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Faculty of Law Osijek,
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LANGUAGE(S) AND LAW

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PREFACE

The present volume is a synthetic report of some research results within the Jean Monnet Module "Language and EU Law Excellence". Although the project is focused on teaching and curriculum development that should bring about the promotion of EU values, research results in the field of languages, law and multilingualism in the EU context represent an additional value of this project. The present volume is one of the publications dealing with a wide scope of topics within the project and should be seen as one of its valuable research outcomes.

The implementation of the Jean Monnet Module No. 620231-EPP-1-2020-1-HR-EPPJMO-MODULE titled 'Language and EU Law Excellence" LEULEX has been granted a financial support by the European Commission by its Decision No 620231 of September 15, 2020. Target groups of the project activities included law students on the undergraduate, graduate and postgraduate levels of the Faculty of Law Osijek, graduate lawyers, students and graduates of the Translation Studies of the Faculty of Humanities and Social Sciences Osijek as well as young researchers, lawyers, professors, and other legal professionals from universities in neighboring countries. The leading idea of the project was to improve the knowledge of law students in EU law as well as in English, French, and German legal terminology, and to enable students of the Translation Studies at the Faculty of Humanities Osijek to learn basics in EU law and legal terminology to become more competitive on the EU labour market.

General objectives of the project LEULEX are:

- enhancing interdisciplinary synergy of students, teachers, and the wider community
- promoting multilingualism, multiculturalism, and European values by its activities;
- mainstreaming the development of the teaching process and education methods within the European studies and contribute to their greater visibility
- promoting innovation in teaching by including new technologies, media, and methods, and
- achieving greater visibility of European values and ideas on the international level by attracting attendants from Serbia, Bosnia and Herzegovina, and Northern Macedonia.

Specific objectives include

- improving the knowledge and application of EU Law terminology in English, German and French to impact positively the mobility of students,
- improving students' knowledge on EU Law and promoting EU values by introducing the EU law dimension in teaching,
- developing students' translation skills in the field of law by using modern translation tools, and
- developing students' communication skills in the field of law in the European context.

Project activities consist of seven teaching activities encompassing 75 hours each year, four workshops encompassing 12 hours, and four events including one international conference. Planned research activities of project members as well as cooperation with other language and law experts from wider community resulted with their papers on the topics of EU law, languages, multilingualism and the teaching aspect of foreign languages in European context. Papers published in this volume are one of the results of our mutual efforts, and represent a valuable outcome of our project. The volume consists of three main thematic units: 1) MULTILINGUALISM AND THE LAW, 2) LEGAL TERMINOLOGY AND TRANSLATION IN THE FIELD OF LAW, and 3) TEACHING LEGALESE & OTHER LANGUAGES FOR SPECIFIC PURPOSES. First two sections are dedicated to specific inter-connectedness between law and the language in the context of the European Union, which inevitably raises the questions of right to language protection, multilingualism and translation issues. The third section is of interdisciplinary character, related to teaching foreign languages for specific purposes in Croatian higher education system, with an accent on the English language of law. I hope that this book of interdisciplinary character will find its audience among law students, students of translation studies, lawyers, linguists, and other members of academic community, and that its topics will inspire some further research work in the field.

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Editor:
Ljubica Kordić

MULTILINGUALISM AND THE LAW

DIPLOMATIC LANGUAGE - A UNIQUE LANGUAGE OF INTERNATIONAL COMMUNICATION

Goran BANDOV

Abstract

Diplomatic language means the language of (in)formal communication in bilateral and multilateral diplomatic communication between representatives of states, international organizations and other actors of international relations. The internationally dominant common language of communication is constantly changing. Until recently, this role was played by French, and in the modern period, English has taken over the role of the dominant diplomatic language. However, knowledge of one of these languages is not enough, because the diplomatic language is unique in its form, style, tone, choice of words and definition of terms, where the meaning of the terms differs significantly from their regular interpretation in a certain language.

