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Zakład Legilingwistyki i Języków Specjalistycznych
al. Niepodległości 4, pok. 218B
61-874 Poznań, Poland
lingua.legis@gmail.com

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Digitalizacja i publikacja czasopisma *Comparative Legilinguistics* w Internecie oraz dotyczące go procedury zabezpieczające finansowane są w ramach umowy 739/P-DUN/2016 ze środków Ministra Nauki i Szkolnictwa Wyższego przeznaczonych na działalność upowszechniającą naukę.

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PREFACE

The 27th volume of *Comparative Legilinguistics* consists of five articles and one book review. Articles are grouped into two sections, that is: **Legal translation and interpreting** for first three papers and **Legal language and discourse** for the last two.

The first article written by Indira GAZIEVA from Russia, is entitled *Features of Legal Judgments Translation From Russian into Hindi* (in Russian: Особенности Перевода Судебных Решений С Русского Языка На Язык Хинди). This article presents problems of legal translation from Russian into Hindi. The comparison of documents written in those two highly different languages is considered by the Author as a good source of training materials at the construction and lexical levels.

The second article, entitled *The Changing Role of the Court Interpreter-Translator in Africa: the Case of Zambia* by Alex KASONDE from Zimbabwe deals with an issue of knowledge insufficiency of interpreters and translators in Africa in general. Zambia is taken as an example of this task and a history of changes in translator-interpreter's role is also presented. Also possible directions of change and reforms in didactics are presented along with their benefits and threats.

Ewa KOŚCIAŁKOWSKA-OKOŃSKA's article *Implications of Translation Competence In The Legal Context: A Didactic Perspective* (*Implikacje Kompetencji Tłumaczeniowej w Kontekście Prawnym: Perspektywa Dydaktyczna*) deals with a problem of various models in translation didactics in general and also in legal translation didactics. Benefits and main points of each model are also briefly presented and discussed. The Author concludes that there is an important relation between integration of legal translation tasks and the abovementioned competence.

The fourth article opens **Legal language and discourse** section. The paper, entitled *Within the Period to Meet the Deadline: Czech Near-Synonyms Doba and Lhůta and their English Equivalents* by Ondřej

KLABAL from Czech Republic, deals with a problem of equivalence in legal terminology. Two Czech terms, *doba* and *lhůta* are described in the light of their definitions, collocation profiles and other main features and on the basis of corpora consisting of the Czech Civil Code and its English translation. The article gives some insight into a problem of synonymy in legal terminology and its correctness in translation.

The very last article in this volume is Elsa SKËNDERI RAKIPLLARI's (Albania) paper entitled *Ideology and Legal Discourse During Albanian Communism*. A brief history of communism in Albania opens a presentation of ideology impact on main resolutions, court decision and other official documents. Legal discourse is then characterized by its main features, e.g. pronouns, passivizations and conceptual metaphoric scenarios. A corpora of legal texts is a basis of main conclusion, which is that ideology is a linguistically mediated phenomenon.

This volume also covers one review by Ida SKUBIS from Poland of the book written by TANJA WISSIK: *Terminologische variation in der rechts- und verwaltungssprache. Deutschland – österreich – schweiz.* Berlin: Frank & Timme GMBH Verlag für Wissenschaftliche Literatur, 2014, ISBN: 978-3-7329-0004-6.

The editor hopes that this volume of *Comparative Legilinguistics* will be of interest to its readers.

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ОСОБЕННОСТИ ПЕРЕВОДА СУДЕБНЫХ РЕШЕНИЙ С РУССКОГО ЯЗЫКА НА ЯЗЫК ХИНДИ

INDIRA GAZIEVA, PhD
Russian State University for the Humanities
Moscow, Russia
indiragazi@gmail.com

Аннотация: Юридический перевод и перевод правовых документов на язык хинди является одним из наиболее востребованных видов перевода в Российской Федерации. Спрос на услуги переводчиков с языком хинди, постоянно растет. Целью исследования является анализ особенностей перевода правовых документов с русского языка на язык хинди. Предметом данного анализа послужили процессуальные документы, в частности – переводы судебных решений. Задачи исследования включают: а) изучение стилистических характеристик правовых документов при переводе их с русского языка на хинди; б) определение стилистических особенностей перевода этих документов на синтаксическом, морфологическом, лексическом уровнях. Сравнивая два текста и вычленяя конструкции с устойчивыми выражениями на языке оригинала с их переводом на хинди, студенты имеют возможность приобрести навык перевода правовых документов, который, впоследствии, может пригодиться при приеме на работу в структурах российской юрисдикции.

Ключевые слова: язык хинди, перевод процессуальных документов, решения суда, юридический дискурс, ходатайство, переводческие трудности.

FEATURES OF LEGAL JUDGMENTS TRANSLATION FROM RUSSIAN INTO HINDI

Abstract: The translation of legal documents from Russian into Hindi is one of the most popular types of translation in the Russian Federation. The demand for translators specializing in this area is increasing. This paper will focus on the translation of legal documents from Russian into Hindi or Hindustani and on analyzing the characteristics of the translation of legal judgments. We are going to investigate the following objectives: a) to explore the stylistic characteristics of legal papers translated from Russian to Hindi; b) to determine the stylistic features of the translation of these documents at the syntactic, morphological, lexical levels. Comparing the two texts and emphasizing the constructions with steady expression in Russian and translating them into Hindi, Russian students may learn how to translate legal documents from Russian to Hindi and vice versa. They may master the translation of legal documents that subsequently may be useful to them while looking for a job in the Russian jurisdiction structures.

Key words: Hindi translation of legal documents, legal discourse, legal judgment, legal vocabulary, translation difficulties.

O CECHACH PRZEKŁADU POSTANOWIEŃ I WYROKÓW SĄDOWYCH W PARZE JĘZYKOWEJ ROSYJSKI – HINDI

Abstrakt: Przekład sądowy oraz przekład dokumentów sądowych na język hindi wydaje się być jednym z najpopularniejszych obecnie przekładów na obszarze Federacji Rosyjskiej. Przekłada się to na coraz bardziej rosnące zapotrzebowanie na tłumaczy tego języka. Celem niniejszego artykułu jest analiza przekładu dokumentów sądowych z języka rosyjskiego na język hindi. Dla potrzeb niniejszego tekstu posłużono się dokumentami procesowymi a w szczególności uzasadnieniami wyroków/postanowień sądowych. Głównym założeniem tekstu jest a) przebadanie elementów stylistycznych, charakterystycznych dla przekładu dokumentów sądowych z języka rosyjskiego na hindi; b) próba ustalenia cech stylistycznych tychże na poziomie leksykalnym, syntaktycznym i morfologicznym. Dzięki porównaniu dwóch tekstów oraz wyodrębnieniu konstrukcji wyrażeń ustalonych w języku oryginału oraz ich tłumaczeniu na język hindi, studenci zyskują możliwość zapoznania się z przekładem dokumentów sądowych,

oraz wykształcić nawyki, które mogą stać się przydatne podczas podejmowania pracy w instytucjach rosyjskich sądów.

Słowa klucze: język hindi, przekład dokumentów procesowych, postanowienia sądowe, dyskurs sądowy, terminologia sądowa, trudności w przekładzie

1.1 Введение в проблему

За последние десятилетия в России участились случаи возбуждения уголовных дел и принятия судебных решений в отношении индийских граждан, к примеру – при пересечении границы Российской Федерации (РФ), нарушения миграционного законодательства, продления срока содержания под стражей, причинения имущественного вреда в особо крупном размере. Также имелись уголовные дела по совершению преступления, предусмотренного статьей УК РФ «Убийство двух лиц». Оказание правовой помощи по делам общей юрисдикции в РФ осуществляется на основании многосторонних или двусторонних международных договоров РФ и норм раздела XVIII Уголовно-процессуального кодекса, которыми установлены основания и порядок оказания правовой помощи, ее объем и виды, субъекты и содержание, процедура оформления, направления, получения и выполнения поручений об оказании правовой помощи. Целью исследования является анализ особенностей перевода правовых документов с русского языка на язык хинди, а предметом анализа послужили процессуальные документы, такие как –перевод судебных решений. В исследовании ставятся следующие задачи: а) изучить стилистическую характеристику правовых документов при переводе их с русского языка на хинди; б) определить стилистические особенности перевода этих документов на синтаксическом, морфологическом, лексическом уровнях. В исследовании используются следующие методы и приемы исследования: описательный метод, включающий прием наблюдения языковых средств, участвующих в создании особенностей перевода правовых документов в языковых культурах России и Индии; сопоставительный метод,

предполагающий выявление сходств и различий жанрово-стилистических особенностей текста перевода правовых документов в двух языковых культурах; сравнение русскоязычного перевода с оригиналами текста судебных решений на хинди для установления общих принципов передачи с русского на язык хинди особенностей юридического текста.

1.2 Судебная система Индии

Юридический перевод правовых документов является одним из самых сложных видов передачи текста на иностранный язык. Юридический перевод определяется как «перевод текстов, относящихся к области права и используемых для обмена юридической информацией между людьми, говорящими на разных языках. Поскольку право является предметной областью, связанной с социально-политическими и культурными особенностями страны, для адекватной передачи юридической информации язык юридического перевода должен быть особо точным, ясным и достоверным» (Судебная система. Верховный суд Индии). В юридических текстах зачастую преобладает «канцелярский стиль с обилием клише, консервативностью лексики, сложного синтаксиса, большого количества модальных слов с предписывающей семантикой «имеет право», «обязан соблюдать». Задача подобных текстов – сообщить реципиенту объективную достоверную информацию и (иногда) предписать некие действия». (Алексеева 2006: 282). Судебная система Индии построена на той основе, которая сложилась еще во времена английского колониализма. Она состоит из Верховного суда, Высших судов штатов (18) и системы нижестоящих местных судов – второй инстанции для дел, рассматриваемых судами панчаятов, к которым относятся: суды мунсифов, рассматривающие только гражданские дела с ценой иска от 1000 до 5000 рупий; дополнительные суды, рассматривающие гражданские дела с неограниченной ценой иска и апелляции на решения мунсифов; окружной судья, рассматривающий апелляции на решения дополнительных судей и располагающий неограниченной юрисдикцией как судья первой инстанции по

гражданским и уголовным делам. Конституция Индии 1950 г. предполагает наличие в каждом штате Высшего суда (глава V, 7-я поправка Конституционного акта 1956 г., разд. 29). В части XVII «Официальный язык» главы I статьи 343 пункт 1 определяется официальный язык Союза «хинди в написании деванагари. Для официальных целей Союза применяется международная форма обозначения индийских цифр» (The Constitution of India). Кроме того, глава IV «Специальные директивы» статья 350 определяет следующее положение – «Язык, которым необходимо пользоваться при подаче жалоб о нарушении прав. Каждое лицо вправе подать жалобу о нарушении его прав любому должностному лицу или власти Союза или Штата на любом языке, употребляемом в Союзе или в Штате соответственно» (Судебная система. Верховный суд Индии).

1.3 Требования к переводчику с хинди

Требования, предъявляемые студенту как будущему переводчику юридической документации следующие: во-первых, переводчик должен хорошо знать язык перевода и язык оригинала; во-вторых, он должен обладать юридическими знаниями правовой системы России и Индии; в-третьих, необходимо разбираться в юридической терминологии и в нормативно-правовых актах. Эти требования к переводчику предъявляются пунктом 1 ст. 59 Уголовно-процессуального кодекса РФ (далее УПК РФ): «свободное владение языком, необходимое для перевода». Как правило, перевод юридических или судебных документов на язык хинди должны осуществлять только профессиональные переводчики, специализирующиеся в юридическом переводе, имеющие юридическое образование или опыт переводов юридической тематики. Ошибки в переводе текста правового документа могут привести, к примеру, к причинению материального ущерба и предъявлению судебного иска. В России язык хинди преподается на филологическом, историческом, социально-экономическом факультетах Московского государственного университета, Университета международных

отношений и в Институте лингвистики РГГУ, однако он не преподается ни на одном юридическом факультете российских вузов. В связи с этим, перевод юридических документов на язык хинди выполняют специалисты с языком хинди, не имеющие юридического образования. Ситуация с языком хинди складывается следующая: услуги по судебному переводу в Москве оказывают многочисленные бюро переводов, заключившие договоры с органами внутренних дел. Дипломированные переводчики с языка хинди в России есть, но из-за низкой оплаты труда, к работам по переводу в уголовном судопроизводстве привлекаются индийцы, одинаково хорошо владеющие собственным и русским языками. Государственное бюро судебных переводчиков в России пока отсутствует. Существует уголовная ответственность за заведомо ложный перевод (Статья 307 УК РФ в редакции Федерального закона от 08.12.2003 N 162-ФЗ).

1.4 Компетентность переводчика

В соответствии с частью 2 ст. 169 УПК РФ следователь и судья имеют возможность проверить компетентность переводчика только на основании их сертификации судебно-переводческой организацией или бюро переводов. На самом деле, проверить компетентность перевода постановления предварительного следствия или решения суда по данному уголовному делу весьма сложно. В определении компетенции такого переводчика следователю и судье придется полагаться на авторитет направившего его бюро переводов, выбранного постановлением следователя. Доказательством компетенции переводчика выступает выданное судебно-переводческой организацией удостоверение, копия которого подшивается следователем в уголовное дело. Итак, следователь и судья не отвечают за проверку знаний, которыми они не могут обладать. Согласимся с мнением о том, что «перевод в суде и уголовном процессе это – процессуальный институт. С другой стороны, перевод – это предмет лингвистической науки и, наконец, явление культуры этноса, к которому принадлежат подсудимый или

подследственный и, во многих случаях, лицо, выступающее в роли переводчика. Возникает пограничное процессуальное понятие судебного перевода, наполненное конкретной культурно-лингвистической методологией. Учет данного обстоятельства при оценке компетентности переводчика имеет существенное значение». (Винников 2012: 50).

1.5. Источники для перевода.

Какие привлекаются источники для перевода судебных решений с русского на хинди?

1) Юридических словарей по языку хинди нет.

2) Современный русско-хинди словарь, включающий 130 000 слов и словосочетаний. При его составлении автор уделил внимание отбору эквивалентной лексики на языке хинди. Каждое русское слово в данном словаре имеет три эквивалента хинди, один из которых принадлежит собственно хинди и передает нейтральный стиль языка, другой, часто заимствованный из санскрита, употребляется при переводе официальных документов, и третий эквивалент является заимствованной лексикой из арабского и персидского языков. В словаре присутствует юридическая терминология. (Ульциферов 2004).

3) Интернет (Google translator). Однако здесь может вознинуть проблема ошибочного перевода слов и словосочетаний на хинди. 4) Онлайн справочная литература на хинди, такие как: Уголовный кодекс (Indian Penal Code in Hindi), сайт правительства Индии по вопросам иммиграции (Indian government portal).

1.6. Процесс перевода с русского на хинди.

