

Students in the third space: constructions of knowledge of foreign law in legal translations from German into Danish

Jan ENGBERG, Professor

School of Communication and Culture,
German Business Communication, Denmark

je@cc.au.dk

ORCID: <https://orcid.org/0000-0003-0660-7260>

Abstract: In this paper, I want to investigate the variations in the translations produced by a group of students translating the same source text. The aim of the study is to investigate the degree to which it is possible to empirically find traces of Third Space characteristics of legal translation of court decisions between Danish and German. A corpus of 22 translations is investigated for patterns followed by the students, with a special view to assessing the degree to which they choose similar renderings of the source text elements. A central result of the empirical study is that there is a considerable degree of variation across the studied translation students and that a general distinction between strategies guarding source text complexity in content and form, on the one hand, and strategies making the rendering of the source text in the target text culture more accessible for target text readers.

Keywords: Legal translation, Third Space, knowledge communication, knowledge asymmetries.

Studerende i third space: konstruktion af viden om fremmed ret i juridisk oversættelse fra tysk til dansk

Abstract: I dette arbejde undersøger jeg variationerne i de oversættelser, der produceres af en gruppe studerende, som oversætter den samme kildetekst. Formålet med studiet er at undersøge, i hvor høj grad det er muligt empirisk at finde spor af Third Space-karakteristika ved juridisk oversættelse af retsafgørelser mellem dansk og tysk. Et korpus på 22 oversættelser undersøges for studerendes mønstre ved oversættelsen. Formålet er at vurdere, i hvor høj grad de vælger at gengive kildetekstens elementer med de samme målsproglige elementer. Et centralt resultat af den empiriske undersøgelse er, at der er en betydelig grad af variation på tværs af de undersøgte oversættelsesstuderende, og at der generelt kan skelnes mellem strategier, der bevarer kildetekstens kompleksitet i indhold og form, på den ene side, og strategier, der gør gengivelsen af kildeteksten i måltekstkulturen mere tilgængelig for måltekstlæsere, på den anden side.

Nøgleord: juridisk oversættelse, Third Space, videnskommunikation, vidensasymmetri.

1. Introduction: Multilingual legal information and the background for producing it

In order for a legal system to work, the members of the society to which the system belongs need to have acquired knowledge of it, i.e., they need to know their rights and obligations in the many relations they have with other members. This is also necessary in order for them to be able to act like mature citizens of such a society (Peruginelli 2016: 107-108). A first and most central step in this context is to make the law accessible in the sense that legal information is offered to the members of a society, or to anyone interested in the design of the legal system. The World Wide Web has created a very powerful possibility for offering information in this format on the basis of which knowledge may be constructed by the users (Peruginelli 2016: 109-110). The global accessibility of this source of information also means that legal information is available on many systems and in many languages thus addressing the specific challenge of making legal information accessible interlingually (Peruginelli 2008). However, offering access

to legal *information* does not necessarily mean actually offering access to legal *knowledge*, as knowledge is only constructed in human minds on the basis of processes of understanding. And such understanding presupposes a considerable amount of knowledge shared in advance between providers of information and the receivers intending to understand. This is all the more so, if the legal information is provided in a language different from the everyday language of the receivers, be it an intralingual or an interlingual difference. In this paper, I want to focus upon the case of interlingually accessible legal information. Here, there is a need for the type of connecting act we call legal translation.

Legal translation as an interlingual process is about making textual utterances containing legal concepts in one language and from one legal system accessible in textual form to readers that lack the knowledge of this language and come from a different legal system. This makes it an instance of Knowledge Communication, i.e., the communication of expert knowledge to other experts across the barrier of knowledge asymmetry (cf. Engberg 2016a: 37)). Producing such a legal translation in textual form constitutes an attempt to build a bridge that foreign readers may use, when they want to reach the shore of texts in the source language and source legal system (Engberg 2021). However, it is important to realise that this type of bridges do not just emerge by themselves, as they have to cross barriers often claimed to be unsurmountable (Mac Aodha 2014). Instead, it is my claim that it takes conscious human bridge builders, here in the form of creative translators that take the concrete conditions at hand relevantly into consideration to construct the bridges.

The present situation with a high availability of legal information via World Wide Web or through exchange information in mass media poses an opportunity for the bridge-building translators:

Never before have humans been exposed to so many cultures simply by sitting before their television or computer screen. This unprecedented exchange of knowledge, information and data has radically altered the working conditions of translators and interpreters. With access to so many people ready to interact with us and answer our questions, we can understand messages through the prism not only of our own knowledge of the world, but also the experience of others, often living in a completely different part of the world. (Matulewska and Wagner 2021a, 1226)

The core of this citation is that the basic situation in which translators carry-out their bridge-building activity is characterised by a high degree

of richness. The challenge is therefore that translators have to be aware of the differences between their own cultural prism and that of the others present in the information. Translators have to be masters in recognizing relevant differences and similarities.

