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Translation Errors and Mistakes in Polish Language Versions of EU Legal Texts

Abstract. Praca dotyczy analizy błędów, które pojawiły się w tłumaczeniu na język polski dwóch dokumentów unijnych: *Council Regulation (EC) no 1346/2000 of 29 May 2000 on insolvency proceedings* oraz *the EU Strategy to combat illicit accumulation and trafficking of SALW and their ammunition 5319/06 of 13 January 2006*. W artykule przedstawiono wybrane fragmenty wersji francuskiej, angielskiej oraz błędnej polskiej wraz z sugerowanymi przez autorki ekwiwalentami. Problemy przedstawione w artykule wynikają z zastosowania niewłaściwej metody tłumaczeniowej (lub też braku jakiegokolwiek metody), różnic składniowych pomiędzy językami polskim i angielskim, jak również z uwarunkowanych kulturowo różnic w rzeczywistości prawnej języka polskiego i angielskiego.

Abstract. This paper deals with the analysis of mistakes and errors in the translation of the *Council Regulation (EC) no 1346/2000 of 29 May 2000 on insolvency proceedings* and the *EU Strategy to combat illicit accumulation and trafficking of SALW and their ammunition 5319/06 of 13 January 2006* from English into Polish. This article presents a selection of examples from the English and French versions together with their incorrect translations into Polish with the authors' suggestions of correct equivalents. The identified problems result from the translation method applied (or no translation method applied), syntactic and grammatical differences between Polish and English, as well as culturally-conditioned differences in Polish and English legal realities.

1. Introduction

The transformation of the political system and Polish efforts to join NATO and the European Union as well as other international organisations have radically changed the importance of translators' work. It has suddenly turned out that Poland fails to translate legal documents reliably and professionally. There may be at least two reasons for such a situation, namely:

- (i) there are not enough well-qualified legal translators in Poland, or
- (ii) there are well-qualified legal translators but the authorities responsible for choosing them are unable to do it for some unknown reasons.

This paper has largely been inspired by the number of scandalous translations into Polish which have been published and circulated both on analogue information carriers (in the Polish official *Journal of Laws* called *Dziennik Ustaw (DzU)*) and on digital information carriers (on the Internet, e.g. in databases such as *CELEX* or *EUR-Lex*). The most astonishing fact is that the authorities seem unable to determine who the authors of such unacceptable translations are and thus no-one seems to be responsible for them. No-one is punished except for Polish society. First of all, it should be realized that the Polish language is the only official language in Poland under article 27 of the Constitution of the Republic of Poland of 2 April 1997¹ and article 4 of the Polish Language Act of 7th October 1999 (DzU No 90, item 999)². Moreover, all international treaties and other legal instruments which are signed and concluded by the Republic of Poland must have a Polish language version and unless special provisions state otherwise, the Polish language version is the basis for the legal interpretation of the instrument under Article 6 of the same Act.

2. Translation Scandals in Poland

Taking all that into consideration, it is surprising and shocking that some translations into Polish are of such a poor quality. One of the Polish dailies, *Gazeta Wyborcza* (of 10th January 2005, p. 2) published a very interesting article under the meaningful title *Do Not Read in Polish (Nie czytać po polsku)*. The article gives a list of some of the mistakes spotted in official translations (e.g. *psychologically* instead of *physically*, *import* instead of *export*, 15 per cent instead of 1.5 per cent, etc.). In the same article there is also a quote from one of the Minister's of Economic Affairs and Labour publications stating that: "the document has been translated from English (...) and thus it may not reliably reflect the meaning of the original. Therefore, while using it, readers should get acquainted with the English language version of the document as well. In the event of any discrepancies the English language version shall prevail."³ This annotation seems to conflict with the statutory instruments quoted above.

All that can be said of such mistakes is that they are scandalous. That article is one of the most recent but the problem was recognized long ago. Kielar (1996: 135–140) discussed some translation problems she noticed in Polish legal documents. Polish societies for translators and interpreters (TEPIS⁴ and STP⁵) have been turning the at-

¹ Art. 27. W Rzeczypospolitej Polskiej językiem urzędowym jest język polski. (...) [The Polish language is the official language of the Republic of Poland. (...)]

² Art. 4. Język polski jest językiem urzędowym (...). [Polish is the official language (...)]