Рассмотрим особенности перевода с русского на хинди в миграционном и уголовном процессе РФ. Обеспечение участия переводчика в миграционном административном процессевесьма

затруднено сжатыми процессуальными сроками. Согласно ст. 27.5. КоАП РФ срок административного задержания не должен превышать трех часов, за исключением случаев, когда имеются достаточные основания считать необходимым и соразмерным для обеспечения производства по конкретному делу об административном правонарушении подвергнуть лицо административному задержанию на срок не более 48 часов. Обеспечение явки переводчика языка хинди на место производства административных мероприятий в весьма короткие сроки (обычно в течение 1-1,5 часов) составляет проблему, стоящую перед органами ФМС РФ. Явку переводчика зачастую обеспечивает любая коммерческая судебно-переводческая организация по сути бюро переводов, заключившая договорные отношения с территориальным управлением ФМС России. Данное бюро переводов берет на себя ответственность за своевременную явку и специальную компетенцию переводчика языка, необходимого в каждом конкретном случае. Перевод официальных документов граждан является для агентств переводов самым легким видом заработка. Однако, если дело касается задержания под стражу лиц, незаконно пересекающих границу Российской Федерации, то устный перевод с хинди на русский и наоборот превращается в диалог с тремя и более участниками, где «на первый план выходят соображения преодоления культурно-речевых порогов между допрашиваемым, допрашивающим и переводчиком и обеспечение их взаимного понимания. В таком контексте переводчик переводит не слова, а является связующим звеном культур, общественных и правовых систем. Чтобы понимать клиента, переводчик должен учитывать еще и его невербальное поведение. А для этого ему необходимо знать невербальную коммуникацию и отличия невербального поведения конкретной этнической общности. Часто культурно-социальные проблемы судебного перевода берут начало из религиозных верований и практик собеседников судебных переводчиков» (Винников 2012: 169). Действия судебного переводчика в России регулируются следующим нормативно-правовым законодательством: Уголовно-процессуальным кодексом РФ, Гражданским процессуальным кодексом РФ, Кодексом об административных правонарушениях РФ, Арбитражным процессуальным кодексом РФ, Таможенным

кодексом РФ, Уголовным кодексом РФ, Федеральным конституционным законом РФ «О конституционном суде Российской Федерации», Федеральным конституционным законом РФ «О военных судах Российской Федерации», Федеральным конституционным законом РФ «О судебной системе Российской Федерации», Налоговым кодексом РФ, Федеральным законом РФ «О судопроизводстве по материалам о грубых дисциплинарных проступках при применении к военнослужащим дисциплинарного ареста…», Федеральным законом РФ «О государственном языке Российской Федерации», Федеральным законом РФ «О гражданстве РФ», Федеральным законом РФ «Об исполнительном производстве», Подзаконными актами (Konsultant plus. Справочная поддержка).

1.7. Анализ текста

Судебному решению свойственна клишированность. Анализ переводов позволяет выявить типичные эквиваленты различного рода стандартизированных оборотов и клише, например: «Рассмотрев в присутствии всех вышеперечисленных участников решение следователя – in sabhii uparokt sadasyagaNon ki upasthiti me tatha muKadamapeshi ke antargat nirNay jaanch arke». Стандартизированный оборот текста на хинди также клиширован, но меняется структура предложения на синтаксическом уровне: структура предложения в языке хинди рамочная: субъект расположен в начале предложения, а предикат завершает предложение. Другие части предложения располагаются между субъектом и предикатом. К примеру, заголовок документа «Решение о продлении срока содержания под стражей обвиняемого» переводится на хинди с конца, и порядок слов становится следующим: «1) обвиняемого 2) под 3) стражей 4) содержания 5) срока 6) продлении 7) о 8) решение» (1) abhiyukt 2) ke prati 3) hiraasat me 4) rakhne 5) ki avadgi 6) barhne 7) ke bare me 8) nirNay). При переводе решений суда с русского на хинди, студенты могут испытывать сложность в передаче весьма сложных громоздких предложений русского текста, насыщенного присутствием придаточных предложений, причастных оборотов.

В русском предложении «в суд поступило ходатайство следователя-криминалиста» в индийском варианте перевода следует переводить: «суд принял ходатайство следователя криминалиста» (nyaayaalay ne khoj visheShgya-jaNchkarta dvaara pesh ki gayi sifaarish jaanchi he), но дополненное фразой «(ходатайство) выдвинутое следователем-криминалистом - pesh ki gayi sifaarish». Переводчику с хинди следует помнить, что текстовые конвенции в русском языке зачастую зависят от культурных особенностей и не всегда могут соответствовать конвенциям текста на хинди. Также в языке хинди могут не быть прямых эквивалентов для перевода языковых конструкций русского языка. В связи с этим приходится искать нужные конструкции в языке перевода, имеющих функции, аналогичные функциям конструкций исходного языка. В предложении «обоснованное тем, что по делу необходимо выполнить ряд следственных и процессуальных действий» в индийском переводе слово «обоснованное» обычно переводится сложным послелогом jis ke matanusaar «согласно которому». Фраза «что по делу необходимо» на язык хинди переводится смысловым развитием, т.е. заменяя слово «по делу» словосочетанием «следственному комитету» (mukadame ki jaanch partal ko) «необходимо выполнить ряд следственных и процессуальных действий» sampuurna banaane ke liye anek nishchit jaanch evam nyaaik sambandhi anya tahkiikaat kaaryaanvit karnii bhi chaahiye).

Текст судебного решения отличается высокой степенью терминологизации. В индийских документах зачастую используется смешанная лексика. Главным источником терминологии в Индии является санскрит, однако наряду с санскритизмами одновременно используются заимствования с английского или урду языков. Все документы правительства Индии, официальные отчеты и послания к нации руководства страны, тексты договоров, соглашений, документы судопроизводства используют стиль книжного или чистого хинди (theTh Hindi), где активно используется санскритская и заимствованная арабо-персидская лексика, и, канцелярский стиль (karyaalay sheili) или язык деловых бумаг с преобладанием санскритской лексики и пассивные конструкции. К примеру, в текстах судебных решений встречается смешанная терминология, относящаяся к предмету спора: «решение суда» – adaalati feisla

(арабские слова), nyaaik nirNay (слова из санскрита); «заключение под стражу» – hiraasat me lena (арабское слово в сочетании с глаголом хинди – аналитическая конструкция); «арест, заключение под стражу, тюремная камера, камера предварительного заключения» – Hiraasat (арабское слово) или Kaaraavaas (слово из санскрита), Giriftaar (персидское слово), Nirodh (санскритское слово), Nirodhaagya (слово из санскрита) – юр. решение, постановление об аресте; «срок» – avadhi (слово из санскрита), arsaa (арабское слово), miiad (арабское слово); «срок тюремного заключения» – Miiad (арабское слово); «продлевать срок задержания» barhaana (хинди); «обвиняемый» – Abhiyukt (санскритское слово), mulazim (арабское слово); «судебное разбирательство» – muKadama peshi (арабское и персидское слово), vichaaraN (слово из санскрита); «ходатайство» – Sifaarish (арабское слово), anurodh (слово из санскрита), «уголовное дело» – faojdaari (арабское слово и персидский суффикс прилагательного) muKadama (арабское слово), «предоставление свободы, осовобождение из тюрьмы» – rihaaii (персидское слово), «судебный секретарь» peshi-sachiiv (персидское слово и слово из санксрита). Анализируя судебное решение о продлении срока задержания под стражей, можно определить статистику встречающихся в тексте заимствованных слов:

1. слова из санскрита: nirNay – «решение» (используется 4 раза), abhiyukt – «обвиняемый» (16), срок (7), KSHetriya – «районный» (2), nyayaalay – «суд» (10), nimnalikhit – «нижеследующий» (1), sadasyagaN – «состав» (2), adyakshpaadiya – «председательствующий» (1), nyaayadhiish – «судья» (2), abhiyojak – «прокурор» (2), vaayu – «воздушный» (4), jal-parivaahan – «водный транспорт», kaaryaanvayan – «исполнение» (1), adhivaktaa – «защитник» (2), antarKSHetriya – «межрегиональный» (2), parisangh – «союз» (9), dand-vidhaan – «уголовное законодательство» (5), dhaara – «часть» (8), apraadh – «обвинение» (7), abhiyog – «обвинительное заключение» (3), apraadh – «вина» (7), viSheShgya – «эксперт» (1), anuchched – «статья» (3), vyavasthit – «предьявленный» (3);

2. арабские слова: hiraasat «заключение под стражу» (используется 9 раз), shaamil - «участвующий» (1), kaanun – «закон» (1), vakiil – «адвокат» (1), sifaarish – «ходатайство» (5), anuvaadak – «переводчик» (1);

3. персидские слова: rihaaii – «осовобождение из тюрьмы» (2), peshii – «судебный» (1), nigaraanii – «назор» (1), naabaalig – «несовершеннолетний» (1), jurmaanaa – «штраф» (1);

4. слова собственно хинди: jisne – «тот кто» (4), kaam – «работа» (2), kiyaa – «сделавший» (9), hei – «есть» (23), jaanchkartaa – «следователь» (4), masko – «Москва» (8), Ruus – «Россия» (6), jaanch – «исследование, изучение» (7), Ruusii – «российский» (9), le gaya – «приведенный» (6), lagayaa – «заключивший» (4), janam-din – «день рождения» (1), janam-sthaan – «место рождения» (1), naagarik – «гражданин» (2);

5. английские слова: DisTrikT – «район» (1), fleT – «квартира» (1), march – «март» (4);

6. послелоги: а) простые послелоги: kii (35), ke (71), men (21), ne (5), kaa (17), tak (5); б) сложные послелоги: ke bare mein (1), ke antargat (1), ke prati (11), ke ruup men (2), ke tahat (6), ke aadhaar par (1);

7. соединительные союзы: aor (6), tatha (8), par (9), evam (8), tatha (8);

8. частицы: hi (2), nahiin (3);

9. цифры: 10 (5), 91 (1), 92 (1), 2014 (10), 1968 (1), 216 (1), 109 (1).

1.8. Выводы

Проанализировав весь вышеизложенный материал, можно сделать следующие выводы, имеющие практическую значимость, т.к. являются стержневым моментом при работе с юридическими текстами и являются основой знаний специалиста: 1) юридический перевод и перевод правовых документов на язык хинди является одним из наиболее востребованных видов перевода в РФ. Спрос на услуги переводчиков, специализирующихся именно в этой области и с этим языком, постоянно растет; 2) сроки выполнения перевода судебных решений также представляют трудность для новичков. Перевод в системе миграционной службы имеет важные особенности. Это – срочность оказания услуг, работа в основном с некриминальными иностранными гражданами или работа с беженцами, наличие

большого объема письменного перевода документов граждан для переработки органами ФМС; 3) для приобретения навыка письменного перевода судебного решения следует применять абзацно-фразовый перевод, т.е. осуществлять его на уровне отдельных фраз или абзацев и соблюдать стилистический анализ правового документа. Текст судебного решения на хинди изобилует сложными грамматическими конструкциями. Используются эргативная, объектная и нейтральная конструкции, усилительные частицы и составные послелоги, временные формы перфекта и претерита, причастные конструкции; 4) проанализировав статистику одного судебного решения, можно привести следующие выводы: а) при количестве подсчитанных 912 слов, процент использования слов из санскрита составляет 92%, 4% арабо-персидской лексики, 4% слов собственно хинди, 2 % послелогов, союзов, цифр; 5) анализ особенностей перевода правовых документов с русского языка на язык хинди могут быть полезными на учебных занятиях по языку хинди для студентов, обучающихся по профилю «Международные отношения и зарубежное регионоведение», «Лингвистика», «Туризм», «Политология», а также в курсах лекций по теории и практике перевода; 6) навык переводов юридических текстов у студентов РГГУ может пригодиться при приеме на работу в структурах юрисдикции (прокуратура, таможня и судах общей юрисдикций).

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THE CHANGING ROLE OF THE COURT INTERPRETER-TRANSLATOR IN AFRICA: THE CASE OF ZAMBIA

ALEX KASONDE, PhD
Africa University
College of Social Sciences Theology Humanities and Education
PO Box 1320
Mutare, Zimbabwe
alex_ka82@yahoo.fr

Abstract: The paper gives a historical account of the negative effects of poor interpreter-translator service providers to the development of the justice system in countries of Africa generally and Zambia in particular. It recommends various practical solutions to the challenge of access to interpreter-translator service providers generally and legal interpreter-translator services in particular. These include definition of target group; mobilization of funding; building a network of experts to serve as advisors, consultants and resource persons; establishment of a statutory body to guide government on language policy generally, including translation-interpretation services (e.g. Translation and Interpretation Commission); organization of thematic seminars and workshops; media panel discussions; moving a private motion in parliament; curriculum review for consideration by Ministry of Education; and submission of a draft bill for consideration by parliament and/or Ministry of Justice.

Key words: Africa; Justice; Court; Interpreter-Translators; Zambia

L'ÉVOLUTION DU RÔLE DES TRADUCTEUR-INTERPRÈTES DE TRIBUNAL EN AFRIQUE: LE CAS DE LA ZAMBIE

Résumé: L'article donne un récit historique des effets négatifs occasionnés au développement du système judiciaire par les fournisseurs des services de traducteur-interprètes incompétents dans les pays d'Afrique en générale et en Zambie en particulier. Il propose certaines solutions pratiques pour remédier le manque d'accès aux fournisseurs des services de traducteur-interprètes généralement et de traducteur-interprètes juridiques plus particulièrement. Parmi les défis, sont remarquables la définition d'un groupe cible ; la mobilisation de fonds ; la création d'un réseau d'experts pour servir comme conseillers, consultants et animateurs de projet ; la création d'un organisme d'état pour guider le gouvernement en matière de politique linguistique, y compris les services de traducteur-interprètes (ex. Commission Nationale de Traduction et d'Interprétation) ; l'organisation des séminaires et ateliers thématiques ; l'organisation des conference-débats ; l'introduction d'un projet de loi privé au parlement ; la révision du curriculum par le Ministère de l'Education Nationale ; et l'introduction d'un projet de loi au parlement par le Ministère de Justice.

Mots-clés: Afrique; Justice; Tribunal; Traducteur-Interprètes-; Zambie

ZMIANA ROLI TŁUMACZA SĄDOWEGO W AFRYCE NA PRZYKŁADZIE ZAMBII

Abstrakt: Artykuł naświetla tło historyczne dla negatywnych rezultatów w rozwoju systemu sądownictwa a wynikłych w związku z niedostatkami umiejętności tłumaczy w Afryce, a w szczególności w Zambii. Wskazuje on różnorakie rozwiązania praktyczne w ogólności dla tłumaczy, trudniących się przekładem oraz dla usług tłumaczy sądowych w szczególności. Obejmuje to sprecyzowanie grupy docelowej; gromadzenie funduszy, stworzenie sieci ekspertów służących jako konsultanci i doradcy, powołanie do życia instytucji wspomagającej rząd w pracy nad polityką językową w ogólności, w tym nad usługami tłumaczeniowymi (np. Komisja Tłumaczeniowa); organizaowanie seminariów i warsztatów tematycznych; dyskusje panelowe; wzniecanie prywatnych inicjatyw w parlamencie, przegląd planów studiów do rozważenia przez Ministerstwo Edukacji; zgłoszenie wniosku pod głosowanie parlamentu i/lub Ministerstwo Sprawiedliwości.

Słowa-klucze : Afryka, sprawiedliwość, sąd, Zambia, tłumacz

1. Introduction

In Zambia and other multilingual countries of Africa, lack of standard interpretation-translation services in the judiciary remains a daunting challenge (Kasonde 2015; 2012; 2008; 2000; Kasonde & Miti 2013). Paradoxically, justice delivery (or miscarriage of it) is one of the areas in which well qualified and efficient interpretation-translation staff ought to play a critical role. With globalization, the need for quality judicial interpretation-translation services is bound to remain on the rise rather than on the decline.[1] At the end of this study, readers will be able to understand why the current state of judicial interpretation-translation services in the country is pathetic, analyze its causes and consequences and also identify effective remedial interventions.

2. Historical Background

Studies of evolution of the judiciary in Zambia and most countries of Africa generally recognize three distinct periods. These are, precolonial, colonial and postcolonial periods.

2.1. Precolonial

The precolonial social system came to an end at a time when monolingual kingdoms and empires were in the process of formation or disintegration. These political entities included Ancient Ghana and Ancient Mali in West Africa. In Southern Africa the Nguni under Emperor Shaka and the Luba-Lunda of Mwata Yamvwa in Central Africa are well documented (Ki-Zerbo 1981; Mohktar 1981). In terms

[1] The main focus of this study is judicature. However, the study is also pertinent for legislature and executive. For indeed, a study of governance is doomed to failure if it does not recognize the interdependency of legislative, executive and judicial powers of government according to ***De l'esprit des lois*** (Montesquieu, 1748).

of jurisprudence, court the interpreter-translator received informal training based on apprenticeship model (Gluckman 1965).

