data. In brief, the problem of on-line databases is that they may provide too much data to be efficient; especially unreflected accumulation of text samples has to be avoided. The methodology that would address this issue is urgently needed. Otherwise digital translation tools will provide more and more text samples that are added to the explanation of legal terms. The practical problem with this type of information is that jurists who work as legal translators will be aware of the information and non-jurists will regularly have problems with understanding it because the use of

such databases requires at least basic legal education. Meanwhile, most legal databases do not solve translation problems. For instance, when the British legal term 'devolution issues' has to be translated, the translator will find in the legal database only the explanation of this specific British constitutional term. As a rule, foreign language equivalents will not be suggested in a legal database. Methodology would have to be developed that would facilitate the design of legal information for non-jurists and reduce the amount of formally correct yet hermetically closed legal information based on text samples and definitions. The analysis of legal information in the age of technological change is a relatively new area of legal research (Berring 2000, 1675). This is, however, rather a problem to be solved in legal informatics than in the theory of legal translation.

Methodological essentials for on-line databases

Lexicological and lexicographical studies have a critical impact upon the development of a methodology for advanced terminological on-line databases. In fact, linguistic corpora are not only "repositories of authentic language data" as stressed by Onesti (2011, 38). They are also working tools for professionals who act under economical and time constraints. Technically unlimited possibilities of storage in term banks allow for quoting of text samples from specialized literature that regularly are not understandable for non-jurists. As a result, the term banks provide legal information to those who master the subject and do not need it and leave behind all those who need information. Equally, overbroad linguistic databanks include language that is well known to professional translators. Contemporary corpus-analysis projects such as the Italian Corpus Jus Jurium that stress methodological aspects focus on conceptions that are representative and contemporary (Onesti 2011, 39). Even a monolingual corpus such as corpora.unito.it represents a valuable support for translators who deal with a query concerning the Italian legal language. This database, like most others that can be perceived as methodologically advanced, is not limited to terms; it also reflects the structure of legal documents and juridical texts. It comes close to the idea of a legal thesaurus representing the legal discourse that has been mentioned in one of the above paragraphs. The pragmatic approach to legal translation stresses the necessity to broaden the purely conceptual focus of terminological or lexicological studies. Its expanded focus covers legal-linguistic speech acts as a basis for a legal translation concept that is integrated in the structure of the legal discourse. In the light of a pragmatically oriented theory of legal translation not only the legal terminology is to be transferred in the quest for legal equivalence. Every legally relevant utterance that is to be translated makes part of broader meaningful units that constitute legal discourses. Therefore, legal equivalence is achieved in translation when elements of the legal discourses, i.e. its main legal speech acts, have been adequately transferred. Furthermore, linguistically oriented databases should not try to compete with 'juridical' databases that provide primarily legal information (cf. Onesti 2011, 38). Next, terminological databases have to be updated regularly in order to reflect contemporary language use. Legal language tends towards conservatism and changes slower than the non-specialized registers. Meanwhile, tolerance towards linguistic archaisms finds its limits on the level of understandability. When legal language becomes unintelligible, it must be adapted to general transformations that occur in the ordinary language.

Databases that also include the diachronic perspective upon language use are therefore valuable for general linguists and philologists. They are less useful for translators who usually are interested in the synchronic aspects of language use.

Ambiguities of the Digital Age

The technological evolution within the sector of translation tools is a process that includes many ambiguities and contradictions. As a result of the technological evolution, the formal difference that is made here between traditional and digital translation tools may disappear in the course of digital transformation of auxiliary materials for translators. This act of disappearance is of ambiguous nature as the theoretically identified problems of legal translation that are rooted in the incompatibility of terms and concepts belonging to different legal systems cannot be solved definitely by neither of them. Also terminological confusion governs this multitude of digital translation tools that call themselves 'dictionaries' while being rather 'glossaries' or 'term lists'. Databases of different sort are accessible on the internet that may encompass between several dozens and several hundred thousand entries. Their reliability is another main concern for translators. The reliability is difficult to test by translators who are not jurists because convincing and coherent explanation of a legal term that may be traced in a database does not necessarily guarantee that the information is correct. Regularly, the legal translator will not have the necessary legal knowledge to assess the quality of information provided on-line. Interestingly, the EU database IATE includes degrees of reliability for the terms proposed, for example the grade 4 means 'very reliable' on its reliability scale. Meanwhile, these degrees of reliability refer to terms in specific contexts and are therefore of relative value. Some of existing on-line databases are well-intentioned, yet this is not a guarantee for reliability either. Others aim at pure commercial promotion of financial investment products or of attorneys' services. Reliability upon this sort of data bases is problematic. Another problem is circularity in information design. The databases refer the translator to already existing texts; they do not help him/her when a new term has to be translated. Notwithstanding their impressive volume they cannot include terms 'of first impression' in a jurisdiction that are a real problem for translators. Moreover, many of the databases are ephemeral; they cannot be used as a stable point of reference by translators. Finally, also the educational character of this sort of material for translators remains problematic. Sporadic consultation of an on-line database or consultation of several databases may lead to the acceptable solution of a particular translation problem but it may also neglect the needs of a translator who tries to improve own skills. Frequently, time-consuming on-line researches lack any further going cognitive and pedagogical effects while the systematic work with a printed dictionary may lead to strengthening translator's overall terminological competence through constant study of one source of reference. Incidentally, as a subcultural phenomenon, 'crowd translation' emerged in social networks where translators ask for assistance of other translators in their search for 'right words'. Future research may show the consequences of such experiments. Thus, the digital age confronted translators with a new problem that is the number of available information sources. Use of selective strategies with respect to the digitally available information may reduce the

complexity of work with translation tools. First, professional translators should rather use terminological databases that may be perceived as authoritative via their connection to competent institutions. Second, translators should regularly monitor the development of interesting databases in order to be able to take the right decision when the use of such databases becomes acute for them. Under conditions imposed by the digital age the translator is – like his/her predecessors in times of acute scarcity of auxiliary materials – again referred back to own skills and competences. These skills and competences will help the translator to strike the right balance between the available multitude of sources and his/her real needs.