³ "Niniejszy dokument został przetłumaczony z języka angielskiego (...) i w związku z tym, może nie oddawać wiernie zapisów pierwotnego tekstu. Zaleca się, aby przy korzystaniu zaznajomić się również z angielską wersją dokumentu. W przypadku jakichkolwiek rozbieżności obowiązuje wersja angielska".

⁴ Polskie Towarzystwo Tłumaczy Ekonomicznych, Prawniczych i Sądowych [Polish Society of Economic, Legal and Court Translators].

⁵ Stowarzyszenie Tłumaczy Polskich [Society of Polish Translators and Interpreters].

tention of the authorities that it is not enough to know a foreign language to translate from and into it. Polish newspapers such as *Rzeczpospolita*, *Gazeta Wyborcza*, *Gazeta Prawna* and online newspapers e.g. *Onet.pl – Wiadomości* have published many articles so far concerning identified mistakes. However, it does not seem to change much. It may even be assumed (since the number of such articles has recently been increasing rapidly) that the problem is getting more and more serious especially in the wake of the necessity of translating a wide array of EU legislation.

This paper presents a selection of translation errors and mistakes which have been noticed in Polish versions of EU legal texts. The texts analyzed have been the following: the *Council Regulation (EC) no 1346/2000 of 29 May 2000 on insolvency proceedings* (hereinafter called *the Regulation*), and *EU strategy to combat illicit accumulation and trafficking of SALW and their ammunition (Council of the European Union, 13 January 2006, 5319/06)* (hereinafter called *the EU Strategy*). Those two documents have been loaded via the EUR – Lex⁶, application in Polish and English. The former document in Polish language version was published there in 2003, and than corrected in 2004. After the scandal connected with a very low quality of the text it was removed for the next two years. At the time of writing this article it has not been published again, yet, but it is supposed to be available via Eur-lex in April 2006. The latter text has been available since March 2006.

The number and types of mistakes and errors indicate that the translator was not only an amateur in the field of translation but also ignorant in law and legal language. What is the most frightening aspect is the change of meaning and the potential consequences which may follow the improper interpretation and construction of badly translated legislation.

3. Translation Errors and Mistakes

The first group of translation errors which are very serious are connected with mistranslating terms and phraseological units (including collocations, word combinations or syntagms).

The change of the lexical composition of phraseological units may lead to numerous translation errors resulting in the change of meaning. Although it is generally assumed that “creating collocations is an instinctive act in a native language” (Dzierżanowska 1988: 32), it does not seem to work that way in languages for special purposes (LSP).

Example 1

- In article 3(1) of the Regulation the phraseological unit *in the absence of proof to the contrary* was translated into Polish in the following way: *dopóki dowód przeciwny nie zostanie wykazany* instead of *dopóki dowód przeciwny nie zostanie przeprowadzony*. Although the meaning has not been changed this time, the phraseological unit which does not exist in Polish legal language has been created.

⁶ <http://europa.eu.int/eur-lex>

Example 2

- In the EU Strategy the phraseological unit *SALW* which stands for *small arms and light weapons* was translated into Polish in the following way: *ręczna broń strzelecka*, but also *ręczna broń strzelecka i lekka* and *ręczna broń strzelecka i broń lekka*, instead of: *broń strzelecka i lekka*. Not only are there three equivalents provided in the same document for one term, but also none of them is correct. The meaning has been changed.

Example 3

- In the EU Strategy the phraseological unit *mentoring activities*, which means assigned relationships, often associated with organizational mentoring programs designed to promote employee development, was translated into Polish as: *rekrutacja (recruitment, hiring employees)*, instead of: *(działania mające na celu) wspomaganie rozwoju kwalifikacji kadry*. The meaning has been changed.

Terminological errors are usually a consequence of the fact that the translator does not know the terminology of a given LSP. Thus while using a dictionary translator chose terms at random.

Example 4

- In the Regulation the term *international jurisdiction* was translated into Polish in the following way: *jurysdykcja międzynarodowa* instead of *jurysdykcja* or *jurysdykcja krajowa*. The translator coined a new term instead of using the existing one.

Example 5

- In Article 5(2)(a) of the Regulation the term *mortgage* (French. *hypothèque*) was translated into Polish in the following way: *zastaw hipoteczny*. This term does not exist in the contemporary Polish legal language, and thus it is a neologism. The Polish equivalents for this term are *zastaw* in case of movable property and *hipoteka* for immovable property. In the context of the Regulation it is *hipoteka*, so if the translator used the French language version he would surely have translated the term correctly.

