THE CIVIL LAW TERM 机关 JĪGUĀN IN
TRANSLATION INTO ENGLISH, GERMAN AND POLISH

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Abstract: The paper presents the options available when selecting equivalents of the Chinese term 机关 jīguān in legal context. The author undertook the conceptual analysis of the potential German and Polish equivalents of 机关 applied in the General Principles of the Civil Law of the People’s Republic of China of April 12, 1986 (中华人民共和国法通则 Zhōnghuá Rènmín Gòngghéguó mínīfǎ tōngzé) and Civil Procedure Law of the People’s Republic of China of April 9, 1991 (中华人民共和国民事诉讼法 Zhōnghuá Rènmín Gòngghéguó mínǐshì sùsòng fǎ). The corpus under study included the translation of the mentioned statutes into English proposed by Centre of Laws and Regulations in Law Press China (法律中心，法律出版社 Fǎguī zhōngxīn, Fǎlǜ chūbānshè). English and German are often intermediary languages in the process of finding equivalents in Polish-Chinese translation. The term 机关 used in a legal and/or administrative context is translated into English, German and Polish differently depending on the context.

Key words: Chinese statutory language, legal terminology, legal translation

TERMIN 机关 jīguān W TEKSTACH PRAWA CYWILNEGO I JEGO TŁUMACZENIE NA ANGIELSKI, NIEMIECKI, POLSKI


Słowa kluczowe: chiński język prawny, terminologia prawna, tłumaczenie prawnicze
Determining the degree of equivalence

When undertaking the process of determining the degree of translative equivalence one may find that some functional equivalents are not sufficiently accurate. According to Šarčević (2000, 237-240) to establish the degree of equivalence between terms in different languages one should be able to compare the concepts in the source and target language. Šarčević wrote about the decision-making process and analysis of the options available when selecting equivalents. She indicated that the purpose of the conceptual analysis of the potential equivalents is to establish the constituent features or characteristics of particular concepts. Translators should be able to determine the intended meaning of legal terms from the context, because legal terms are typified by polysemy (Šarčević 2000, 231).

Much has been written about polysemy in legal Chinese (see: Keller 1994, 749-750, Peerenboom 2002, 247-251, Cao 2004, 94-100, Grzybek 2013, 54-57). The language of law should be precise. It is commonly acknowledged that contemporary law in China suffers from generality and vagueness and legal Chinese is often just as imprecise as ordinary Chinese (Cao 2004, 94, 113).

The polysemy of the term 机关 jīguān in legal context

The purpose of this article is an analysis of the term 机关 jīguān in two Chinese statutes:

(i) General Principles of the Civil Law of the People's Republic of China adopted by the Fourth Session of the Sixth National People's Congress on April 12, 1986 – 中华人民共和国民法通则 Zhōnghuá Rènmín Gòngmíng Fǎtōngzé (ChCPL),


The equivalents of 机关 in the aspect of technology are:

(i) mechanism, gear (机械的关键部分 jīxiè de guānjiàn bùfèn), for instance: 启动机关 qídòng jīguān ‘starting gear’, or
(ii) mechanically operated, automatic device (用机械控制的 yòng jīxiè tīkòngzhì de), for instance: 机关布景 jīguān bùjǐng ‘mechanically-operated stage scenery’.

Another equivalents of the term 机关 jīguān are ‘stratagem’, ‘scheme’, ‘intrigue’, i.e. 识破机关 shípò jīguān ‘see through a ‘trick’ or ‘system’, i.e. 税务机关 shuìwù jīguān ‘taxation system’.

In the language reality of law and administration the mentioned term relates to department of dealing with affairs (办事事务的部门 bànlǐ shìwù de bùmén), which English equivalents are:
(i) office – 军事机关 jūnshì jīguān ‘military office’,
(ii) organ – 公安机关 gōng’ān jīguān ‘public security organs’, 国家机关 guójiā jīguān ‘state organs’,
(iii) institution – 文化教育机关 wénhuàjiàoyù jīguān ‘cultural and educational institutions’, 科研机关 kēyán jīguān ‘research institute’,
(iv) body – 领导机关 lǐngdǎo jīguān ‘leading bodies’,
(v) organisation – 党政机关 dāngzhèng jīguān ‘the Party and government organisations’, 行政机关 xíngzhèng jīguān ‘administrative organisation’.