Translator's search strategies

The multitude of available translation tools forces the translator to select some tools that will prove optimal for his/her work. The translator's professional competence includes the ability to develop a strategy for the efficient search of equivalents to problematic terms (cf. Mattila 2002, 562). Such selection strategies include several constellations. They require also the awareness that a translation problem may exist. A translator confronted with the Italian term 'beni' or the French term 'biens' may simply translate them into English as 'goods'. Better still is to hold on and examine the possibility of a misleading term – a 'faux ami' – as it is frequently the case with general terms (Van Drooghenbroeck 2000, 437). The problem awareness is the controlling strategy in such cases. It is possible to indicate this sort of problems in law dictionaries. Meanwhile, the risk of harmful associations is rarely taken into account by authors of law dictionaries. When in a translation from Chinese into German the translator has to find the equivalent for the Chinese term 'tíngshěn' a dictionary (Köbler 2002, 167, 354) proposes 'Tagsatzung', a term used in Austria and Switzerland yet not in Germany, without marking this specific regional usage. Should the translation based on the equivalent term suggested in the dictionary be used for purposes of a reader in Germany, this reader will not understand it. Use of a legal dictionary will therefore never lead to a mechanistic and correct translation. Likewise, it cannot discharge the translator from terminologically critical analyses. The translator confronted with legal terms that cause problems, i.e. such terms that display potential meaning alternatives in the target language, may also engage in chain translation and use for instance dictionaries of languages related to the target language (Mattila 2002, 562). In a specific case, no equivalence may exist in the Finnish legal language for a French legal term, yet it may exist for a German term. The translator may examine the analogous use of the equivalent coined for the German term. Other legal languages, especially those close to the target language, may be used as a source of inspiration for the translator confronted with an unsolved terminological problem. Many on-line databases favour such searches. Another strategy includes the searches via juridical or doctrinal systematic of legal matters. This strategy requires the competence to understand texts written for jurists. It also includes the use of a simple tool that is a legal textbook. While translating a text on insolvency from Dutch into Finnish the translator could use in parallel a law textbook, an introduction into the Finnish insolvency law. Many translating problems can be solved by parallel reading of such textbooks without time-consuming researches in dictionaries, general and specialized, that due to their unavoidable disconnection from the contexts of use regularly prove more disenchanting than helpful. Most necessary

lexical units can be easily reconstructed within their appropriate semantic fields with the help of this strategy. What is more, the translator who chooses this strategy also increases his/her competence in the area of law, which is only partly the case when a dictionary is consulted. Finally, available translation tools are developed for anonymous users; they cannot be tailored down to reflect specific problems which an individual translator may encounter. For terminological and other linguistic problems the translator should therefore develop a personal database where (s)he would include useful text samples and all problematical terms, expressions, or legal definitions that cause problems. This personal database functions best when it is founded on the associative principle, i.e. when it follows individual associations of terms within the semantic field; it can therefore neglect intersubjective criteria that are typical for dictionaries. While working on such a database the translator should not try to develop a scientific work but rather focus upon subjective problems that reiterate in his/her daily work. Some of her subjective recurrent problems might even be overcome through the work on own databases. Furthermore, work with translation tools has a short-term aim, i.e. solving of a burning translation problem. It is more efficient when also long-term cognitive interests that expand translator's overall professional competences are taken into consideration. The most efficient search strategy that resorts to translation tools unites both short- and long-term goals in the daily translation practice.

Translator's lexicological dilemmas

Available translation tools, traditional and digital, tend towards solving problems of translatorial routine. Yet, in many complicated professional constellations translators are still left alone. Many problems can be solved by using the general translatorial competence that cannot be assisted by existing translation tools. Individual translators will regularly be confronted with lexicological problems, especially in situations where a legal term of the source language does not exist in the target language. When a term such as 'third party spoliation of evidence'shall be translated for the first time it is not sufficient to know that 'evidence destruction' is meant by it. Translators need next to understanding of law also the appropriate words. This standard situation worsens when the source language term is not listed in any available lexicographical resource databases. Such a 'term of first impression' – i.e. a term for which no lexicographical precedent exists – is a challenge to the translator's professional skills. Translators can render such a term with a neologism, they can add an explanatory note to the newly coined word or expression. Also the original term can be added in the explanatory note (Mattila 2002, 564). Yet, translators should not overburden the translation with explanations in footnotes. After all, their task is to translate and not to comment; numerous notes in a translation impede its readability. Occasionally, they may even expose the translator to suspicion by less experienced clients who might assume that the translator is not competent enough and is looking for excuse in form of defensive comments about his/her translation. Another dilemma emerges when the translator is able to trace in auxiliary materials a previously used equivalent that does not convince him/her. Shall (s)he use a term because it has already been introduced by someone into the legal language, even if only marginally, in a situation when (s)he has a better proposal? Likewise, general translatorial competence enables the translator to create

a corresponding French term, e.g. 'assignation' to a common law term such as 'subpoena'. Yet, will this new coinage be generally accepted? The answer to such dilemmas is searched in institutionalized standardization processes. Public institutions provide a remedy in form of standardization of terminological coinage and of terminology use, yet they neglect the 'better term-problem'. In law, like cases should be solved alike. In the legal translation, like words should be used in like contexts. Usually institutional administrative procedures that regulate the use of terms prevail over individual creativeness. As a result, a deficient yet standardized terminological coinage will have to be used instead of a better yet non-standardized alternative. This disadvantage can be remedied by regular updating of databases by teams of experts. Ultimately, legal translation is not limited to translating of statutory provisions or court decisions. Particularly demanding is the translation of scholarly legal texts because they may deal with doctrinal problems that were previously unexpressed in the target language. Frequently, especially in the area of comparative law, they will deal with terms that are not part of the law in force in a given jurisdiction. For instance, the translation of articles dealing with 'punitive damages' into German is cumbersome because the German civil law does not know any 'punitive damages' as a legal concept and therefore also lacks a term to express them. The translator can easily coin a neologism such as 'Strafschadensersatz'. Meanwhile, this new term may be unreadable, i.e. not understandable for German readers who are exposed to it for the first time within their horizon limited by their domestic law. Acceptance of new term coinages and sustainability of their use are problems connected to this particular case.