2.2. Colonial

In Zambia the protectorate version of the British colonial system (1890-1964) passed through its three distinct administrative phases. These were, British South Africa Company (BSA), British Colonial Office and Federation of Central Africa. Throughout this period, the process of professionalization, including standardization of qualifications and entry requirements for training did not take place (Way 2014). BSA company rule of Cecil Rhodes was primarily concerned with exploitation of rich minerals resources. To achieve that objective, the Royal Charter authorized a certain degree of control over local chiefs and their subjects. The British sphere of influence in the territory was within the parameters of the Berlin Conference of 1884–1885, also known as the Congo Conference (German: Kongokonferenz) or West Africa Conference (Westafrika-Konferenz). The country was initially divided administratively into North-Western Rhodesia and North-Eastern Rhodesia followed by amalgamation into Northern Rhodesia. The British Colonial Office took over direct control from the BSA in response to basic demands of the time, including the respect of minimum standards of good governance and rule of law. Between 1953 and 1963 the British Colonial Office established a federal system that brought together Northern Rhodesia, Southern Rhodesia and Nyasaland. Like other arms of the colonial state, the judiciary in the country did not necessarily devise permanent structures to cater for different multilingual needs of the Africans. Ad hoc choices were limited to Bemba, Nyanja, Tonga and Lozi in the European court or a local speech form at African local court level.

2.3. Postcolonial

The postcolonial era in Zambia commenced in 1964 as one in a series of British postwar initiatives aimed at lessening what was ostentatiously referred to as the "White Man's Burden".

Figure 1. The British John Bull and the American Uncle Sam bear The White Man's Burden (Apologies to Rudyard Kipling), taking the colored peoples of the world to civilization. (Judge magazine, 1 April 1899)

Other cases of decolonization included Ghana (1957), Nigeria (1960) and Kenya (1963). Successive postcolonial regimes in the country, including First Republic (1964-1971), Second Republic (1972-1990) and Third Republic (1991- to date) have not done enough to address past injustices with regard to development of multilingual judiciary.

3. Resources Audit

3.1. Available

The introduction of language clause in the Republican Constitution (1991) marked the start of a new era for interpretation-translation services in the judiciary. By designating English as the "official language", the language clause in the Constitution of Zambia ironically fell short of expectations of supporters of the multilingual clause found in the Constitution of neighboring Zimbabwe (2013) and South Africa (1997), respectively. The Republican Constitution of Zambia (2016) retained the same English language clause from the Republican Constitution of Zambia (1991). It also made specific mention of Sign Language and the seven national languages (Bemba, Nyanja, Tonga, Lozi, Kaonde, Lunda, and Luvale) without recognizing them as equal in status to the English language.

3.2. Required

Amendment of the existing one-language clause in the Constitution of Zambia (2016) is required in order to bring it line with multilingual clause in the region. That is, placing the selected languages on the same footing along South Africa (1997) and Zimbabwe (2013). The central argument is that all human languages are equal and the respect of linguistic rights necessary for democracy to flourish in Africa. Apart from that, an Act of Parliament is needed for the establishment of a regulatory framework for the professional practitioners in interpretation-translation services in the judiciary. The entry requirements for diploma and degree programs in interpretation-translation services in the judiciary and the curriculum need to be approached jointly between Ministry of Justice and Ministry of Higher Education. In this regard, the Zambia Institute of Advanced Legal Education (ZIALE) where advocates are trained after successful completion of Bachelor of Laws (LLB) at University of Zambia and other accredited institutions is a viable starting point. The creation of a

specialized Department of Legal Interpretation-Translation (DLIT) separate from advocate is all that would be needed. The ZIALE-DLIT could then subsequently be transformed and upgraded to an autonomous Institute of Legal Interpretation-Translation (ILIT). To operate effectively, it is also necessary for ILIT to maintain a professional register of individuals and bodies, including companies competent to provide professional Legal Interpretation-Translation Services. In this way, any form of amateurism and charlatanism would be a thing of the past. Standard disciplinary proceedings would be instituted whenever flirting professional regulations would be detected. Various Institutions of Higher Education in the country, including Evelyn Hone College of Applied Arts and Commerce (EHC), University of Zambia (UNZA), Copperbelt University (CBU) and Mulungushi University (MU) must join forces as soon as possible. The Ministry of Higher Education through Higher Education Authority (HEA) would continue to play its usual role of Quality Assurance in staffing, syllabus, training and accreditation.

4. Discussion

Individuals accused of breaking the law in Zambia must appear before one of the six recognized courts[2] in the country. These are Supreme Court, High Court, Industrial Relations Court, Land Tribunal, Magistrate Court and Local Court. In general terms, Supreme Court is the highest court of appeal in the country. High court resolves conflicts in interpretation of the law in the country. Industrial relations court deals with labor disputes in the country. Land tribunal adjudicates matters relating to land disputes. Magistrate court determines cases of statutory law. Local court hears traditional

[2] The Constitution of the Republic of Zambia enacted in 2016 made significant modifications to the existing court system, including the introduction of Constitutional Court. This led to the recruitment of additional judges to service a newly expanded judicature. With regard to the need for the state to improve the provision of Interpreter-Translator Services in the judicature, the introduction of the Constitutional Court does not have any direct bearing even though language rights fall within the domain of fundamental human rights.

and customary cases. Failure to appear before court on the part of any accused person is contempt of court, an offence that normally requires mandatory prison custody. The paper puts the court in the context of the legal framework in Africa south of the Sahara generally and Zambia in particular. It draws a distinction between the pre-independence and post-independence periods in order to explain the origins of the present court system. It places the court in the country against a background of a multiplicity of competing social institutions claiming to represent the course of justice. These competing social institutions include families, clans, ethnic groupings and regions of Zambia. The competing social institutions also include agencies of law and order, such as police. In addition, competing social institutions include various disciplinary committees at association, trade union and political party level. The list of competing social institutions also covers different disciplinary tribunals at statutory body level where universities belong. The right to a fair trial guaranteed under the Republican Constitution and various other pieces of subsidiary legislation requires that any accused person be also provided with appropriate interpreter-translator services according to her or his language needs (Kasonde 2000). The paper argues that access to a court interpreter-translator remains a pipe dream and thus one of the daunting challenges pertaining to institutional structure and procedure in need of reform action to curtail miscarriage of justice and improve the image of the judiciary in the country.

The first major reform priority relates to the establishment of an official register of qualified providers of interpreter-translator services competent to practice their profession in the country. The register ought to be maintained in a secure and dignified manner and updated regularly along the lines of existing professional bodies in accountancy, engineering, journalism, legal and medical professions. With professionalization, the quality of service in the interpreter-translator sector is expected to improve tremendously, so is administration of justice. The improvement would be achieved by the removal of any unqualified and incompetent individuals from the official register. Improvement would also be enhanced by the admission of interested qualified new entrants to the interpreter-translator service providing community.

The second major reform priority concerns a critical examination of qualification and training of interpreter-translator service providers. For any individual to provide interpreter-translator

services in the country, it is necessary for that particular individual to hold the requisite certificates, diplomas and degrees from recognized training institutions of higher education. To meet quality needs of the market, training providers in interpreter-translation from both public and private sectors ought to complement each other. In this regard, public sector could be represented by Evelyn Hone College of Applied Arts and Sciences and University of Zambia. Other public training institutions that can make a difference include National Institute of Public Administration where various courses for magistrates are conducted and Institute of Advanced Legal Education which provides specialized training for advocates in the country. Similarly, private sector could be represented by various institutions, including Catholic University of Zambia, Cavendish University and Zambian Open University. The issue of curriculum, syllabus and teaching standards could also be adequately addressed by relevant government departments and ministries, such as Technical Vocational Educational Training Agencies and Ministry of Education in collaboration with Ministry of Justice.

The third major reform priority arises from qualification and training, namely specialization. In order for the interpreter-translator service providers to perform their professional duties effectively, it is essential for them to operate in well-defined professional domains. These include legal and medical professions. The legal interpreter-translator ought to be an individual that holds the requisite specialized qualification from a recognized training institution. The training expertise in the area of legal translation ought to be dispensed by a combined team of legal practitioners and interpreter-translator practitioners. The training team ought to be furnished with the necessary tools, including computers, dictionaries, terminologies and any other recommended and prescribed textbooks required for effective training. When the task is approached professionally, then it becomes apparent that in actual fact, there is also a dire need for authors of specialized dictionaries and terminologies in various African languages.

5. Conclusion

The study surveyed the changing role of the court interpreter-translator in Africa in general and Zambia in particular. It described the conditions affecting the provision of Legal Interpretation-Translation Services in the country. It identified an institutional deficit characterized by lack of professionalization in the sector. Lack of specialized training facilities for Legal Interpretation-Translation providers was placed within a historical context. Inertia and resistance to innovation in the country was not unique in the region. It was comparable to the fate of the legal professionalization of dental assistants by mandatory maintenance of a register with the Health Professions Council of South Africa (Sunday Mail South Africa, February 14, 2016, p.17).

6. Recommendations

For Zambia to join other progressive democratic countries in the provision of high quality professional Legal Interpretation-Translation Services, the study recommends that:

a) a multilingual provision replaces the existing one-language clause in the Republican Constitution of 2016;

b) professionalization of Legal Interpretation-Translation Services is achieved through a piece of legislation;

c) Zambia Institute of Advanced Legal Education (ZIALE) opens a specialized Department of Legal Interpretation-Translation (DLIT);

d) ZIALE-DLIT is subsequently transformed and upgraded into an autonomous Institute of Legal Interpretation-Translation (ILIT);

e) ILIT maintains a professional register of providers of professional Legal Interpretation-Translation Services;

f) a National Commission of Translation and Interpretation is established;

g) a Task Force to study all matters incidental to the foregoing is established.

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IMPLICATIONS OF TRANSLATION COMPETENCE IN THE LEGAL CONTEXT: A DIDACTIC PERSPECTIVE

Ewa KOŚCIAŁKOWSKA-OKOŃSKA, PhD
Department of English, Nicolaus Copernicus University
ul. W.Bojarskiego 1, 87-100 Toruń (Poland)
Ewa.Koscialkowska-Okonska@umk.pl

Abstract: The paper addresses the existing models of translation competence that are relevant for didactics of legal translation. Translation competence is generally perceived as a theoretical construct embracing such areas as knowledge, skills and aptitudes that are vital for the performance of translation tasks. The paper shall start from concise presentation of most didactically relevant – in the author's view – approaches to translation competence. This shall be followed by attempts aimed at the incorporation and integration of findings of competence research presented as well as practical solutions into the teaching and learning process with a view to legal translation competence.

Key words: translation competence, legal translation, competence models, legal translation competence

IMPLIKACJE KOMPETENCJI TŁUMACZENIOWEJ W KONTEKŚCIE PRAWNYM: PERSPEKTYWA DYDAKTYCZNA

Abstrakt w języku polskim: W artykule omówiono istniejące modele kompetencji tłumaczeniowej istotne z punktu widzenia dydaktyki przekładu prawniczego. Kompetencja tłumaczeniowa postrzegana jest jako konstrukt teoretyczny obejmujący takie obszary jak wiedza, zdolności i umiejętności, które są niezbędne do wykonywania zadań tłumaczeniowych. W pierwszej części artykułu zaprezentowane zostaną najbardziej relewantne z perspektywy dydaktycznej – w ocenie autorki – podejścia do kompetencji tłumaczeniowej, które poprzedzają – w części drugiej artykułu – próbę włączenia i integracji wyników przedstawionych badań w obszarze kompetencji tłumaczeniowej oraz rozwiązań praktycznych w procesie dydaktycznym ze szczególnym uwzględnieniem kompetencji tłumaczeniowej w tłumaczeniu tekstów prawniczych.

Słowa-klucze: kompetencja tłumaczeniowa, tłumaczenie tekstów prawnych i prawniczych, modele kompetencji, kompetencja tłumaczy tekstów prawnych i prawniczych

Introduction

The development of translation skills and competence in students requires the integration of a variety of mechanisms in the didactic process. From the point of view of translation teaching, translation competence is viewed as a theoretical construct that embraces such areas as knowledge, skills and aptitudes that are, as Kelly (2005: 162) underlines, essential for the realisation of translation tasks. The most difficult problem in discussing translation competence and its development is the number of definitions that have been generated by scholars and researchers so far. This lack of consensus as to the number and nature of components, the necessity to multiply sub-components, categorisation of types of competence according to research interests of scholars and to the fields in which a specific type of competence is to operate, yield a never-ending list of properties that a definition of translation competence has to cover. In the didactic process, those objectives must take into account the gradual development of skills, accrual of knowledge and experience as well as

some space for assessment on the part of the teacher and of the students (in the form of peer-assessment and self-assessment) to get the students involved. Attempts aimed at developing models for the operation of translation competence – to make it more effective and reliable – have been numerous, yet not always successful, feasible and practical.

Approaches to translation competence in the educational context

Propositions and definitions of translation competence have been given an impetus in the early 1990s., mostly due to an increasing number of university programmes and degrees in translation (see also Prieto Ramos 2011) resulting from globalisation trends. In this paper we are not going to analyse approaches and definitions of translation competence in the order of their emergence on the translation studies 'scene' as many of them have been discussed elsewhere (see e.g. Kościałkowska-Okońska 2012a, 2012b), yet the focus shall be laid on those ideas and solutions that are of relevance for the university didactic context. In this section, the expert system approach, PACTE and TransComp findings, the didactic approach as well as the EMT competence framework shall be very briefly discussed.

The expert system approach (cf. Bell 1991:40-41) covers various types of knowledge (of both the source and target language, text-type knowledge, contrastive knowledge, domain knowledge and inferential knowledge) necessary for the translator to perform a given task, as well as procedures combined with a targeted four-tier model of communicative competence including grammatical, sociolinguistic, strategic and discourse sub-competences (1991: 43).

The PACTE research group has been working on ways of incorporating research results into studies on competence development (see PACTE 2000, 2003, 2009; early attempts were propounded by such researchers as Bell (1991), Pym (1992), Kiraly (1995), Hansen (1997), and later by Risku (1998), Neubert (2000), Kelly (2005), Shreve (2006), Alves and Gonçalves (2007)). The PACTE's translation competence consists of five interrelated sub-competences and psycho-physiological components, i.e., the bilingual

sub-competence, extra-linguistic sub-competence, translation knowledge sub-competence, instrumental sub-competence (the knowledge how to use documentation resources, communication and information technologies), and, finally, the strategic sub-competence as the most essential one ensuring the efficiency of the translation process.

The psycho-physiological components encompass a variety of cognitive and attitudinal components as well as psychomotor mechanisms which include e.g., memory, perception, intellectual curiosity, perseverance, knowledge of and confidence in one's own abilities, motivation, creativity, logical reasoning, analysis and synthesis, etc. (cf. PACTE 2003: 93).

The TransComp model was developed by Göpferich (2009); she (2009: 21–23) categorises competence in six sub-categories: communicative competence (in at least two languages), domain competence (general and specific knowledge), tools and research competence, psychomotor competence (abilities necessary for reading and writing with electronic tools), translation routine activation competence, and strategic competence (ccordinates the application of other sub-competences and "sets priorities and defines hierarchies between the individual sub-competences, leads to the development of a macro-strategy in the sense of Hönig (1995), and ideally subjects all decisions to this macro-strategy" (Göpferich 2009: 22) The objective of this model is – what is relevant for the didactic process – to view the development of translation competence as it is progressing on a continual basis.

