ANALELE ŞTIINŢIFICE ALE UNIVERSITĂŢII „AL. I. CUZA" IAŞI
TOMUL LXIII, ŞTIINŢE JURIDICE, 2017, SUPLIMENT

A 'CULTURAL TURN' PERSPECTIVE UPON THE MIGHTY TRIUMVIRATE BEHIND THE ENGLISH LEGAL LANGUAGE AND ITS TRANSPOSITION INTO ROMANIAN

SIMONA CATRINEL AVARVAREI[1]
NICOLETA RODICA DOMINTE[2]

Abstract: Starting from Legrand's opinion according to whom the juridical heritage is deeply embedded in country-specific peculiarities, turning thus the translation of legal material into an extremely challenging task, this paper aims to make the `cultural turn` its core approach. It draws its `sap` from the concept coined by Mary Snell-Hornby which puts culture at the very heart of translation. Neither neopositivist, as André Lefevere defined the term, nor hermeneutic[3], the current paper focuses on the ongoing evolution of legal terminology seen as a `cross-cultural` construct that has constantly defined itself in organic relationship with the social, ideological and cultural perspective that accommodated its evolution. The triumvirate mentioned in the title refers to the three-angled dimension of the English legal lexicography that brings together Latin, as the `language of record of the common-law courts`[4] (Baker 1998: 10), French, the main linguistic tool of the common-law from the late twelfth century until its official withdrawal as court language in 1731, and English, from vernacular to Middle English, all the way to `plain English`, as defined and supported by former Lord Chief Justice Harry Woolf. Following the recommendations of His-lordship about introducing a simpler, more `user-friendly` legal language, the other scope of this paper is to provide an equally `cultural-turn` oriented kaleidoscopic overview of the Romanian legal terminology, its heritage and current lexicographic identity, in a world of common shared values and interests, but ever-more aware of (cultural) identity.
Key words: cultural turn, legal lexicon, Latin language, lexicography, word origin.

---

[1] Lector univ. dr., Universitatea „Ion Ionescu de la Brad" Iaşi, catrinel_04@yahoo.com

[2] Lector univ. dr., Facultatea de Drept, Universitatea „Alexandru Ioan Cuza" din Iaşi, nicoleta_dominte@yahoo.com

[3] R. Dimitriu, *The Cultural Turn in Translation Studies*, Institutul European. Print, Iaşi, 2006, p. 18.

[4] J. H. Baker, "*The Three Languages of the Common Law*" in 43 McGill L. J. 5. Print., 1998, p. 10.

Rezumat: Conceptul de *transformare culturală* reprezintă pilastrul central al acestui articol în contextul în care traducerea textelor juridice poate fi calificată ca o provocare remarcabilă în convergenţă cu opinia lui Legrand, care susţine că moştenirea juridică este înrădăcinată în tradiţiile naţionale inedite şi caracteristice. Noţiunea de *transformare culturală* îşi extrage seva din conceptul creionat de către Mary Snell-Hornby, care poziţionează cultura ca element esenţial al actului de traducere. Articolul va surprinde aspectele diacronice ale lexicului juridic cu o arhitectură multiculturală, ce s-a redefinit în mod constant în cadrul unei relaţii organice cu elemente sociale, ideologice şi culturale. Triumviratul menţionat în titlu se referă la cele trei dimensiuni ale lexicografiei terminologiei juridice din limba engleză ce ia în considerare limba latină, ca "*limbă a deciziilor emise de instanţele regale*"[5] (cunoscute sub denumirea de Common-Law Courts), limba franceză ca principal instrument lexical juridic în sistemul de common law de la finalul secolului al XII-lea până la „retragerea" oficială ca limbă de curte în anul 1731, şi limba engleză atât în forma vernaculară cât şi în forma utilizată în spectrul juridic, supranumită `*plain English*`, de către Lord Chief Justice Harry Woolf. Având în minte recomandarea Lordului Chief Justice Harry Woolf de a utiliza un limbaj juridic clar şi „prietenesc", apreciem că un alt obiectiv al acestui articol este de a analiza efectele transformării culturale, în sens caleidoscopic, cu orientare spre terminologia juridică din limba română, luând în considerare filtrul identităţii culturale, într-o lume ce împărtăşeşte valori şi interese comune.
Cuvinte-cheie: transformare culturală, terminologie juridică, limba latină, lexicografie, etimologie.