Creative translation into lesser used languages

Legal translation into lesser used languages is particularly intricate. The translator cannot rely on professional evaluation and liability standards because such standards do not exist for lesser used target languages due to the lack of systematic involvement in this sort of activity.Translation tools for lesser used languages, such as e.g. Mari, Komi, or Maori are rare. Usually only general dictionaries are available for such languages. What is more, coherent legal terminology is frequently missing in these languages. Therefore, translators working with these languages should be foremost interested in language policy issues and they should try to trace guidelines which provide for the direction in which the legal terminology of the target language should be developed. In such linguistic policy guidelines – should they exist for the given language - mostly borrowings from the source language or direct calques will be proposed to translators as basic translation techniques. When, for instance in Nenets (a language spoken in the North of the Russian Federation) there is no domestic term for 'state' the translator will use the Russian word 'государство' ('gosudarstvo') unchanged in the Nenets target text due to the generally accepted translation strategy for Nenets-Russian translations (cf. Nenyang 2001, 37). Translation avoidance may also be perceived as an appropriate strategy when e.g. nomenclature is concerned and equivalents in the target language cannot be determined. Furthermore, the question of understandability of individually coined legal terminology has to be thoroughly considered by the translator in order to avoid falling into the hermeneutic trap with the result that the target language text will remain a formal translation, i.e. a text that is understandable only under recourse to the source text. Therefore, aspects of intertextuality and terminological coherence must be

taken into account by translators who work with languages with less stable legal terminology or where no legal language actually exists, or where it is limited to constitutional texts and the like. Linguistic policy guidelines remain the most important translation tool in such cases.

Conclusions

Professional legal translation is a search for the legal-linguistic equivalence towards the background of translation strategies that steer the choices within the translation process. Due to the complexity of the legal translation process translatorial strategies include also the choice of appropriate translation tools. Unquestionably, knowledge of the relevant languages is the most fundamental 'translation tool', yet due to the complexity of texts that can be classified as 'legal texts' the use of multiple traditional and digital translation tools is unavoidable even for seasoned translators. As a result of this complex professional setting, expanding one's knowledge of the relevant legal languages and the reflection upon specialized language use remain basic tasks for the professional training that never stops. In institutional settings, many of the issues inherent in the process of legal translation are anticipated and determined in translation guidelines. Additionally, legal translators have to incorporate into their own working habits the competence to deal with translation tools. Their choice depends on the goals defined by the translator in a particular translation process. Some translators may wish to avoid complex on-line translation tools and use the traditional law dictionaries. Others may prefer the contemporary digital technology. Some translators may wish to shift their focus of attention from bilingual law dictionaries as main tools for the translatorial practice to other materials that may suit their goals better, such as relevant law textbooks or self-developed thematical databases. Institutionally independent legal translators who enjoy the freedom of choice of translatorial strategies may opt for different approaches that do not contradict the final result. Meanwhile, the use of broadly designed terminological databases is often burdensome due to pressing time limits in the activity of translators. Translation is after all primarily a service and not academic research and therefore the use of some academically ambitious and theoretically well-justified databases may prove less useful for legal translators. Computer-assisted translation provides tools that increase the overall linguistic quality of the final translation, mainly through facilitating of full-text search and final editing of target language texts. Yet the digital tools cannot solve the most complex translation problems that are rooted in the incompatibility of many legal concepts. The multitude of translation tools brought by the digital technology is generally beneficial because it enables the shift from lexis dominated traditional translation tools towards broader thesauruses of legal discourse. It allows a qualitative evolution of translation tools that would go beyond contemporary tendencies towards quantitative increase of available legal-linguistic information. Yet, digital technology causes also problems to translators due to the lack of transparency about authoritativeness and reliability of accumulated data. In sum, professionalism in legal translation means also adequate choice of translation strategies and competent use of translation tools. This choice can be perceived as responsible and efficient when theoretical requirements of the legal translation theory are integrated into translators' daily professional practice.

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WHY LEGAL GRAMMARS ARE NOT, BUT SHOULD BE, WRITTEN ON GENRE-BASED CORPORA?

Review of *The Grammatical Structure of Legal English* by Bázlik, Ambrus and Bęcławski.

Bázlik, Miroslav, Patrik Ambrus and Mariusz Bęcławski (2010), *The Grammatical Structure of Legal English*. Warszawa: Translegis, pp. 248, ISBN 978-83-85430-96-4.

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The Grammatical Structure of Legal English is an attempt at describing the grammar of legal English in a systematic way. Its structure, style and terminology mirror typical pre-corpus era descriptive grammars, such as Quirk *et al*. (1985), on a much more modest scale. As such, it is an ambitious project since, as the authors stress, there is no similar book that presents the grammar of legal English in one place and is readily available to a broad audience. Although legal English is relatively well-researched both as regards its grammatical and conceptual structure, this research is scattered across many sources. Secondly, the authors observe that most publications on legal English deal with its terminological rather than grammatical features (2010, 21). Therefore, the book focuses on structural aspects of legal English.

It is clear that the authors have an impressive knowledge of legal English; however, the book disappoints with small errors – namely, careless Polish adaptation of the book, an incomplete bibliography, lack of rigour and the perfunctory treatment of some key generic aspects of legal English, as well as methodological issues in research design.

As already mentioned, the structure in general follows the format of a descriptive grammar, starting with lexis, moving to word classes, clause elements and ending with sentence types. Chapter 2, entitled *Lexical features of legal English vocabulary*, discusses word formation processes, such as derivation, clipping, blending, as well as other features, e.g. loanwords, collocations and abbreviations. The next section, which covers nearly half of the book, is Chapter 5, entitled *Word classes*. It explores parts of speech but also grammatical categories, such as tense, aspect, mood, subjunctive, causatives, passive voice and non-finite verb forms. The third major section is Chapter 7, *Types of sentences*, which is in fact devoted mainly to coordination at phrase level, addressing the coordination of clauses in 9 lines only. Compared to it, other types of clauses, such as subordinate clauses and non-finite clauses, are discussed perfunctorily, even though they seem to be more prominent in legal language. It applies, for example, to the conditional clauses (if-then), which realise the fundamental mental scenario of reasoning, prestructuring legal experts' knowledge (cf. Kjær 2000). Other genre-specific

features of legal language which require a more exhaustive treatment include nominalisations (6 lines only) (cf. Garner 1995 or Gotti 2005), deontic modals (e.g. the distinction between the deontic and performative *shall*, cf. Garzone 2001) and structural aspects of multi-word terms. Despite the authors' focus on grammatical features rather than terminology, a grammar of legal English may not be complete without discussing multi-word terms, which comprise a substantial portion of legal language and are a source of difficulty and ambiguity in translation, mainly due to the preference of English for synthetic compact constructions which require explicitation in languages that prefer analytical structures (e.g. Polish). The authors occasionally discuss some aspects of terms, e.g. alliteration (hardly ever a translation problem) or etymology, but do not deal with their structural and textual aspects, which is a curious omission.