Translators can only carry out this task based on their own individual insights into source and target text situation. Hence, there is a potential for choosing different strategies for rendering ST formulations in the bridge-building process, depending upon their individual perception of situation and their insights into ST and TT legal language and legal concepts. This means that it is fruitful to perceive legal translation as a Third Space activity, i.e., an activity in which new understandings may emerge from the meeting of cultural knowledges (cf. below section 2). The more experienced the translators, the more grounded and stable their relevant knowledge will be. In my view, it should be a primary goal of translational didactics to work towards developing this type of competence, viz., the competence of approaching the thinking of different others, among other things by making students aware of the almost unlimited sources in the form of information on the World Wide Web and in mass media outlets, as indicated above. This enables them to recognize similarities and differences between source and target situation at an increasingly detailed level and to focus on different aspects through different formulations. Potentially, this means that different translators may translate similar ST formulations differently even within the same translation brief, according to their specific understanding and the TT situation at hand. On the other hand, a less developed competence could mean that the translator tends to always translate similar ST formulations into similar TT formulations. Details on the translation brief underlying the investigated student translations will be presented in section 4 below, making these more general comments more concrete.

A number of caveats have to be presented in connection with the present study. Due to changes in the study programs, I had to resort to data from students that I taught between 2002 and 2004 in order to have as many translations as possible to compare (22 translations in total). Therefore, I do not have access to longitudinal data of individual translators to study the hypothesis presented above. Instead, in this paper I study the degree of unity in the product of the assessment of source and target situation in a group of translation students translating the same text. In this way, I want to assess empirically to what extent

the investigated group of translation students may be hypothesized to have developed a standardised competence that makes them solve similar formulation problems in similar ways, and to what extent they choose individual solutions. I am especially interested in the differences in strategies of the observed students as they may be hypothesized through variations in TT formulations as indications of intermediate competence and adjusting to situation at hand.

Furthermore, the low number of instances means that I work empirically based on a corpus linguistic tool but not according to quantitative methods leading to generalizable and statistically liable results. Instead, the idea is to demonstrate a qualitative approach that may be elaborated by others with access to more student translations of the same source text. Hence, the study has a clear pilot character.

My small-scale corpus study is governed by the following research questions:

- What degree of variety in formulation when translating specialized vocabulary is visible across a population of student translators?
- What strategies may be interpreted from the variation?

In the following section 2, I will go deeper into the idea of seeing legal translation as a Third Space activity. Section 3 will present a knowledge communication approach as a specifying way of conceptualising such an activity and introduce the investigated group of students and the task they have carried out. Section 4 reports on the empirical research project, before section 5 sums up the results and relates them to the idea elaborated in section 2.

2. Third Space and translating court decisions

Using a concept from intercultural communication, Wagner (2016) suggest with Bhabha to talk about this type of task as a Third Space activity. The idea is that putting cultures in contact with each other requires a dynamic activity based upon a (cognitive) negotiation and thus an insecure outcome.

Accordingly, the main complexity in legal translation is to gather terminology of multiple origins and to transfer it into another linguistic framework. This linguistic framework is originally a binary code that comprises two semantic spaces: the source space and the target space. The legal translation process would then constitute the 'Third Space,' a space in-between, "which enables other positions to emerge ... [and where] ... all forms of cultures are continually in a process of hybridity" of evolution. This Third Space is undefined, vague, and fluid. It is a precondition for the negotiation, transformation and translation" between two cultures. (Wagner 2016: 169)

The Third Space is integrated in the source as well as the target culture, i.e., bridge builders must establish direct access to both and be able to put them in contact with each other in a sensible way. In other words, bridge builders must be able to find ways to dynamically connect the two cultures through choice of target culture wording based upon their understanding of the source culture text and its embedding as well as of the target culture.

If this is done well, the step is taken from merely offering legal information to offering legal information that is maximized towards being understood.¹ However, this is by no means an easy task:

When narrowed down to legal contexts, the Third Space of interlingual communication in legal settings becomes incredibly complex. It may be analyzed from multiple perspectives. For instance, every message may be misinterpreted on multiple planes of expression, as languages have a linguistic structure composed of multiple communication layers. [...] Furthermore, the Third Space is a space between language, culture, history, mentality, ethical systems, politics, power, stereotypes, economies and geography, which enables other positions to emerge and where all forms of cultures are continually in a process of hybridity, of evolution. (Matulewska and Wagner 2021a: 1226)

From this description it is clear that such legal translation must create a Third Space (Wagner 2016; Matulewska and Wagner 2021a) between the source and target legal systems, enabling target language readers to access knowledge about the communicative situation in which the source text is embedded based on the translators understanding of source and target legal knowledge.

¹ In cases where the same translational situation reoccurs frequently, so-called transgenres may develop, i.e., conventionalized textual patterns belonging themselves to the Third Space (cf. Monzó Nebot 2020).

Furthermore, this framework is constituted of a binary code with two spaces: the source space and the target space. So, the legal translation process would then constitute the Third Space, *a space-in-between*, “which enables other positions to emerge and where all forms of cultures are continually in a process of hybridity, of evolution” [...]. Nonetheless, legal translation is not characterized by a quest of certainty but rather by an *ongoing collectively accepted vision*, meaning that variable phenomena can arise from one space to another, and so the legal translation process can be subject to appropriate notions/concepts/norms/standards, which are always local and limited in space. (Matulewska and Wagner 2021b, 1246)

This Third Space can only be created on the basis of insights into the specificities of legal knowledge from the source as well as the target legal system. Students learning to translate legal texts are exactly in the process of achieving such knowledge, as well as developing strategies for building the Third Space through a creative process of decision making:

Active and collaborative work is then necessary to mediate, decide, and analyze under real constraints with cultural challenges. Accordingly, decision-making needs to elaborate multiple and viable solutions to problems that emerge naturally from ordinary language, and so to have “culture mediation” in the legal field. (Wagner and G  mar 2014: 1-2)

In the following section, I will present a way of operationalising the concept of the Third Space: Focusing upon the knowledge conveyed in the interlingual communicative process.