True to the kaleidoscopic perspective the abstract refers to, this paper, although concerned with legal terminology, summons first a literary figure - that of the great American novelist Henry James, whilst plunging into the innards of words semantics and their entrapping nuances. We intend to bridge the corpus of the current article to a play of words and ideas (in a way that echoes Wittgenstein's concept of translation, seen and described as a `play of language`) taken from one of James's famous short stories, *The Turn of the Screw*. Thus, we reach the *cultural turn* concept that Mary Snell Hornby (1990) interprets as a shift of focus from the *text* itself to the much larger perspective of *culture* as the main unit of the **act of translation**. Hence, the *turn of the screw,* the new functionalist approaches circumscribe to the *linguaculture* concept (Nord 1997) as agglutinant of the language-

[5] J. H. Baker, *op. cit.*, p. 10.

culture interdependence. So much so, that John Ruskin was convinced that a "vital style in building was inseparably related to the environment that produced it"[6] an idea that crosses the centuries, went beyond the linearity of architecture, as one reads in David Melinkoff's book, *The Language of the Law*, that "*the speech of lawyers is conditioned not alone by the law, but also by the prevailing language of the environment*"[7] . And words build just as much as bricks do, if not even sturdier.

It is this rather large, somewhat plastic concept of *milieu* that plays a major role in shaping the act of translation, as André Lefevere, another great linguist, believes that what seems to matter most in the question of translation is neither the language, perceived exclusively from a linguistic perspective, nor the mechanic transposition of lexical units among various linguistic systems, but the form of transfer that results from all this intricate geometry of interpretation. Suffice to quote St Jerome's famous words *non verbum de verbo, sed sensum, exprimere de sensu* (Epistula LVII, *Ad Pammachium De Optimo Genere Interpretandi,* V) to understand that it is not an entirely modern idea the fact that the linguistic material is seen both as expression and repository of involved cultures[8]. Lefevere marks an extremely important moment in the history of translation studies, as the cultural turn – translation as the representation of the 'other' is influenced by the paradigm of cultural studies that has come to imbue the academic world ever so strongly. This pluriperspectivism accounts for the challenge of *the turn of the screw* the translator has to face whenever he/she has to pour meaning, through articulated utterance, onto the Latin root of the idea of communication, so beautifully interpreted by Constantin Noica, not only as a most intimate reflection of a sense of togetherness, but also as an osmotic communion.

---

[6] Citat în Buckley, J. H., *The Victorian Temper: A Study in Literary Culture.* Cambridge University Press. Print., 1981, p. 141.

[7] D. Melinkoff. *The Language of the Law*. Boston: Little, Brown. Print., 1963, p. 4.

[8] B. Pettersson, , "*The Postcolonial Turn in Literary Translation Studies: Theoretical Frameworks reviewed*". Canadian Aesthetics Journal, no. 4/1999; Lefevere, A., *Translation, Rewriting, and the Manipulation of Literary Fame*. London: Routledge. Print., 1992.

Forged in the 1970s, this perspective upon cultural interpretation blends itself into Derrida's outlook towards deconstructivism, in its attempt to cut open the architecture of hegemonic structures of power, diluting them in rippling circles that constantly (re)define their centre by (re)shaping their own geometry. Thus, the concept of cultural turn may be defined as 'divorce' from the prescriptive rigidity of the classical approaches of the translation act and 'marriage' to the cultural dimension[9]. With it also comes the idea of plurality, as argued by Sherry Simon,

> *culture no longer offers itself as a unifying force; nation, language, culture no longer line up as bounded and congruent realities. (…) Writing across languages, writing with translation, becomes a particularly strong form of expression at a time when national cultures have themselves become diverse, inhabited by plurality*[10].