The book is advertised by the publisher on its website as a basic textbook for legal translators, lawyers and novice sworn translators that is "an introduction into the grammatical structure of the English language of the law with systematic description of linguistic and translation phenomena". The authors themselves describe their book as "designed to help linguists involved in translating legal text and lawyers who want to learn and read and interpret English legal texts" (2010, 13). Does the book live up to these promises? In my opinion the book is best suited for novice translators who are not familiar with legal texts. In general, the book describes typical structures and is lavishly illustrated with examples. It contains subsections which may help novice translators deal with the notoriously convoluted syntax of legal English. These subsections include split infinitives and a structural analysis of a complex sentence (2010, 133-135), although the authors could have accounted for dangling complements, such as *an auditor for the time being of the company*, as well. The discussion of structural aspects is occasionally (rather than systematically) supplemented with basic translation advice; for example, how to deal with 'coordinated structures' (2010, 157), which are better known in the literature as litanies of synonyms or doublets/triplets. While the authors tend to enlist typical structural combinations with examples, experienced readers would appreciate a more in-depth discussion of both translation problems and functional aspects of constructions, that is, how they affect the meaning, what the rationale is behind their use (e.g. the passive voice), and how the constructions and their frequency differ across legal genres and varieties of legal English.

Another shortcoming is lack of clarity and rigour in how the book is organised into sections and subsections. For example, despite there being separate chapters on grammar and syntax, types of sentences are discussed in another chapter together with phrases ('coordination') while some grammatical aspects (tense, passive voice) are discussed under word classes. An appendix contains a short section entitled 'Long sentences', which clearly belongs to one of the earlier chapters. Similarly, despite a separate chapter on morphology, affixes (subsection 'Nouns ending in *–er/-or* and *–ee*') and derivation are discussed under lexical features. It should also be noted that the book is written in a rather hermetic language packed with linguistic terminology, such as exophoric/cataphoric reference, adjuncts/subjuncts, and substantivized, which may be an obstacle to some readers (do lawyers really need to know it to be able to interpret legal texts?).

In respect of the bibliography, a project aiming at describing the grammar of legal English should acknowledge and review major sources and provide references for

further reading. Yet this is not the case: the bibliography relies heavily on Czech, Slovak and Polish authors and fails to mention seminal English-language sources, such as Crystal and Davy (1969), Hiltunen (1990), Garner (1995), Alcaraz and Hughes (2002), Mattila (2006), to mention a few.

The book ends with a handful of exercises, some of which are accompanied with a key and therefore are well-suited for self-study. The exercises are mainly terminological/lexical (provide a synonym, antonym, collocation; add a negative prefix), intertwined with quite a few theoretically-oriented tasks typical of academic textbooks (identify determiners and comment on their use, comment on the peculiarities of word order, point out some characteristic features of legal English). There are also rather unusual translation exercises, where readers are asked to translate Polish sentences into English; however, the Polish sentences seem to be a back translation – not always correct and painfully literal – of the English sentences provided in the key. The pedagogical rationale behind using back translation in this case is unclear to me. The back-translated sentences are stylistically unnatural and terminologically flawed; and as such, they pose a danger that novice translators, for whom this book seems to be best suited, may mistake them for correct legal Polish. For example, the reader is asked to translate:

- Wszyscy więźniowie mogą zostać zwolnieni za kaucją jeśli nie popełnili przestępstwa zagrożonego karą śmierci, gdy jest na to dowód pewny.

and may consult the key to find:

- All prisoners shall be bailable unless for capital offences when the proof is evident.

The main problem with the Polish sentence is that it would be considered an unacceptable legal translation as it uses non-legal variants of terms, e.g. *zwolnienie za kaucją* should be *zwolnienie za poręczeniem majątkowym* (although *bail* has a slightly different meaning in English criminal law), *więźniowie* should be *aresztowani, osadzeni* (and a singular form would be more natural in Polish); *gdy jest na to dowód pewny* versus *zebrane dowody wskazują na duże prawdopodobieństwo, że oskarżony popełnił przestępstwo* (which is a quote from the Polish Code of Criminal Procedure, Article 249 (1), and can be adopted as needed). This sentence also contains a punctuation error, i.e. a missing obligatory comma before *jeśli*, which is perhaps a minor error (although repeated), but is representative of a lack of attention to detail in the Polish adaptation of the book. Non-legal variants may also be identified in *Ta umowa została sporządzona w 5 kopiach* instead of *Umowa została sporządzona w 5 egzemplarzach* (as in a similar back translation exercise on page 237) and *zmieniona przez umowę na piśmie*, which should read *zmieniona pisemnym aneksem.* Another mistranslated example is *Nie można nikogo zmuszać do świadczenia przeciwko samemu sobie* (key: *No one shall be compelled to give evidence against himself*), where after a moment's thought one may associate 'świadczenie', untypical in this context, with what is known in Polish criminal law as *prawo do odmowy złożenia zeznań* or more specifically *prawo do uchylenia się od odpowiedzi na pytanie, jeżeli narażałaby ona na odpowiedzialność za przestępstwo*.

Apart from the back translations, terminological errors may be found throughout the book where English examples are occasionally (without a clear pattern) accompanied by Polish translation. Below are a few fairly basic errors found in the book:

- *personal property* translated as *własność osobista* instead of *majątek ruchomy* (UK English);
- *claimant* translated as *roszczący sobie prawo* although it is a standard UK term for *powód*;
- *appellant* translated as *odwołujący się* instead of *skarżący*;
- *suspended sentence* translated colloquially as *wyrok z zawieszeniem* instead of the legal term *warunkowe zawieszenie wykonania kary*.

