

Legal Translation: New Approaches in a Challenging World. Introduction to the Topic of the 4th Edition of the International Conference on Legal Translation

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Abstract: In the first part of the paper, the authors emphasize the challenges faced by legal translators in the context of the extensive use of new technologies, including legal tech and artificial intelligence products. Even if the language of law, which is formal, technical, and non-ambiguous, seems to be entirely automatable, there are several characteristics that hinder the encoding process, such as polysemy, deliberate ambiguity, culture-bound terms and the evolutive nature of the field. Thus, the standardization and formalization of the legal discourse through artificial intelligence tools is almost impossible. Such instruments and resources have an important contribution, speeding up the translation process and making it more cost-effective, but legal translation remains a human-driven activity that requires proper research and critical thinking to avoid the “hallucinations” specific to artificial intelligence. The second part of the paper is an overview of the contributions to the fourth edition of the conference on Legal Translation. These contributions approach theoretical and practical issues related to legal translation performed in a changing environment.

Keywords: legal discourse, legal translation, artificial intelligence, translation challenges.

1. Legal translation in a changing world. New technologies – a partner or a menace?

As most activities performed by humans, legal translation is compelled to adapt to the new realities of our world. The advent of artificial intelligence is, in this respect, comparable to the changes brought by the industrial revolution at the beginning of the nineteenth century. Artificial intelligence, based on machine learning and natural language processing, is already largely used in the field of law: it analyzes vast corpora to extract the essential information; it decrypts complex legal texts and it contributes to the automatization of repetitive tasks; it is even employed to predict court decisions through the examination of existing case law. Also, artificial intelligence may explain culture-bound legal terms, providing

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definitions and examples and ensuring cost-effective and proficient solutions in the field of legal translation.

Apparently, the legal discourse does not seem to resist automation, as it is formal, non-ambiguous and technical in nature. In continental cultures, law makes the object of constant codification and the competence of courts is clearly established, which ensures predictability. Nevertheless, some features of law, such as polysemy, deliberate ambiguity, or culture-bound terms prevent automation. Legal language is technical, but also complex; in addition, it is marked by the need of security, exactness, concision and confidentiality. Due to all these features, automatic legal translation is, for the moment, imperfect or even of low quality – depending on the tool employed.

The evolving nature of law, a field that is constrained to take into consideration the constant evolution of society, is also challenging: on one hand, translators are required to follow the latest changes in legislation and terminology, and, on the other hand, translation tools should be permanently updated based on the new legal realities. In what concerns artificial intelligence, the algorithm on which it is based should be constantly “fed” with information that is up to date. Otherwise, the lack of proper research and the use of resources that provide obsolete or inaccurate content may lead to misinterpretation or to translation errors.

When artificial intelligence is used for research purposes, translators are compelled to apply critical thinking to avoid the so-called “hallucinations” of the artificial mind. This is important because legal terminology obeys the need of accuracy: “Le Droit est une langue, une langue de précision. La bonne compréhension du droit (et son bon usage) commence par conserver un « sens pur aux mots de la tribu » (pour reprendre une expression de Mallarmé), le juste emploi des mots, pour savoir de quoi l’on parle et éviter les enlisements sémantiques.”² In other words, translators should resort to their own legal knowledge and to comparative law, when necessary, which helps them find appropriate solutions to translation difficulties.

Unlike other specialized languages, the language of law is culture-bound, including concepts that are usually hard to translate from one language into another. The discrepancies between legal cultures are often insurmountable³. Cultural challenges generated by the characteristics of each legal system usually involve the lack of conceptual equivalence. Simone Glanert even speaks about the untranslatable nature of law: “c’est encore l’incapacité des comparatistes à reconnaître l’intraduisibilité des droits – et à apprécier la valeur de l’intraduisible – qui se révèle la plus déroutante”⁴. The solutions provided by artificial intelligence may turn out unreliable when there is no correspondence of concepts from one

² Ph. Le Tourneau, *Contrats du numérique - informatiques et électroniques 2021/2022*, 11^e édition, Dalloz, Paris, 2020, p. 56.

³ P. Legrand, *Comparer les droits, résolument*, PUF, Paris, 2009, p. 209.

⁴ S. Glanert, “*Aujourd’hui maman est morte*”: traduction littéraire et droit comparé, *Revue Droit & Littérature*, vol. 4 (1), 2020, p. 384.

legal culture to another. Thorough research performed by translators through a comparative approach remains the answer to such difficulties.