Mention must be made that plurality plays its part, as Schleiermacher points out, not only within a large interlinguistic context, but also within the realms of the same language,

> *Either the translator leaves the writer in peace as much as possible and moves the reader toward him; or he leaves the reader in peace as much as possible and moves the writer toward him*[11] .

At the very core of this *dance*, there is a sequence of four *steps,* all equally important in the fluidity of the dramatic movement, described by George Steiner as stages in the hermeneutic decoding of a text: *trust* voices the

---

[9] J. Derrida, "Des Tours de Babel", 1985 in Joseph F. Graham (ed.), *Difference in Translation. Ithaca:* Cornell University Press; Fozooni, B., "*All Translators are Bastards!*". South African Journal of Psychology, vol. 36 no. 2/ 2006.

[10] S. Sherry, *Gender in Translation: Cultural Identity and the Politics of Transmission*. London. New York: Routledge. Print, 1999, p. 72.

[11] Fr. Schleiermacher, "On the Different Methods of Translating." in Lawrence Venuti (ed.): *The Translation Studies Reader*. London. New York: Routledge. Print., 2012, p. 49.

belief that "*there is something there*"[12] to translate, *aggression* (*penetration*), seen as "*invasive and exhaustive*" plunges into the entrails of the *texture* of the text, *incorporation* is summoned to embody the meaning, whereas *restitution* restores the final balance that has to exist between the text in the source language and its translation in the target language. "*An interpretation of the source text that is at once profoundly sympathetic and violent, exploitive and ethically restorative*"[13].

Applied to a legal text, these stages will adapt themselves to the specificity of the linguistic material, defined by David Crystal as:

> *essentially visual, meant to be scrutinized in silence; it is, in fact, largely unspeakable at first sight and anyone who tries to produce a spoken version is likely to have to go through a process of repeated and careful scanning, in order to sort out the grammatical relationships which give the necessary clues to adequate phrasing*[14].

The intricacy of legal system, with its specialised terminology and language was, probably, best described by President Thomas Jefferson, who states that:

> *[…] from their verbosity, their endless tautologies, their involutions of case within case, and parenthesis within parenthesis, and their multiplied efforts at certainty by saids and aforesaids, by ors and by ands, to make them more plain, do really render them more perplexed and incomprehensible, not only to common readers, but to the lawyers themselves*[15] ,

---

[12] G. Steiner, "The Hermeneutic Motion", 2000, in: Lawrence Venuti (ed.) *The Translation Studies Reader*. London. New York: Routledge, 2012. Print., p. 187.

[13] Ibidem, p. 139.

[14] Quoted in Scotto di Carlo, Giuseppina, *Diachronic and Synchronic Aspects of Legal English: Past, Present, and Future*. Cambridge Scholars Publishing. Print., 2015, p. 30.

[15] Quoted in P. M. Tiersma, *Legal Language*. University of Chicago Press, Print., 1999, p. 46.

all this being circumscribed to a challenging environment that is tributary to an almost infinitude of "*cultural principles, method(s) of organizing and attributing meanings, and a practice of cognitive mapping that is held, with little variability, by large numbers of people*"[16]. We approach the semantic awareness of a certain domain of discourse that has always been cryptic, scholarly in expression and phrasing, and as David Crystal highlights, vocabulary "*proves to be the most distinctive marker*" in any type of language and discourse[17]. *To be, or not to be* familiar with a certain kind of terminology has always been a sort of suspended bridge between territories of understanding, that would shrink or expand their perspective depending on the traveler's skills. Geoffrey Chaucer makes room in some of his famous *Canterbury Tales* for such expressions of ignorance, one being attributed to the Shipman, who, in the Epilogue to *The Man of Law's Tale* pledges to tell his story[18],

1188 "*But it schal not ben of philosophie*,
But it shall not be of philosophy,
1189 *Ne phislyas, ne termes queinte of lawe*.
Nor legal cases, nor elaborate terms of law.
1190 *Ther is but litel Latyn in my mawe!"*
There is but little Latin in my mouth!"