Another type of error connected with the Polish adaptation concerns editing units in EU legal instruments, which are partly inconsistent with those required in the guidelines for EU translators. I refer in particular to *indent*, which in legal Polish is not *myślnik* but *tiret*. This error is likely to have been caused by relying on the old version of the EU style guide, *Wskazówki dla tłumaczy aktów prawnych Wspólnot Europejskich UKIE 2001* (as listed in the bibliography) instead of the latest version of *Vademecum tłumacza*, the authority for EU translators, published by the Directorate General for Translation in 2012.

However, my major reservation concerns methodological aspects of corpus design. The authors emphasise that they make use of "various materials, with a special focus on criminal law" (2000, 13). Although the publisher promises that the book is "illustrated with examples from different English-language jurisdictions", the authors themselves admit that most of the material comes from American sources, to reveal next that wherever possible they provide examples from a single legal instrument, *The Texas Code of Criminal Procedure*, which functions as a corpus for statistical calculations (2010, 13). A corpus comprising one text is methodologically flawed as regards its representativeness, balance and comparability, which are critical criteria of corpus design and reliable statistics. The Texas Code is not representative of legal English either in terms of jurisdiction (a single state statute cannot be a good representative even of US legal English) or in terms of genres (the language of legislation, a constitutive genre, is unique and differs significantly from the language of lower ranking genres, such as contracts or pleadings). It is a well-known claim in corpus linguistics that generalisations made about language are representative of the language sample researched, not of the entire language; therefore, statistical results are in fact representative of the language of Texas criminal procedure and not of legal English in general. The choice of a single legal instrument for corpus analysis does raise an eyebrow given that it would not be time-consuming to compose a small representative and balanced corpus of texts across jurisdictions and/or genres or to use one of the legal corpora compiled by other researchers (cf. Goźdź-Roszkowski 2011). Recent research shows significant variation of legal language across genres and a number of authors emphasise the need to write legal grammars with the use of genre-based corpora. Take for example Bhatia *et al*., who, even though they are in general sceptical about the

applicability of corpora to researching legal language, argue that developing grammars of legal genres without corpora is 'tedious, inaccurate and incomplete' (2004, 212).

Another methodological issue is the comparative corpus which serves as reference for statistics. The comparative corpus is not discussed properly; we first learn that it is 'a comparable sample of literary text' (2010, 49) to find out on page 86 that it is Helen Fielding's *Bridget Jones: The Edge of Reason.* The rationale for comparing US legislative language to a single UK popular novel, which is not an actual instance of language use and is inevitably marked by the author's idiosyncratic style, is not given. It is also unclear why legislative language is compared to literary language rather than to everyday or specialised English. It would be statistically accurate and valid to use one of the large English-language corpora, i.e. the Corpus of Contemporary American English (400+ million words).

Thirdly, there are also some inconsistencies in statistical measures and the authors provide occurrences per text (p. 87) or per page (p. 61).

To sum up, *The Grammatical Structure of Legal English* may be a good reference book for novice translators. However, to improve its value, the authors may consider eliminating some of the shortcomings described above and to extend the discussion of the grammar of legal English in various directions, and in particular to account for how grammar differs qualitatively and quantitatively across legal genres and jurisdictions.

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Reviews

Vijay K. Bhatia, Christopher N. CANDLIN and Paola Evangelisti ALLORI (eds),

LANGUAGE, CULTURE AND THE LAW. THE FORMULATION OF LEGAL CONCEPTS ACROSS SYSTEMS AND CULTURES.

Linguistic Insights 64. Studies in Language and Communication. Peter Lang: Bern, 2008, ISBN 978-3-03911-470-2, 342 pages.

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The book consists of three parts in which the authors focus on (i) International Arbitration and Trade Law, (ii) European Legal and Institutional Language and (iii) Translating Legal Discourse. Many papers of the volume are inspired by the project *generic Integrity in Legislative Discourse in Multilingual and Multicultural Context* (No. 9040474) and by the project *Interculturality in Domain-specific English* (No. 2002/104353), which involved mostly Italian research units. The main issue of the above projects was the adjustment of English language and legal culture to legal concepts, which differ from Common Law concept. The general aim of the volume is to present "a wide range of issues within different international legal and juridical contexts", which are caused by various approaches applied in legal discourse researches.

The first part of the volume is devoted to the influence of culture on the legal discourse existing in international arbitration and trade. The fourth paper of this section is Maurizio Gotti's text *The Formulation of Legal Concepts in Arbitration Normative Texts in a Multilingual, Multicultural Context*. According to the author the main trend, which affects international trade law is globalisation, which should be conducive to greater harmonisation in legislation and procedures. Gotti also emphasises that despite many efforts, even the EU legislative framework, does not serve the purpose of ensuring uniform legislation drafting at a supranational level. International law needs a common linguistics instrument to express universal trade legal rules. This instrument is primarily the English language but as the author emphasises many technical terms are culture-specific and English legal terms are not appropriate in the drafting of normative acts in many legal systems. Discrepancies seen in various normative texts originating from different countries and their legal systems are very often caused by non -native users of English even though this language is considered the modern *lingua franca* and many international legal documents are drafted in English, i.e. contracts. These statements are illustrated by some investigations conducted by Fletcher, Slamasi and Seymour (cf. 2002).

General introductory remarks precede Gotti's analysis, the intention of which is to investigate the ways in which statues and regulations are formulated in various environments: cultural, linguistic and legal to express parallel legal concepts. The author gives examples, which are drawn from international arbitration legislation and are particularly articles 806-840 of the Code of Civil Procedure in comparison to the Model Law on International Commercial Arbitration (ML) and the UNCITRAL Arbitration Rules (UAR), which were issued by the United Nations. The analysis is performed on the basis of three criteria: (i) drafting conventions, including textual schematisation and clarity of expression, (ii) linguistic constraints and (iii) socio-cultural constraints. From every point of view the key differences between English language texts based on the Common Law system and Italian language text based on the Civil Law system are clearly underlined. The author examined various linguistic levels of analysed texts i.e. intratextual and intertextual relations, text mapping or even word level; moreover he exposed the research material in the scope of socio-cultural and socio-economic environments. This multiform method of investigation enabled indication of patterns of local legal discourse on arbitration, which as is evident from the analysis may differ mutually in the extreme. Thus the model of analysis proposed by Gotti should be relevant to further investigation of arbitration legislation at international level i.e. to analyse various linguistic and legal methods applied with the intention to adapt and to adjust international arbitration regulations. Consequently this type of investigation may provide sets of certain confrontational linguistic and legal data, which should be considered when harmonising international the legal field both for linguist and for lawyers. Furthermore the model of analysis proposed by Gotti may be considered an algorithm useful for wider analysis of texts concerning arbitration legislation in the comparative aspect. The material proposed by Gotti's research seems to be very productive, as adoptions of UNCITRAL model English language texts often must be translated into local languages. The translation process is not only adaptation of the original text into the local language but it is also adjustment to the cultural needs and legal constraints. Gotti shows that international commercial arbitration is an excellent material for his analysis as the need for harmonisation is especially apparent in the mediating procedure. This opinion is extremely noteworthy as one of the main issues concerning legal translation is to "produce a text that shall lead to the same legal effects in practice" (Šarčevič 1997, 71). Gotti adopted this opinion through an inversion, starting from the same "legal effect". Thus the results of his confrontational analysis on the language are verifiable and may be adopted by legal translators.