3. Operationalising the Third Space activity – legal translation as knowledge communication

My basic assumption is that the translation of elements of legal texts may be described as knowledge communication (Engberg, Fage-Butler, and Kastberg 2024; Kastberg 2019) in accordance with the following description:

Translating terms in legal documents consists in strategically choosing relevant parts of the complex conceptual knowledge represented in the source text in order to present the aspects exactly relevant for this text

in the target text situation in order to enable a receiver to construct the intended cognitive structure. (Engberg 2015)

Behind the description lies a general functional approach to the translation of legal terms (and actually behind any element of legal texts). The central specification lies in the third element of the description, highlighted in the quotation, viz., the idea that the active translator has to select formulations that will enable the TT readers (in our case: legal experts) to construct a personal cognitive structure that is in accordance with the cognitive structure that the translator has decided to be the most adequate in the concrete TT situation. This means that it is a central task for the translator to aim at selecting relevant focused knowledge from the ST situation and make it available to the mental construction processes of the TT reader. Characteristic for the approach is thus a focus upon the communicative process of presupposing the knowledge base of the prospective receivers in the target situation and on this basis to select the most adequate elements of the cognitive structure to be explicated (cf. also Iluk and Iluk 2019: 187-189). This may for instance consist in explicating elements not mentioned but inferred by the ST readers. The process described in the quotation is presented visually in fig. 1.

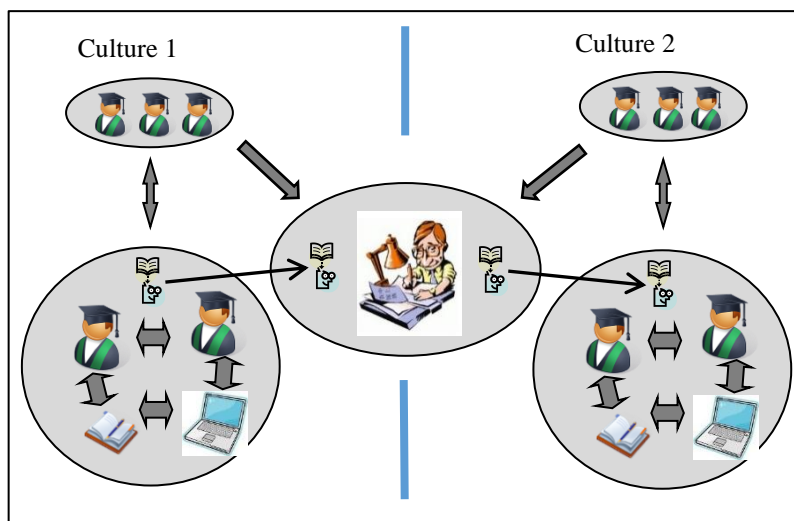


Figure 1. Legal translation with an active translator – Knowledge Communication Approach (cf. Engberg 2016b: 50).

Central in fig. 1 is the focus on the translator as someone who understands and who conveys knowledge based upon this understanding. This is shown through the inserted arrows and knowledge symbols, which are meant to indicate that the translator understands the knowledge communication being carried out in the source situation and transforms this understanding into a knowledge structure adapted to the TT situation and presented in such a way that the TT readers will be able to grasp the relevant aspects and thus reach a relevant understanding.² Hence, legal translation is perceived as a communicative effort carried out by an active translator working not only as an information broker, but actually as a knowledge broker (Obenaus 1995: 4-5; Engberg 2015).

The model in fig. 1 can be seen as a concretisation of the idea of legal translation as a Third Space activity. For it emphasizes the fact that the object translators must work with are *their perception* of the knowledges underlying the communicative efforts in source and target culture *based on their personal insights and experience*. That the perception (and not an objective person-independent knowledge) is the decisive factor explains also what the specific contribution of the Third Space perspective on intercultural communication is: it is the empowerment of the bridge builder, which liberates, as it gives leeway to make creative decisions, but also make translators responsible for the quality of their understandings.

By way of conclusion, seeing legal translation as an instance of knowledge communication enables us to use insights into the structure of individual knowledge as well as ways of constructing, collecting and conveying knowledge as tools for understanding the process and thus better understand what the characteristics of a Third Space approach to legal translation entail.

In the following section 4, I will present a way of empirically investigating the Third Space characteristics.

² Cf. Simonnæs (2013: 150); Griebel (2013, 2017); for empirical studies of the translators' understanding of source texts, cf. Griebel (2013, 2017, 2019, 2020, 2021).