One finds various equivalents of syntagms containing the term 机关, for instance 税务机关 shuìwù jīguān is translated as:
(i) tax authorities (Yu, Wen 2005, 735; Liao, Li, Zhang 2001, 696; He 2002, 550; Wu 2004, 4384), or
(ii) tax office (Wu 2004, 4384).

The inconsistency of the terminology may be seen in Chinese-English legal translation.

Inconsistent terminology in the target language

In 2000 Chen (596-597) identified eight equivalents of the term 司法机关 sīfǎ jīguān, which are to be found in different Chinese-English dictionaries. According to The Chinese-English dictionary of commonly used legal terms (常用汉英法律词典) 司法机关 sīfǎ jīguān is a ‘judicial administrative bureau’. It is also translated as ‘judicial organ’ (see: The Chinese-English Law Dictionary, chin. 汉英法律词典) or ‘judicial organisation’ (see: The New Chinese-English Law Dictionary, 新新汉英法学词典 and The English-Chinese Bilingual Dictionary of Law, 汉英法律词典) or ‘organisation of justice’ (see: The New Chinese-English Law Dictionary, 新新汉英法词典). One finds the equivalent ‘judicial authority’ (see: English-Chinese Bilingual Dictionary of Law, 汉英法律词典). The syntagm 司法机关 was translated also into ‘judicial body’ (see:
The New Chinese-English Law Dictionary, 新汉英法字词典) and even ‘judicial office’ (see: The English-Chinese Bilingual Dictionary of Law, chin. 汉英法律词典) or ‘judicial system’ (see: The Chinese-English Law Dictionary, chin. 汉英法律词典). The equivalents of the term 机关 listed in mentioned dictionaries are:

(i) bureau,
(ii) organ,
(iii) organisation,
(iv) authority,
(v) body,
(vi) office,
(vii) system.

One might ask if all the listed equivalents are sufficiently accurate. If not, how does one choose the proper one?

The term 机关 jīguān in General Principles of the Civil Law of the People’s Republic of China and Civil Procedure Law of the People’s Republic of China

The Bilingual Education Series with Law and Regulations published by Law Press China (法律出版社 Fálù chūbānshè) contains the English translation of General Principles of the Civil Law (中华人民共和国民法通则) and Civil Procedure Law of the People’s Republic of China (中华人民共和国诉讼法). Both of these statutes were adopted during the time of big changes in China. The term 机关 is used in these texts in a legal and/or administrative context and is translated differently depending on the context. In order to determine the choice of proper equivalents in German and Polish terms in German and Polish Law were sought, which correspond with the chosen terms in Chinese Law and its equivalents in English, proposed by the Centre of Laws and Regulations in Law Press China.

In the translated Civil Procedure Law the term 机关 has the following equivalents:

(i) organ,
(ii) office,
(iii) authority (examples and number of articles listed below).

There are three different equivalents of the term 机关 in the translated text of General Principles of Civil Law, such as:

(i) organ,
(ii) authority,
(iii) agency (examples and number of articles listed below).

机关 jīguān as an organ

The term 机关 is often translated into English as ‘an organ’ with the meaning of ‘an official organisation or department’ (官方机构 guān fāng jīguān) that performs

The German functional equivalent of the term 机关 understood as an official organisation or department that performs a specified function is ‘das Organ’. The Federal Republic (die Bundesrepublik), states (Länder), organisations (Körperschaften) and public companies or joint stock companies (Anstalten des öffentlichen Rechts) are legal entities, which act through their organs (Organe). For instance the organs of states are ‘Landtage’ (parliaments), ‘Landesregierungen’ (federal states governments) and the courts of the states. Other public legal entities have their organs as well. The private companies, for instance capital company (Kapitalgesellschaft) also have their organs.