Guliana Garzone's paper *International Commercial Arbitration Rules as Translated/Re-written texts: An Intercultural Perspective* continues discussion of the issue of arbitration legislation. As Gotti similarly Garzone presumes that arbitration rules are equally authentic regardless of different language version. This presumption makes the analysis of different versions of various arbitration rules very interesting especially when they are seen as translated texts. That is why the author of the paper analyses English versions of arbitration rules, which are issued in non-English speaking countries and these texts are analysed as translated/rewritten texts. In particular the analysed texts are English translations of Italian and French source texts. Garzone's study concentrates on a representative sample of arbitration rules, which were translated from French or Italian into English. They are accompanied by a corpus of source texts

and by a corpus of comparable English texts concluding arbitration rules issued by arbitral institutions in English-speaking countries. The study is additionally intended to verify if it is possible to identify linguistic and discursive features that are hypothesised by scholars to be common for the analysed texts. Then Garzone describes particularly the analysed corpus giving details about Italian. French and English texts.

The second part of this paper includes a contrastive analysis of so-called universal of translations adapted to arbitration rules translation. Garzone executed her contrastive analysis made on the basis of seven points of view. The analysis is confirmed by the data drawn from statistical analysis of the corpora. The most analyses are performed at the level of words, syntagmas and clauses. The results of the analysis of micro-structural analysis of the texts highlight that every change, even the smallest one, which is performed by the translator, as is needed by the character of the target language, has a crucial significance and needs critical consideration. If it is neglected, a change of meaning may arise in a translation when compared with the source text. The analytical research of Garzone presents some inconsistencies of translated/re-written texts and thus confirms the need of further investigations of this type and also supports the universal applicability of general criteria and approaches in legal translation.

In the line of linguistic investigations of arbitration rules Paola Evangelisti Allori presents the paper *The Linguistic Formulation of Power: Modality and Power Relations in two sets of Sports-related Arbitration Rules.* In particular the paper concentrates on the methods by which the attribution of power is distributed among the participants of the arbitration procedures related to sport. The author presumes that provisions of arbitration codes differ from other provisions i.e. making provisions in statues. Allori underlines the difference existing between arbitration legal discourse and other legal discourses thus she gives some definitions of arbitration, which indicate "amicable" settings of arbitration procedure when compared to traditional court proceedings. This statement is important as different discourse environments affect different generic patterns of the text existing in arbitration procedures.

As the main scope of the paper is to examine modality and power in arbitration legal discourse, the author investigates the circumstances where modal verbs are used. On the base of Trosborg's investigations (1997) Allori gives statistic data concerning some modals used to express Prohibition and Permission, which she found in analysed texts. Then the author began analysing directives in arbitration regulations on the material drawn from UNCITRAL and ALPRC. Statistical data given as above presented more linguistically preferable means to express Permission, Obligation and Prohibition. The final discussion about results of the performed analysis concerns modal forms in ICAS and CCAS and the author of the paper presents various quantitative results, which confirm a general tendency to use a certain modal form in English and Italian sport-related arbitration codes. The thorough analysis of various modal forms confirms Trosborg's (2008) findings concerning the exclusive character of arbitration discourse among other legal discourses, as there is a lesser proportion of prohibition counteracted by more obligations and permission/attribution of rights in arbitration regulations. Furthermore Allori's investigation leads to revision of Trosborg's categorisation of acts. This conclusion confirms the continuous need of revision of theoretical backgrounds for legal linguistics because the constantly changing legal discourse includes evermore new genres.

Sport-related arbitration is the main issue of another paper written by Michela Menghini titled *Italian-English Correspondences in the Juridical Discourse of Sports Arbitration: An electronic glossary*. In the context of arbitration rules investigation Menghini provide another model of arbitration legal discourse analysis. The aim of the study is to investigate correspondences between Italian and English arbitration statutory text, as the author of the paper adopted Bhatia's model to perform the study (1993). In particular Meghini examines nominal text units such as complex prepositional phrases, bi-nominal and multi-nominal expressions and nominalisations. The author of the paper using Word-Smith Tools intends to create a comparative glossary in electronic version, which may present correspondence or lack of correspondence between two codes at the level of chosen nominal text units.

The analysis is conducted on the basis of pivotal constructions and placing the constructions in their co-text and context that seems similar to the text mapping process (Engebretsen 2001). Then Menghini thoroughly describes the method with which the electronic tool was used. As a final product of the analysis one may obtain not only an electronic glossary of arbitration expressions but they also are accompanied with their placement in co-text and in the context. The information obtained in the method used by Menghini is more useful for translators and lawyers when compared to traditional glossaries or dictionaries because it provides a wider field where a certain expression is used in the text. Thus the specific textual situation helps to better understand the meaning and the function of the specific expression and moreover it increases the possibility of giving a proper and equivalent expression in the target text – translation.

The last two papers of the first part of the book concern trade law. In particular Tarja Salmi-Tolonen's paper *Negotiated Meaning and International Commercial Law.* The author examines issues of language in the scope of contracting and in particular business-to-business contracting as well as in contract law. Salmi-Tolonen believes that crucial difficulties in international contracting are caused by non-conformity, avoidance and impossibility of performance. The basic presumption for the study are meanings that are thus negotiated, the author shares the general research object, which is the common concept expressed in various languages and cultural-bound terms.

