

## A TERMINOLOGICAL PERSPECTIVE ON LEGAL TRANSLATION

Andreea Maria COSMULESCU

University of Craiova, Romania

**Abstract:** Translation studies have gained considerable importance in terms of their practical utility in various fields of activity. Translation studies, coupled with terminology, can be said to focus on the accurate transfer of meaning between different languages, cultures and systems. The analysis of legal terms in different languages (English, French and Romanian) aims to provide a new perspective upon a highly controversial subject – the interpretation of laws, legislative texts, jurisprudential cases, etc. in accordance with the European Union principles and pragmatic ways of organizing ideas and securing the intended meaning, impacting heavily on legal translators and legal practitioners alike.

**Keywords:** legal translation, legal terminology, jurilinguistics, translation process.

### 1. Introduction

Translation studies and terminology are considered to deal with the precise transfer of meaning between different languages in the area of legal documents. *Terminology* is a polysemantic term due to its wide field of use and practical variants to be applied. The legal terminology is of particular importance for legal acts drafting and for modern legal system development (Turanin et al. 2019). Legal language can represent a major challenge both for the translator, when there is no standardized terminology or available updated specialized dictionaries, and for the legal practitioner in the interpretation, transposition and application of the translated text (Vilceanu 2017: 114). In contrast to other types of translation, in the fields of medicine, science or technology, legal translation tends to involve more culture-specific than universal components. To a large extent, this is attributable to the system-bound nature of legal terminology since legal concepts are usually the product of a national legal system (Šarčević 1997: 232). In search of a solution, Botezatu (2016) considers that the study of comparative law is an essential element to understanding, comparing, knowing and translating not only the content, but also the meaning of the legal concepts. Admittedly, our paper is intended to emphasize the importance of the interdisciplinary approach in ensuring quality legal translation, an approach that involves knowledge of European law, elements of linguistics, on a par with elements of translation theory and practice.

### 2. The place and distinctive features of legal translation

According to Prieto Ramos (2014), once the “textual territory” of legal translation has been defined, the position of Legal Translation Studies (LTS) between Translation Studies, Linguistics and Law can be established as it follows. Linguistics, as overarching science, determines Law and Translation Studies, in this way establishing the disciplinary boundaries of Legal Translation Studies. In their turn, Law and Translation Studies, in their crossing process, determine the occurrence of LTS. At the same time,

legal linguistics derives from the main science of linguistics – intercrossed with law –, resulting in a self-determined branch, dealing specifically with legal terminology.

Basically, legal translation is distinguished from other types of translation by its binding and compelling, cultural and interpretative nature. The legal translator is forced to write a rigid and formal text, preserving the same legal effect as defined in the source text. As well as understanding and precisely translating the legal rights and duties established in the translated text, legal translators must also bear in mind the legal system of the source text (ST) and the legal system of the target text (TT) which may differ greatly from each other (Sandrini, 2018). Legal language is closely determined by particular legal systems whose concepts are developed during their historical evolution and in direct connection with the given legal cultures and civilisations. The way in which a legal text is interpreted depends largely on the legal system from which it comes (Poon Wai Yee, 2005). Legal discourse is the expression of a given society or culture in constant evolution, thereby resulting the translation difficulties that are induced by the transposition of legal texts into the target language. As a result, the analysis of the particularities of the source legal culture is an essential step (Dejica, 2013), prior to the translation process.

Furthermore, the objective pursued by the translator in legal translation is, in addition to reproducing from one language to another a grammatically correct text, that of translating the text of the law in such a way that it produces, in the legal space of the target language, the legal effects in the departure text. Chromá (2008: 6) believes that the most important part of legal translation is to understand the text fully, i.e., to correctly interpret the legal information contained in the source legal text so that the transfer of the information into the target language and target legal system is as precise and comprehensible as possible. Being part of a system, but also the most marked from a cultural point of view, legal language, unlike other specialized languages, is the least uniform. Alcaraz and Hughes (2002: 3) explicitly state that the first stage in successful translation is to understand the source text fully; and only then can the production of a target text follow.

Other characteristics of legal translation refer to precision, clarity and unity. There are so many laws in EU member states, and the fields or areas involved are also very wide, therefore the task is really so demanding to translate and reflect the proper and suitable terms in the source and target languages alike. Legal translation is a highly complex mechanism, mainly serving lawyers, institutions, enterprises, professional organisations, etc. The quality requirements and technical difficulties are quite high to achieve the legal translation. Having in view the solemnity of professional legal activity itself, legal translation terms have to maintain the characteristics of precision, clarity, and single semantics.

First, the precision of legal translation. In real life, it is difficult for laymen when they come into contact with the law, and they have to possess a better understanding of legal knowledge. Likewise, it is advisable for various professionals to possess legal knowledge at a sufficient level. Due to the rigour of the law, professional legal translators must ensure precision in the translation process and they should perform translations with no ambiguity.