4. Exemplary empirical study

4.1 Basic information

The study to be presented departs from the operationalisations above and investigate the formal reflections of, e.g., the structure of the individual knowledge of the investigated translators in order to answer the research questions presented in section 1. For this purpose, I have compiled a target text corpus of 22 translations carried out by students at the 4th semester MA course in translation of court documents between German and Danish from three cohorts (2002, 2003, 2004). The course was part of the final semester of the MA program in German Business Communication, the highest possible level of education in the field of foreign language business communication in Denmark. Students of this course were also taught a legal translation course (on contract law) in the previous semester, so they have some previous experience in the field. The data is thus fairly old, which as indicated in section 1 above was necessary in order to reach a considerable number of translations of the same source text among my own students. In recent years, the texts translated have been changing to a larger degree from one year to the other, especially due to continuous changes in the details of the study programs. The students performed the task at home with access to the internet (at the level of 2002-2004) and all other sources they wanted to use. No machine translation tools were used at this time in the study program.

The source text being translated is an extract from an order of the German supreme federal court, *Bundesgerichtshof* (BGH, Beschl. v. 19. 9. 2000 - 4 StR 320100 (LG Mosbach), published in *Neue Juristische Wochenschrift*, Vol. 53 (2000), Nr. 49, 3654-3655). The case to which the order belongs is about a person driving under the influence of a medical substance. In the extract it is discussed whether the level of influence from a specific substance has been documented sufficiently. The extract is taken from the argumentative part of the order, in which the court presents the reasons for the decision which was the result of the deliberations of the court. The translation brief was to create a target text for a Danish comparative lawyer writing a study of how the type of crime is treated in different jurisdictions. The source text consists of 275 words, which was the regular size of exam texts in the course where

the text was translated. The investigated terms may be inherently legal (like the denomination of a court) or derived legal due to the relevance of for instance medical terms for legal purposes in cases of drunk driving, like the one investigated here. My main interest is to find out to what extent different translators choose similar formulations for their target texts, and to what extent the type of knowledge communication strategy chosen can help explain the choices made.

As the corpus tool for the empirical study, I have chosen to use AntConc 4.1.4, especially for ease of access and (also financial) availability, as opposed to tools like Sketch Engine, but also because it fulfills the needs of a study limited in size like the one intended here. For instance, focus is upon variations in the target texts, so a monolingual tool like AntConc is sufficient for the purpose of this study. Furthermore, due to the size of the target text corpus (22 texts, a total of 6808 tokens), it is not relevant to carry out more elaborate statistical calculations possible with more elaborate programs in the analysis. In the corpus study I focus upon two perspectives using two different elements of the AntConc tool:

- Degree of variation across target texts in the corpus concerning terms
 - Choice of TT terms (→ Wordlists)
- Degree of variation in longer phrases
 - Length of frequent N-Grams found in corpus (→ N-Grams)

From a methodological point of view, I have here chosen a route not quite as frequently taken as the traditional investigation of conventions in non-translated instances of the genres to be translated (e.g., Moreno-Pérez 2017, 2019; Orts 2015; Trzaskawka and Kic-Drgas 2021). Such studies are extremely important in order to offer information on elements of the communicative competence in the ST and TT legal culture underlying text formulation. The information is relevant for translators for building the knowledge bases they need for making formulation decisions, when they follow the strategy chosen. However, the approach chosen here of carrying out corpus studies of TT formulations has a different direction: it makes the space for variation visible and emphasises the role of the individual and creative translator in the process of creating the Third Space relevant for intercultural understanding. An example of a methodologically similar work that has

been an important inspiration for me, was presented by Peruzzo (2019). She investigates the strategies chosen when translating Italian so-called system-bound elements in the context of ECtHR court decisions. Through a corpus study of English texts containing renderings of concepts from Italian law, she finds instances of “linguistic strategies that make national legal and judicial contents understandable to a readership that has no direct access to the original sources in the national language, in which foreign law is indicated as such.” (Peruzzo 2019: 12). I see this methodological approach as promising in order to investigate the details and consequences of conceptualizing translators as active and creative participants in intercultural legal discourse, a conceptualization that may also create a space for the critical translator (Martín Ruano 2019).

4.2. First perspective: Terminological choice in TT

The first perspective from which I have chosen to look at the target text corpus is that of terminological choice. In a first round, I want to know to what extent the students render German terms in the source text by the same token in Danish. In order to find out whether that is the case, a word list is generated and sorted according to range (= the number of texts in the corpus containing the word). From this list, I have selected those words that have a high range value and are renderings of German terms. The 10 terms with the highest range value are shown in table 1. As the source text is a legal decision text involving a medical topic (the influence of a medical substance on a driver), terms are from the legal as well as the medical field.

Following the definitions of AntConc, we have assessed word forms, i.e., words spelled the same way. This means that the same lemma with different endings (e.g., a Danish genitive *-s* like in *dommens*) is counted separately. This way of registration has been kept, as it enables us to be more certain about what source text word has been rendered by the Danish term.

ST term	TT term (word forms)	Frequency	Range
Blutprobe (<i>Blood sample</i>)	Blodprøve	22	22
Das Urteil (<i>the judgement</i>)	Dommen	72	22
Die Sache (<i>the case</i>)	Sagen	45	22
(Wirkstoff-) Konzentration (<i>(drug) concentration</i>)	Koncentration	20	20
des Urteils (<i>of the judgement</i>)	Dommens	19	19
Das LG (<i>the Landgericht</i>)	Landsretten	20	19
sedierenden (<i>sedative</i>)	beroligende	18	17
Sachverständiger (<i>expert</i>)	Sagkyndig	17	17
Schuldspruch / Schuldmin- derungsgründe (<i>conviction / grounds for mitigating guilt</i>)	... af skylds- spørgsmålet	21	17
Vorsätzlich (<i>intentional</i>)	forsætlig	16	16

Table 1. Target text words with a high range value rendering German terms.

