

New Tasks For Legal Interpreters and Translators in the Enlarged Europe
Proceedings from the international conference, Kraków, 3-5 April 2014

Neue Aufgaben für juristische Übersetzer und Dolmetscher im erweiterten Europa,
Beiträge zur Internationalen Konferenz, Krakau 3.-5. April 2014

Nowe zadania tłumaczy sądowych w rozszerzonej Europie
Referaty z obrad międzynarodowej konferencji, Kraków, 3-5 kwietnia 2014 r.

Publisher: Polskie Towarzystwo Tłumaczy Prziśiętych i Specjalistycznych
TEPIS. Warszawa, ul. Krasieńskiego 16 lok. 134, 01-557 Warszawa

Editor: Danuta Kierzkowska

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Skład: AOW EXIT

TEPIS, Warszawa 2014

Teaching Certified Translator Candidates at the Adam Mickiewicz University in Poznań, Poland

Aleksandra Matulewska, PhD & Karolina Gortych-Michalak, PhD

Institute of Linguistics, Adam Mickiewicz University in Poznań

aleksandra.matulewska@gmail.com, kmmgortych@gmail.com

1. Legal translation theory and practice – general remarks

There is a common misconception that if one knows a foreign language then one may translate easily. Nothing could be more misleading! Even bi-lingual people are sometimes incapable of translating a text from one language into another despite the fact that they consider themselves to be native speakers of both languages (cf. Vitek 2003, Naznean 2013). Therefore, it may be assumed that translators require some innate abilities, which should be developed to the requisite standard in the educational process. Furthermore, translation is a very tedious process requiring great patience and concentration, so there is the question of personality as well as other character-related features. Translators must be able to analyse the text and they must understand what they intend to translate. Thus, apart from strictly linguistic skills (knowledge of both a native and a foreign language), a basic knowledge of the subject and field of the text to be translated is necessary.

Translators without an additional knowledge of law, legal systems and legal institutions are prone to make mistakes. Numerous legal translation researchers (Smith 1995, Kierzkowska 2002, Cao 2007, Matulewska 2013, and many others) emphasise the difficult and synthetic character of legal translation, which includes both inter-lingual and inter-legal communication (cf. Orts Llopis 2006: 286). The extra-linguistic knowledge may accelerate translators' work and improve the quality of translation if it is in fact possessed and properly used. Secondly, translators live and work in certain realities and one may not forget factors such as the deadline for completing the given assignment. If a translator is asked to translate twenty pages of a technical text in a day, the result simply cannot be a good quality translation. There are some of the opinion that proper tools like CAT – if prepared and used well (special TMs, glossaries etc.) – may reduce the time needed to perform translations, but the pursuit of high daily translation output is a very risky practice in the translation sector. Thus realistic deadlines also help improve the quality or at least they do not decrease it. There are of course other

elements concerning the competence necessary to translate successfully, but those mentioned seem to be most pertinent and without them it is hardly possible to perform the task well.

Recently increased interest in legal translation, especially certified translation, has been noticed. On the one hand many graduates of foreign philological studies have started to enter the employment market and they have sought translation jobs. Thus, they have been interested in courses, postgraduate studies offering legal translation teaching. While on the other hand students of other studies i.e. legal and economics studies have started working in international environments where knowledge about professional translation is very necessary and frequently required. Both groups have common objectives concerning international communication, very often performed in legal communication settings.

Many institutions have tried to meet their expectations. That is why more and more courses have been offered. In many cases they have been organised by translation agencies and have been conducted during weekends. Simultaneously educational institutions such as universities also have reacted to the needs of potential students for legal translation seminars. One of the most significant reactions to educational and employment market needs was the establishment of Postgraduate Studies for Certified Translator Candidates (*Studia Podyplomowe dla Kandydatów na Tłumaczy Przysięgłych*) in the Institute of Linguistics, Faculty of Modern Languages and Literature of the Adam Mickiewicz University of Poznań in 2006. The most significant advantage of the studies has been always a relatively wide range of offered language sections: English, German, Spanish and French including less widely spoken languages such as Arabic, Korean, Chinese, Greek etc.