Example 6

- In the EU Strategy the term *capabilities* was translated into Polish in the following way: *zasoby* instead of: *potencjał*. What is more the term *resources* was also translated as *zasoby*. The meaning has been changed and what is more terminological ambiguity has been introduced by translating two terms into one.

Another problem is connected with homonymy and polysemy of words which result in terminological errors.

Examples 7 and 8

- In Article 4(2)(b) of the Regulation the terms *the assets which form part of the estate* (French: *les biens qui font objet du dessaisissement*) was translated into Polish in the following way: *aktywa, stanowiące część nieruchomości*, instead of *składniki majątku wchodzące w skład masy upadłości*. The English term *assets* was translated into the Polish language of accounting instead of the language of insolvency, and that is why there is *aktywa*, instead of *majątek* or *składnik majątku*. And the term *estate*, was mistaken with the term *real estate*, and translated as *nieruchomość*, despite the fact that in the context of insolvency it is *the (insolvent) debtor's estate* or *bankruptcy estate* and thus it should be translated as *masa upadłości* or *majątek dłużnika* (again translating from the French or German would have helped to avoid this error). The meaning has been changed in both cases.

Example 9

- In the Regulation the English term *the claims* (French *les créances*) was translated into Polish in the following way: *roszczenia* instead of *wierzytelności* – again the conclusion is that the translator did not know the language of insolvency.

Example 10

- In Article 13 of the Regulation the English term *an act* (French *un acte*), was translated into Polish in the following way: *dokument* (*document*), instead of *czynność* (*act, act-in-law*). The meaning has been changed.

Grammatical errors spotted include inflexion errors (e.g. incorrect stem or desinence) and incorrect syntax (e.g. government, concord, prepositions, or word order).

Example 11

- In Article 3(4)(b) of the Regulation English expression *in the Member State* was translated into Polish in the following way: *w Państwie Członkowskich* instead of *w Państwie Członkowskim*. The noun in singular has been modified with an adjective with plural desinence.

Example 12

- In Article 17(1) of the Regulation in the Polish language version instead of *jakiegokolwiek postępowanie* there is *jakażkolwiek postępowanie*. The stem of the adjective is feminine instead of masculine.

Example 13

- In Article 2(b) of the Regulation, apart from a terminological error, there is the error in government because the English expression *to administer or liquidate assets* was translated into Polish in the following way: *zarządzanie lub likwidacja aktywów dłużnika* instead of *zarządzanie majątkiem lub likwidacja majątku dłużnika*. The noun *zarządzanie* requires instrumental, whereas the noun *likwidacja* requires genitive.

Example 14

- In the EU Strategy the term *policies* (the plural form of the noun *policy*) was translated into Polish as: *polityki* instead of: *polityka*. The translator has made a plural form from the noun which is uncountable in Polish.

Examples 15 and 16

- In the EU Strategy the part of the sentence *to prevent, combat and eradicate the illicit trade in small arms and light weapons* was translated into Polish in the following way: *zapobiegania, zwalczania i wyeliminowania nielegalnego handlu ręczną bronią strzelecką i bronią lekką* instead of: *zapobiegania nielegalnemu handlowi bronią strzelecką i lekką oraz jego, zwalczania i eliminowania*. The problem is that verb *zapobiegać* requires an object in dative, whereas verbs *zwalczać* and *eliminować* require an object in accusative (government). What is more the verbs *zapobiegać* and *zwalczać* were used in imperfective aspect and the verb *eliminować* was used for some unknown reasons in perfective aspect instead of imperfective one.

Example 17

- In Article 3(4)(a) of the Regulation the prepositional expression *because of* was translated into Polish in the following way: *z, ze względu na* instead of *ze względu na*. Two prepositions were used instead of one.

Example 18

- In Article 3(1) of the Regulation the fragment *The courts of the Member State (...) shall have jurisdiction to open insolvency proceedings* instead of *Sądy Państwa Członkowskiego (...) są właściwe dla wszczęcia postępowania upadłościowego* was translated into Polish in the following way: *Sądy Państwa Członkowskiego (...) są właściwe do wszczynania postępowania upadłościowego*. There are two errors in this example, i.e. an incorrect collocation and aspect.