The British linguist takes one step further in interpreting those "*termes queinte of lawe*", not strictly as legal nomenclature, but as "*words which were elegant and refined, ingeniously or carefully constructed, perhaps also unfamiliar or strange in appearance*"[19]. It may not be without importance, however, to mention that although touted to be the father of modern English language and English poetry, Chaucer was a complex character of his time – he was also a "*civil servant – first as a controller of customs in the port of London, later a clerk of the king's works – as well as a soldier, diplomat,*

[16] J. Arditi, "Geertz, Kuhn and the Idea of a Cultural Paradigm" in (1994, December) 45 British Journal of Sociology. Print., p. 614.

[17] D. Crystal, *The Stories of English*. London: Penguin Books. Print., 2004, p. 170.

[18] Quoted in Ibidem.

[19] Ibidem, p. 171.

intelligence officer, and parliamentarian"[20], and this accounts for the polyphonic tone of his discourse. Polyphony characterizes the linguistic environment of Medieval English, but it was not the language of the land the one that gave the first voice of the nation, for it had to join Latin and French in a *triglossia* chorus, where, alas, it was the feeblest string. Crystal clearly highlights the fact that it took almost „*300 years for English to be officially reasserted*", though as „*the Middle Ages progressed, we find English gradually making inroads*" into the corridors of power and „*domains of discourse which had previously been the prerogative of Latin or French. Legal English, medical English, philosophical English, literary English, parliamentary English*[21]*, and other varieties started to appear, and quite quickly evolved the distinctive and sophisticated styles of expression still used today*"[22].

> *English [...] found its social role very sharply defined: in speech, it was the second-class language, the language of the defeated. It would never have been heard at the court, or on formal occasions when Norman lords were present. And it would rarely have been used in writing – apart from in the domain of religion where [...] it was making respectable progress*[23].

One of the most eloquent perspective upon the intricate linguistic webbing of the time is offered by Sir John Fortescue who explains the truth of the matter in one of the letters addressed to Prince Edward:

> *In the universities of England, sciences are taught only in the Latin tongue. But the laws of the land are learned in three languages - English, French and Latin. French because, after the conquest by Duke William, the French would not allow*

[20] D. Crystal, op. cit., p. 231.

[21] It was in 1362 that an official statute recognized, for the first time, the role of English in the Parliament which applied only to the spoken language, and not to the written records, which continued to function with a mixture of all three languages.

[22] Ibidem, p. 139.

[23] Ibidem, p. 128.

> *advocates to plead causes except in the language they knew... Likewise the French would not receive accounts unless they were in their own language, in case they were deceived. They enjoyed recreations such as hunting, dicing and ball games, only in their own tongue. And the English, by mixing in their company, contracted the same habit, so that to this day they speak French in such games and in accounting. And they were accustomed to plead in the same language until the usage was restricted by force of a certain statute: despite which, it has proved impossible to abolish the custom completely, partly because there are certain terms which pleaders can express more appropriately in French than in English, and partly because declarations upon original writs cannot be framed as closely to the nature of the writs as in French, the language in which the formulae of such declarations are learned. Also, what is pleaded, disputed and adjudged in the royal courts is reported and put into books for future learning always in French. Moreover, many statutes of the realm are written in French.*
> *In the third language, Latin, are written all original and judicial writs, and likewise all records of pleas in the king's courts, and also certain statutes*[24].