2. Regulations Concerning Certified Translators and Court Interpreters in Poland

2.1 Legal Regulations

Currently the profession of certified translators and interpreters is regulated by the Profession of Certified Translator Act of the 25th of November 2004 [*Ustawa o zawodzie tłumacza przysięgłego z dnia 25 listopada 2004 r. (Dz. U. No 273, item 2702)*]. This relatively new Act may contribute to a better quality of translations, as all applicants must pass an examination in translation, even if they have obtained the right to be certified translators in other countries. Till the 30th of June 2011 only those that graduated from post-graduate studies in the field of translation were able to apply for qualification. Since the 1st of July 2011 according to article 2 of the aforementioned Act the requirement of studies in the field of translations has been repealed. Thus many more candidates are able to take the exam for certified translators.

The Act of the 25th of November 2004 also contributes to better quality of translation and interpreting services as it determines the rules of rendering certified translations and interpreting (Part 3) and the professional liability of certified translators and interpreters (Part 4). It should be emphasised that the provisions of chapter 4, which determine penal sanctions should persuade certified translators and interpreters to practise their profession diligently and according to the rules.

Other legal regulations concerning certified translators and interpreters in Poland are:

- 1) the Ordinance of the Minister of Justice of the 24th of January 2005 on State Examination Commission to Perform Examination for Certified Translators and Interpreters [Rozporządzenie Ministra Sprawiedliwości z dnia 24 stycznia 2005 r. w sprawie Państwowej Komisji Egzaminacyjnej do przeprowadzania egzaminu na tłumacza przysięgłego],
- 2) the Ordinance of the Minister of Justice of the 24th of January 2005 on Particulars of Performing the Examination for Certified Translators and Interpreters [Rozporządzenie Ministra Sprawiedliwości z dnia 24 stycznia 2005 r. w sprawie szczegółowego sposobu przeprowadzenia egzaminu na tłumacza przysięgłego].

Both ordinances specify the process of examination and thus they are a source of information for candidates who wish to take the exam. Simultaneously candidates may prepare themselves better not only for the exam but also for their professional life.

There is also the *Code of Certified Translators and Interpreters with a Commentary* (Kierzkowska 2011), which provides certified translators and interpreters with guidelines.

3. Postgraduate Studies for Candidates for Certified Translators

3.1 Teaching Methods

Legal translation is seen as inter-lingual legal communication (Sandrini 1996: 25 and 2009: 35). Thus the pragmatic model of translation has been considered when designing a course curriculum. Simultaneously legal communication has a very formulaic character where the central point is a text – message. The text is the material on which translators work and the knowledge of the text structure is subdivided into super-, macro-, mezo- and microstructure. It refers to the structure of specific legal genres. As far as legal translation is concerned there are four main aspects of legal translation, which must be considered: (i) translation of terminology, (ii) translation of collocations (also called phraseological units (Benson M., Benson E., Ilson 1990) or word combinations (Nascione 2001)), (iii) translation of formulaic sentences and (iv) translative aspects of legal style.

While solving problems in all those four fields, translators may resort to (i) analysing parallel and comparable texts in source and target languages and (ii) legal dictionaries. Not many possibilities exist due to the lack of course books and other types of practical guides available in Poland.

It should also be mentioned here that the method of parameterised legal translation has been incorporated into the course for terminological comparison since 2012. It is a tentative methodology of parameterised legal translation, which reveals divergences between meaning of source and target language terminology (Matulewska 2013). The Polish-English pair has been tested so far, however, by the end of 2016 six more pairs of languages are to be tested for applicability of the method for teaching legal translation.

3.2 Course Description

The suggested curriculum includes four blocks of subjects. First, there are legal subjects including (i) civil law, (ii) civil procedure, (iii) criminal law, (iv) criminal procedure and (v) commercial law. The second group of subjects is strictly connected with training the translation and interpreting skills of students. The following subjects are included in the curriculum: (i) legal translation into Polish, (ii) legal translation into a foreign language, (iii) court interpreting into Polish and (iv) court interpreting into a foreign language. The third group consists of some introductory theoretical material such as: (i) the theory of legal translation, (ii) introduction to court interpreting, (iii) introduction to forensic linguistics. The last group of subjects may be classified as complementary as it is designed to broaden the knowledge in the field of (i) history of legal systems and (ii) IT tools for translators, interpreters, linguists and lawyers. Additionally, it seems necessary to introduce a short 'crash' course in Polish as well.