Second, the clarity of terms and terminology in legal translation. We often encounter opposing words, such as "general" and "special". They are usually called *antonyms*, but in legal language, they are called *opposites*. In legal translation, it is often required to

use a group of legal relationships that are opposed to each other. In the translation process, clarity is absolutely needed.

Third, the unity of legal translation terms. The single and fixed meaning of a word is the most prominent feature of legal translation terms. The content of each term is a specific legal concept, and no other word can be substituted when it is used. Following the above principles, legal terminology can be translated accurately and rigorously, so that the clarity and just balance of the law can be reflected.

In addition to the above-mentioned features of legal translation, the focus should also be placed on language accuracy, correctness and solemnity, as major attributes and key-factors in carrying out legal translation activities. With regard to accuracy, having in view that the content expressed in the legal language is the guiding norm for all citizens, being also the basis for law enforcement, legislators must express the European legal principles through the accurate use of language. Therefore, the process of translation must ensure that the norms are translated accurately and without ambiguity (Vilceanu, 2018). The precision and the clearly-expressed content are essential for a positive result. At the same time, correctness refers to the appropriateness, conformity, and consistency of the used terminology. The right choice of words in the translation of legal terms implies that the source language translation has to be identical in the target language, i.e., by carefully selecting terms and formulations, in order to identify and avoid possible misunderstanding and inaccurate translation of terms in the legal translation work.

Referring to solemnity (dignity), it is also a key factor in carrying out legal translation, as legal language is characterised by formal and even frozen features. Solemnity is mainly expressed through special vocabulary, which is reflected by specific legal terms and speech acts, as well as by the difference of meaning between particular terms used both in legal language and in common language. For instance, the term “damage” (in common language – “loss”), in specialised legal language is defined and understood as “prejudice” (physical or moral) caused to a passive subject. Therefore, legal language has its specific meaning and effect.

### **3. Legal-linguistic analysis of legal terms and expressions**

Having in view the legal basis of multilingualism within the European Union, translators, proofreaders and terminologists of the Directorate-General for Translation (DGT) face several difficulties when it comes to equating the legal terms. The EU courts are multilingual institutions, and any of the official languages of the EU can be the language of a court case. The EU courts are required to keep to the principle of multilingualism because of the need to communicate with the parties in the language of the proceedings and to ensure that their case law is disseminated throughout the Member States. It should be kept in mind that the application of EU law is not only the task of the EU courts: the courts and tribunals of the Member States also have to apply the EU law. In other words, the courts of the EU and of the Member States work together for a sound and uniform application and interpretation. Doczekalska (2018) highlights that unity is expressed by the expectation that multilingual legal acts, which are created throughout the legislative process in which all languages are used by means of translation and interpretation, render the same meaning in all language versions. Interpretation of laws, legislative texts, jurisprudential cases, etc. in accordance with the principles of the

European Union and the pragmatic ways of organizing ideas and ensuring the desired meaning, is a major concern of both legal translators and legal practitioners.

In this context, our analysis of the legal language of *European Convention on Human Rights* in different languages (English, French and Romanian) aims to offer a new perspective on an extremely (highly) controversial topic, namely the equivalence of legal terms at EU level. In Article 2 (see Table 1) regarding the right to life, we notice some variants of legal information or items. Thus, the modal verb “shall” expressing obligation in English documents is neutralised both in French and in Romanian.

<p>1. <i>Everyone's right to life shall be protected by law. No one shall be deprived of his life intentionally save in the execution of a sentence of a court following his conviction of a crime for which this penalty is provided by law.</i></p>	<p>1. <i>Le droit de toute personne à la vie est protégé par la loi. La mort ne peut être infligée à quiconque intentionnellement, sauf en exécution d'une sentence capitale prononcée par un tribunal au cas où le délit est puni de cette peine par la loi.</i></p>	<p>1. <i>Dreptul la viață al oricărei persoane este protejat prin lege. Moartea nu poate fi cauzată cuiva în mod intenționat, decât în executarea unei sentințe capitale pronunțate de un tribunal când infracțiunea este sancționată cu această pedeapsă prin lege.</i></p>
---	---	--

**Table 1.** *European Convention on Human Rights*, Section I, Rights and freedoms, Article 2 ([https://www.echr.coe.int/documents/convention\\_eng.pdf](https://www.echr.coe.int/documents/convention_eng.pdf); [https://www.echr.coe.int/documents/convention\\_fra.pdf](https://www.echr.coe.int/documents/convention_fra.pdf); [https://www.echr.coe.int/documents/convention\\_ron.pdf](https://www.echr.coe.int/documents/convention_ron.pdf))

Another mention concerns using the modulation (reversed perspective) when rendering the sentence “No one shall be deprived of his life intentionally (...)” in French and Romanian, which translates back as “Death shall not be intentionally caused to any person (...)”.