Interestingly, only three German legal or medical terms have actually been translated by the same Danish term (*Blutprobe*, *Urteil*, *Sache*), and already among the first 10 terms with the highest range value the number of students using the same target language term drops to 16. From the word list we can also see that of the 892 word types in the target text corpus, 133 word types have been used by at least half of the students (15%). Both of these results point to a considerable degree of variation among the words chosen by the student translators.

Among the 133 word types that at least half of the students have applied, 25 are legal or medical terms (19%). In the part of the word types applied by less than half of the students, the proportion of legal and medical terms is the same. Hence, the proportion of terms among the word types does not diminish when word types are used by fewer students, i.e., when the choice of a word type gets more seldom and variation increases.

Summing up the results of the word list investigation, there is a degree of variation in terms, but at the same time a substantial proportion of students using the same terms. The proportion of terms of the word type is consistent across the corpus. Hence, students do not always use one word type as the rendering of a legal or medical term

but choose parallel terms. This points towards a certain degree of difference in their respective knowledge stock, but not in the way that they generally do not recognize terms in the ST or do not know any target culture term to use for rendering the ST term. They just choose different ways of rendering the ST term in term-like manner in the TT.

From the point of view of a third space approach to learning legal translation, it is especially interesting to study places where the students have chosen such different solutions. A case in point is the translation of the connected terms *Zurückverweisung* und *Neuverhandlung* in the following example from the source text:

- (1) Eine *Zurückverweisung* und *Neuverhandlung* der Sache allein wegen dieses Tatvorwurfs, die auch die erneute Hinzuziehung eines Sachverständigen erforderlich machte, erscheint dem Senat aus den in § 154 I Nrn. 1 und 2 StPO genannten Gründen nicht sachdienlich.³

The German concept may be described in the following way:

Bevor wir tiefer in die Materie eintauchen, sollten wir zunächst klarstellen, was unter einer *Zurückverweisung* zu verstehen ist. Es handelt sich hierbei um einen rechtlichen Mechanismus, bei dem ein höheres Gericht eine Sache an ein unteres Gericht zur weiteren *Verhandlung* oder Entscheidung zurückverweist. [...] Die *Zurückverweisung* ist ein zentrales Element in der Hierarchie des Gerichtssystems und spielt eine entscheidende Rolle bei der Gewährleistung einer fairen und korrekten Rechtsprechung.⁴ [Source: <https://kanzlei-herfurtner.de/zurueckverweisung/>].

The equivalent term in Danish is *hjemvisning*. It is defined as follows:

Hjemvisning er inden for retsplejen det forhold, at en appelinstans finder en underordnet rets afgørelse behæftet med så alvorlige formelle

³ *Remittal* of the case back to court and *retrial* solely on the basis of this allegation of offence, which would also make it necessary to consult an expert again, does not appear to the Senate to be appropriate for the reasons stated in section 154 I nos. 1 and 2 of the Code of Criminal Procedure (my translation; emphasis added).

⁴ Before we delve deeper into the matter, we should first clarify what is meant by *remittal*. It is a legal mechanism whereby a higher court *remits* a case to a lower court for *retrial* or decision. [...] *Remittal* is a key element in the hierarchy of the court system and plays a crucial role in ensuring the fair and correct administration of justice (my translation; emphasis added).

fejl, at en truffen afgørelse ophæves, hvorefter sagen sendes tilbage med påbud om en fornyet behandling.⁵

[Source: <https://denstoredanske.lex.dk/hjemvisning>].

As is visible, in German as well as in Danish the terms refer to the same type of situation and action: a decision is turned down by a higher-level court and sent back for a new hearing at a lower court. Where the complex term (cf. example 1) is frequent in German, in Danish *hjemvisning* (remittal) is more frequently used on its own. In order to model the knowledge structure rendered by the complex term, I choose a frame approach. The basic characteristic of this type of approach is that, as opposed to the traditional logic-based rendering of the meaning of terms, point of departure is the situation to which the concept denominated by the term belongs.⁶ I use the framework of matrix frames as point of departure for the description and categorize complex term as an instance of the matrix frame 'action'.⁷ On the basis of the descriptions, a rudimentary frame description of the situation in which *hjemvisning* exists may be built:

(2) Frame *Zurückverweisung und Neuverhandlung* / *Hjemvisning*

- **Specialized denomination for action:** *Zurückverweisung und Neuverhandlung* / *Hjemvisning*
- **Prerequisites for action:** institutional competence of court
- **Condition for action:** previous decision deemed unjustified
- **Intended state of affairs:** case starts anew in previous instance
- **The essential in the action:** case is moved to previous instance

The students have chosen a number of different solutions when translating the German term (cf. table 2).

As is visible from Table 2, the most frequent formulation strategy chosen is to use the term *hjemvisning*. In order to induce the most efficient understanding, this strategy presupposes that the reader possesses legal expert knowledge and is thus able to activate the full frame because they recognize the term as the expert denomination of the concept. Readers without the expert knowledge will recognize the action. Hence, for non-expert readers *hjemvisning* will primarily

⁵ In the administration of justice, *remittal* is when an appellate court finds a lower court's decision to be so seriously flawed that a decision is cancelled and the case is sent back with an order for a *retrial* (my translation; emphasis added).