In addition, diplomatic language also means the virtuoso success of expressing even the least pleasant thoughts in a way that is relatively acceptable to all actors and that has a relaxing effect on mutual relations. A feature of the style of diplomatic language is its moderation, openness and avoidance of negativity. Diplomatic language has a clearly defined form, style and way of expression even in informal and "tête-à-tête" conversations, while nurturing the protocol of diplomatic language comes to the fore especially during formal negotiations, resolving disputes or negotiating international agreements.

Keywords: diplomatic language, diplomacy, communication, international relations, translation

1. Instead of an introduction - What is diplomatic language? How do we understand it?

Language in diplomacy is not only a means of communication; it is its key element. Diplomats are engaged in a series of activities including negotiations, advocacy, (war) propaganda, (re)presentation, lobbying as well as regular diplomatic communication. This is why it is extremely important to know key world languages, especially languages dominant in global communications at a certain time. The success of diplomatic activities of each individual diplomat depends on their linguistic skills. However, these do not necessarily refer to speakers' proficiency at a

specific language or the form used because no matter how significant the uttered sentence is, what is left unsaid is often even more significant. The latter can only be read between the lines, summed up because of some face gesture, tone or body language, and it is often a very clear communication signal if an expected topic is not opened or mentioned at all.

At the beginning of the development of diplomacy, the progress in diplomatic communication took days, weeks and months depending on the distance between the states, and how long it took the convoy to reach the diplomatic conversations venue and return with a certain feedback. A diplomat conveyed messages, negotiated, scouted or traded in the interest of the state, depending on the authority and instructions. In ancient times, the success of diplomacy and the high-quality international position of the state depended significantly on the success of the specific diplomat, their linguistic skills and knowledge, and their knowledge of foreign languages and culture.

Modern diplomacy is open to new technologies, and a diplomatic conversation and even an agreement can be established literally in a few minutes if there is a consent between communication actors. Preparations for negotiations have been significantly accelerated, because correspondence by means of letters is less common today, and is replaced by e-mail and messages through applications such as Signal or WhatsApp. However, it should be emphasized that the most sensitive topics are still discussed in the form of "tête-à-tête" personal meetings, avoiding electronic networks, where there can always be more interlocutors than it originally seems. In addition, new technological communication possibilities still cannot completely replace personal contact, because they cannot achieve the same effect of a "human touch" (Bolewski 2007: 12).

Consequently, it can be concluded that the term diplomatic language refers to a) the internationally dominant common language of communication and b) the unique style, form, tone and skills of communication used in diplomatic communication.

2. Common language of communication

People strive to communicate with their environment from the very first second of their lives. It is an innate means of our socialization and survival in general. In this context, we can say that language and the need for communication are our primal instincts. Searching for a common language with the people around us can be seen as our struggle for a more successful life. By establishing a common language of understanding, we establish a common information network with other members of the language community, through which we access information and

previous experiences of community members, and we are able to work in a coordinated team (Pinker 1994: 16).

According to the World Atlas of Languages, there are 8,324 languages in the world, spoken or sign languages, which have been documented by competent state authorities and the academic community. Out of 8,324, about 7,000 languages are still in use (UNESCO 2023). Members of the language community can communicate in each of these languages. However, the language poses a challenge when they try to communicate with other language communities. Then knowledge of other languages is required.

There are several approaches to establishing a linguistic bridge between different language communities, but none of them is ideal (Nick 2001: 17). There is a possibility that one interlocutor uses the native language of the other, but this gives the other side a significant advantage, and misunderstandings may occur due to the incompletely sovereign mastery of all linguistic subtleties of one of the interlocutors. Moreover, there is a disadvantage of a more politically correct approach when both interlocutors establish communication in a neutral language in order to avoid one of the interlocutors being in a linguistically dominant position, for example a Czech and a Dane in German or an Italian and a Spaniard in French. The third approach is a professional translation in cases of multilateral diplomacy, conference diplomacy, and translation of conversations of statesmen, who often do not have a completely sovereign command of foreign languages, and the topics discussed at official meetings can be crucial for their countries and society. The fourth approach - the use of an artificial language like Esperanto - did not take off due to the political interests of globally dominant actors, although there were attempts to make it happen (Nick 2001: 17). Additionally, the fifth approach is regularly implemented in situations when interlocutors come from countries with the same official language, for example Austria and Germany, Portugal and Brazil, Argentina and Spain, the UK and the USA, and when communication takes place at a level where all persons involved are native speakers of the language of communication.