Salmi-Tolonen believes that legal terms constitute the pattern, which differentiates legal language from general language. Thus she investigates legal terms connected with commercial law and provides some statistical data. Then she explains the complex character of contracting as may be seen as result of common work of the many participants who take part in contracting. The most significant part of the paper is paragraph 5 where the author clearly specifies what are legal knowledge, linguistic knowledge and the relations between them. The relations indicated, which are drawn from the study should be considered in the education of legal linguists, translators and of lawyers.

Martin Solly's paper *Uberrimae fidei: Language Choice and Cultural Undertones in the Insurance of International Trade* is devoted to the law and language of insurance. The author focuses on the role of language in the culture-bond concept and the main research material is the United Kingdom Marine Insurance Act of 1906. The principle term for the investigation is *uberrimei fidei* (utmost good faith) and the legal concept of "non-disclosure" with the "implied warranty of seaworthiness". Solly

examines the method in which these legal concepts were treated in the statutory legislation of many English-speaking countries where common law jurisdiction exists.

Solly's analysis examines language choices found in various marine insurance acts. The specific terms are additionally defined and explained and they are accompanied by examples drawn from various historical versions of the analysed texts. The investigations led the author to the statement that MIA 1906 still plays a dominant role in English-speaking countries and in international trade. In this context MIA 1906 may be seen as testament for drafting laws. Useful concepts of marine insurance law not only have survived for more than one hundred years but they were successfully adapted to the changing language of statutory texts that is seen in MIA 1993.

The second part of the book is devoted to the function of language and its role in the construction of Europe, which is a new political and legal entity. The first chapter of Gigliola Sacerdotti Mariani with the title *Linguistic "Checks and balances: in the Draft UE Constitution"* includes the analysis of three versions of UE Constitutions: English, French and Italian, where the English one seems to be more controlled and thoughtful in contrast to the French and Italian, which seem to be more passionate. 24 language versions of the UE Constitution are a source of vocabulary for "Eurospeak". Thus the author examines some keywords and finds that translation of even common words can be poor, inaccurate, imprecise or even deceptive. Mariani then highlights the role of the constitution from the historical and political points of view. One of the main principles of EU drafting is transparency but as the author of the paper shows the need of understanding the UE constitution is not always fulfilled.

The main analysis of checks and balances is performed on the term "competence" and on selected adjectives and adverbs, which are called eulogistic terms. Final remarks are accompanied by the analysis of the concordance of following terms: "necessary" and "appropriate", which leads to surprising results. The paper, even if it includes a very small sample of comparative analysis of terms of the EU Constitution, clearly points out translational imprecision and questionable language choices. It is an evident fact should motivate the EU institutions to emphasise more attention to proper translation of EU legal texts.

Maria Dossena's paper *"The times they're a-changing": The abolition of Feudal Tenure (Scotland) Act 2000 and Linguistic Strategies of Popularization* is devoted to various linguistic strategies used to make the source text more accessible to ordinary citizens. In particular she presents methods of rendering the text generally understandable and argumentation used for encoding the statutory text.

The main issues on which Dossena has concentrated are the features of text organisation and presentation and encoding distance and proximity. All issues are illustrated by well-explained linguistic strategies, which provide parallel linguistic choices, more intelligible for lay recipients. The study presents a valuable method of explanation and evaluation of legal text for the benefit of its readers, which seems to be consistent with the general idea of "easification" of legal language seen in the plain legal language movement.

Negotiations are an appropriate field to demonstrate how parallel concepts may be expressed in various languages, cultures and legal systems. This statement seems to be the starting point not only for Salmi-Tolonen but also for Giudita Caliendo and Marco Venuti who devoted their paper *EU Discourse on Enlargement: The negotiation of meaning* to the active role played by language in negotiation of meaning. The authors

examined the diplomatic process in European enlargement and in particular they concentrated on the position of Turkey and its relations with the EU. Caliendo and Vanuti provide historical information on the EU enlargement and the EU strategy for Turkey in contrast to other strategies for new EU members.

The material for analysis is two types of EU documents. As both documents differ crucially between themselves two varying methodologies were adopted to analyse them. Thus textual analysis of the Annual Report is based on diluting modifiers, contrast/concessive adverbials and modals and meanwhile textual analysis of European Council Conclusions concludes with the following components: "not saying" and conditionality. Two documents are evidence of two distinctly different roles of the Commission and European Council as they used different language choices to express parallel concepts. It is worth emphasising after Caliende and Venuti that diplomacy is never overlooked in the wording of both documents.

The paper *How EU Secondary legislation Encodes Humanitarian Aid Policies* by Christina Pennarola is intended to explore linguistic features of EU legislation on humanitarian aid and to investigate the nation-bound character of the Community. The tool, which is used in the study, is Critical Discourse Analysis and the object of the analysis is EU secondary legislation.

In the analysis Pennarola concentrates on keywords, which are included in three main semantic fields: assistance, violence and policy, which are related to humanitarian aid. During her investigation Pennarola notices the coexistence of conflicted keywords, which she calls negative. The next step of analysis is investigation of modal values illustrated with statistic data. The analysis leads to an interesting conclusion as Pennarola writes that impersonal deontic forms together with keywords characterise the legal documents related to humanitarian aid as "personal" or subject-oriented. Analysis of word connections in EU legislation and a sample analysis of the two humanitarian sub-corpora leads to the conclusion that the language of EU legislation dealing with humanitarian aid is an instrument to express "controversial concepts of European apartheid and neo-colonialism within EU". Thus the EU legislative language confirms political and economic asymmetry as well as geographical and cultural distance.

Marchilla Violini's paper *Phrasemes in EU Framework Decisions* investigates phrasemes of EU Framework Decisions in the period from the 1st July 1999 to the 31st December 2002 in the scope of contrastive semantic and lexicographic analysis. The objects of the investigations are English and Italian language corpora.

First Violini defines and classifies the phrasemes. Then the phrasemes existing in EU Framework decision are identified and analysed. In the subsequent phase the author analyses use and abuse of English phrasemes in Italian texts. The contrastive analysis is illustrated with clear, tabular comparison of selected phrase existing in source and target text. Violini points out that generally the formation of new phrasemes is quite welcome but in some cases the abuse of the same expression may result in loss in the translation leading to a flattened style of the text. Violini's paper underlines how important is the identification and interpretation of phrasemes in a legal context. On the other hand it is stated that phrasemes may be both valuable footholds for lexicographers and might also cause loss in translation when they are abused.