⁶ Engberg (2023); Faber (2012); L'Homme (2019); Faber and Reimerink (2019). On the general advantages of a frame approach to conceptualizing translation, cf. Czulo (2017).

⁷ Konerding (1993); Ziem (2014); Engberg (2009).

activate an understanding of something being sent back. The same understanding will most likely emerge for non-expert readers through almost all the other applied alternatives, which activate the essential aspect of the action. The last alternative intends to activate the frame by mentioning the central condition for action, the rejection of the previous decision. This utterance is followed by a mentioning of the intended state of affairs and thus will most likely lead to the activation of the intended frame.

ST term	TT term	Frequency	Range	Strategy (frame element explicated)
Zurückverweisung (= to remit)	Hjemvisning (<i>remittal</i>)	8	7	Expert term (full frame) + the essential
	Tilbagesendelse	5	5	The essential
	Tilbagevisning	4	4	The essential
	At tilbagevise	2	2	The essential
	Tilbagesending	1	1	The essential
	Hjemsendelse	1	1	The essential
	Afvisning af påstanden (<i>rejection of the claim</i>)	1	1	Condition for action

Table 2. Variation in choice of TT term.⁸

⁸ As the different variations are mostly rather formal than semantic alternatives, I have chosen only to translate the Danish words where semantic differences are present. The meaning is deductable by comparing the indicated strategy with the elements of the frame (cf. example 2).

However, it is problematic that the version talks about the rejection of *the claim* (*af påstanden*), where it is the previous decision that is rejected in connection with *hjemvisning*. Hence, this rendering is problematic, but will still in essence lead to the activation of the intended frame.

Summing up this example, we see three strategies here: 1) using the (transparent) term to activate the frame, 2) using a verb that indicates the essential aspect of the action to activate the frame, 3) using an indication of a condition for the action to activate the frame. The basic differences lie in either formulating according to the cultural space of the expert target culture (using the term) or formulating in a more descriptive manner, which goes more in the direction of a third space strategy.

4.2. Second perspective: Variation in n-grams in TT

The second perspective that I want to investigate from a quantitative point of view is the variation in longer phrases used by the students. I am interested in the degree to which the students choose to use similar strings of words for translating the same parts of the source text. Behind this lies an interest in whether the students can be said to have found genre conventions from the target culture to be used for rendering elements from the source text. My idea is that if this is the case it will be reflected in the same string being used by a number of students. In order to assess this, I have used the n-gram function of AntConc. It looks for strings of words of a length indicated by the analyser. I have chosen in a first round to look for 3-grams and 6-grams. Due to their short length, 3-grams can be hypothesised to be of a more general character, for instance used also outside of legal settings, or used generally in legal settings. Along the same lines, 6-grams can be hypothesised to be of a more specific character, for instance used specifically in the genre or in the specific text.

The result of the analysis is presented below in Table 3 and 4.

KWIC	Plot	File	Cluster	N-Gram	Collocate	Words
N-Gram Types 4003 N-Gram Tokens 6764 Page Size 100 hits						
	Type	Rank	Freq	Range		
1	i stand til	1	21	21		
2	var i stand	1	21	21		
3	for så vidt	3	28	20		
4	høj koncentration af	3	20	20		
5	i henhold til	3	30	20		
6	eller i umiddelbar	6	19	19		
7	en høj koncentration	7	18	18		
8	er gået ud	7	18	18		
9	gået ud fra	7	18	18		
10	fra en høj	10	17	17		
11	kørslen eller i	10	17	17		
12	om at han	10	17	17		
13	selve kørslen eller	10	17	17		
14	stand til at	10	21	17		
15	til at føre	10	21	17		
16	ud fra en	10	17	17		
17	forsættlig kørsel uden	17	15	15		
18	med rette er	17	15	15		
19	rette er gået	17	15	15		
20	at føre køretøjet	20	14	14		

Search Query ☒ Words ☐ Case ☐ Regex N-Gram Size 3

Table 3. 3-grams, limited to the 20 most frequent instances.

As is visible from table 3, also here we have the situation that no 3-gram is found in all of the translations. But there are some very frequent choices that demonstrate that the students at least to some extent seem to draw upon a common pattern. In some cases, I would consider these to be genre conventions. That is the case with argumentative markers like *for så vidt* (as far as), connected to the conditional type of

argumentation typical for court decisions, *med rette* (i.e., justifiably), which as a 2-gram is actually used by 19 of the students, or *er gået ud fra* (i.e., has departed from), which as 4-gram is used by 18 students indicating the basis of the court's argumentation. Another frequent genre conventional feature is the reference marker *i henhold til* (according to), used to refer to the statutory background of legal arguments. Others are used in this genre but are mainly connected to the legal topic treated here. This is the case with the most frequent 3-gram, *i stand til* (able to), which is used in statutory language about being able to drive securely (e.g., *i forbindelse med kørsel på sin motorcykel ikke **var i stand til** at føre køretøjet på betryggende måde*, i.e., in connection with driving his/her motorbike **was not able to** conduct the vehicle in a reassuring manner). This is underlined by the fact that we find the expression also as one of the most frequent 6-grams (*var i stand til at føre*, i.e., was able to conduct) with 14 translators choosing it. The full conventional expression (*var i stand til at føre køretøjet*, i.e., was able to conduct the vehicle) is the fifth most frequent 7-gram with 12 instances. So here a little more than half of the students have chosen the full conventional Danish formulation, and 14 have only slightly changed the denomination of the vehicle (*køretøj*, i.e. the conventional word, but with no article, and *sit køretøj*, i.e., his vehicle).