The curriculum of postgraduate studies for certified translators should be a balance between law and translation courses. There is a strong need for teaching law to future translators as the vast majority of candidates are graduates of language studies. Moreover, their knowledge of law is frequently too limited to understand texts and principles of legal institutions. It is often shown that they even do not know the structure of the courts in their own country not to mention the legal system of a foreign country. Those factors are pertinent when preparing a curriculum. Not only do the students need some insight into the legal systems applied at present within the pair of languages they wish to translate into and from but also they need some knowledge of the development of legal systems and legal institutions.

The most typical problems, which occur in legal translation, are the following:

- (i) errors resulting from the lack of competence as far as law is concerned,
- (ii) spelling, punctuation and grammatical errors in native and foreign languages,

(iii) translation errors resulting from insufficient knowledge of legal translation techniques, methods and strategies.

3.3 Facing difficulties in legal translation teaching¹

3.3.1 Lack of legal knowledge

Among the most popular problems are terminological and collocation errors resulting in the change of the meaning, for instance:

<i>Source language</i>		<i>Translation</i>	<i>Proper form</i>
<i>English into Polish</i>	official receiver	syndyk	urzędnik sądowy ds. upadłości
<i>English into Polish</i>	owner	posiadacz	właściciel
<i>Polish into English</i>	firma	firm, company, enterprise	business name

Sometimes the errors result from polysemy or homonymy of words. For example when talking about insolvency one should translate the term *claim* not as *roszczenie*, but as *wierzytelność*. More examples are given in the table below:

<i>Source language</i>		<i>Possible equivalents</i>
<i>English into Polish</i>	claim	powództwo, roszczenie, wierzytelność, skarga, zażalenie, itd.

The next group of problems results from the differences in referential meaning. Sometimes the translator must use more than one hyponym in the target text to convey the meaning of a hyperonym used in the source text. The most common error is using only one hyponym as a result of which the meaning is narrowed, e.g.:

¹ Some examples presented in this work have been published in Grzybek, J. et al. (2007).

<i>Source language</i>		Translation	Proper equivalent
<i>Polish into English</i>	upadłość likwidacyjne	bankruptcy	bankruptcy and winding-up

Many translators do not know the differences between legal systems (e.g. between common law and civil law countries). They usually rely on dictionaries too much, which often leads to many errors. If the equivalent cannot be found in a dictionary, translators tend to 'coin' neologisms even if the equivalent exists. E.g.:

<i>Source language</i>		Translation	Proper equivalent
<i>English into Polish</i>	international jurisdiction	jurysdykcja międzynarodowa	jurysdykcja krajowa
<i>English into Polish</i>	simultaneous death	kommorienci	zgon więcej niż jednej osoby w tym samym czasie

The absence of equivalent terminology is one of the basic difficulties while translating legal texts. Smith (1995:187) states that 'recognising a case of absent terminology requires constant comparison between the legal systems of the source and the target languages, as well as being familiar with current legal literature. (...) A successful translation should communicate the content of a document, always employing equivalent accurate syntax, semantics and pragmatics. This is particularly true for legal texts.'

The next common group of errors stem from insufficient knowledge of legal language and register. Translators often do not differentiate between different lects, e.g.

- Oral legal language instead of written legal language:

<i>Source language</i>		Translation	Proper equivalent
<i>English into Polish</i>	pending law suits	sprawy zawisłe przed sądem	toczące się postępowania

and

- *Improper lect:*

<i>Source language</i>		Translation	Proper equivalent
<i>English into Polish</i>	conclude a marriage	wziąć ślub, poślubić, wyjść za mąż	zawrzeć małżeństwo
<i>English into Polish</i>	adoptive	adoptujący	przysposabiający
	adopted	adoptowany	przysposobiony
	adoption	adopeja	przysposobienie

Those errors usually do not result in change of the meaning.

In order to avoid such errors would-be translation adepts should have the opportunity to become acquainted with the basic legal institutions existing in the target and source language legal realities. Thus, it seems necessary to broaden their knowledge at least in the following areas:

- (i) civil law,
- (ii) civil procedure,
- (iii) commercial law,
- (iv) penal law
- (v) penal procedure.