The Polish functional equivalent of 机关 as an official organisation or department that performs a specified function is ‘organ’. There are for instance organs of the public administration (organy administracji publicznej), which according to article 5 of the Polish Code of Administrative Proceedings (Kódeks postępowania administracyjnego) are: ministers (ministrowie), central organs of governmental administration (centralne organy administracji rządowej), provincial governors (wojewodowie), other local organs of governmental administration, organs of local authorities, etc. The organs of local authorities (organy jednostek samorządu terytorialnego) are the organs of municipality (gmina), district (powiat), province or voivodeship (województwo), association of municipalities (związek gmin), association of districts (związek powiatów), vojt (municipality executive officer) (wojt), mayor (burmistrz), city president (prezydent miasta), district executive officer (starosta), marshal (executive) of the province (marszałek województwa), etc. The limited liability private companies, for instance (spółka z ograniczoną odpowiedzialnością) have also their own organs.

机关 jīguān as ‘an organ’ is used in art. 83 of ChCPL. This term is modified by the adjective ‘other’ – 其他机关 qītā jīguān ‘other organ’ (see: art. 124 (3) of ChCPL) or ‘administrative’ – 行政机关 xíngzhèng jīguān ‘administrative organ’ (see: art. 6 of ChCPL). The German equivalents and Polish equivalents of these syntags are: ‘anderes Organ’, ‘Verwaltungsorgan’ and ‘iny organ’, ‘organ administracyjny’.

Also mentioned is ‘state organ’ (国家机关 guójiā jīguān) (see: art. 15 of ChCPL, art. 12 of ChCL), which corresponds to the German term: ‘das Staatsorgan’ and the Polish: ‘organ krajowy’. Other example of the application of the term 机关 is the syntagm ‘political organ’ (政治机关 zhèngzhì jīguān) (art. 81 of Chinese CPL), which may be translated into German as ‘politisches Organ’ and into Polish as ‘organ polityczny’. Other types of organs, which are found in the analyzed statutes, are: ‘supervisory organ’ (监察机关 jīnchá jīguān) in art. 113 (4) of ChCPL and ‘relevant organ’ (有关机关 yǒuguān jīguān) in art. 113 (4), 124 (3) and art.
It is not difficult to find the equivalents of the last one – in German: ‘zuständiges Organ’ and in Polish: ‘odpowiedni organ’. Problems may occur when choosing a German equivalent for 监察机关 jiānchá jīguān (‘supervisory organ’). One should differentiate between potential equivalents of this term: ‘Aufsichtsbehörde’ and ‘Überwachungsorgan’. The first term is used to designate an authority, which manages the control of the state. The second one means an organ of internal control of a company such as die Aktiengesellschaft or die Genossenschaft. Polish equivalents of 监察机关 jiānchá jīguān are ‘organ nadzorczy’ or ‘organ nadzoru’.

The functional equivalents of the term ‘public security organ’ (公安机关 gōng'ānjīguān) mentioned in art. 167 of ChCPL in the syntagma ‘public security organ or other relevant organs’ (公安机关或者其他有关机关 gōng’ānjīguān huòzhě qítā yǒu jīguān) or 人民法院交公安机关 rénmínfáyuàn jiǎo gōng’ānjīguān) mentioned in art. 104 of ChCPL are: ‘Organ für öffentliche Sicherheit’ or ‘Polizeibehörde’ in German and ‘organ bezpieczeństwa publicznego’ in Polish.