Example 19

- In the EU Strategy the part of the sentence *The consequences of the illicit manufacture, transfer and circulation of small arms and light weapons ...* was translated into Polish in the following way: *Konsekwencje produkowania, przesyłania i nielegalnego handlu ręczną bronią strzelecką* instead of: *Konsekwencje nielegalnego produkowania i przesyłania broni strzeleckiej i lekkiej oraz amunicji do niej oraz nielegalnego handlu nimi...* The adjective *illicit* which pre-modifies three verbs in the source text, is used to modify only one verb in the Polish version (incorrect word order and again problem with government of verbs). What is more, there is also terminological inconsistency discussed above (*small arms and light weapons* abbreviation *SALW*) in this fragment.

The next set of errors is connected with using inappropriate style (stylistic inadequacy). The regulation is a statutory instrument and thus requires the usage of statutory language. The translator did not know the difference between colloquial, statutory and oral legal languages.

Example 20

- In Article 4(2)(f) of the Regulation the fragment *with the exception of law suits pending* was translated into Polish in the following way: *z wyjątkiem spraw zawisłych przed sądem*, instead of *z wyłączeniem toczących się postępowań*. The collocation characteristic of oral legal language was used (*zawisnąć przed sądem*) instead of a verb used in statutory instruments (*toczyć się*).

Example 21

- In Article 4 of the Regulation the English term *law applicable* was translated into Polish the following way: *stosowane prawo*, that is into the colloquial language instead of the legal language (*prawo właściwe*).

Example 22

- In Article 2(c) of the Regulation the English expression *other measure terminating the insolvency* was translated into Polish in the following way: *kładący kres niewypłacalności* instead of *usuwający niewypłacalność*. Here a literary language was used instead of legal one.

Example 23

- In the EU Strategy the part of the sentence *The definition of SALW ... is that set out in the Annex to ...* was translated into Polish in the following way: *Definicja ręcznej broni strzeleckiej i broni lekkiej ... jest taka, jak ta przedstawiona w Załączniku ...* instead of: *Definicja broni strzeleckiej i lekkiej mająca zastosowanie do ... została zawarta w Załączniku ...* Here there is a literary language used instead of legal one.

There are the following types of punctuation errors: (i) the lack of a punctuation mark; (ii) an incorrect punctuation mark; and (iii) an excessive punctuation mark.

Example 24

- In Article 4(2) of the Regulation there is an excessive punctuation mark: *zamknięcia tych postępowań..* (two periods instead of one).

Example 25

- In Article 37 of the Regulation there is *postępowanielikwidacyjne.*, instead of *postępowanie likwidacyjne*, thus there are two problems: firstly, lack of space and secondly, two commas. Those types of problems (examples 24 and 25) suggest the translator's sloppiness and lack of any proofreading before the publication.

Among other errors spotted in the texts there are also examples of a nonsense and opposite meaning.

Example 26

- In Article 5(2)(b) of the Regulation the fragment of a sentence *a right guaranteed by a lien in respect of the claim or by the claim by way of a guarantee* (French *le droit exclusif de recouvrer une créance, en vertu de la mise en gage ou de la cession de cette créance à titre de garantie*) was translated into Polish in the following way: *prawo gwarantowane przez prawo zastawu w odniesieniu do należności poprzez przewłaszczenie należności przez gwarancje* instead of *prawo zastawu na wierzytelności lub przelew tej wierzytelności na zabezpieczenie*. In this particular case the problem is a result of not understanding the syntax of the English legal language and not knowing the field. This fragment in Polish is impossible to understand. If it were to be translated into English it would probably be some rubbish like that: *the right guaranteed by the right of lien in respect of the amounts due by the assignment of the amounts due by guarantees*.

Example 27

- In Article 4(2)(b) of the Regulation the fragment *the treatment of assets acquired by or devolving on the debtor after the opening of the insolvency proceedings* (French: *le sort des biens acquis par le débiteur après l'ouverture de la procédure d'insolvabilité*) was translated into Polish in the following way: *postępowanie z aktywami nabytymi przez lub przekazanymi zakładowi ubezpieczeń* instead of *sposób postępowania z majątkiem nabytym przez dłużnika po wszczęciu postępowania upadłościowego*. The most surprising is *zakład ubezpieczeń* (*insurance company*) which appears is the Polish version out of the blue.

Example 28

- In Article 36 of the Regulation the translator changed the numbers of articles so in the English version there is *articles 31 to 35* (French *les articles 31 à 35*) and in Polish there is *art. 33 – 35*. Again, sloppiness and lack of any proofreading!