Latin, on the other hand, was intimately linked to the origins of British legal institutions that date back to the 1066 Norman Conquest. Masters of administration, the Normans acknowledged the superiority of the Anglo-Saxon law and wisely decided to preserve and develop it, contributing thus to creating a centralised and organised Common Law legislation, defined, how else, but by a Latin expression, *Stare decisis et non quieta movere* (to stand by decisions and not disturb the undisturbed). From a linguistic perspective, what had to be left undisturbed was the fact that Latin was the language of record of the common-law courts and it continued to play its part until 1731.

> *Latin had been for centuries accepted as the language of law, administration, literature and the Church. Domesday Book*[25]

[24] Quoted in J. H. Baker, op.cit., p. 22.

> *was written in Latin, not French, and most of the ensuing administrative record-keeping continued to be in Latin*[26]

What made Latin so amenable to recording official matters of the court and its institutions was its mathematical precision and strict grammatical rigurosity. So strict and precise it was, that even the slightest of errors, a corrupt spelling could have made the sky tumble down on someone, or, on the contrary, it could save a life. Professor Baker discovered such a story that speaks of a man who, by the end of his trial, went home, and not to the gallows, saved as he was by a misspelt pronoun (sic), and not by the verdict of the judge.

> *One Rogers was indicted for murder by a coroner's inquest on the view of the body of one Thomas Pheyse, beginning quod quidam Thomas Pheyse in pace domini regis existens" instead of quod quidem Thomas. Since quidam Thomas ("a certain Thomas. ...") might have been anyone called Thomas Pheyse, and not the Thomas Pheyse on whose death the inquest was sitting, the indictment was quashed; a coroner's jury could not indict someone for a death other than the one they were investigating. Of course the draughtsman meant quidem, but that is not what he wrote*[27] .

Latin is still present in today's legal discourses regardless of the juridical systems, either Common or Civil Law – *actus reus, affidavit, alias, alibi, per capita, prima facie, habeas corpus, in rem, lex fori, mens rea, status quo, ex parte, quorum, bona fide, etc*. Nevertheless, Latin came to compete with French on the legal linguistic battlefield as French, by far the more important, was „*used more and more in formal domains, such as law,*

---

[25] Doomsday Book (1086-7) was compiled on the orders of King William I, 'the Conqueror', shortly after the Norman conquest of Britain (1066) and it gathers in its 913 pages proof of rights to land and obligation to tax and military service, resulting in the first national centralised written record carried out on the British Isles, though far from offering a complete survey of property and individuals.

[26] D. Crystal, 2004., op. cit., p. 128.

[27] J. H. Baker, op. cit., p. 14.

literature, and the arts [...]"[28] dramatically changing the character of the language. Dr. Susan Carter quotes Douglas Kibbee as she tries to identify the reasons that account for the fact that it was French and not English the language that replaced Latin as the legal language towards the end of the 12th century, becoming the dominant voice towards the fourteenth century:

> *(1) the reforms begun under Henry II, including the Assize of Novel Desseisin, opened the door of royal French-speaking courts to all; (2) the laity, who were not particularly well versed in Latin but spoke French, the chief language of the literate, assumed clerical roles at law; (3) there was a growing literacy and interest in French literature overall; (4) the social structure was changing such that it favored French; and (5)the expanding wool trade with the Flanders and Picardy brought new requirements for speaking, contracts and documents, and litigation in French*[29].

William Caxton, the man thought to have introduced the printing press into England (1476) makes a point when, puzzled by such intricate a situation, almost rhetorically launched the following question:

> *Loo, what sholde a man in thyse dayes now wryte, egges or eyren? Certainly it is harde to playse euery man by cause of dyuersite & chaunge of langage*[30] .

It has always been a story of words, ever since the creation of times "*In the beginning was the Word*" (John 1:1). David Melinkoff was almost tautological when he wrote, in the preface of the book we have already quoted from, that: "*The law is a profession of words*", whose meaning, if unknown, or subtlety, too obscure, may remind us of John Dryden's lines: "*Words, words which would tear / The tender labyrinth of a soft maid's*

[28] D. Crystal, 2004., op. cit., p. 128.