The didactic approach was developed by Kelly (2005) who sees translation competence as a macrocompetence consisting of communicative and textual competence, thematic competence, cultural competence, instrumental competence, psychophysiological competence, interpersonal competence, and strategic competence. The last one is placed by Kelly, similarly as by the PACTE group, as the priority competence in her pyramid model (cf. Kelly 2005). What is interesting in Kelly's view is adding a new sub-competence, an interpersonal one, to her list of components. This particular type of competence is vital for the translator in their professional interactions (with other translators, professionals, or clients).

The attempt to systematise the described activities that are performed and subsequently analysed (see also e.g. Kelly 2005) is

well reflected in the European Master's in Translation (EMT; a joint project of the European Commission, Directorate General for Translation and European universities that are approved to become partners in the programme) reference framework aimed to propose quality requirements for a given professional profile. This particular framework defines competence as "the combination of aptitudes, knowledge, behaviour and know-how necessary to carry out a given task under given conditions". With the aim of specifying these aspects, six interdependent competences have been identified (EMT 2009:4-7):

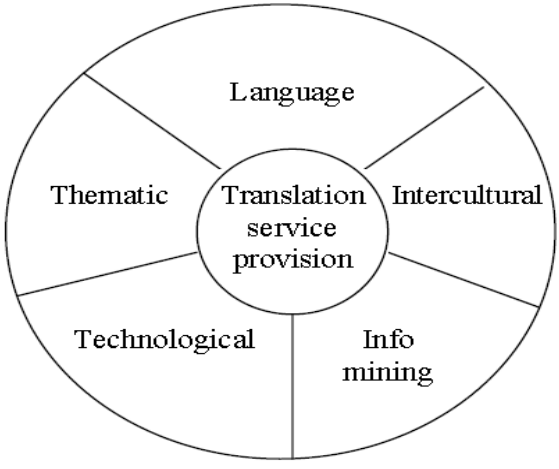

Figure 1. EMT model of translation competence (EMT 2009: ibid.)

1) Translation service provision (embracing the awareness of the social role of the translator, knowledge of market requirements and specific job profiles, marketing, negotiating with clients, time and stress management, etc.)
2) Language competence
3) Intercultural competence (covering sociolinguistic and textual dimensions)
4) Information mining competence (denoting the ability to find relevant information using tools and search engines, and to critically evaluate the reliability of resources).

5) Thematic competence (covering the knowledge of seeking relevant information to better understand issues related to a given document).
6) Technological competence (knowledge to use effectively "a range of software to assist in correction, translation, terminology, layout, documentary research" (EMT Expert Group 2009:7)).

What can be observed at a first glance is the central role played by translation service provision competence (itself quite closely corresponding to PACTE's concept of strategic competence; see also Ramos 2011). Another aspect worth considering in the context of this paper is the possibility of identifying features inherent to legal translation competence and its components that are required for this competence to develop and operate effectively. The EMT, PACTE and TransComp models help to specify those skills that are essential for any type of specialist translation, including legal translation. The prerequisites for their efficacy assume a) that they are "enriched with the specific interdisciplinary elements of each branch of translation (in the case of legal translation, with particular attention to legal thematic competence)" (Prieto Ramos 2011: 11), and b) that they are incorporated into a wider methodological framework based on competence development.

Legal translation competence

Apart from the aforementioned components inherent to any type of domain-specialised competence, competence required in legal translation also assumes having good writing skills (that are reflected in texts being communicative), developing legal reference resources and the awareness of the target and source legal systems (cf. Sofer 2006), as well as information mining skills (cf. Obenaus 1995). Another issue indispensable for this competence to operate is the knowledge of the field of law, which is obviously not that broad as that of professional lawyers. As Cao (2007:5) says:

"The legal translator's skills and tasks are very different from the lawyer's. The legal translator does not read and interpret the law the way a lawyer does. The legal translator does not write the law either. However, the legal translator needs to know how lawyers,

including judges and lawmakers, think and write and how they write the way they do, and at the same time, to be sensitive to the intricacy, diversity and creativity of language, as well as its limits and power".

In other words, a legal translator should know how lawyers interpret the law, and the relevant domain-specific knowledge would undoubtedly enhance the overall translation performance viewed as generating good-quality competent translation. Therefore, a combination of two 'sensitivities' – of the lawyer and of the linguist – would result in a competent legal translator who is a professional capitalising on linguistic skills, with the knowledge of the law and ability to interpret legal texts, since legal translation – as one of the types encompassed within specialised translation – entails the knowledge of legal terminology. This view is also reflected in Šarčević's words on requirements binding for the process of legal translation: it obviously needs both legal and linguistic competence, and for Šarčević "In addition to a working knowledge of legal terminology, legal competence presupposes an extensive knowledge of both the source and target legal systems, a thorough understanding of the structure and operation of legal texts and legal provisions, drafting practices and even the methods of interpretation" (Šarčević 2001:76). Garre's views go in line with Šarčević as she stresses the need for paying attention not only to linguistic features but also "to the substantial legal content of the text" (Garre 1999: 144). Legal translators should abide by the rules of legal interpretation; they should also recognise and acknowledge the existing and still binding traditions of the legal systems they are currently faced with in processing a given legal translation task. As Garre states "The best way to gain such knowledge is to create a connection with the legal world and confer with legal professionals" (Garre 1999:144)

Apart from the fact that models of translation competence are abundant and legal translation competence *per se* is discussed in many scholarly writings (e.g. Cao 2007), legal translation competence has not been reflected in a plethora of models – one of exceptions here is the one proposed by Prieto Ramos (2011), thus further research in the field of legal translation competence is definitely necessary.

Prieto Ramos (2011) attempted at restructuring the existing models of translation competence (he specifically refers to those of the PACTE group, Kelly and the EMT Expert Group) to enhance the effectiveness of the model and to arrive at the five-component model

of legal translation competence. The ultimate result is another translation competence model which comprises the following types of competence:

1) Strategic or methodological competence embraces the analysis of translation briefs, macrocontextualisation, work planning, ways of identifying problems and implementing transfer strategies (in the form of translation procedures), decision-making, quality control and self-assessment;
2) Communicative and textual competence includes linguistic, sociolinguistic and pragmatic knowledge, encompassing the knowledge of linguistic variants, registers, specialist use of legal terminology as well as conventions binding for the legal genres;
3) Thematic and cultural competence is the knowledge of legal systems, and key legal concepts. It is also the awareness of terminological asymmetry between different legal systems and legal traditions;
4) Instrumental competence denotes the knowledge of specialist sources, information and terminology management, the ability to use parallel documents, and IT tools in translation;
5) Interpersonal and professional management competence refers to teamwork, interacting with clients and other professionals, and the knowledge of legal regulations pertaining to professional practice.

This model, similarly to other competence models, stresses the interplay and significance of declarative and procedural knowledge that is necessary to perform 1) any translation task efficiently and 2) to perform a legal translation task efficiently and successfully. Strategic competence seems to resemble the translation knowledge competence of the PACTE group as it specifically addresses procedures, problem solving and decision making processes. This model clearly emphasises the (inevitable) interaction between translation and law that is observed in legal translation. Therefore, thematic competence is a core-characteristic property of legal translation competence and it results in the necessity for translators of legal texts to accumulate knowledge of the law that would be sufficient to contextualise the documents they are to translate, and to analyse and comprehend legal consequences deriving from the source and target texts.

The model includes five components, each of which embraces further abilities and skills, finally resulting – as it is a problem shared among multicomponential models – in a long list of properties

necessary for the legal translation competence to operate effectively. Yet effectiveness quite frequently lies in brevity and apparent non-complexity, and certainly in attempts to avoid the multiplication of skills, properties, features, etc. For that reason, a more concise and user-friendly model could be suggested here that would also be more flexible and capable of dynamically adjusting to changing situations and circumstances (also emerging on the translation market) as the changing dynamics is one of primary features of translation in general. It would also be an interactive model as the interaction between three components of the model enables its efficient operation. This model is a tentative proposal; its functioning, underlying mechanisms and the final outcome need further detailed research and analysis but it appears to be one of the options as how to improve the didactic process and make the development of legal translation competence more feasible and attainable in practical terms. This model is more didactically oriented, therefore it is closer to the EMT categorisation, and it is a modification of its structural arrangement. It reflects what students really need and what they are expected of in terms of knowledge, skills and competences. It is more of a start-up model for students and can be further complemented with skills and properties that they deem vital for the translation profession and translation performance; it is also flexible enough to incorporate new items essential for the above.

The interactive legal translation competence model embraces:

1) translation management competence that corresponds to the EMT's translation service provision competence. It embraces practices and operations required to translate in a commercial setting, which is what students aspire and strive for.

2) linguatechnical competence covers skills and tools indispensable to perform a task in legal translation (and covers EMT's technological, thematic, information mining, language and intercultural competences)

3) cognitive-analytical competence pertains to declarative and procedural knowledge used in practice, accompanied by cognitive processes being the foundation for the other two areas, and the operational outcomes are manifested in competent translation. It is the core competence underlying the operation of the other two competences.

The three areas overlap, are mutually dependent and interact as in the diagram below:

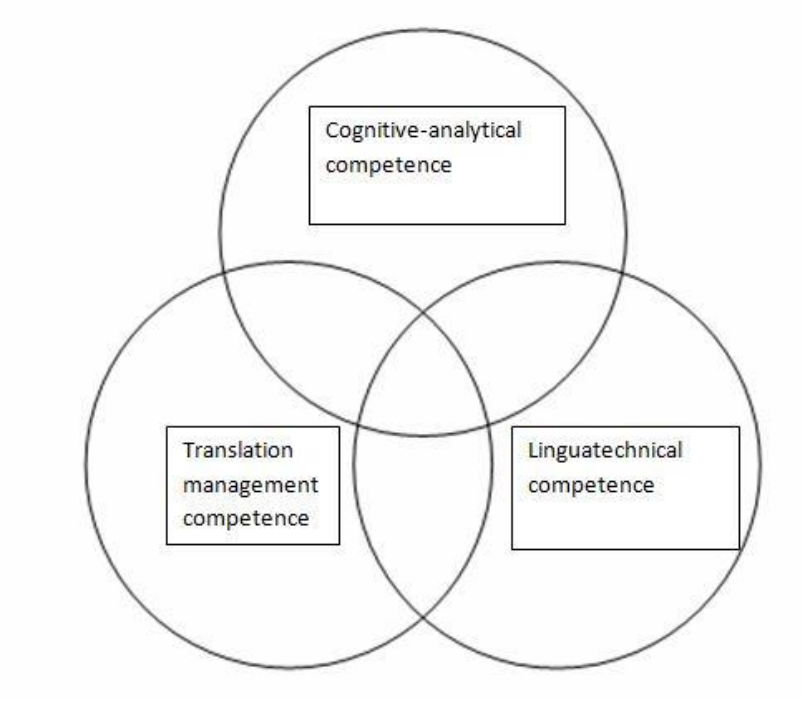

Figure 2. The interactive legal translation competence model

Conclusions

The comparison of translation competence models yields general, or even universal, observations. First, translation competence is almost a utilitarian concept, and it may be applicable in curriculum design, education quality improvement, and skills development. Secondly, it can also be used in the research on the expert-novice paradigm, and in translation quality assessment both in the educational and in the professional contexts. Moreover, those models display a variety of research perspectives and postulates propounded by scholars, and they also demonstrate a set of concepts or properties inherent to the operation of translation competence. This common

ground is shared by language, culture and cognitive components. Irrespective of the nature of those models, be it cognitive, integrating, interactive or education-focused, they are used to draw our attention to certain areas within the field of translation. On the one hand, they have to be general enough to embrace a variety of languages, cultures, text types, situations, strategies, procedures or techniques, but on the other they have to be sufficiently specific so as to facilitate their application and identification of problem areas or relevant components or sub-skills/sub-competences that are vital for translation performance.

For that reason, in the academic context it is difficult to find a model that would be universally and commonly accepted, that would cater for all needs (whether of educational nature or beyond), that would address all expectations and requirements. Attempts aimed at the consolidation of translation competence can be observed in the form of componential models presented above, yet they are in many respects similar as to the list of componential properties of translation competence. The model that can be used effectively in the didactic context should primarily be applied to raise the awareness of students of the (progressing) stage of their competence. Due to the fact that translation competence is an open-end process that is ongoing and does not have the final goal – even experts are learning constantly – students have to be not only sufficiently competent but, additionally, they have to strive for becoming experts in a given set of competences that are demonstrated in their overall translation performance and in a given specific situation. Therefore, the objective of applying a selected translation competence model (or developing a working one out of the achievements of existing models) within the duration of translator training is to make students realise their strong points and deficits, with the former being mastered and the latter – overcome and improved.

Translation competence is perceived as being on a continuum of development through its individual, or even individualised, manifestations. This development depends on the individualised applications of the accumulated knowledge and experience that facilitate the workings of other competences, be it linguistic, cultural, information mining or technical. The above considerations are also fully valid with reference to legal translation competence.

In the reality of a Polish university translation course, students in the legal translation programme (implemented as a part of the university curriculum) are not generally experts in the field and, in contrast to e.g., students in post-graduate programmes, do not have any background in law. Classroom-wise they are very heterogenous and their only background is in humanities as they are involved in language studies. This specific educational experience results (frequently) in excessive concentration on words, and this is combined with the lack of hands-on experience (e.g. buying houses, signing contracts, being in court, etc.): the students possess scarce (or none) accessible knowledge as to which lexical options should be chosen as adequate and relevant. Legal translation practice in the classroom usually involves translating certificates, contracts, agreements, articles of association, etc. What is really worth stressing in coordinating legal translation courses is the fact that the most recommended form of practicing legal translation (and most effective from the didactic point of view) is to expose students to real-life situations (in the form of simulations) and real-life texts in real-life – i.e., market economy – conditions. Proverbial practice makes perfect – or an expert – and through intensive practice students develop cognitive frameworks and procedural schemata that facilitate further effective construction of legal texts, identification of problem areas and finding adequate and relevant solutions to problems.

Another 'working' aspect of legal translation competence development may be tentatively called 'managing the process', i.e.:

(i) analysing why, where and when a given document (legal text) is generated;

(ii) analysing why, where and when a given text will be used as translation (a translation brief);

(iii) analysing regulations (if applicable) and contexts of a translation;

(iv) analysing parallel texts to see how they function in their 'realities';

(v) analysing characteristic features of the text;

(vi) consolidating teamwork that reflects translation market workflow (project manager, researcher, terminologist, translator, proofreader);

(vii) stress on justifying their choices

Obviously, practical integration of legal translation tasks stimulates the development of legal translation competence. The above presented models underscore the process-oriented dimension, and the central role played by knowledge is further enhanced by relevant skills. This approach enables developing a continuum between translation training and real-life operation on the professional translation market. Implications for the future could also embrace the more interdisciplinary nature of legal translation competence and the need for more comprehensive education of prospective translators.

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WITHIN THE PERIOD TO MEET THE DEADLINE: CZECH NEAR-SYNONYMS *DOBA* AND *LHŮTA* AND THEIR ENGLISH EQUIVALENTS

ONDŘEJ KLABAL
Department of English and American Studies
Faculty of Arts of Palacký University, Olomouc
Křížkovského 10, 771 80 Olomouc, Czech Republic
ondrej.klabal@upol.cz

Abstract: The Czech Civil Code has recently introduced differentiation between two terms denoting a period of time: *lhůta* and *doba*. Both of these terms are used, often interchangeably, in ordinary Czech language and are thus susceptible to failure by translators to be recognized as terms. It is believed that the definitions provided by the draftsmen of the said code do not describe the difference in meaning sufficiently for non-lawyers to understand (cf. Goźdź-Roszkowski, 2013: 100). Therefore, this paper aims at describing the difference in meaning of these terms on the basis of a qualitative analysis of their collocational patterns and collocational profile, as used in the wording of the said law. The second part of the paper consists of an analysis of potential English equivalents (*time limit, period, deadline, time*) and their collocates as used in legislation drafted in English. The analysis is based on a corpus compiled of the Czech Civil Code and a comparable corpus of civil legislation drafted in English. The findings of the

analysis will outline the strategies available to translators dealing with temporal expressions at the Czech-English interface.