Artificial intelligence may also involve cognitive biases generated not only by the incongruencies between various legal cultures, but also by a lack of objectiveness that may lead to confirmation, amplification, and representativity errors. In addition, the extensive use of artificial intelligence for translation purposes raises ethical issues related to confidentiality and data protection. From a legal perspective, we speak about a legislative gap, as in most jurisdictions artificial intelligence does not make the object of regulations that warrant data protection, security, and transparency. Copyright is, in this respect, a sensitive topic that needs to be addressed.

In conclusion, due to the complexity of the field, successful legal translation remains a human-based practice that may be performed with the help of existing technologies. In other words, emerging tools, such as artificial intelligence, do not represent for the moment a miraculous solution for legal translation, as the features of the legal discourse prevent any standardization. Legal translators are indeed required to adapt to the new realities and to integrate translation technologies into their practice, including artificial intelligence tools such as Lauria, Lexis Nexis, Mistral or ChatGPT (the so-called “legal tech”). Nevertheless, the creation of an ethical and deontological framework would warrant data security and confidentiality of the information that is rendered from one language into another.

In fact, the final aim is not to make translation an entirely automatic process, but to observe the accuracy and concision requirements through the effective use of translation tools. Artificial intelligence may be of huge help in this respect; still, legal professionals should be aware that the extensive use of Big Data, artificial intelligence and the Internet of Things “enable hyperinfluence on a scale like never before”⁵. Translation technologies should become a partner of language professionals and should not replace critical thinking and thorough research, especially in the case of complex matters, such as the translation of culture-bound legal terms.

2. Contributions to the fourth edition of the conference on legal translation

This volume brings together the contributions of authors who have participated in the fourth edition of the international conference *Legal Translation – Legal, Linguistic, and Technological Challenges*, organized on the 5th and 6th of December 2024 by the Faculty of Law of the Alexandru Ioan Cuza University in Iași, Romania, in collaboration with the Directorate for Translation of the European Parliament. The idea behind the event was to bring together translators, lawyer-linguists, and other professionals working in the field of legal translation,

⁵ M. Lavi, *Evil Nudges*, *Vanderbilt Journal of Entertainment & Technology Law*, vol. 21 (1), 2018, p. 6.

on one hand, and legal professionals and researchers in the field of translation studies and law, on the other hand. Thus, the conference included a pragmatic component, useful to legal translators, and a scientific component, addressed to legal scholars and translation theorists. The event aimed to integrate the translation experience into a theoretical approach, also taking into consideration the linguistic evolution on the national and European level, the cultural marks of the source text, and new technologies and resources able to help language professionals.

The contributions to our volume approach the issue of legal translation from various perspectives, either theoretical or practical. Through a comparative analysis, **Ana-Maria Carabineru** examines some translation and interpretation difficulties related to causation in the field of tort law. As there is no strict correspondence between the notion of “tort”, pertaining to common law, and the concept of “delict”, which belongs to continental law, there are notable discrepancies regarding the way tortious liability is understood and regulated in various legal systems. The paper explores the elements of the tort of negligence, focusing on the causal link between the breach of the duty of care and the damage caused by the alleged breach. Through a comparative analysis of the French, British and Romanian legal systems, the author identifies several challenges related to the translation of the notion of “tort” in the corresponding languages.

Carmen-Ecaterina Ciobăcă focuses on the topic of legal false friends approached in a teaching context. False friends are understood as doublets having an identical or similar form, but different denotations. They have been examined from various perspectives (translation studies, lexicology, semantics). There are many dictionaries and compendiums dedicated to false friends; nevertheless, identifying them in various contexts may be challenging for language learners and language professionals. False friends are linguistic “traps”, as they generate semantic errors and confusions. The author proposes a typology of false friends and discusses some comprehension and translation difficulties encountered by Romanian learners of legal French.

In her paper, **Oana Cogeanu-Haraga** explores the existence of legal translation studies, seen as a border discipline situated between law and linguistics or as an interdisciplinary, as it combines elements from translation studies, linguistics, terminology, comparative law, and cultural studies. Legal translation studies are also considered a sub-category of translation studies or even a discipline *sui generis*. In this context, the author aims at mapping the territory of legal translation studies, taking into consideration some discrepancies generated by texts which do not refer to legal matters as such, but which are employed in legal environments. The translation experience itself is taken as a reference to delimit the scope of legal translation studies, which is different from the scope of legal language and/or legal contexts.