[29] Quoted in Carter, Susan. "Oyez, Oyez, "O yes" American Legal Language and the Influence of the French" in Michigan Bar Journal. Print, November 2004, p. 39.

[30] D. Crystal, 2004., op. cit., p. 207.

ear". Synonymy, lexical doublets is what not only Middle English legal terminology abounded in, most probably in its attempt to eliminate and avoid any possible ambiguity, add nuances and strength to the lawyer's discourse, turning it into one of the stylistic peculiarities that survives to the present day, adding preciousness to court rooms rhetoric.

Doublets	**Sources**
able and willing	French / English
acknowledge and confess	English / French
breaking and entering	English / French
deem and consider	English / French
due and owing	French / English
final and conclusive	French / Latin
fit and proper	English / French
give and grant	English / French
goods and chattels	English / French
had and received	English / French
hue and cry	English / French
keep and maintain	English / French
lands and tenements	English / French
made and provided	English / Latin
new and novel	English / French
pardon and forgive	French / English
peace and quiet	French / Latin
shun and avoid	English / French
sole and exclusive	French / English
uphold and support	English / French
will and testament	English / Latin

Triplets	**Source**
cancel, annul and set aside	French / French / English
communicate, indicate or suggest	Latin / Latin / Latin
dispute, controversy or claim	French / Latin / French
promise, agree, and covenant	Latin / French / English-French

(source: adapted from Crystal)

Binomials may sometimes reveal a common etymological reservoir, as in *aid and abet*, *bribery and corruption*, *null and void, terms and conditions* (French / French, both coming from Latin), *all and sundry* (English / English), a fact that does contribute massively to the richness of language the legal domain boasts of – *assign* (Middle English from Old French *asigner*, *assiner*, from Latin *assignare*, from *ad-* 'to' + *signare* 'to sign') – *transfer* (Middle English (as a verb): from French *transférer* or Latin transferre, from *trans-* 'across' + *ferre* 'to bear')*; breach* (Middle English from Old French *breche*) – *violation* (Middle English from Old French *violacion* and directly from Latin *violationem); clause – provision* (late Middle English via Old French from Latin *provisio*, from *providere* 'foresee, attend to) – *paragraph* (late Middle English from French *paragraphe*, via Medieval Latin from Greek *paragraphos* 'short stroke marking a break in sense', from *para-* 'beside' + *graphein* 'write'), are but a few examples of a list far too long to be depleted in only a few lines.

As each legal system is based on a specific set of socio-cultural elements and the *linguaculture* dimension that circumscribes it has become its matrix, it is of utmost importance to know and understand the way in which this entire phenomenon is reimprinted, as different cultural, social, historical perspectives offer various linguistic transpositions. Hence, if British English uses the term '*employment law*', American English refers to the same reality as '*labor law*', whilst the French name it '*droit du travail*'; needless to comment on the influence[31] of the French legal system

[31] About the influence of the French legal system, the Napoleonic Code, known as *Le Code Civil* from 1804, was the fundamental source of inspiration for the Romanian Civil Code that entered into force in 1865 and was applied by Romanian Civil Courts until the 1st of October 2011. Even if the Napoleonic Code was not the