Key words: temporal expressions, collocational profile, legal translation, interlingual equivalence

ČÁSTEČNÁ SYNONYMA DOBA A LHŮTA V ČEŠTINĚ A JEJICH ANGLICKÉ EKVIVALENTY

Abstract in Czech: Český občanský zákoník nedávno zavedl rozlišení mezi dvěma výrazy označujícími časový úsek: dobou a lhůtou. Oba z těchto výrazů se často v běžném jazyce používají jako synonyma, a proto představují riziko, že je překladatel neidentifikuje jako termíny. Podle našeho názoru nejsou definice formulované autory zákona dostatečné, aby uživatelům odborného jazyka osvětlily zamýšlený rozdíl (cf. Goźdź-Roszkowski, 2013: 100). Cílem této studie je popsat rozdíl mezi termíny pomocí kvalitativní analýzy jejich kolokačních vzorců a profilu v občanském zákoníku. Druhá část se věnuje analýze možných ekvivalentů v angličtině (*time limit, period, deadline, time*) a jejich kolokací v zákonech psaných v angličtině. K analýze je použit srovnatelný korpus českého občanského zákoníku a vybraných civilních předpisů z anglicky mluvících zemí. Poznatky získané analýzou mohou být zdrojem překladových řešení pro překladatele právních textů mezi češtinou a angličtinou.

Klíčová slova: časové výrazy, kolokační profil, právní překlad, mezijazyková ekvivalence

ZDĄŻYĆ PRZED TERMINEM W TERMINIE: CZESKIE WYRAZY ZBLIŻONE *DOBA* I *LHŮTA* ORAZ ICH ANGIELSKIE EKWIWALENTY

Abstrakt: Czeski Kodeks cywilny wprowadził od niedawna rozróżnienie pomiędzy dwoma oznaczeniami okresu czasu: *lhůta* i *doba*, które są często używane wymiennie w czeskim języku potocznym i tym samym mylone przez tłumaczy, nie uznających je za terminy. Przyjmuje się, że definicje zawarte we wspomnianej ustawie nie opisują różnicy znaczeniowej tych terminów w stopniu zadowalającym dla nie prawników (cf. Goźdź-Roszkowski, 2013:100). Artykuł ten ma na celu opis różnic znaczeniowych tych terminów w oparciu o analizę jakościową ich wzorów kolokacyjnych oraz profilu, tak, jak są one używane we wzmiankowanym Kodeksie. Dalsza część artykułu zawiera analizę możliwych ekwiwalentów (*time limit, period, deadline, time*) oraz ich kolokacji w oparciu o ustawę podaną w języku angielskim. Analiza przeprowadzona została w oparciu o korpus zbudowany

z czeskiego Kodeksu Cywilnego i porównywalnego korpusu tekstów ustaw w języku angielskim. Konkluzje tej analizy posłużą do określenia strategii dostępnych tłumaczom podczas borykania się z określeniami czasu w parze czeski-angielski.

Słowa klucze: określenia czasu, ekwiwalencja interlingwalna, tłumaczenie prawnicze, profil kolokacji

Introduction

As from 1 January 2014 the Czech civil law underwent a revolutionary change. As part of the recodification[1], three new acts were adopted in 2013, namely the Civil Code, the Companies and Cooperatives Act and the Private International Law Act. The recodification brought not only substantial legal changes, but also linguistic ones, which pose a significant challenge to a legal translator. Firstly, the laws introduced a host of newly coined terms or reused archaic terms which had not been in use for decades (cf. Kubánek and Klabal 2013). From a translation point of view, the problems presented by such terms have been discussed mainly by Chromá (2014a, 2014b). Secondly, the drafters of the laws have also attempted to introduce systemic ways for using general vocabulary encountered in the language of law, and expressing certain legal-linguistic features, such as presumptions (cf. Chromá 2014a), and also the time limits and periods.

It is undisputed that time is an important legal fact in any legal transaction and may have serious consequences as may be succinctly summed up by the phrase "time is of the essence." Therefore, accurate translation of temporal expressions is of paramount importance. The problem posed by such expressions is noticed by Matulewska (2007: 135), who claims that "expressions related to time may be misleading" for a number of reasons. Their meaning may be different from colloquial or non-legal language, which makes them difficult to understand for non-lawyers. In addition, temporal expressions may also be vague (be it deliberately or not).

[1] More information on the legal aspects of the recodification may be found e.g. in Elischer, Frinta and Pauknerová (2013).

Doba and *lhůta* as a case in point

In an attempt to introduce a more systematic use of general vocabulary in the new laws, a distinction started to be made between two Czech quasi-synonyms used to talk about periods of time: *doba* and *lhůta*. The Explanatory Memorandum to the Civil Code (2013: 143) describes the difference between the uses of these two terms as follows:

Doba[2] is a period of time upon the expiry of which a right or obligation extinguishes without requiring a specific expression of will to produce such a legal effect.

Lhůta is a period of time set to exercise a right with respect to the other party, before the court or a competent authority.

From a semantic point of view, the difference is logical as the proposed use is consistent with the definition of the terms in the Dictionary of Standard Czech[3] where *doba* is defined as a "limited stretch of time" and *lhůta* as "time set or allowed for performing a duty; a deadline."

To see the difference in the language of law, let me use an example. A typical example usage of *doba* as a component of a legal term is *výpovědní doba* (notice period) where the legal act is made, i.e. the notice is handed, at the beginning of the period and then the notice period starts running and upon its expiry the contract terminates. In other words, *doba* starts with a legal act. On the other hand, *lhůta* may be represented by *popěrná lhůta* (a period to deny paternity) and requires an act to be made or a right to be exercised, i.e. an action to deny paternity to be filed, while it is running.

Although it may seem as a minor difference, the distinction has legal consequence as far as computation of time is concerned. If the last day of *lhůta* falls on Saturday, Sunday or a national holiday, it is not included and the last day is the next working day. However, if the last date of *doba* falls on Saturday, Sunday or a national holiday, it is included and the respective right or obligation extinguishes.

However logical and consistent with the default meanings of each of the two terms the introduced distinction seems, it may cause

[2] Unless stated otherwise, the translations into English have been made by the author.

[3] Available online at http://ssjc.ujc.cas.cz/.

problems for a number of reasons. First, in everyday use of language, *doba* and *lhůta* are often used interchangeably and synonymically. This may make the difference difficult to grasp and follow for non-lawyers and translators as both of the two terms are instances of "everyday words which are assigned a special meaning in a given legal context" (Riley 1995) and as such they are very often susceptible to incorrect translation as they pass unnoticed by legal translators (cf. Chromá 2011). It may be assumed that many translators do not consult the explanatory memorandum and therefore are unaware of the distinction. Second, the distinction has only been introduced in the civil legislation and laws in other branches of law do not reflect it (e.g. the Czech Criminal Code consistently uses *promlčecí doba* instead of *promlčecí lhůta* used in the Civil Code). Third, the attempt has not, unfortunately, been implemented consistently by the legislator as the following examples show.

Example 1. Inconsistent use of *doba* and *lhůta* in the Czech Civil Code.

§ 2150 **Koupě na zkoušku**

(1) Kdo koupí věc na zkoušku, kupuje s podmínkou, že věc ve **zkušební lhůtě** schválí.
(2) Neujednají-li strany **zkušební lhůtu**, činí u movitých věcí tři dny a u nemovitých věcí jeden rok od uzavření smlouvy. Plyne-li však z jednání o uzavření smlouvy, že věc má být prohlédnuta nebo vyzkoušena po odevzdání, běží **zkušební doba** ode dne odevzdání.

Section 2150 of the Civil Code: **Trial purchase**[4]

(1) A person who makes a trial purchase of a thing buys the thing on condition that he will approve the thing in the **trial period**.
(2) If the parties do not stipulate **a trial period**, it is three days from the conclusion of the contract for movable things and one year from the conclusion of the contract for immovable things. However, if it follows from the negotiations on the conclusion of the contract that the thing is to be inspected or tried out after delivery, **the trial period** shall commence on the date of delivery.

[4] The translations of the statutory provisions are adopted from the translation of the Civil Code published by the Ministry of Justice of the Czech Republic and available at: http://obcanskyzakonik.justice.cz/index.php/home/zakony-a-stanoviska/preklady/english

This example shows that the legislator is inconsistent even within a single section. This is clearly a case where *lhůta* is the correct word to be used as the purchase must be approved within the defined period. However, the legislator failed to keep it consistent.

Yet another instance of the inconsistent differentiation between the two is Example 2. Unlike in Example 1, where the lack of consistency is of a formal nature and easy to spot, to identify the incorrect use in the following provision requires a much deeper analysis of the actual legal content.

Example 2. Inconsistent use of *doba* and *lhůta* in the Czech Civil Code.

§ 2791
(1) Prokáže-li pojistitel, že by uzavřel smlouvu za jiných podmínek, pokud by pojistné riziko ve zvýšeném rozsahu existovalo již při uzavírání smlouvy, má právo navrhnout novou výši pojistného. Neučiní-li tak do jednoho měsíce ode dne, kdy mu změna byla oznámena, jeho právo zaniká.
(2) Není-li návrh přijat nebo nově určené pojistné zaplaceno v ujednané době, jinak do jednoho měsíce ode dne doručení návrhu, má pojistitel právo pojištění vypovědět s osmidenní výpovědní dobou; toto právo však pojistitel nemá, neupozornil-li na možnost výpovědi již v návrhu. Nevypoví-li pojistitel pojištění do dvou měsíců ode dne, kdy obdržel nesouhlas s návrhem, nebo kdy marně uplynula **doba** podle odstavce 1, zanikne jeho právo vypovědět pojištění.

Section 2791 of the Civil Code
(1) If the insurer proves that he would have concluded the contract under other conditions had an increased insurance risk existed at the conclusion of the contract, he has the right to propose a new amount of insurance premiums. If the insurer fails to do so within one month from the date on which he was notified of the change, his right is extinguished.
(2) If the proposal is not accepted or the newly determined insurance premium paid within the stipulated period, or otherwise within one month from the date on which the proposal was delivered, the insurer has the right to terminate the insurance by giving eight days' notice; however, the insurer does not have the right if he failed to inform of the possibility of termination in the proposal. If the insurer does not terminate the insurance within two months from the date on which he received a statement of disagreement with the proposal, or on which the **period** under Subsection (1) expired without the insurer having presented any proof, his right to terminate the insurance is extinguished.

As subsection (1) clearly required the insurer to make an act, i.e. to propose higher insurance premium, the correct term to be used according to the above-introduced rules would be *lhůta*, not *doba*.

More inconsistencies on part of the legislator have been identified as part of this study, but this paper focuses on the uses of these two terms which follow the introduced rules.

Methodology

As mentioned above, for non-lawyers unaware of the difference, *doba* and *lhůta* could be considered synonyms. However, as Tiersma (1999: 182) notes "for lawyers, even if words are similar, they are apparently never identical." Therefore, *doba* and *lhůta* should rather be considered plesionyms or near-synonyms, and as such they often prove troublesome in translation as their correct use requires knowledge of extralinguistic entities, processes, generic conventions etc. As argued by Goźdź-Roszkowski (2013: 95) for the language of law, the difference between such near-synonyms may be determined based on their syntagmatic relations, namely their collocational patterns and contextual relations, which is also the approach adopted in the first part of this study.

Another problem with such near-synonyms lies in the fact that they are often not accounted for sufficiently in dictionaries. The nature of such synonym variation is, however, central to translators, as they must first interpret the meaning of the Czech semantically-related terms in their respective contexts and only then can they establish interlingual equivalence.

The present legal-linguistics study makes an ecclectic use of a number of methods in order to provide as exhaustive as possible an account of how *doba* and *lhůta* are used in Czech and how they can be translated into English. The first part of the study, where the collocational profiles of *doba* and *lhůta* are established, uses a corpus-based method. A corpus of the Czech Civil Code was compiled and analysed using Sketch Engine. In line with Bhatia, who claims (2004: 207) that "in legislative genres the form-function correlations are almost formulaic, and it is often not necessary to base findings on large corpora," a small-scale corpus consisting of a single act is

considered sufficient. Subsequently, a qualitative analysis of the collocates and phraseological patterns of the terms is carried out with a view to accounting for the semantic difference between *doba* and *lhůta*. The frequencies of individual collocations are not considered as even a low-frequency collocation may prove useful to determine the meaning, whereas a high-frequency one may in fact be too general to reveal anything about the semantics of the terms.

Table 1. Size of corpus and frequencies of *doba* and *lhůta*.

Corpus	Tokens	AF:doba	i.p.m.	AF: lhůta	i.p.m.
Civil Code	162,865	704	4322.6	288	1768.3

Table 1 above shows the corpus size and the absolute and relative frequency of *doba* and *lhůta*. The higher frequency of *doba* is also due to the polysemous nature of *doba*, which is used both to denote a period of time (*výpovědní doba – notice period*) and a point in time (*doba doručení – delivery time*). Out of the total number of occurrences, in 145 instances[5] *doba* was used synonymously with a moment, i.e. to denote a point in time.

The second part of the paper discusses the translation of *doba* and *lhůta* into English. As a starting point for the analysis, a comparable corpus of civil legislation drafted in English has been compiled. Given that the branch of civil law as defined in the continental tradition does not exist in common-law countries, the corpus cannot be strictly comparable. The aim was to include English texts using civil-law terminology (Louisiana and Quebec Civil Codes) as well as common-law terminology (US Uniform Commercial Code, UK Sales of Goods Act 1974). The comparable corpus has 535,051 tokens and was used to verify possible English equivalents of *doba* and *lhůta* suggested by bilingual legal dictionaries. However, the mere comparable corpus analysis proved to be insufficient for establishing the interlingual equivalence because it rendered more possible equivalents for some Czech collocations identified in the first part of the study, and failed to render any candidates for others. Therefore, it

[5] The total number of occurences was classified manualy by the author. Sometimes, the phrasing of the statutory provision does not make it possible to make an unambiguos judgment. For example, *doba splatnosti* may be understood both as a period (*maturity period*) and the final point of the period (*due date*).

was supplemented with a comparative conceptual analysis (cf. Chromá 2014b: 46-49) for some uses of *doba* and *lhůta*.

Finally, the comparable corpus was qualitatively explored to search for any structures that may be relevant in the context of expressing time limits and periods in English, but failed to be revealed by checking for the dictionary equivalents. The potential of such structures as translation equivalents was analyzed.

Collocational profile of *doba* and *lhůta* in Czech

Using the SketchEngine tools typical verbal and adjectival collocations have been extracted to see whether these can tell the semantic difference between *doba* and *lhůta*.

Table 2. Adjective collocations of *doba* and *lhůta*

Lhůta	Doba
promlčecí [*limitation*]	**výpovědní [*notice*]**
přiměřená **[***reasonable***]**	přiměřený **[***reasonable***]**
dodatečná **[***additional***]**	**pojistná [*insurance*]**
zkušební [*trial*]	**záruční [*warranty*]**
prekluzivní[*peremptory*]	**vydržecí [*of acquisitive prescription*]**
zákonná **[***statutory***]**	vhodná **[***appropriate***]**
reklamační [*for complaining*]	dlouhá **[***long***]**
popěrná [*to deny paternity*]	**zkušební [*trial*]**
náhradní **[***substitute***]**	stejná **[***identical***]**
	přechodná **[***transitory***]**
	pozdní **[***late***]**
	nezbytná **[***necessary***]**
	krátká **[***short***]**
	zákonná **[***statutory***]**
	smluvená **[***contractual***]**
	čekací **[***waiting***]**
	skutečná **[***actual***]**
	rozumná **[***reasonable***]**
	přesná **[***exact***]**
	provozní [*oprerational*]
	počáteční **[***initial***]**
	potřebná **[***required***]**
	nutná **[***necessary***]**
	konečná **[***final***]**

The adjectival collocations in bold constitute terms with a precise legal meaning, the remaining adjectival collocations are general collocations which may be, even if not used in the law, used with both *doba* and *lhůta,* and as such cannot be used to discriminate the meaning. In the terminological collocations *zkušební* appears as a premodifying adjective used with both *doba* and *lhůta*. Apart from the case of incorrect use presented in Example 1, both of these terms exist as terms consistent with the introduced distinction. *Zkušební lhůta* is used in connection with the trial purchase where the purchaser is required to try the goods within the defined time, whereas *zkušební doba* is used in relation to employment where no act is required, and if successfully completed, the employment continues.