So, it is clear that students have acquired a similar basic knowledge of utterance patterns used in Danish judgments on this topic. However, it is also clear that they have at least not applied this knowledge in exactly the same way. We cannot say anything about whether they actually share the same knowledge without interviewing them, which is not possible due to the fact that the translations were written between 2002 and 2004. This is a characteristic of the study already discussed in section 1 above, which underlines its pilot character.

I have also had a look at 6-grams in the corpus. The assumption is that the longer the n-grams, the more likely it is that we find patterns more connected to the specific case and the formulations in the specific decision that was to be translated. Table 4 shows the 20 most frequent 6-grams.

KWIC	Plot	File	Cluster	N-Gram	Collocate	Word	Keyword	Wc
N-Gram Types 5769				N-Gram Tokens 6698	Page Size	100 hits	1 to 100 of 576	
	Type				Rank	Freq	Range	
1	er gået ud fra en høj				1	17	17	
2	gået ud fra en høj koncentration				2	16	16	
3	ud fra en høj koncentration af				2	16	16	
4	med rette er gået ud fra				4	15	15	
5	rette er gået ud fra en				5	14	14	
6	var i stand til at føre				5	14	14	
7	i stand til at føre køretøjet				7	12	12	
8	under selve kørslen eller i umiddelbar				7	12	12	
9	landsretten med rette er gået ud				9	10	10	
10	selve kørslen eller i umiddelbar sammenhæng				9	10	10	
11	ikke længere var i stand til				11	9	9	
12	om landsretten med rette er gået				11	9	9	
13	i forbindelse med forsætlig kørsel uden				13	8	8	
14	længere var i stand til at				13	8	8	
15	kørsel uden at have erhvervet kørekort				15	7	7	
16	blodprøve derfor kan domstolen heller ikke				16	6	6	
17	efter dommens indhold i det væsentlige				16	6	6	
18	for så vidt kunne domstolen ikke				16	6	6	
19	ikke var i stand til at				16	6	6	
20	at han hele formiddagen havde været				20	5	5	

Search Query

☒ Words ☐ Case ☐ Regex

N-Gram Size

6

Open Slots

0

Table 4. 6-grams, limited to the 20 most frequent instances.

Like above, we also here see that no expression has been used by all students. The most frequent formulation was chosen in identical form by 17 students, and already the tenth most frequent 6-gram has less than 10 students choosing the exact same formulation. Compared with what we found with the 3-grams, this shows us that the investigated students know genre-specific and content-specific formulations, but that when it comes to rendering longer stretches of text more connected to the

specific case and situation, they are less likely to have a common pattern in their mind that they follow.

To demonstrate what is meant by this statement, I have taken the most frequent 6-gram (*er gået ud fra en høj*, i.e., has departed from a high) with 17 instances and then enlarged the size of the n-gram, until at the level of 13-grams I had all the 17 instances differentiating themselves from each other. The source text sentence, which is translated in the example, is the following:

- (3) Deshalb kann der Senat auch nicht überprüfen, ob das LG zu
Recht von einer „*hohen Wirkstoffkonzentration der sedierenden
Medikamentenwirkstoffe*“ ausgegangen ist ...

The result of the translation of the part in highlighted in italics is shown in Table 5. In an interlinear translation into English, this part of the source text reads „... from a ‘high active agent concentration of the sedating medical active agents’ departed has ...”.

What is visible in this example is that the students in this case have a high degree of agreement about the key terms to be used, but that they construct the sentences containing the terms in ways that differ concerning especially the degree of complexity and formality. The 17 students represented here indicate the relevant cognitive action of the court (*er gået ud fra*, i.e., has departed from) followed by the concept which the court departs from (*en høj koncentration af*, i.e., a high concentration of) in an almost identical way. But when it comes to *hohe Wirkstoffkonzentration der sedierenden Medikamentwirkstoffe*, the students follow different strategies. Zooming in on *Medikamentwirkstoffe*, we see two main strategies. First, they all opt for substituting the German compound with a noun (*stoffer, medikamenter, medicin*) and an attribute. One possibility when choosing the attribute is to go for an expert term (*medikamentvirksomme stoffer*), which preserves the same level of presupposed knowledge necessary to understand the formulation as in the source term.