<table>
<thead>
<tr>
<th>Chinese term in ChCPL and/or ChCL</th>
<th>equivalent in English proposed by Center of Law and Regulations in Law Press (法律出版社法规中心)</th>
<th>equivalent in German</th>
<th>equivalent in Polish</th>
</tr>
</thead>
<tbody>
<tr>
<td>机关 jīguān</td>
<td>organ</td>
<td>Organ</td>
<td>organ</td>
</tr>
<tr>
<td>其他机关 qítá jīguān</td>
<td>other organs</td>
<td>sonstige Organe</td>
<td>pozostāle organy</td>
</tr>
<tr>
<td>行政机关 xíngzhèng jīguān</td>
<td>administrative organ</td>
<td>Verwaltungsorgan</td>
<td>organ administracyjny</td>
</tr>
<tr>
<td>国家机关 guójiā jīguān</td>
<td>state organ</td>
<td>Staatsorgan</td>
<td>organ państwowy</td>
</tr>
<tr>
<td>政治机关 zhèngzhì jīguān</td>
<td>political organ</td>
<td>politisches Organ</td>
<td>organ polityczny</td>
</tr>
<tr>
<td>监察机关 jiānchá jīguān</td>
<td>supervisory organ</td>
<td>Aufsichtsbehörde</td>
<td>organ nadzorczy / organ nadzoru</td>
</tr>
<tr>
<td>有关机关 yǒuguān jīguān</td>
<td>relevant organ</td>
<td>zuständiges Organ</td>
<td>odpowiedni organ</td>
</tr>
<tr>
<td>公安机关 gōng’ān jīguān</td>
<td>public security organ</td>
<td>Organ für öffentliche Sicherheit,</td>
<td>organ bezpieczeństwa publicznego</td>
</tr>
</tbody>
</table>

Tab. 1. 机关 jīguān as an organ.
机关 jīguān as an office

Office is one of the already mentioned dictionary equivalents of the term 机关. According to Black’s Law Dictionary it means a position of duty, trust, or authority, esp. one conferred by a governmental authority for a public purpose (i.e. the office of attorney general) or place where business is conducted or services are performed (i.e. a law office). It can also mean a division of the U.S. governmental ranking immediately below a department (see: Black’s Law Dictionary 2004, 1115).

The ChCPL contain the syntagm 公证机关 gōngzhèng jīguān translated into ‘notary office’ (see: art. 218) or 经所在国公证机关 jīng suǒzài guó gōngzhèng jīguān translated into ‘notarial office in the country of domicile’ (see: art. 242). When taking in account the English as the intermediary language office could be translated as das Büro into German and biuro into Polish. But the functional equivalents of 公证机关 are: ‘Beglaubigungsstelle’ in German or ‘biuro notarialne / jednostka certyfikacyjna’ in Polish.

<table>
<thead>
<tr>
<th>Chinese term in ChCPL and/or ChCL</th>
<th>equivalent in English proposed by Center of Law and Regulations in Law Press (法律出版社法规中心)</th>
<th>equivalent in German</th>
<th>equivalent in Polish</th>
</tr>
</thead>
<tbody>
<tr>
<td>公证机关 gōngzhèng jīguān</td>
<td>notary Office</td>
<td>Beglaubigungsstelle</td>
<td>jednostka certyfikacyjna, biuro notarialne</td>
</tr>
</tbody>
</table>

机关 jīguān as an authority

There are several examples of translation of 机关 jīguān into ‘authority’ in the analysed statutes. An authority may be understood as a governmental agency or corporation that administers a public enterprise, which may be also termed public authority (see: Black’s Law Dictionary 2004, 143). The term 机关 is often translated into English as authority with the power to give orders (权力机构 quánlì jīgōu), i.e.: 合法的机关 hélì de jīguān ‘lawful authority’ (see: Oxford Collocations Dictionary 2006, 94).

The functional German equivalent of 机关 understood as an authority is ‘Behörde’. German Behörde (authorities) are groups of officials assigned to handle official business of the state, city, church, etc. (see: Wahrig 1997, 263). They are classified, organisational entities of people or tangible means who are appointed to act to achieve the purposes of the country based on the public authority (see: BVerGE 10, 48).
Authority is every position in the administrative organism of a country or other institution, which is responsible for public administration. The entities of private law may be also authorities if they act under public law (for instance private schools). One should remember that the supporter of the public administration, that is to say state or country or other legal entities are not authorities. They have their authorities. Also the courts are not authorities, but they have units which correspond to authorities. The functional equivalent of 机关 understood as authority is in Polish the term ‘władze’, which means institutions, governing organs or governing people, i.e. władze lokalne (local authority).