The paper *Implementing Council Directive 1993/13/EEU on Unfair Terms in Consumer Contracts in Great Britain: A case for intra-linguistic Translation?* by Paola Contenaccio concentrates on the debate surrounding the implementation of the title directive. Contenaccio reflects on language and harmonisation of law in the European Union and she emphasises the gap between language variety used at European level and the language used locally. The coexistence of these two "sub-codes" may be a problem when a legal instrument conceived at supra-international level and re-drafted in a national language version is being implemented in national legislation.

From this point of view implementation of the Council Directive as mentioned in the title of the paper is seen as a state between compliance and resistance. Contenaccio analyses some issues connected with this process and in particular: unfair terms in contracts in English law and "domesticating" European Contract law. The analysis is performed on selected words and phrases seen in the context. Adoption of some European terms in the UK met strong resistance. Thus the English language version of Directive 1993/13/EU is an example of where English European legal language is noticed and it is emphasised that this sub-code is not equal to English legal language.

The east part of the book deals with the issue of translating legal discourse and it opens with Girolamo Tessuto's paper *Legal Concepts and Terminography: Analysis and Application*. The paper presents terminological implications in two different legal systems and languages, i.e. English and Italian. As introductory remarks the author provides information about mapping linguistic forms and concepts and also about legal concepts. The method of analysis is described.

The analysis is based on the term "mens rea" and it is presented both as seen in English and Italian legal concepts. Then the three-stage procedure of elaboration of the term is presented. Finally a comparative concept-oriented terminography model is characterised. In final conclusion a very valuable algorithm of terminography is given, as it describes step-by-step tasks, which may be used by lexicographers and legal translators. Tessuto suggests the method may be adopted also for Computer-Aided Language Learning, Distance Learning and Technical Writing.

Marta Chromá's paper *Semantic and Legal Interpretation: Two Approaches to Legal Translation*. According to the author there are three groups of specialist professionals dealing with the language of law and among them the translators should combine legal and linguistic approaches when comparing source and target legal texts. Chromá briefly explains how she understands translation of legal texts and she underlines main factors influencing the process of legal translation.

The author states that legal translation is in part both semantic and legal interpretation and it is regarded as intralingual translation. This statement is confirmed by sample analysis of selected conjunctions and one noun. Even so brief an analysis provides important implications for the training of translators, which has been applied at Charles University Law School. The described project provided satisfactory results as many participants of the project passed the final exams.

The last paper of that part of the book is Stefano Marrone's paper *System-texts and cross-system's translation*. The aim of the paper is to analyse methodological and linguistic issues related to the translation of *Regolamento* of Italy's *Camera dei Deputati* into English. The translation was executed in a certain political context, which

is given in the paper. Furthermore it was expected that the translation is to be published widely i.e. on the Internet.

When dealing with linguistic features of the translation process, text typology was one of the issues, which the translator considered as it determines methods of translation. Moreover system features of the texts for instance: system-boundness, culture-boundness, historical context were analysed when preparing for translation. The first stage of translation was full of trials and errors and consequently a cross-system approach was adopted. Marrone gives some examples presenting factors, which lead to the specific linguistic choice used in translation. In conclusion Marrone states that even such accessible and well-developed sources of legal terms, which we currently use in Europe do not cover all the needs, which arose during translation of Italian text into English as Anglo-Saxon equivalents are too heavily connotative. On the other hand Marrone notices that from the perspective the few years, which have passed since translation, some different scenarios seem to be relevant to the project and this statement may be a motto for the next generations of scholars.

The entire book provides a very wide range of various aspects gathered under the general title *Language, Culture and the Law*. The first part of the book, which is the most exhaustive, provides a set of papers dealing with arbitration rules. These chapters are very valuable for legal linguists and lawyers, as the phenomenon of arbitration in international trade has not been explored thoroughly. It is a complex issue and it should be investigated from many points of view, as Gotti proposes. Even when taking account of just the language level of arbitration legal discourse, there are many fields to be analysed and explored. This statement comes from the papers of Garzone, Alliori and Menghini. Their sample studies, comparing the global use of arbitration rules, in many various legal systems and languages, open the gate to wider and deeper analysis on the global scale if it is desired to accomplish a globalising trend in legislation. All the papers mentioned provide set of issues to be developed if harmonisation in the legal field is to be achieved. Alternatively, amicable circumstances are observed also in negotiations and commercial law and it is a pattern common with arbitration procedures. Both Tolmi-Solonen and Solly confirmed that some methods used to investigate legal discourse might be applied to investigate negotiation language.

The second part of the book provides a mosaic picture of European Legal and Institutional Language. The papers of Sacerdoti Mariani, Caliendo & Venuti, Pennarola, Volini and Catenaccio include investigations performed on EU legislative texts, primary and secondary. Many papers confirm the opinion existing among scholars and translators that the European legal framework is still a great challenge and it provides many problems when drafting or re-drafting EU legal texts in many language versions. Regardless of the supranational level of legislations there are still intranational issues concerning national legal languages within Europe. The UK is the most eminent example of that situation, which is presented in Dossena's paper. On the one hand language may be the instrument, which helps in the process of legal communication but on the other it may be used to express negative phenomena such as economic asymmetry or even apartheid. These statements, which are drawn from the second part of the book, should be considered by the institutions and entities responsible for harmonisation of law within and beyond Europe.

The last part of the book consists of three papers. Chromá's and Marrone's papers have a very empirical character and indicate how researches in legal translation may be applied to pragmatic needs of the real world. Meanwhile the paper of Tessuto provides a very interesting concept of terminography. It combines the need of text mapping and word placing with other linguistic aspects and legal concepts. Furthermore Tessuto provides very clear directives of application of the model, which may be immediately adopted.

The book presents current results of legal linguistic researches. The wide range of methods applied, including statistical analysis of corpora, presents a variety of aspects in the work of linguists and lawyers. Thus it confirms the constant need of cooperation between linguists and lawyers when accommodating the role of language in law. Moreover the book is both a starting point and one of the concluding stages for various investigators, especially for those who manage the problem of the formulation of parallel legal concepts in various cultures, legal systems and languages.

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