The impact is on the Polish legal system as translators and interpreters work in the Polish legal environment and must primarily deal with the Polish legal system. However, it is also necessary to show students the differences between e.g. common law and civil law systems and institutions, while making them acquainted with Polish legal matters. That is why it is necessary to make them aware of the implications carried by different legal realities. Therefore, the history of legal systems is also quite important, as many students of translation are unaware of the

difference between legal systems resulting from the historical development of some institutions. Some examples of such errors are shown in the table below:

<i>Source language</i>		Translation	Proper equivalent
<i>English into Polish</i>	slave trade	branża niewolnicza	handel niewolnikami
<i>Polish into English</i>	prawo kontynentalne	continental law	civil law

Usage of archaisms is also one of the errors resulting from the lack of knowledge of the history of legal systems e.g.

<i>Source language</i>		Translation	Proper equivalent
<i>Polish into English</i>	powód	plaintiff	claimant

That is why we have included courses in law and the history of law in the curriculum of post-graduate studies for candidates for court interpreters and certified translators.

3.3.2 Grammatical, Spelling and Punctuation Errors

Many students are graduates of language studies. Their command of a foreign language is often better than of their mother tongue. It may be surprising that graduates of language studies (who are native speakers of Polish) possess very high foreign language skills but having concentrated on a foreign language for many years they often lack the needed competence in Polish. Thus, it seems pertinent and natural to introduce Polish as an obligatory subject. The main stress should be put on mastering language skills by learning how to avoid the most common grammatical, stylistic and punctuation mistakes. Some translation errors (spelling ones) result from the fact that many translators do not proofread their translations. The next group of errors refers to the translation of macro- and micro-toponyms and the new approach to such proper names introduced by the new Code for Certified Translators and Interpreters (Kierzkowska 2011). Errors concerning unhyphenated spelling and writing words separately or jointly are also quite common.

As far as punctuation is concerned the most common errors are:

- 1) The lack of a punctuation mark
- 2) An excess of punctuation marks
- 3) The usage of improper punctuation marks.

Such errors indicate that Polish translators do not possess sufficient qualifications as far as their mother tongue is concerned and thus they should have the opportunity to learn Polish spelling, punctuation and grammar during the Polish language course.

The analysis of students' 'homework' (translations of texts) revealed grammatical errors, which included incorrect inflection, incorrect number, problems with government and concord, incorrect prepositional phrases and finally incorrect word order.

3.3.3 Other errors

Many translators do not know much about the art of translation and thus they do not realise that it is necessary to proofread the text, which has just been translated. What is more they do not know the method of providing equivalents for terms not existing in the target language reality. They often resort to word-for-word translation or literal translation or leave a term non-translated, as they do not know what to do with it.

Among the most common errors of that sort one may enumerate:

- Excessive information or adding non-existing information
the treatment of assets acquired by or devolving on the debtor after the opening of the insolvency proceedings – postępowanie z aktywami nabytymi przez lub przekazanymi zakładowi ubezpieczeń po otwarciu postępowania upadłościowego zamiast sposób postępowania z majątkiem nabytym przez dłużnika po wszczęciu postępowania upadłościowego
- Information omission
Opublikowane w śródę oficjalne dane statystyczne wykazały, że Włochy doświadczyły zerowego wzrostu w 2005 roku instead of Opublikowane w śródę oficjalne dane statystyczne wykazały, że Włochy odnotowały zerowy wzrost PKB w 2005 roku
- Nonsense
Devise mechanisms approved by the Member States for the exchange of information on SALW trafficking networks – wypracowanie zatwierdzonych przez Państwa Członkowskie mechanizmów wymiany informacji o sieciach handlowych ręcznej broni strzeleckiej i lekkiej zamiast wypracowanie zatwierdzonych przez Państwa Członkowskie mechanizmów wymiany informacji o siatkach zajmujących się nielegalnym handlem ręczną bronią strzelecką i lekką;

In order to avoid such errors or at least reduce their number, the course in the theory of legal translation has been added to the curriculum. The course includes the recommendations described in Kierzkowska (2002, 2011).

