

## Preface to the Special Issue

This issue of *Comparative Legilinguistics* is the first of two guest edited by Federica Monti. Both issues are devoted to Legal Chinese, with special emphasis placed on the Issues of Mistranslation in the Business Field.

The first paper authored by Jacques Henri Herbots (titled: *The translation of the Chinese Civil Code in a perspective of comparative law*) focuses on notable difficulties in translating legal texts in China, which emerged when the primary source language shifted from German, particularly during the period of abundant legislation under Dèng Xiǎopíng. The main challenge at that time was to discover or create suitable Chinese equivalents for the German terms of art. However, the situation later reversed as Chinese became the source language for translating Chinese statutes into English. This shift posed a fresh and distinct challenge for translators, as English legal terms are rooted in the common law system, whereas Chinese law stems from the Germanic legal tradition.

The adoption and enactment of the Civil Code of the People's Republic of China 中华人民共和国民法典, as part of the country's regulatory edification and modernization process, has served Herbots as a comparative reference to develop an intriguing terminological examination (from foreign languages to Chinese and vice versa) which sheds light on the rendering of some lemmas of great legal value. In particular, examples of pitfalls and errors in the English translation of the Chinese Civil Code are *right of subrogation* for *dàiwèiquán* 代位权 or *entrusted contract* (as a neologism) for *wěituōhétóng* 委托合同 or brokerage contract for *hángjìhétóng* 行纪合同, among others.

The lack of division between civil law and commercial law, which at the normative level is reflected in the failure (to date) to adopt

a Commercial Code kept distinct from the Civil Code of the PRC, also makes Herbots' analysis of great relevance to studies of Chinese commercial law, as well as of the underlying lexicon and legal structures that characterize it.

The paper by Lara Colangelo (titled: *The expression of the concepts of dolus and culpa in Chinese legal language: distinctive features and criticalities*) presents a rich and comprehensive overview of how the concepts of *dolus* and *culpa* are translated into Chinese. The terms denote two legal principles strongly related to the field of commercial law. The author addresses the following inquiries: (i) the historical development of the primary terms employed in Chinese to convey the ideas of *dolus* and *culpa*; (ii) the criteria followed by Chinese translators and authors in selecting these terms; as well as (iii) the key characteristics and challenges concerning the linguistic translation of these two legal concepts. Particular attention is given to one interesting aspect of the linguistic rendering of the concept of *culpa*, wherein two different terms are utilized: *guoshi* 过失 and *guocuo* 过错.

The universalistic and systematic character of Roman law, particularly suited to a country that decided to move in a decisive, although slow, way toward codification, has been studied and analyzed by the author to authentically answer three interesting questions: what is the historical evolution of the main terms used in Chinese to express the concepts of *dolus* and *culpa*? What are the criteria adopted by Chinese translators/authors in choosing these terms? What are the main features and issues related to the linguistic rendering of the two legal institutions?

We hope that the readers will find the issue interesting and rich as food of thought.

On behalf of the editorial board:

Aleksandra Matulewska and Federica Monti