机关 as authority occurs in article 91 of ChCL. The statute contains descriptions of the different types of authority, such as:

i. ‘competent authority’ 主管机关 zhǔguān jīguān (see: art. 41, 47 and art. 50 of ChCL, art. 152 of ChCL),

ii. ‘registration authority’ 登记机关 dēngjī jīguān (see: art. 44, 45 and 46, 49 of ChCL),

iii. ‘tax authorities’ 税务机关 shuìwù jīguān (see: art. 49 of ChCL),

iv. ‘higher authority’ 上级机关 shàngjí jīguān (see: art. 116 of ChCL).

Tab. 3. 机关jīguān as an authority.

<table>
<thead>
<tr>
<th>Chinese term in ChCPL and/or ChCL</th>
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<th>equivalent in German</th>
<th>equivalent in Polish</th>
</tr>
</thead>
<tbody>
<tr>
<td>机关 jīguān</td>
<td>authority</td>
<td>Behörde</td>
<td>władze</td>
</tr>
<tr>
<td>主管机关 zhǔguān jīguān</td>
<td>competent authority</td>
<td>zuständige Behörde</td>
<td>odpowiednie organy</td>
</tr>
<tr>
<td>登记机关 dēngjī jīguān</td>
<td>registration authority</td>
<td>Registrierungsstelle</td>
<td>organ rejestrujący</td>
</tr>
<tr>
<td>税务机关 shuìwù jīguān</td>
<td>tax authorities</td>
<td>Steuerbehörde</td>
<td>organy podatkowe</td>
</tr>
<tr>
<td>上级机关 shàngjí jīguān</td>
<td>higher authority</td>
<td>vorgesetzte Behörde</td>
<td>organ nadrzędny</td>
</tr>
</tbody>
</table>

It is interesting that the Polish functional equivalent of the term 机关 jīguān translated into English as ‘authority’ is in Polish the term organy (organs). The German functional equivalent, that is to say ‘Behörde’ is not the only one equivalent of 机关 used as
‘authority’, because the equivalent of 财政机关 cáizhèng jīguān (financial organisation) is ‘Finanzbehörde’ (Fiskus).

机关 jīguān as an organisation

Organisation is defined as a body of persons (such as a union or corporation) formed for a common purpose (see: Black’s Law Dictionary 2004, 1133). Actually it is rare that the term 机关 is translated into ‘organisation’, for instance: 政府机关 zhèngfǔ jīguān is sometimes translated as ‘government organisation’, but also as ‘government office’ or ‘body of government’, ‘government body’.

One finds the syntagma 财政机关 cáizhèng jīguān translated into ‘financial organisation’, 党政机关 dǎngzhèng jīguān as ‘the party and government organisation’ and 行政机关 xíngzhèng jīguān as ‘administrative organisation’. Sometimes the term 公安机关 gōng ān jīguān is surprisingly translated as ‘public security organisation’.

The Civil Procedure of People’s Republic of China contains only one term 机关 conveying the meaning of an organisation, that is 任何外国机关 rènhé wàiguó jīguān in article 263, translated into every foreign organisation.

Tab. 4. 机关 jīguān as an organization.