throughout the process of modernization of the Romanian society that can only account for certain terminological mirroring, as the Romanian equivalent is '*dreptul muncii*', having '*work'* and not '*employment'* at its very heart. The same may be said about the French '*code pénal*' which reflects itself onto the Romanian terminology, '*cod penal*', whereas in the Anglo-Saxon world there is a certain oscillation between '*penal code*' and '*criminal code*'. Mentioning the lexeme *crime*, a double cultural, as well legal perspective opens, since the term encapsulates a serious offence in both French and Romanian *penal code*, whereas in the Germanic world it is a rather generic term, far from being so strict and precise in meaning and content as *murder* is, for instance. Coming from Latin (*crimen*) where it meant *judgement*, *offence*, and reaching Middle English from Old French (*crime*), the word seems to be closer in meaning to the original semantics in English, rather than in French or Romanian. *Murder*, on the other hand, tells a different story. Although it has clear Proto-Germanic roots *morðor* (c. 1300), the current spelling with *-d* is likely to reflect the influence of the Anglo-French *murdre*, derived from the Old Frech lexem *mordre,* a form with which the word appears in Chaucer's *The Nun's Priest's Tale*: "*Mordre wol out that se we day by day*" (1386). But words have nuances, and there is one that comes with *murder* itself. David Crystal tells us that a *morðor* is a killing performed in utmost secrecy for which natural justice is summoned. In order to support the theory, the British linguist turns to Richard Fits Neal, author of the *Dialogus de Scaccario* (A Dialogue on the Exchequer), written in 1176-7 for help, and this is what he finds out:

> *Murder (murdrum), indeed, is properly called the secret death of somebody whose slayer is not known. For 'murdrum' means the same as 'hidden' or 'occult'. Now, in the primitive state of the kingdom after the Conquest, those who were left of the Anglo-Saxon subjects secretly laid ambushes for the suspected*

---

first civil code adopted in an European country, it was an acculturation of the first modern legal code into our civil legal system which illustrated once more the predominant influence of French language and culture for the Romanians of the 19th century. Also, remembering the United Principalities of Moldavia and Walachia, we emphasize the contribution of the French legal system to the process of modernization.

> *and hated race of the Normans, and, here and there, when opportunity offered, killed them secretly in the woods and remote places. As vengeance – when the kings and their ministers had for some years, with exquisite kinds of tortures, raged against the Anglo-Saxons – the following plan was hit upon: that the so-called 'hundred' in which a Norman was found killed in this way – when he who had caused his death was to be found, and it did not appear from his flight who he was – should be condemned to a large sum of tested silver for the fisc [exchequer]; some, indeed, to £36, some to £44, according to the different localties and the frequency of the slaying*[32].

If the legal profession is a world of words, precision is the rule behind their articulated utterance, be it in oral expression or written record. When words start their journey of meaning and become the subject of legal translation, word-for-word translation is most often used to convey form and content from the target language (TL) to the source language (SL) texts. This is also the vision St. Augustine has on translation, who could not perceive the act of translation but in the most intimate bondage to the original, whose letter and spirit had to be respected, the moment the word of the Scripture was not to be subjected to any interpretation. The same opinion is shared by John Dryden, in the preface he wrote to Ovid's Epistles, where he acknowledged the *metaphrase* as the first of the three ways of transferring meaning, "*word for word and line by line*"[33], along with *paraphrase* and *imitation*. Legal communication does turn quite often to the principle of *formal equivalence*, as there are plenty of terminological concepts and institutions in the legal systems of both the SL and TL that share the very same meaning – thus, '*Cour d'Appel*' can be translated as '*Court of Appeal*' or '*Curte de Apel*'; '*Cour martiale*' by '*Court-martial'* or *'Curte Marțială'; 'juge*' by '*judge*' or '*judecător*'; '*appel*' by '*appeal*' or '*apel / recurs*', or '*jury*' by '*jury*' or '*juriu*'. Metaphrase covers sometimes only juridical realities that share a

---

[32] Ibidem, p. 126.

[33] Quoted in Mona Baker; K. Malmkjær, *Routledge Encyclopedia of Translation Studies*. Routledge. Print, 1998, p. 153.

common historical background, where linguistic and technical realities merge, and where the idea and milieu created by the linguaculture concept are at home. Let us take the French word '*magistrat*', for example and translate it into Romanian as '*magistrat*'; not only do the two words share the same spelling but also both refer to a professional judge, whereas the English term '*magistrate*' would only point to a lay judge. The French word '*avocat*', for instance, has the same lexical and technical mirroring in Romanian, but not in English, where it is up to the translator to put things into the proper perspective, not only from a linguistic angle, but also from a juridical one, for he/she would have to choose among '*solicitor*', '*barrister*', '*lawyer*', '*attorney at law*'. The friendliness of direct equivalence or the pitfall of false friends depends often on the cultural turn, the only one accountable for erroneous lexical transpositions.