1	er gået ud fra en høj blodkoncentration af beroligende stoffer ...	1	1
2	er gået ud fra en høj koncentration af bedøvende stoffer ...	1	1
3	er gået ud fra en høj koncentration af beroligende additive medikamenter ...	1	1
4	er gået ud fra en høj koncentration af beroligende medicin ...	1	1
5	er gået ud fra en høj koncentration af beroligende medicin ...	1	1
6	er gået ud fra en høj koncentration af beroligende medikamenter ...	1	1
7	er gået ud fra en høj koncentration af beroligende virksomme stoffer i medikamentet ...	1	1
8	er gået ud fra en høj koncentration af biologisk virksomme stoffer fra beroligende medicin ...	1	1
9	er gået ud fra en høj koncentration af biologisk virksomme stoffer i de beroligende medikamenters biologisk virksomme stoffer ...	1	1
10	er gået ud fra en høj koncentration af de beroligende medicinske stoffer i blodet ...	1	1
11	er gået ud fra en høj koncentration af de beroligende medikamenter ...	1	1
12	er gået ud fra en høj koncentration af de virksomme stoffer fra de beroligende medikamenter ...	1	1
13	er gået ud fra en høj koncentration af det beroligende virksomme stof i medikamentet ...	1	1
14	er gået ud fra en høj koncentration af medicinens beroligende aktive stoffer ...	1	1
15	er gået ud fra en høj koncentration af sederende medikamentvirkestoffer ...	1	1
16	er gået ud fra en høj koncentration af virksomme sedative medikamenter ...	1	1
17	er gået ud fra en høj koncentration af virksomme stoffer fra de beroligende medikamentvirksomme stoffer	1	1

Table 5. Varieties of expressing ST element behind most frequent 6-gram in corpus.

The other possibility is to dissolve also the first part of the compound, thus lowering the requirements for understanding the formulation from a formal point of view, and also the requirements for presupposed knowledge, as it gets easier to understand the attribute based on its components (less cognitive effort to be presumed for processing dissolved construction).

Example 4 shows the elements contained in the source-language term; example 5-9 shows how the process of dissolution is carried out in the material by indicating through colours what Danish elements render what German elements.

- (4) Medikamentwirkstoffe (German ST term)
- (5) Virksomme stoffer i medikamentet
- (6) Medicinske stoffer
- (7) Virksomme stof i medikamentet
- (8) Virksomme stoffer i medikamentets biologisk virksomme stoffer
- (9) Medicinens aktive stoffer

The solutions in the examples may be seen as the result of a general strategy intending to make the TT formulation less complex and more accessible in the target than in the source text. The same tendency is also visible in the choice of Danish word to render the German medical term *sedierende* (sedating) also contained in studied ST formulation. Table 6 shows the choices made by the 17 students investigated here.

ST term	TT term	Range	Strategy
sedierende	beroligende	14	Simplifying
	bedøvende	1	Simplifying
	sederende	1	Expert term
	sedative	1	Expert term

Table 6. Choice of rendering for *sedierende*.

The most frequent choice (*beroligende*) is the general language word for the concept behind *sedierende*. Only two students opt for expert terms that both exist in medical Danish.

Hence, the study of the rendering of *Medikamentwirkstoffe* and *sedierende* by way of n-grams shows us that the students agree to a large degree on the material to be used. However, they differ in the choice of specific structure. And it seems that the differences in structure may be strategical concerning the intended level of formality and expertise of the target text, differentiating between an expert oriented and a simplifying strategy.

5. Concluding remarks

In the study presented here, I departed from the basic assumption that translators carry out their work on the basis of their individual stock of knowledge which governs their understanding of source as well as target text in their respective situation. The sources available for building such knowledge are very numerous in today's world, so the challenge of student translators as well as professional translators is not whether relevant information is available but choosing and building actually relevant knowledge. Furthermore, even if there is consensus among researchers and practitioners in legal translation on the general idea of for instance translating court decisions based on a strategy of documentary translation this does not prevent the individual translator to make specific choices about how to realise this general strategy in the concrete situation. Hence, the individual knowledge base reverts to the picture in the form of assessing the concrete situation. I find the concept of Third Space from intercultural communication relevant for understanding what is at stake here: on the one hand, cultures (also legal cultures) cannot meet, only people carrying the cultures can meet through communication on the basis of their respective understandings. The role of translators in this is to offer bridges between the legal cultures. However, the bridges will again be built upon the individual knowledge bases of the translators and thus create not an objective picture, but a Third Space. This is not a problem, just a condition, and as long as translators are aware of the fact and intend to build as broad a knowledge base as possible chances of success are very high.

Through the study of a corpus of 22 student translations of the same ST, I have intended to demonstrate that the same ST may be translated 'correctly', i.e., in accordance with the brief, in different ways, following different specific strategies and thus emphasising

different perspectives of the ST. A central outcome of the study of this small sample of translations is that concerning the rendering of the level of expertise expressed through lexical and syntactic choices in the ST, the investigated students position themselves between the poles of mirroring the ST complexity, on the one hand, and lowering the level of complexity in their TTs, on the other. In this way, they exactly choose between rendering or not rendering an aspect of German legal culture, in which writings of the *Bundesgerichtshof* is generally characterised by a syntactic complexity and expert terminology also outside the field of the law. Hence, we here see the Third Space characteristics spelled out. In my view, it is important to emphasise when professional translators talk about their practice and when we educate student translators that such a Third Space view is the only relevant way to conceptualize the practice of translation, as it emphasises the creative aspects of translation present also in legal translation. However, this conceptualisation does not relieve translators of the burden of checking the quality of their understandings.

Conflict of Interest Statement

The author declares no conflicts of interest to disclose related to this manuscript. If any conflicts arise in the future, the Author will promptly inform the journal.

AI Use Statement

The author confirms that artificial intelligence (AI) tools were not used in any aspects of this research.

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