<table>
<thead>
<tr>
<th>Chinese term in ChCPL and/or ChCL</th>
<th>equivalent in English proposed by Centre of Law and Regulations in Law Press (法律出版社法规中心)</th>
<th>equivalent in German</th>
<th>equivalent in Polish</th>
</tr>
</thead>
<tbody>
<tr>
<td>任何外国机关 rènhé wàiguó jīguān</td>
<td>every foreign organization</td>
<td>jede ausländische Organization</td>
<td>każda zagraniczna organizacja</td>
</tr>
</tbody>
</table>

机关 jīguān as an agency

The last equivalent for 机关 found in the selected statutes is ‘agency’. An agency is inter alia a governmental body with the authority to implement and administer particular legislation, i.e. ‘government agency’, ‘administrative agency’, ‘public agency’, ‘regulatory agency’ (see: Black’s Law 2004, 67). There are two types of agencies named机关 in ChCL: administrative agency for industry and commerce, 工商行政管理机关 gōngshāng xíngzhèng guǎnlǐ jīguān in article 41 and article 152 of ChCL and arbitration agency, 仲裁机关 zhòngcái jīguān in art. 59 of ChCL. The functional German and Polish functional equivalents of them correspond with the English term an agency. They refer to an institution, see the table number 5.
**Tab. 5. 机关 jīgūān as an agency.**

<table>
<thead>
<tr>
<th>Chinese term in ChCPL and/or ChCL</th>
<th>equivalent in English proposed by Centre of Law and Regulations in Law Press (法律出版社法规中心)</th>
<th>equivalent in German</th>
<th>equivalent in Polish</th>
</tr>
</thead>
<tbody>
<tr>
<td>工商行政管理机关 gōngshāng xíngzhèng guǎnlǐ jīgūān</td>
<td>administrative agency for industry and commerce</td>
<td>Verwaltungsstelle für Industrie und Handel</td>
<td>organ administracyjny w zakresie przemysłu i handlu</td>
</tr>
<tr>
<td>仲裁机关 zhòngcāi jīgūān</td>
<td>arbitration agency</td>
<td>Schiedsinstitution</td>
<td>instytucja arbitrażowa</td>
</tr>
</tbody>
</table>

The German and English equivalents of the term 仲裁机关 zhòngcāi jīgūān, proposed in bilingual dictionaries, that ist o say ‘Schiedsinstutition’ in German and ‘arbitration agency’ in English, can be misleading when used as a intermediary terms in Polish-Chinese translation. The functional equivalent of 仲裁机关 is in Polish ‘instytucja arbitrażowa’ (arbitration institution).

**Conclusions**

There are equivalents of the term 机关, which were not mentioned in this article, but can be used in the legal and administrative context. For instance the equivalents of 地区医疗保健机关 dìqū yīlǐ báoxiàn jīgūān are: ‘Ortskrankenkasse’ in German and ‘miejskowa kasa chorych’ in Polish, the English equivalent of which is healthcare fund. Another interesting Chinese syntagm is 行刑机关 xíngxíng jīgūān, which may be translated into German as ‘die Strafvollzugsanstalt’ and into Polish as ‘zaklad karny’. Other example can be 建筑主管机关 jiànzhǔ zhǔgùān jīgūān with the German equivalent ‘Bauamt’ and Polish equivalent ‘urząd budowlany’. The equivalents of the term 机关 in the mentioned syntagms are ‘Kasse’ in German and ‘kasa’ in Polish, ‘Anstalt’ in German and ‘zakład’ in Polish, ‘Amt’ in German and ‘urząd’ in Polish.

The polysemy of Chinese legal terms constitutes a difficulty in determining the degree of equivalence of legal texts, especially for those translators who use English as the intermediary language. Although foreign libraries are offering more and more bilingual Chinese-English, English-Chinese and Chinese-German and German-Chinese dictionaries containing legal terminology, using them does not always lead to finding
a proper equivalent. The application of intermediary language, e.g. English in the Polish-Chinese translation often makes the situation more complex by introducing terminology existing in different law systems. One should remember that the functional equivalents, should be selected only by determining the context.
Bibliography


Dictionaries

Chen Leping (沈乐平), Zou Ligang (邹立刚) (ed.) 1999. 英汉国际商事法律词典. 法律出版社.
Liao Meizhen (廖美珍), Li Xinhua (李鑫华), Zhang Siyou (张四友). 2001. 汉英国际贸易和金融词典. 北京：外语教学与研究出版社.
Sources

BVerGE – Bundesverfassungsgericht.