Table 3. Verb + noun collocations of *doba* and *lhůta*

Lhůta	Doba
počítat **[***compute***]**	počítat **[***compute***]**
určit **[***determine***]**	určit **[***determine***]**
ujednat **[***agree***]**	ujednat **[***agree***]**
prodloužit **[***extend***]**	prodloužit **[***extend***]**
zachovat **[***keep***]**	vyměřit **[***set***]**
stanovit **[***set***]**	stanovit **[***set***]**
poskytnout **[***allow***]**	vymezit **[***define***]**
změnit **[***vary***]**	započítat **[***include***]**
dodržet **[***meet***]**	omezit **[***restrict***]**
zkrátit **[***reduce***]**	zkrátit **[***reduce***]**

Table 4. Noun + verb collocations of *doba* and *lhůta*

Lhůta	Doba
uplynout **[***expire***]**	uplynout **[***expire***]**
trvat **[***last***]**	uběhnout **[***expire***]**
skončit **[***terminate***]**	končit **[***terminate***]**
činit **[***equal***]**	činit **[***equal***]**
platit **[***apply***]**	
běžet **[***run***]**	
počítat **[***compute***]**	
se prodlužuje **[***is extended***]**	
se zkracuje **[***is reduced***]**	
se staví **[***is suspended***]**	

The verbal collocates for both *doba* and *lhůta* have the same collocational profile (talking about periods of time) and do not help to discriminate between the two either.

There is, however, one collocational pattern that indicates the difference in meaning, and that is the structure noun + preposition + noun. The two prepositions that occur in such a structure are Czech prepositions *k* and *pro (to + verb, for + -ing),* which are used to indicate purpose and followed by a deverbal noun, and these are used exclusively[6] with *lhůta*, which is a clear indication of the act that is required to be made. In total, there are 18 different collocations of *lhůta k* and 18 different collocations of *lhůta pro*. Sometimes, both of the prepositions are used interchangeably: *lhůta k/pro podání odvolání* (*to lodge an appeal/for lodging an appeal),* which is once again a sign of bad terminological practice.

Another frequent structure with *lhůta* is the following *ve + lhůtě* + time expressions (*in + the period/time limit of* + time expression), such se *ve lhůtě 30 dnů*. A similar expression is found with *doba* in the structure *po + dobu* + time expression (*during + the period* + time expression), such as *po dobu 15 dnů.*

In general, *doba* is mostly used in adjectival collocations (*zkušební doba – trial period*) or postmodified by a genitive structure (*doba nájmu – period of lease, doba výkonu funkce – period of office*). The latter is a productive use for creating terms as more than 80 different collocations of this type occur in the analysed corpus, the majority of which refers to term of agreement.

Establishing interlingual equivalence

The difference between *doba* and *lhůta* should also be taken into consideration when translating these terms and the phrases and collocations they are part of from Czech into English. The equivalents suggested in a respected Czech-English legal dictionary (see Table 5)

[6] In the analysed corpus there is one instance of *doba pro uplatnění práv z vadného plnění* where the correct term to be used is *lhůta* as it is a time limit to claim rights arising from liability from defects.

show that no straightforward linguistic equivalence seems to be possible.

Table 5. Dictionary equivalents of *doba* and *lhůta* (Chromá 2010)[7]

Lhůta	Doba
term	period
period	term
time limit	time
deadline	age

When looking for a similar differentiation of time periods in the language of law in English, there is one introduced by Adams (2013: 2003) for the language of contracts, who distinguishes between forward-running and backward-running periods. Forward running periods are introduced by *from/following after* as in *Smith may exercise the option during the 10 days from his receipt of the Option Notice.* This is *lhůta* in Czech because a right to exercise the option is implied. The backward-running periods are introduced by *before* as in *Acme may exercise the Option during the 10 days before the exclusivity expires.* This usage also corresponds to *lhůta* in Czech. In addition, backward-running periods also specify the minimum amount of notice that must be given as in *Smith shall provide Jones with at least 10 days' prior notice of any Proposed Transfer.* This usage corresponds to *doba* in Czech. Although the differentiation is not identical to the Czech one, it shows that there exists a need for making some sort of difference between different periods of time.

As the dictionary check shows (Chromá 2010), it is clearly not possible to introduce one-to-one equivalence and have a one-fit-all solution for translating *doba* and *lhůta* into English. Therefore, a more sophisticated approach, based on the status and context where the two are used, must be adopted. For the translation purposes, the occurrences of *doba* and *lhůta* may be divided into three categories, each of which requires a different translation approach. The categories are as follows: a) terminological uses (e.g. *promlčecí lhůta – limitations period, vydržecí doba – period of acquisitive prescription*) where the equivalents must be established by means of conceptual

[7] For both *doba* and *lhůta*, the dictionary does not list only such context-free equivalents, but in addition includes a number of terminological units and their English equivalents.

analysis; b) semi-terminological productive uses (*doba* + genitive such as *doba nájmu – term of lease*, *lhůta k/ pro – time limit to do something*), and c) part of complex prepositional phrases (*ve lhůtě* + time expression, *po dobu* + time expression) where *doba* and *lhůta* are used as a general noun indicating that what follows is a time expression.

The first category will be illustrated with the case of *promlčecí lhůta* and *vydržecí doba*. As for the former, there is no statutory definition of the term, and an equivalent must first be established for the designation of the legal institution of *promlčení*. Chromá (2011) has shown that a number of both descriptive and prescriptive equivalents exist and are used in English: *statute of limitations, limitation of action, time-bar, lapse of time*. The BLD[8] (2009: 1012) includes as one of the meanings of limitation "a statutory period after which a lawsuit or prosecution cannot be brought in court" and lists the following synonyms *limitations period, limitation period, limitation of action*. Interestingly, the BLD (2009: 1546) defines statute of limitations as either "a law that bars claims after a specific period of time, specific. a statute establishing a time limit for suing in a civil claim, based on the date when the claim accrued" and "a statute establishing a time limit for prosecuting a crime, based on the date when the offense occurred" and lists *nonclaim statute* and *limitations period* as synonyms. It follows from the definitions that in the English understanding of *statute of limitations* the difference between the period and the legal institution is blurred to a great extent and the terms are used indiscriminately.

There, however, exists a striking difference in the terms denoting *statute of limitation* in the Czech Civil Code and civil legislation in English speaking countries. Whereas the Czech Civil Code contains the phrase *promlčecí lhůta* 55 times, the corpus of English laws includes *limitation period* twice and *statute of limitation* 6 times. The explanation could lie in the difference between civil law and common law, but also in different means of expressing the time limits as illustrated by Examples 3 and 4.

Example 3. Statute of limitations in the UCC

Section 72.7250 of the UCC

[8] Black's Law Dictionary (Garner et al. 2009)

> **Statute of limitations** in contracts for sale
>
> (1) **An action for breach of any contract for sale must be commenced within four years after the cause of action has accrued**. By the original agreement the parties may reduce the **period of limitation** to not less than one year but may not extend it.
>
> (2) A cause of action accrues when the breach occurs, regardless of the aggrieved party's lack of knowledge of the breach. [...]
>
> (3) Where an action commenced **within the time limited by subsection (1)** of this section is so terminated as to leave available a remedy by another action for the same breach such other action may be commenced **after the expiration of the time limited and within six months** after the termination of the first action unless the termination resulted from voluntary discontinuance or from dismissal for failure or neglect to prosecute.

It follows from Example 3 that in English the term itself only occurs in the heading of the section and the actual period is defined using a different phrasing. To talk about reduction or extension of the period, the term *period of limitation* is used, which is a variant to *limitation period*, but was omitted in the BLD. In Subsection 3 in the Example yet another phrase is used as an equivalent to Czech *lhůta: time limited by*, which is a slightly different formulation that would be used in Czech (*time limit defined by*). In this case, the general meaning of *time* is assigned the meaning of *lhůta* by means of a postmodifying participle.

Unfortunately for the translator, *limitation* is not the only possible equivalent of *promlčení.* In the Civil Codes of Louisiana and Quebec (i.e. civil law influenced legislation) there are 304 occurrences of the term *prescription*. The BLD (2009: 1302) includes the following meanings of *prescription* relevant to this study:" a) The effect of a lapse of time in creating or destroying rights b) The extinction of a title or right by failure to claim or exercise it over a long period of time (negative/extinctive prescription) c) The acquisition of a title to a thing by open and continuous possession over a statutory period (acquisitive/positive prescription)." This makes the term *prescription* highly polysemous as it denotes three very distinct legal institutions under Czech law: a) *promlčení* or *prekluze*, b) *prekluze* and c) *vydržení.* Moreover, as the following example illustrates it is also used to denote the respective period.

Example 4. Use of *prescription* to denote a period of time

> Article 3083 of the Louisiana Civil Code
> Compromise suspends **prescription**
> A compromise entered into prior to filing suit suspends the **running of prescription** of the claims settled in the compromise.
> Article 3465 of the Louisiana Civil Code
> Interruption of **acquisitive prescription**
> **Acquisitive prescription is interrupted** when possession is lost.

In both articles cited in Example 4 *prescription* is used to denote a period of time. In the first case it refers to *liberative prescription* and needs to be translated into Czech as *promlčecí lhůta*, in the second case it refers to *acquisitive prescription* and needs to be translated into Czech as *vydržecí doba.* The term prescription is even used in collocations stating its lengths such as *five year prescription*, *liberative prescription of five years*, *acquisitive prescription of ten years* (extracted from the Louisiana Civil Code). To sum up, when translating the term *prescription* into Czech caution must be taken to interpret it correctly given its legal context. Due to its polysemous nature, Chromá (2014: 126) suggests that it should never be used without a premodifying adjective when translating from Czech into English[9].

Example 5. Statute of limitations in the Louisiana Civil Code

> Art. 3501. Prescription and revival of money judgments
> A money judgment rendered by a trial court of this state **is prescribed by the lapse of ten years from** its signing if no appeal has been taken, or, if an appeal has been taken, it **is prescribed by the lapse of ten years from** the time the judgment becomes final.
> An action to enforce a money judgment rendered by a court of another state or a possession of the United States, or of a foreign country, **is barred by the lapse of ten years from its rendition**; but such a judgment is not enforceable in this state if it is prescribed, **barred by the statute of limitations**, or is otherwise unenforceable under the laws of the jurisdiction in which it was rendered.

[9] Above the lack of consistency on part of the Czech legislator has been criticized. However, it seems that the English legislator sometimes lacks consistence as well as the following example from the Quebec Civil Code shows: PERIODS **OF** ACQUISITIVE PRESCRIPTION
2917. The period **for** acquisitive prescription is 10 years, except as otherwise determined by law.

Example 5 shows other phrases, mostly passive structures where the time expression is introduced by a *by phrase*, that are used in laws drafted in English in cases where the Czech law would use *lhůta*, either *promlčecí*, or *prekluzivní (e.g. Prekluzivní lhůta u rozsudků na peněžitá plnění je 10 let od okamžiku, kdy je rozsudek podepsán*. *The period of extinctive prescription of money judgments is 10 years from the date of signing.)*

The second category is semi-terminological, i.e. where the terms *doba* and *lhůta* are used as part of legal terms but these terms are created productively. It is precisely in this case where a corpus search for possible equivalents may be useful. In the table below you can see the frequency of the dictionary equivalents for *doba* and *lhůta* (cf. Table 6).

Table 6. Frequency of dictionary equivalents for *doba* and *lhůta* in civil legislation drafted in English and the most frequent collocations

Equivalent	Absolute frequency	i.p.m.	Most frequent collocations
Period	323	478.1	Time period Credit period Prescriptive period Peremptive period Payment period Financial period Waiting period Period of storage Period of time Period of limitation Period of the new lease term Period of termination Period of effectiveness Period of possession Period of usufruct Period of suspension Period of grace Period of vacancy
Term of[10]	91	134.7	Term of lease (agreement) Term of renewal Term of assurance Term of credit Term of office

[10] To mean a period of time, *term* is always postmodified by an *of phrase*. This makes it possible to eliminate uses of *term* to mean a condition.

Time	1510	2235	Time for (54) Time for taking an action Time for performance Time for acceptance Time for payment Time for giving notice Time for appeal Time to: premodified – reasonable/additional Time to present a document/excuse Time to comply with Time to ascertain the validity Time to perform Within a reasonable time (77) Within the time (38) Time prescribed Time allowed (to remove/for removal)
Time limit	13	24.3	Time limit for short term right to refuse
Deadline	9	13.3	Midnight deadline

The overview of the possible equivalents of Czech *doba* and *lhůta* is another confirmation of the fact that one-to-one equivalence is impossible to be established. The most intuitive equivalents for *lhůta* show very low frequency: *Deadline* seems basically not to be used at all in legislative texts (only a single collocation in the analysed laws), *time limit* is limited to a very small number of occurrences in a general sense. In addition, there are a number of collocations where *time* and *period* are used as equivalents of *lhůta*. With *period* these are mostly the terminological used (*period of limitation, peremptive period)*, whereas for *time* these are mostly semi-terminological uses in the structure *time for* + ing/noun or *time to* + infinitive, or *within the time* and *within a reasonable time* which corresponds to a frequent Czech construction *v přiměřené lhůtě*.

In many cases the meaning of *lhůta* is only implied by the preposition *within*. According to Adams (2013: 204) the preposition is ambiguous as it may refer both to a backward-running as well as forward-running period as in *To validly exercise the Option, Acme must submit an Option Notice to Widgetco within seven days of the anniversary of the agreement.* In theory and without further context,

the sentence may mean both seven days after the anniversary or before the anniversary. In fact, the ambiguity is partially caused by the preposition *of* because if a preposition such as *after* or *before*, whose time reference is not ambiguous, was used, the sentence would no longer be ambiguous. In the analysed texts, however, this potential ambiguity seems not to occur as *within* indicates only forward-running periods.

There is also a striking disproportion of the number of ocurrences of *lhůta* and *doba* and the translation candidates in the English corpus given the higher number of tokens. This may also be due to a different pattern of expressing the time limits in general as may be evidenced in the following example.

Example 6. Talking about time limits in legislative language

§ 785
(1) Manžel **může do šesti měsíců** ode dne, kdy se dozvěděl o skutečnostech zakládajících důvodnou pochybnost, že je otcem dítěte, které se narodilo jeho manželce, popřít své otcovství u soudu**, nejpozději však do šesti le**t od narození dítěte. [...].
(2) Byla-li svéprávnost manžela před uplynutím **popěrné šestileté lhůty** omezena tak, že sám otcovství popřít nemůže, může je popřít jeho opatrovník, kterého pro tento účel jmenuje soud, **a to ve lhůtě šesti měsíců** od jmenování soudem.
Section 785
(1) A husband may deny his paternity in court **within six months from** becoming aware of the facts constituting reasonable doubt that he is the father of a child born to his wife, but **no later than six years** after the birth of the child. [...]
(2) If, **within the six-year time limit for denial**, legal capacity of a husband was limited in a way making him unable to deny paternity, the paternity may be denied by his guardian appointed for this purpose by a court, **within six months from** the appointment by the court.
Article 198 of Louisiana Civil Code. Father's action to establish paternity; time period
A man may institute an action to establish his paternity of a child at any time except as provided in this Article. The action is strictly personal. If the child is presumed to be the child of another man, **the action shall be instituted within one year from the day of the birth of the child**. Nevertheless, if the mother in bad faith deceived the father of the child regarding his paternity, **the action shall be instituted within one year** from the day the father knew or should have known of his paternity, or **within ten years from** the day of the birth of the child, whichever first occurs. In all cases, the action shall be instituted **no later than one year**

> **from the day** of the death of the child. The **time periods** in this Article are peremptive.