Moreover, it is thought that in the age of globalisation and swift technological progress translators should know the basics of Computer-Aided Translation (CAT). The rapid development of IT tools for translators, interpreters, lawyers and linguists provides enormous possibilities of accelerating and facilitating the work they perform. However, the access to such tools is often limited. Not having access to such tools and not being able to see for themselves their advantages, many translators do not even realise their growing importance in the profession. Thus, there is a need to show students the vast possibilities of IT tools and give them the necessary skills to use them in order to encourage them to improve their work. The course should comprise tutoring in the use of machine translation, translation memory, electronic dictionaries, databases, and information retrieval and word processors. That is why the curriculum includes a short course in CAT (primarily Trados Translators' Workbench).

The syllabi of legal translation into Polish and into a foreign language are complementary. Students become acquainted with the structure and contents of a variety of legal text genres in the Polish and foreign legal languages (comparable texts are used). Apart from written legal documents there is also a need to teach them how to translate non-legal texts for courts, police and prosecutors. The main purpose of the course should be: firstly, enabling a student to understand the text, secondly, teaching him how to face and solve most typical translation problems, how to approach a translation process and finally how to translate a text successfully. Therefore, it is essential to teach students how to apply practical translation strategies and acquaint them with the 'tricks of the trade'. The emphasis must be also placed on difficulties arising from the differences in legal cultures and realities.

Comparable documents in both source and target languages are very useful. They help solve problems with terminology and phraseology. Well-matched comparable texts are better than dictionaries as they are more detailed and give one terminology and phraseology in a wider context of a sentence or a text. Of course they cannot solve the problem of source-language concepts with no equivalents in the target legal reality. Though laborious and time-consuming the analysis of such texts is worth the trouble. Especially the teachers of LSP and legal translation should make students aware of the benefits, which may be reaped from that technique by showing them the results of such analysis and the deficiencies of dictionaries. When comparing such texts students should give attention to three aspects, namely (i) the macrostructure of documents, (ii) terminological comparison, (iii) adequate phraseological units and last but not least (iv) frozen or formulaic sentences or expressions.

The course in interpreting includes different interpreting techniques such as consecutive interpreting, liaison interpreting, chuchotage or whispered translation, a vista, etc. into Polish and into a foreign language. These techniques are most often required during court interpreting. Students must also be aware of the impact of interpreting on the parties to the proceedings (the need to reflect in the course of interpreting speakers' idiolects and sociolects and the consequences of failing to do so).

3.4 The role of theoretical subjects

Theoretical subjects have been limited to two only (legilinguistics and history of legal systems) due to the fact that overloading them with curricula usually results in training theoreticians, who cannot apply their knowledge successfully in practice. However, depriving the curriculum of theoretical subjects completely would also be a mistake as some theoretical foundations are definitely necessary to understand translation and interpreting processes.

4. Concluding Remarks

Considering the requirements set by the examination board, which conducts examinations for certified translators it seems necessary to adjust the curriculum to the needs of students in order to prepare them to take and pass the exam. The task is not easy as the vast majority of candidates lack the knowledge of legal systems and law in general. They do not know the terminology; the phraseological units and they cannot interpret legal texts successfully. Thus, a curriculum focusing on legal subjects and teaching legal translation skills seems to be very important.

In fact not every postgraduate student decides to take the exam for Certified Translators and Interpreters, which is confirmed in the feedback given by students. Simultaneously, students who decided to take the exam have passed it on the first attempt. The relatively limited number of postgraduates who take the exam results from: 1) economic factors – the relatively high price for the exam, 2) the lack of interest in practicing certified translation and interpretation. Survey data² shows more general students' interest in specialised translation than in certified translation. Moreover, some of them are sent by their employers to improve their professional qualifications in general translation. Some prefer to acquire only "practical" knowledge and they diligently attend practical subject elements of the curriculum. Even the course on "Computer assisted translation" which is not required for a certified translator's work and exam, is seen as very useful. There are also individuals who begin studies not actually being aware of the responsibility of the certified translator. Once they understand the impact their work may have on the lives of other people they simply panic and decide they do not wish to work as professional legal translators.

² Last 3 years.

Students' motivation and our work efficiency are important. In order to make observations surveys are conducted annually. Additionally, the teachers make their own observations and adapt the courses to the needs of students, which is highly recommended for translation studies (cf. Galdia 2013: 79). To conclude, we would appreciate any comments concerning possible improvements in the curriculum or suggestions concerning competence assessment.

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