Example 29

- The fragment of the EU Strategy *Devise mechanisms approved by the Member States for the exchange of information on SALW trafficking networks, in particular in the context of monitoring UN and EU embargos.* was translated into Polish in the following way: *wypracowanie zatwierdzonych przez Państwa Członkowskie mechanizmów wymiany informacji o sieciach handlowych ręcznej broni strzeleckiej i lekkiej, w szczególności w kontekście monitorowania embarg NZ i UE*. There are several problems in this fragment starting with terminological inconsistency (*small arms and light weapon*). However, the most hilarious is the translation of the underlined fragment. The noun *traffic* means *illegal trade in goods such as drugs or weapons*. The verb *to traffic* means *to trade illegally, to engage in illegal trading*. But our inventive translator decided that *trafficking networks* are *chain stores selling SALW*. Beware, next time you're going shopping to the Tesco supermarket you may find a display of guns next to the check-out area!

Example 30

- In the EU strategy the noun *player* was translated as *gracz* instead of *strona* or *uczestnik*. In Polish *gracz* means the person who takes part in some game (e.g. card or board games) or a person who

gambles. In politics the equivalent for this English term should rather be *strona* or *uczestnik*. The meaning has been changed and the effect is simply comic. This particular example could also be placed under the problems resulting from (i) mixing registers, (ii) mixing LSPs or (iii) homonymy and polysemy of words.

Example 31

- In the EU strategy the compound nouns *civilian crisis management operations* and *military crisis management operations* were translated as: *cywilne operacje zarządzania kryzysami* and *wojskowe operacje zarządzania kryzysami* respectively instead of *operacje zarządzania kryzysami cywilnymi* and *operacje zarządzania kryzysami wojskowymi*. Thus, the meaning has been changed in the following way: *crisis management civilian operations* and *crisis management military operations*.

One of the main problems seems to be the fact that Poland translates most of the European Union documents from English instead of French. As the majority of the source documents are still created in French (and then translated into English) it seems to be more reasonable to translate them into Polish from French rather than English. Not only is the French legal system more similar to the Polish one (e.g. in terms of legal institutions as the Polish legal system is indirectly based on the Code Napoleon and thus also the Roman law), but also the French language of the law is closer to the Polish language of the law (in terms of terminology). It is common knowledge now that translating from a translation is very risky and leads to an increasing number of mistakes. Apart from that, it seems to be very questionable whether it is advisable to translate anything via a language which is subordinated to a legal reality which differs from the one of the target language to a considerable extent. It cannot be ignored that common law differs from civil law. Therefore, as there is a possibility of avoiding many difficulties and in that way decreasing the number of mistakes which appear in legal texts by translating them from and into languages operating in similar legal realities (e.g. in the case of Polish from French or German), it is difficult to understand why translators are given such an unfeasible task. It should be borne in mind that the text in the Polish language version prevails, so if there are mistakes in it, society will have to pay for it until the mistake is identified and corrected. And as it usually happens, it is much easier for legislators in Poland to pass a bill with errors in it than it is to pass an error-correction bill later. Polish judges do not have to speak foreign languages to do their job. They are simply expected to apply the laws. It seems that most of them apply and will continue to apply laws translated in an unacceptable manner. However, many errors and mistakes are simply due to the fact that a person who had no necessary skill, knowledge, training and experience was given the job. Moreover, there was no proofreading done before publishing the analyzed legal texts.

The next very important aspect concerning this outrageous quality of translation products is the fact that there is no penalty for those who do not do their jobs well. Polish translators do not have to fear any financial liability because actually despite the Copyright and Neighbouring Rights Act of 4th February 1994 [Ustawa o prawie autorskim i prawach pokrewnych z dnia 4 lutego 1994 r. (DzU No. 24, item 83 with subsequent amendments)] in force in Poland the name of a translator vary rarely ap-

pears under the translated document. Translators are invisible. If they are invisible and not known then there is no-one to blame and no-one to punish. The risk of being punished for scandalously low-quality translations is minimal. Unless the number of sued translators increases, the quality of translations will remain the same because translators will not feel the need to improve their qualifications.

5. Conclusions

To sum up, it should be stressed that lack of professional training and financial liability are two most pertinent factors influencing the quality of legal translation in Poland. What is more, the Polish legislator does not seem to understand the need to employ people who know the tricks of the trade. That is why tenders are for those who offer the cheapest rates and the shortest translation deadlines, and not for those who offer high quality translation services. Polish society will have to face numerous translation scandals as long as the process of hiring incompetent people continues. What is sad is the fact that the money from our taxes is devoted to pay for a bunch of crap despite the fact that Poland is a poor country which should not waste its financial resources.

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