In Example 6 there are to a certain extent equivalent provisions of the Czech and Louisiana Civil Codes governing the denial of paternity. It can be seen that in the Czech provision, *lhůta* is used twice (underlined) to talk about a specific time limit to do something, whereas in the English provision, all specific time limits are defined without using the actual word, but using a passive structure. From the official translation of the Czech provision it can also be seen that the translator felt the need to keep *popěrná lhůta* in the first occurrence in English as a term. It was omitted in the second case as a third category use (see below). In the English provision, *time period* is used, but only to talk about the time limits in the given provision generally.

Example 7: Potential for structural reformulation

> § 1862 (2)
> Byl-li však tento formulář spotřebiteli vydán do jednoho roku ode dne, kdy byla smlouva uzavřena, popřípadě ode dne, kdy spotřebitel obdržel její vyhotovení, nastal-li později, **končí lhůta pro odstoupení čtrnáctým dnem od obdržení formuláře.**
>
> Section 1862 (2)
> However, if the consumer was provided with the form within one year from the date on which the contract was concluded or, where applicable, from the date on which the consumer received a copy of the contract if it occurred later, **the time limit for withdrawal shall end on the fourteenth day from the receipt of the form**.
>
> **CZECH**
>
> TIME LIMIT + FOR + ACTIVITY + COPULA + TIME
>
> 
>
> ACTIVITY + MODAL + PAST PARTICIPLE + WITHIN + TIME
>
> **ENGLISH**
> **The application for authorization must be made within one month after the refusal by the lessee**.

Example 7 suggests the difference in structure in statutory provisions defining time limits. Whereas in Czech, the actual word *lhůta* pre- or

post-modified by the activity is used as a subject of the sentence followed by copular (*je, činí*) or aspectual verbs denoting a beginning or end (*končí*) complemented by the actual time expression, in English (as also evidenced by Example 6) it appears to be more common to have the actual activity as the subject of the sentence followed by a modal (may/shall/must/to be) passive structure and complemented by a prepositional phrase *within* and the actual time expressions. Active structures may also be found (*Every creditor of support may within six months after the death claim a financial contribution from the succession as support.*), but given the general tendency of legal language to favour passive structures, the active ones appear to be less frequent. This is in no way to be understood as a strict generalization claiming that one structure is used only in Czech, and the other only in English, but rather as an observation, which, if followed, may lead to higher idiomaticity of translations. The structure omitting the actual word *lhůta* is also found in the Czech act both in the passive form or a in an active voice with the agent used as the subject (see the first sentence in Example 5). How this can be applied in practice as illustrated in Example 8, where the official translation of a Czech statutory provision is reformulated in line with the above recommendation.

Example 8. A statutory provision reformulation.

§ 2152
(1) Uzavřením kupní smlouvy s výhradou lepšího kupce nabývá prodávající právo dát přednost lepšímu kupci, přihlásí-li se v určené lhůtě. Tato lhůta činí u movitých věcí tři dny a u nemovitých věcí jeden rok od uzavření smlouvy.

Section 2152
By concluding a contract of sale with a reservation of a better buyer, a seller acquires the right to give priority to a better buyer if the better buyer claims his interest within a particular time limit. **This time limit is three** days from the conclusion of the contract for movable things and **one year** from the conclusion of the contract for immovable things.

Section 2152: Reformulated
When a contract for sale includes a better offer clause, the seller may give preference to the better offer if received within a statutory time limit. It must be received **within three days or one year** for moveable and immoveable things respectively after the contract has been entered into.

When *doba* means a point in time, then *time* seems to be the most frequent English equivalent mostly in the structures *at/from/after/before the time (of/that)*. When *doba* denotes a period of time, *period*, *time* and *term* are the possible equivalents. *Term* is the corresponding term when *doba* is used to talk about a term of contract (see the above collocations), in more term-like collocations *period* is used in this sense as well (*period of possession/suspension*).
The last category of expressions where *doba* and *lhůta* are used are the complex prepositions *ve lhůtě* and *po dobu*. In this case, a literal translation *within the period/time limit* and *during/for the period of* respectively would be acceptable in English and can be found in legislation drafted in English. However, they also occur on the lists of words to be eliminated or simplified in plain language efforts[11], and therefore they be best avoided when translating into English and only simple prepositions *within* and *for/during* should be used directly followed by the time expression.
There is one special category of uses of *doba* and *lhůta* in provisions on computation of time, without any modification. Such cases require special treatment as shown in Example 9.

Example 9. *Doba* and *lhůta* used together.

> Section 605 of the Czech Civil Code on computation of time
> **Lhůta nebo doba** určená podle dnů počíná dnem, který následuje po skutečnosti rozhodné pro její počátek.
>
> Official translation
> A **time limit or period** specified in days begins on the day following the occurrence of the fact that is decisive for its commencement.

In such cases, where general time computation rules are introduced, it is not advisable to keep the distinction, as the Czech terms are translated by different ways according to their different uses, and the official translation could thus narrow the scope of the provision excluding cases where *deadline*, *term* or *time* are used as terminological or idiomatic equivalents, which could have significant interpretative consequences. Therefore, either a generalizing strategy (***Any period of time, however expressed or called,*** *specified in days*

[11] http://www.plainlanguage.gov/howto/wordsuggestions/simplewords.cfm

begins on the day following the occurrence of the fact that is decisive for its commencemen) or an enumeration of all equivalents used in the translation of the law (*A* ***period, term, time limit, time or deadline*** *specified in days begins on the day following the occurrence of the fact that is decisive for its commencement*). In my opinion, the former is more convenient, as it would also cover the cases where reformulation strategies have been used.

Concluding remarks

In conclusion, the attempt to introduce a clear distinction between *doba* and *lhůta* by the Czech legislator has been successful only to a certain extent as the illustrations of inconsistent use show. Furthermore, in other branches of law the distinction is not kept at all. For example, the Criminal Code systematically uses *promlčecí doba*, which may add to the confusion. The collocational patterns are, in large part, of little help to see the distinction more clearly.

For translators, the challenge posed is twofold. First, it is not possible to use one-to-one equivalent for neither *doba* and *lhůta* when translating into English and each time the translator encounters either of these terms as part of a Czech expression, he or she must first determine its use (terminological or non-terminological) and adopt a translation strategy accordingly, whether a nominal equivalent or a reformulation strategy, for which the examples in this study may serve as inspiration. It clearly follows from the above that each of the terms may have several translation equivalents even within a single texts, and therefore a thorough analysis of the linguistic as well as legal context is necessary.

Second, when translating any time expressions from English to Czech, the translator should have the difference in mind and, especially in cases of terms that may correspond to either *doba* or *lhůta*, he or she needs to take care to opt for the correct Czech equivalent in the given branch of law.

It is hoped that this paper has shown that even terms which may seem not as difficult to translators in comparison with "hard-core" legal terms may also pose significant problems and that it has managed to provide some guidelines on coping with the translation of

such terms and achieving both terminological equivalence and phraseological idiomaticity.

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IDEOLOGY AND LEGAL DISCOURSE DURING ALBANIAN COMMUNISM

ELSA SKËNDERI RAKIPLLARI, PhD candidate
University of Tirana, Faculty of History and Philology,
Department of Linguistics
Fakulteti i Historisë dhe i Filologjisë,
Rruga e Elbasanit, Tiranë, Albania
skenderi.elsa@gmail.com

Abstract: This paper aims to explore the traces of ideology in court decisions from the Communism period in Albania. A court judgment on a certain case, except from playing a role in setting the punishment, it also reinforces the ideological stance of dictatorship. As recent studies of Discourse Analysis and Critical Discourse Analysis highlight, ideology is linguistically mediated. The CDA methodological tools are used to analyze the linguistic categories that are marked by ideological traces. The paper also examines conceptual metaphors and the metaphoric scenarios employed in the above legal discourse fragments, which help communism construct its own legal and political reality. All the findings of this research prove that ideology outreaches the political realities, and it may also affect the legal discourse, especially during the lead of a communist dictatorship.

Key words: legal discourse, ideology, Albanian communism, discourse analysis, metaphoric scenarios

IDEOLOGJIA DHE DISKURSI LIGJOR GJATË KOMUNIZMIT NË SHQIPËRI

Përmbledhje: Kjo kumtesë synon të qëmtojë gjurmët e ideologjisë në vendimet gjyqësore të periudhës së komunizmit në Shqipëri. Një vendim gjyqësor për një çështje të caktuar, përveç se luan rol në përcaktimin e dënimit, përforcon po ashtu edhe qëndrimin ideologjik të diktaturës. Siç nëvizojnë studime të kohëve të fundit të Analizës së Diskursit dhe të Analizës Kritike të Diskursit, ideologjia ndërmjetësohet me anë të gjuhës. Mjetet metodologjike të AKD-së, janë përdorur për të analizuar kategoritë gjuhësore që janë të shenjuara me gjurmë ideologjike. Ky artikull, po ashtu, këqyr metaforat konceptuale dhe skenarët metaforikë që përdoren në fragmentet e diskursit ligjor të sipërpërmendura, të cilat i kanë ardhur në ndihmë komunizmit për të ndërtuar relitetin e vet ligjor e politik. Të gjitha gjetjet e këtij hulumtimi provojnë se ideologjia i tejkalon realitetet politike dhe se mund të ndikojë po ashtu edhe diskursin ligjor, veçanërisht gjatë udhëheqjes së një diktature komuniste.

Fjalë kyçe: diskurs ligjor, ideologji, komunizmi shqiptar, analizë diskursi, skenarë metaforikë.

IDEOLOGIA A DYSKURS PRAWNY W KOMUNISTYCZNEJ ALBANII

Abstrakt: Artykuł ten ma na celu prześledzenie śladów ideologii komunistycznej w wyrokach i postanowieniach sądów albańskich okreu komunizmu. Decyzja i wyrok sądu w określonych sprawach nie tylko pełni rolę wymierzenia kary. Stanowi także narzędzie umacniania władzy dyktatorskiej. Jak wskazują najnowsze badania analizy dyskursu (Discourse Analysis) oraz analizy dyskursu krytycznego (Critical Discourse Analysis), ideologia podlega prawom mediacji językowej. Narzędzia metodologiczne CDA pozwalają na analizę kategorii językowych uwypuklonych w ideologicznych poszlakach. Artykuł przygląda się także metaforom konceptualnym a także scenariuszom metaforycznym zastosowanych we wspomnianych już fragmentach dyskursu prawnego, który stanowiły pomoc dla komunizmu w tworzeniu jego własnej rzeczywistości prawnej i politycznej. Wyniki uzyskane w toku niniejszych badań wskazują, że ideologia przekracza rzeczywistość polityczną oraz, że może się ona bezpośrednio przekładać na dyskurs prawny, szczególnie w czasach dyktatury komunistycznej.

Słowa-klucze: dyskurs prawny, ideologia, komunizm albański, analiza dyskursu, scenariusze metaforyczne

Introduction

For 45 years (November 1944 to 1990) Albania suffered a repressive and harsh communist regime. 34 135 people were imprisoned and punished for political reasons, 59, 009 people were deported and prosecuted, 6 027 were executed during dictatorship. (ISCCA 2016). The dictator, Enver Hoxha eliminated all his political enemies and put the country in a ruthless isolation. The party and the state controlled almost every facet of the social life, starting from the press, to the cultural associations and all economic enterprises. The state intelligence agency Sigurimi i Shtetit would closely survey every single life sphere of every single Albanian. People were not allowed to go abroad and crossing the state border was considered a serious crime. All these are enough to understand that there were no applicable human rights, no freedom of speech, no political parties, except the Labor Party of Albania (Partia e Punës), moreover at a certain point on the course of Albanian communism (in 1967), even the religion was declared illegal. Albania was proclaimed by the regime the first atheist state in the world.

All the power was centralized in the hands of the party and this power centralization was accompanied with strong ideological implications. To a dictatorship of any kind, the underlying ideology is a sine qua non, and that was also the case for Albanian communist dictatorship. Ideology was omnipresent and it persistently shaped not only the reality of Albanians, but also it shaped all the discourses and the discursive practices in the country.

A prevailing mechanism that legitimizes a certain rule/ regime is the legal system and the laws. Therefore the communist rule modified not only considerable aspects of the legal system, but also its legal terminology to fit the ideological stance of the regime. The penal code of 1977, was clearly established on ideological and political principles. This code states that “the penal punishment is a coercive mean with a political and ideological character of the socialist state in the class struggle and a powerful weapon of the proletarian dictatorship in the struggle against its enemies, for the sake of preserving and empowering the socialist order”.

Ideology emerges not only in the legal codes and law, but in court decisions as well. Court judgments imposed not only the penalty

to the person found guilty, but through the legal discourse they would also reinforce the ideology of proletarian dictatorship.

Theoretical background

Legal discourse is a part/ strand of the macrostructure of discourse. There is a rich spectrum of different type of discourse analyses, based on theoretical approaches (conversation analysis, discourse analysis, critical discourse analysis, feminist discourse analysis etc.), or on the contexts where the discourses take place (classroom discourse, political discourse, media discourse, business discourse etc.) However it is important to underline that in this paper, discourse does not refer exclusively to language in se, but also to institutional and social practices. "A discourse is a system for the production of a set of statements and practices which, through inscribing themselves in institutions and appearing as more or less normal, constitute reality for its bearers and has a certain degree of regularity in a set of social relations" (Neumann 2001: 41, cited in Harald, Lie 2004).

For Teun A. Van Dijk, a renowned scholar of discourse studies, providing a comprehensive definition of discourse is challenging, as the definition can be provided by a whole theory. Nevertheless, discourse is "a specific form of language use, as a specific form of social interaction, interpreted as a complete communicative event in a social situation. What distinguishes discourse analysis from sentence grammars is that discourse analysis in practice focuses specifically on phenomena beyond the sentence" (van Dijk 1990: 164).

As it was already mentioned above, there are numerous theoretical and methodological approaches employed in the discourse inquiry. Critical Discourse Analysis (henceforth CDA) is among those disciplines that study discourse, by taking into consideration that: "the world-view comes to language-users from their relation to institutions and the socio-economic structure of their society. It is facilitated and confirmed for them by a language use which has society's ideological impress. Similarly, ideology is linguistically mediated" (Fowler, Kress 1979: 185). CDA employs multidisciplinary approaches to examine discourse and sees it as tightly intertwined with power and ideology.

It is quite interesting that the philosophical grounds of CDA lie in the Critical Theory proclaimed by Max Horkheimer, one of the members of the Frankfurt School, and to some extents also in the Marxist philosophy (Wodak, Meyer 2009). N. Fairclough (1989), a critical discourse analyst, considers CDA a "contribution to the general raising of consciousness of exploitative social relations, through focusing upon language" (1989: 4). Trying to study the legal discourse of a communist regime, whose ideology was built upon the Marxist ideas and principles, by making use of a Marxist related discipline, such as CDA, might seem quite paradoxical. Indeed our aim is to use two key concepts of CDA, ideology and power and to rely on the theoretical considerations of this field, which highlight that discourse "always involves power and ideologies. No interaction exists where power relations do not prevail and where values and norms do not have a relevant role" and that "discourse … is always historical, that is, it is connected synchronically and diachronically with other communicative events which are happening at the same time or which have happened before" (Wodak, Ludwig 1999: 12).