Nicoleta Rodica Dominte and **Simona Catrinel Avarvarei** approach in their paper a metaphorical concept and its translation, namely the “seniority” of the national trademark. Thus, the authors examine the legal meaning of this

concept, as established by articles 39 and 40 of Regulation (EU) 2017/1001 on the European Union trademark. To clarify the meaning of the term “seniority”, the authors analyze its translations into various EU official languages. The concept has a metaphorical nature, which is not always reflected by its different equivalents. Nevertheless, metaphors are sometimes useful in legal language, as they ensure the accurate representation of certain legal realities.

Angela Grădinaru and **Vitalina Băhneanu** present some challenges and strategies used to render implicit information in the translation of pleadings. Legal language is full of unspoken information, allusions and implicatures. In the case of pleadings, they are part of the lawyer’s rhetorical strategy. Implicit messages are based on pragmatic mechanisms and are not easy to translate, taking into consideration the linguistic and cultural discrepancies between various legal systems. The major translation challenge arises when the lawyer resorts to implicit information in a deliberate way to induce a specific interpretation of the message conveyed. Undertranslation and overtranslation are, in this context, the two dangers that should be avoided by translators, who are compelled to find a balance between the adaptation of the source discourse and the preservation of the author’s intent. In this respect, specific strategies may be employed, such as explanatory rephrasing, meant to clarify implicit information, pragmatic equivalence, which creates a similar effect in the target language, and compensation, which shifts the pragmatic effect within the discourse. The paper shows that translating implicatures in pleadings is a complex exercise because of specific linguistic and cultural subtleties.

Mădălina-Gabriela Guță and **Crina-Maria Stanciu** explore the concepts of “heir”, “successor” and “inheritance” in the Romanian, French, and Anglo-Saxon legal culture. Lawyers usually face difficulties when they deal with notions that do not have an exact correspondence in various systems. In common law, for instance, we may find multiple names for the notions of “inheritance” and “heir”, depending on the nature of assets found in the estate. Inheritance also includes the notion of trust, as a manner of management and transmission of assets. In the French legal system, on the contrary, concepts belonging to inheritance law bear different names. The authors aim to analyze the potential standardization of legal terminology pertaining to the succession field. A unified terminology would combine elements borrowed from both common law and continental law.

Referring to maritime law, **Grygorii Moshak** examines several translations of German and Romanian legal documents that are part of case law. The main idea on which the paper is based is that translation plays an important role in the development of national legislation and case law, in particular in the field of navigation. The relationship between the socio-economic status of a country and the need for translation is also emphasized. The case study proposed by the author is based on the German translation of the monograph *Forgotten Freedom*. The strategies used to overcome translation difficulties comprise the careful study of the bibliography quoted in the source text and the clarification of the notion of freedom.

Elena Sârghi proposes an analysis of official translations of judgements issued by the Court of Justice of the European Union (CJEU) and by the European Court of Human Rights (ECHR) in the private law field. Even official translations may contain inaccuracies and inconsistencies due to the lack of precarious research, superficial revision or absence of equivalence between various legal systems. In the first part of the paper, the author explains the causes of such translation errors and their consequences, providing examples; the second part of the paper is an overview of the existing legal literature that includes recommendations meant to prevent such translation inconsistencies.

Corina Veleanu approaches the training of legal translators by means of legilinguistics. Based on her experience in the field of legal translation and the training of language professionals, the author emphasizes the advantages of using tools and resources pertaining to legilinguistics to train legal translators. Legilinguistics, also called jurilinguistics, emerged as a field in its own right in Canada at the end of the '70s. In fact, legal translation and legilinguistics have evolved together in this country marked by bilingualism and bijuralism. Canadian language and law professionals have constantly contributed to the development of centers of legal expertise and of useful resources addressed to linguists and lawyers, such as the *Juridictionnaire*, elaborated by the jurilinguist Jacques Picotte, and *Terminum Plus*, the Government of Canada's terminology and linguistic data bank. As we live in a globalized world, sworn translators and legal professionals working for international institutions need to have access to specific training that helps them overcome translation challenges. The author briefly presents a list of methods and online resources used in legilinguistics to discover translation strategies, identify lexicons, glossaries and data banks, optimize legal translation, and improve its quality.

Through the various approaches to legal translation, the contributors to this volume provided insight into the challenges specific to translation theory and practice in a changing environment. Translation tools and technologies are of great help; nevertheless, legal translation remains an activity performed by trained professionals, who understand that law is culture-bound and are aware of the importance of comparative research.

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