We continue with the examples from Article 6 (see Table 2) referring to the right to a fair trial. We note that the adverb “promptly” meaning “immediately” is softened in both French and Romanian by using a vague phrase, which translated back as “in the shortest period of time”. Enlarging upon the vagueness of legal language, we may state that certain legal provisions of legal phrases cannot be quickly identified semantically. Thus, the concept cannot be clearly defined. In our case, the vague equivalents of “promptly” have the role of limiting the indeterminable circumstances. The phrase “to have adequate time” is not conveyed identically in French and Romanian, the word “adequate” is rendered more forcefully, although in the same vague way by “nécessaires” and “necesare”, respectively, which correspond to the English “necessary”. An interesting and relevant example is related to the equivalents of “legal assistance, to be given it free so-called” interpreted in translation via modulation (from the services provided free of charge to the specialist providing these services): “l’avocat d’office” in French and “avocat din oficiu” in Romanian. Here, as well, we notice the effect of the lack of equivalent terminology with respect to this position (title). Further on, the equivalence of terminology is visible in “witnesses against him” and of “witnesses on his behalf”, which are described in a more formal manner in French and in Romanian.

<p>3. Everyone charged with a criminal offence has the following minimum rights:                  (a) to be informed <b>promptly</b> (...) of the nature and cause of the accusation against him;                  (b) <b>to have adequate time and facilities</b> for the preparation of his defence;                  (c) (...) if he has not sufficient means to pay for legal assistance, to be given it free when the interests of justice so require;                  (d) to examine or have examined <b>witnesses against him</b> and to obtain the attendance and examination of <b>witnesses on his behalf</b>.</p>	<p>3. Tout accusé a droit notamment à :                  a) être informé, <b>dans le plus court délai</b>, (...) de la nature et de la cause de l'accusation portée contre lui ;                  b) <b>disposer du temps</b> et des facilités nécessaires à la préparation de sa défense ;                  c) (...) s'il n'a pas les moyens de rémunérer un défenseur, pouvoir être assisté gratuitement par un <b>avocat d'office</b> ;                  d) interroger ou faire interroger les <b>témoins à charge</b> et obtenir la convocation et l'interrogation des <b>témoins à décharge</b>.</p>	<p>3. Orice acuzat are, mai ales, dreptul:                  a. să fie informat, <b>în termenul cel mai scurt</b>, (...) despre natura și cauza acuzației aduse împotriva sa;                  b. <b>să dispună de timpul și de înlesnirile necesare</b> pregătirii apărării sale;                  c. (...) dacă nu dispune de mijloacele necesare remunerării unui apărător, să poată fi asistat gratuit de un <b>avocat din oficiu</b>;                  d. să audieze sau să solicite audierea <b>martorilor acuzării</b> și, să obțină citarea și audierea <b>martorilor apărării</b>.</p>
---	---	--

**Table 2.** European Convention on Human Rights, Section I, Rights and freedoms, Article 6 ([https://www.echr.coe.int/documents/convention\\_eng.pdf](https://www.echr.coe.int/documents/convention_eng.pdf);  
[https://www.echr.coe.int/documents/convention\\_fra.pdf](https://www.echr.coe.int/documents/convention_fra.pdf);  
[https://www.echr.coe.int/documents/convention\\_ron.pdf](https://www.echr.coe.int/documents/convention_ron.pdf))

Finally, we provide another example, extracted from Article 10 (see Table 3) referring to freedom of expression. The modal verb “shall” is present in the English version of the legal text, whereas the French and Romanian verb phrase use no means of expressing modality due to the linguistic gap (the system of modal verbs is highly developed in English whereas in French and Romanian, modal verbs are reduced in number) – “shall include” (having future time reference) is rendered by the present indicative in French and Romanian alike, preserving the idea of obligation in legal texts. Moreover, the verb “impart” (a synonym of “communicate”, which is the generic term) is rendered by “communiquer” in French and “comunica” in Romanian to preserve the level of formality. The licensing” – the English legal term – is equated to “régime d’autorisation” in French and “regim de autorizare” via expansion.