On the other hand, CDA approach may be used in legal discourse studies, although similar studies, with a "critical" disposition, seem not to be very common in the present state of art. "Each statement from Fairclough and Wodak [16: 258] remains powerfully true when we specify legal discourse as the object of inquiry: law constitutes society, does ideological work, and is a form of social action. However, from a CDA point of view, the legal field remains an under-researched area" (Potts, Kjær 2015: 3). Thus we believe that the paper adds a modest contribution to twofold studies of legal discourse and CDA.

Data and Methods

The materials used for an in-depth analysis is a compact corpus comprised of 5 court decisions about the offenses of agitation and propaganda against the state and related correspondences among state institutions about penal cases. The materials are all official documents of the communist period, which were gathered from the Central State Archives of Albania, and from daily newspaper chronicles.

The legal discourse materials of our corpus may be considered as discourse fragments, as far as they have the same thematic concerns "Each discourse strand comprises a multitude of elements which are traditionally called texts. What I call a discourse fragment is therefore a text or part of a text which deals with a certain theme, for example, foreigners/foreigners' affairs (in the broadest sense)" (Jäger 2002: 46).

In these legal discourse fragments it is possible to notice the traces of the communist ideology in the language and formulations of law. Thus we chose to examine some salient linguistic categories that are typically part of the CDA toolkit: pronouns, passivizations and conceptual metaphoric scenarios. The linguistic categories are not very broad, as the aim is to accomplish a qualitative research, but also not to depart from the distinctive CDA methodological approach which is "small corpora which are usually regarded as being typical of certain discourses" (Meyer 2002: 25). For each linguistic category examined, we then present some illustrative excerpts, but not all the present cases.

Linguistic categories examined:

Pronoun

The linguistic categories we examine are person deixes. Many discourse analysts claim that the use of pronouns in political discourse is significant and manipulative, since it generates political and ideological stands. (Fowler and Kress 1979, Fairclough 1989, Wilson 1990, Chilton and Schäffner 2002, van Dijk 2002, etc.) "Pronouns, especially the first person plural (*we, us, our*) can be used to induce interpreters to conceptualize group identity, coalitions and parties and the like, either as *insiders* or as *outsiders*. Social indexicals arise from social structure and power relations, and not just from personal distance" (Chilton, Schäffner 2002: 30, our italics). In the discourse fragments a closer attention is paid to the inclusive vs. exclusive use of personal pronoun we and to the contraposition *we* vs. *they.*

Passivizations

The discourse fragments were checked for existing forms of passivizations. From a syntactic point of view the active construction detransitivized yields a passive construction. "Passivization clearly affects argument prominence, and a passive construction may be used for the purpose of inverting the prominence relations of the active" (Blevins 2006: 236).

The passive structures serve mainly to bring to the attention a different topic from the one which is the agent, so the informationally important topic comes to the first place. Another function that the passivizations serve is avoiding explicit pointing to the real agents of some actions in order to perform a politically correct speech.

Metaphoric scenarios

Discourse analysts such as Musolff and Zinken (2009), Chilton (2004, 2006), Chilton and Lakoff (1995) etc. under the light of the *Metaphors we live by* (Lakoff, Johnson 1980) have brought to discourse analysis the mechanism of the conceptual metaphor. The cognitive metaphor in the Lakoffian sense is beyond the borders of rhetorical metaphor. Its importance lies in the mapping of one concrete and familiar domain of experience, to another abstract unfamiliar domain.

In the discourse, metaphors conceptualize political actions or processes, by offering a certain ideological view of the reality. Thus specific metaphoric scenarios can be identified. The legal discourse fragments that comprise our corpus were inspected closely to identify and elicit the conceptual metaphors and the metaphoric scenarios they hold.

Results and Conclusions

Deictics

In the present legal discourse fragments that belong to the Albanian communism, there seems to be a redundant use of the

pronoun we, mainly in its genitive form (our). Whenever *the state*, *the party*, *the socialist state*, *the socialist order*, and/or *people's power*, *the party leader* is mentioned, the possessive pronoun *our* determines the above nouns.

> ***Excerpt 1***
> *He has reached up to the point of using even quite insulting expressions about our great leader, friend Enver Hoxha.*
>
> ***Excerpt 2***
> *Being fed with this adverse feelings, at this defendant was noticed an overt enmity toward our socialist order as he started to overtly agitate and propagandize among different people against our socialist order and our main party and state leaders. (Our translation)*

This sort of usage of the person deixis is not unintentional. The judges and law authorities that compiled these discourse fragments, were actually positioning themselves as *insiders* (Chilton, Schäffner 2002) and performing their own identities. All in all, discourse not only shapes reality, but it also serves as a medium where people perform identities.

The pronoun we is always used in its *exclusive* form. It does not include the defendant. Furthermore, there is a clear opposition among the pronouns we vs. they. They might refer either to the defendant/s (who are considered to be immoral, agitators, degenerated elements, terrorists etc.), or to enemies (such as bourgeoisie/ capitalist countries).

Passivizations

The passivizations are prone to a twofold effect. They allow the speaker to hide the agent of an action, the one performing the action. On the other hand they place in the foremost obvious position the information that is more crucial to be processed first in a sentence. "Passivization allows a noun denoting an affected participant, a non-agent, to be placed in the subject position in the sentence, the left-hand noun-phase slot which is conventionally regarded as the theme or topic of the sentence.[…] This device allows a writer or speaker to emphasize his thematic priorities, to emphasize what a text is 'about'" (Fowler, Kress 1979: 209). In our corpus there are several cases of

passivizations, but interestingly there seem to be no agentless passive constructions.

> ***Excerpt 3***
> *The causes of the entrance in the road of crime of A. K. and S. D are:*
> *-they are spoiled by the family and by the family every single whim they had, was fulfilled (our translation)*
>
> ***Excerpt 4***
> *Harsh offensive words have been used by him, towards our great leader, friend Enver Hoxha. They both had adverse conversation such as "here there is no freedom and democracy, there is a low living standard, the main leader of the Party is a dictator, you become imprisoned for a single word you say" etc.*

This feature may be because of the kind of discourse fragments we are dealing with: *i.e*. in the legal discourse all the responsibilities have to be determined. The logic that stands behind the deletion of the participants is the same as for passivizations.

Conceptual Metaphors

Propaganda is food

> ***Excerpt 3***
> *Being **fed** with this **adverse feelings**, at this defendant was noticed an overt enmity toward our socialist order as he started to overtly agitate and propagandize among different people against our socialist order and our main party and state leaders. (our translation)*

Agitation is a cutting tool

> ***Excerpt 4***
> *Taking into account the intensity and the **sharpness of agitation** that these two young men have done against our party and our power, we think that only the counseling by the Party Committee of the University is not sufficient for their education.*
>
> ***Excerpt 5***
> *S.D. and A.K. have carried out agitation and sharp propaganda against the party and our power.*

The Self Defense Scenario

In the discourse fragments, a self defense scenario is noticeable. The communist state used to live with a kind of paranoia, that every country and power outside Albanian borders, was going to attack Albania. The existence of articles in the penal code of that time, on agitation and propaganda are a clear sign of this paranoia. The law offenders /criminals that were punished for propaganda, were all called enemies/ villains/immoral people. It seemed that while punishing these (existent and inexistent) enemies, actually the Party of Labor, was defending the country and the rule of people. This self defense metaphorical scenario would make people perceive that propaganda and agitation were actually serious threats to the country and to themselves as well.

Excerpt 6
They have committed agitation and propaganda aiming the weakening and mining of the state of the proletariat dictatorship […] aiming to definitively liquidate and mine the dictatorship of proletariat and socialism and to establish the fascist, bourgeoisie- revisionist dictatorship and to restore a capitalist order in Albania.

The state is a building

In the present discourse fragments the state and the party are conceptualized as a building that might be shaken by inapt actions, it can be mined, it can be (re-)established and restored.

Excerpt 7
Weakening and mining of the state of the proletariat dictatorship […] aiming to definitively liquidate and mine the dictatorship of proletariat and socialism and to establish the fascist, bourgeoisie-revisionist dictatorship and to restore a capitalist order in Albania.

Excerpt 8
The defendant K.H. and A. C. are accused of having committed terrorist acts and have propagandized against the principles that are in the foundations of our party.

To conclude we want to summarize the main issues that this paper has focused on. First and foremost ideology is linguistically mediated. Discourses are mediums where identities are performed and

where ideological stances are reinforced. Although a legal discourse has to be less affected by ideology, the discourse fragment from the communism era in Albania, reveal that there is no discourse immune to ideology, especially when the discourse context is that of a dictatorship.

"Michel Foucault, who famously defined discourses as 'practices that systematically form the objects of which they speak' (Foucault, 1972: 42). In simpler terms, discours*es* are more than just linguistic: they are social and ideological practices which can govern the ways in which people think, speak, interact, write and behave. (Litosseliti 2010: 133)". Similarly the legal discourse strands not only set law or directives, but they also may affect the way people think of reality and behave in society.

Another consideration we want to recall once more is that, certain cognitive metaphoric scenarios that showed up in the legal discourse fragments we analyzed were actually omnipresent in all discourse strands. These metaphoric scenarios shaped the conceptualization of reality by Albanian people during communism. As Lakoff (1991) highlights, the system of metaphors that people use without being aware, is actually the way reality is comprehended. "What metaphor does is limit what we notice, highlight what we do see, and provide part of the inferential structure that we reason with. Because of the pervasiveness of metaphor in thought, we cannot always stick to discussions of reality in purely literal terms." (Lakoff 1991)

Methodologically, this paper was built employing the discourse and critical discourse analysis toolkits. In our opinion, the combination of two disciplines like legal studies and (critical) discourse analysis, is quite fruitful to offer new inquiry perspectives. We would recommend further research on this area, by not only interpreting different kinds of legal discourse strands, but also by conducting comparative legal discourse analysis.

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TANJA WISSIK, TERMINOLOGISCHE VARIATION IN DER RECHTS- UND VERWALTUNGSSPRACHE. DEUTSCHLAND – ÖSTERREICH – SCHWEIZ. BERLIN: FRANK & TIMME GMBH VERLAG FÜR WISSENSCHAFTLICHE LITERATUR, 2014, ISBN: 978-3-7329-0004-6, 366 PAGES

Reviewed by mgr **IDA SKUBIS**
Uniwersytet Pedagogiczny w Krakowie
Instytut Neofilologii, Katedra Językoznawstwa Niemieckiego
31-116 Kraków, ul. Studencka 5
i.k.skubis@gmail.com

Tanja Wissik is a researcher whose main interests concern digital language resources and technologies, especially terminological resources and corpora, metadata, workflow research, variational linguistics and translation studies.

Tanja Wissik holds a PhD from the University of Vienna in translation studies with a specialisation in the field of terminology and corpus linguistics. Currently, she works as a senior researcher at the Austrian Centre for Digital Humanities of the Austrian Academy of

Sciences and teaches information technologies for translators at the University of Graz.

Her book entitled "Terminologische Variation in der Rechts- und Verwaltungssprache. Deutschland – Österreich – Schweiz" published in 2014 by Frank & Timme GmbH Verlag für wissenschaftliche Literatur proves that she did a lot of research on the topic of German varieties and translation process. Her PhD dissertation with the theme of German as a pluricentric language in legal and administrative translations was the incentive to create this book with introducing some modifications. In such a way arose "Terminologische Variation in der Rechts- und Verwaltungssprache. Deutschland – Österreich – Schweiz" which is a great source of information for all the people involved and interested in the topic of German variations in connection with the field of legal and administrative translations.

Tanja Wissik's work is divided into eleven comprehensive chapters, nevertheless the book can be divided into two main parts: theoretical and analytical one. It is visible that both parts were well-considered. The first chapter is the introduction where the author describes the aims of the book and describes the steps undertaken in each section.

The second chapter is devoted to the notion of German pluricentrism and contains information about three German varieties. Three German-speaking countries, i.e. Germany, Austria and Switzerland are depicted fastidiously, grouped into clearly separated sections in order to systematize the data about each variation. The description of German, Austrian and Swiss variations was conducted thoroughly according to few main categories and levels of the language. In each of those three subsections there are characteristics about each country and language levels concerning orthography, morphology, morpho-syntax, pragmatics and lexis. There is also information about regional differences in each of those countries and status of standard language and its codification. The information gathered in this chapter constitute clearly summarized data about key features distinguishing three German varieties.

The third chapter delivers the readers information about key notions of the book, i.e. variations, varieties, variants. The fourth chapter however concerns the concept of specialized and institutional language, the language of higher education and finally of legal and

administrative one. The following chapter raises the subject of German varieties in language of law and administration.

The sixth section opens the analytical part of the book with the terms connected with corpus analysis. Tanja Wissik describes here the notion of corpus and its creation including information needed for work with corpora. In the next chapter the author depicts the following steps which were made to conduct the analysis and at the same time it is the core part of the book because the results of research are presented here. The research constitutes a profound analysis of similarities and differences between three Standard German varieties: German Standard German, Austrian Standard German and Swiss Standard German which was conducted on the level of legal and administrative language in normative texts of universities in Germany, Austria and Switzerland.

Tanja Wissik put a lot of effort to group the outcome and to assign it to respective categories. By means of some programs for corpora analysis, she lists the words which are specific for a particular variety. Then, the author gives the equivalents in two other varieties if they exist. She marks whether the given terms are codified or not and enumerates collocations which appear in the analysed texts. The author undertook also the effort to divide the lexis according to the regional distribution in Germany, Austria and Switzerland with indication of normative texts and universities where those terms can be found. All the words, expressions and collocations are gathered and compared between each other.

The eight chapter is devoted to answer the questions which arose during the whole work on the book. The author explains ambiguities which appear very often while working on language varieties and describes the cooperation with scientists who helped her in the results analysis and who are "experts in the field as a source of information", i.e. they come from one of the three German centres (Germany, Austria or Switzerland), they are involved in work at university, its organisation or management or they deal with the concept of German varieties in their scientific life.

The ninth chapter constitutes the summary and conclusion where the author expresses her opinion about all the methods, process of research and the concept of German variations that was analysed thoroughly under supervision of experts.

German pluricentrism as the source of confusion for translators and interpreters

German belongs to the group of pluricentric languages. According to Ammon (1995, 96 and 2004, XXXI) there are three "full centres" (Vollzentren) of German language: Germany, Austria and Switzerland which constitute the varieties of German language: German variety (deutschländisches Deutsch, Bundesdeutsch, Binnendeutsch); Austrian variety (österreichisches Standarddeutsch) and Swiss variety (Schweizerhochdeutsch). The differences between three German variations are visible on every level of the language – they concern orthography, phonetics, grammar, lexis and pragmatics (Kubacki 2014, 163; Szulc 1999,). The linguistic differences that are used in Germany, Austria and Switzerland are called as follows (Utri 2013, 335):

- German variety – Germanisms, Teutonisms;
- Austrian variety – Austriacisms;
- Swiss variety – Helvetisms.

"Full centres" have their own codices, i.e. dictionaries, grammar and pronunciation guides. However, German is used also in other countries, which form the group of "semi centres" (Halbzentren) of German language and which do not have such codices. "Semi centres" of German include the following countries: Luxembourg, Lichtenstein, eastern Belgium and southern Tyrol in Italy (Ammon 1995, 96).

There are words and expressions which are common for three German varieties but there exists also a great number of expressions which are different and they are the source of ambiguity and confusion for translators and interpreters. The translators and interpreters need to know equivalents used in a particular variety while translating a document from a particular country.

There are some works concerning comparison between German in Germany and German in Austria or German in Germany and German in Switzerland, however more attention is paid to the Austrian variation than to the Swiss one. What is more, there are only few books or papers which involve comparison of those three varieties, especially when it comes to the legal and administrative language. That is why, Tanja Wissik's book is a true asset for

scientists, German language learners, translators, interpreters and all the people interested in German language.

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