Metaphrase is sometimes used to translate legal terms that do not have a direct equivalent in the legal system of the TL, as, for instance, we can translate the French phrase '*Cour constitutionnelle*' into Romanian, as '*Curte Constituţională*', or into English, as '*Constitutional Court*', but here we have to make room for a small note. The English version translates more the idea of globalization rather than the legal institutions, for no such court is to be found in the United Kingdom, a democracy that does not have a codified constitution, to be reviewed by any such legal body; the '*Supreme Court of Justice*' reviews the American constitution, and hence, the word-for-word translation is used to refer to other similar institutions that exist in countries where English is not the mother tongue, but the language used in international relations. A good example comes with the 1866 Constitution of Romania, promulgated by Carol I, which laid the modern foundations of the legislative forum of the country under the name '*Reprezentanță Națională*', a direct expression of admiration for the French democratic model and its '*Assemblée Nationale*', and as common denominator for the three linguistic perspectives, it is very handy to turn to formal equivalence when mention is made about the generic nomenclature referring to the houses of Parliament as '*chambre haute*' (1a), '*camera superioară*' (1b), '*the upper house*' (1c) '*chambre basse*' (2a), '*camera inferioară*' (2b), *and* '*the lower house*' (2c) , and not to their specific names, case in which the word-for-word translation is not to be used, unless there is a common system of reference, as in the case of France and Romania - *le Sénat* (1a), *Senat* (1b), *the House of Lords*

(1c)*; l'Assemblée nationale* (2a)*, Camera deputaților* (2b)*, the House of Commons* (2c).
Functional equivalence, on the other hand, is recommended when the SL and TL terms have similar meanings.

English	French	Romanian
European Patent Office	Office Europeen des brevets	Oficiul European de Brevete
law firm / office	cabinet d'avocats	cabinet de avocatură
registered office (company)	siege social	sediu social
tax office	hotel des impots	oficiu fiscal

Lexical modulations come with far more infinite and complex subtleties of the linguistic material that open new semantic nuances, counting on symbolic permutations, in what the legal language is concerned. Once again, it is the cultural factor the one that accounts for the lexical registry.

English	French	Romanian
Act of God	cas de force majeure	caz de forță majoră
hush money	prix de silence	prețul tăcerii
payment in kind	paiement en nature	plată în natură
rainmaker	avocat „attrape-clients"	*avocat de succes*
threshold question	question preliminaire	întrebare preliminară
whistle blower (informer	delateur	delator
wildcat stike	greve sauvage	grevă spontană

Nowadays, when globalisation makes people look beyond borders and cultures fuse, the cultural turn phenomenon cameleonically adapts itself to the changes of landmarks and perspectives, reconfiguring a different milieu, equally polyphonic, generously multifaceted. Nowadays, it seems to be English, and not so much French, the linguistic vehicle that drapes emerging

realities, or reimprints former ones – *barter* (from French *barater*), *task* (from French tasche), *trainer* (from French *trahiner*), *summit* (from French *somet*), etc, and lawyers from around the globe come to listen to an unprecedentedly commonly tuned language.

> *Legal language is always being pulled in different directions. Its statements have to be so phrased that we can see their general applicability, yet be specific enough to apply to individual circumstances. They have to be stable enough to stand the test of time, so that cases will be treated consistently and fairly, yet flexible enough to adapt to new social situations. Above all, they have to be expressed in such a way that people can be certain about the intention of the law respecting their rights and duties. No other variety of language has to carry such a responsibility*[34].

[34] D. Crystal, *Cambridge Encyclopedia of the English Language*. Cambridge: Cambridge University Press. Print, 1995, p. 374.