<p>1. Everyone has the right to freedom of expression. This right <b>shall include</b> freedom to hold opinions and to receive and <b>impart</b> information and ideas (...). This Article shall not prevent States from requiring <b>the licensing</b> of broadcasting, <b>television</b> or cinema enterprises.</p>	<p>1. Toute personne a droit à la liberté d'expression. Ce droit <b>comprend</b> la liberté d'opinion et la liberté de recevoir ou de <b>communiquer</b> des informations ou des idées (...). Le présent article n'empêche pas les États de soumettre les entreprises de radiodiffusion, de cinéma ou de télévision à <b>un régime d'autorisations</b>.</p>	<p>1. Orice persoană are dreptul la libertate de exprimare. Acest drept <b>include</b> libertatea de opinie și libertatea de a primi sau a <b>comunica</b> informații ori idei (...). Prezentul articol nu împiedică Statele să supună societățile de radiodifuziune, cinematografie sau televiziune unui <b>regim de autorizare</b>.</p>
---	---	---

**Table 3.** European Convention on Human Rights, Section I, Rights and freedoms, Article 10 ([https://www.echr.coe.int/documents/convention\\_eng.pdf](https://www.echr.coe.int/documents/convention_eng.pdf);  
[https://www.echr.coe.int/documents/convention\\_fra.pdf](https://www.echr.coe.int/documents/convention_fra.pdf);  
[https://www.echr.coe.int/documents/convention\\_ron.pdf](https://www.echr.coe.int/documents/convention_ron.pdf))

Obviously, we noted the resemblance between the French and Romanian versions at the lexical and grammatical level alike – this is due to their common Latin origin – they are both Romance languages. However, there is also need to mention that the vast majority of the English legal vocabulary comes from French and Latin.

All these aspects are essential in understanding and using legal language and terminology for translation purposes, especially if we take into consideration that legal texts take effect and, consequently the legal translator should assume full responsibility. Based on these facts, the translator of legal documents should mainly adopt the method of semantic translation, i.e., showing maximum fidelity to both the form and content of the original text.

#### 4. Final thoughts and conclusions

When legal translators perform legal translation, they must consider the information not only from the legal perspective, but also from the perspective of language characteristics, to ensure that the meaning of the original text will be accurately and naturally conveyed. At the same time, legal translators need to flexibly use translation strategies and procedures to provide a fluent and authentic translation – the end product.

The accurate transfer of meaning between languages and systems is made by equating legal terms so that the interpretation of laws and legislative texts is made in accordance with the European Union principles. The pragmatic ways of organizing ideas, securing at the same time the intended meaning, have a great impact on legal translators and practitioners, but also on ordinary citizens, so that they can apply and abide by the established rules protected by the European law.

To sum up, the process of translation underpins a multi-layered approach, making use of specific strategies, and showing translations particularities. It is acknowledged that legal translation is amongst the most requiring activities in comparison to other specialised translations, due to the ongoing changes and improvements of the legislation, as a result of advancement in the specific field of expertise.

#### References

1. Alcaraz, E., Hughes, B. 2002. *Legal Translation Explained*, Manchester: St. Jerome Publishing.
2. Botezatu, V.N. 2016. "Perspectives on Legal Translation" in *Acta Universitatis Danubius. Relationes Internationales*, 9(1), pp. 109-116.
3. Chromá, M. 2008. "Semantic and legal interpretation: Two approaches to legal translation" in *Language, Culture and the Law: The Formulation of Legal Concepts across Systems and Cultures*, Bern: Peter Lang, pp. 303-15.
4. Dejica, D. 2013. "Mapping the Translation Process: The Cultural Challenge". In H. Parlog and L. Frentiu (eds.), *Translating Across Cultures: BAS 21st Annual Conference*. Cambridge Scholars Publishing. pp. 11-28.
5. Doczekalska, A. 2018. "Legal languages in contact: EU legislative drafting and its consequences for judicial interpretation" in *Language and Law*. Springer, Cham. pp. 163-178.
6. Poon Wai Yee, E. 2005. "The cultural transfer in legal translation" in *International Journal for the Semiotics of Law*, 18(3), pp. 307-323.

7. Prieto Ramos, F. 2014. "Legal translation studies as interdiscipline: Scope and evolution" in *Meta: journal des traducteurs/Meta: Translators' Journal*, 59(2), pp. 260-277.
8. Sandrini, P. 2018. *Languages for Special Purposes: An International Handbook*. Berlin/Boston: Walter de Gruyter.
9. Šarčević, S. 1997. *New Approach to Legal Translation*. The Hague: Kluwer Law International.
10. Turanin, V. Y., Tonkov, E. E., Kuprieva, I. A., Pozharova, L. A., Turanina, N. A. 2019. "Legal terminology phenomenon in the context of modern legal system evolution" in *Humanities & Social Sciences* 7(4), pp. 1291-1295.
11. Vilceanu, T. 2017. *Dynamic interfaces of translation, pragmatics and intercultural communication*. Craiova: Universitaria.
12. Vilceanu, T. 2018. "An action-oriented approach to translation and translation studies" in *Romanian Journal of English Studies* 15(1), pp. 122-127.