The person whose mother tongue is accepted as the common language of communication is at a significant advantage, because it can be assumed that he knows his mother tongue, language rules, grammar, linguistic figures and forms best and can dominate in communication. The person with the most successful command of the language will be more successful in formulating the contract and thus gets the most benefits. Therefore, it is not surprising that states have always advocated that their official language be the official or at least the working language of international communication. At the same time, it must be kept in mind that every language comes with "hidden baggage": hidden meanings and intentions, histor-

ical and political contexts, legal precedents, forms and figures (Matteucci 2001: 26-32). In order to fully understand each wording and decode it more successfully, the diplomat must understand the context of the time and space in which the contract was formed, as well as the contexts of the preceding times. This is precisely why since ancient times, diplomats such as emissaries of Egyptian pharaohs, Roman envoys or medieval Dubrovnik consuls had to be educated, expert, excellent speakers and polyglots (Berković 2009).

Over time, diverse languages have played the role of a dominant common language. These were Akkadian and dialectal Greek (a mixture of Ionian and Attic dialects), then Medieval Greek, Latin, Arabic, Turkish, and later Spanish, Portuguese, Russian, Italian, Dutch, German, French, and more recently English (Nick 2001:18). The reasons for a search of a new language of common communication were that a new common language is more flexible, more precise, more direct, more eloquent, more refined, more concrete and more suitable for legal affairs. However, these were primarily excuses, and it was about the geopolitical dominance of a certain state, which tried to impose its official language to dominate linguistic finesse during meetings or in preparation of documents more easily.

In their key documents, international organisations set out the rules of common languages, change and supplement them in line with current geopolitical adjustments. The United Nations, as the most significant international organisation of contemporary global relations, began its operations in 1958 in five official languages (French, English, Chinese, Russian, and Spanish) and two working languages (English and French), which has been changing so that today the UN operates in six official languages and working languages (Arabic, French, English, Chinese, Russian, and Spanish) as the languages of communication within official UN channels. Most UN documents are issued in all six official languages (United Nations 2022: 51-57). At the same time, speakers at official meetings within the UN can speak in any official UN language, and the speech is simultaneously translated into other official languages. Sometimes speakers may make a statement using a language that does not have the status of an official UN language. In these cases, the delegation of the country concerned must provide either an interpretation or a written text of the statement in one of the official languages. However, even in bilateral relations between representatives of countries in the UN system, the participants are free to define the language of their communication, and it is likely that, for example, an Austrian and a German will talk in German, even though it is not one of the official languages of the UN. Additionally, linguistic and cultural diversity is the feature of the European Union, where languages are recognized as part of the European cultural heritage. At the same time, languages in Europe are often considered the foundations of a number of European national identities, so

that the issue of searching for a common language of communication is not only a question of a practical nature but also quite a sensitive identity and political issue. This is why the EU strongly supports multilingualism in its work and has 24 official languages: Bulgarian, Czech, Danish, English, Estonian, Finnish, French, Greek, Croatian, Irish, Latvian, Lithuanian, Hungarian, Maltese, Dutch, German, Polish, Portuguese, Romanian, Slovak, Slovenian, Spanish, Swedish and Italian (European Community 1958; European Union 2013). Each time new members joined the European Union, the number of official languages increased: French, Dutch, German, Italian (1958); Danish, English (1973); Greek (1981); Portuguese, Spanish (1986); Finnish, Swedish (1995); Czech, Estonian, Latvian, Lithuanian, Hungarian, Maltese, Polish, Slovak, Slovenian (2004); Bulgarian, Irish, Romanian (2007) and Croatian (2013). At the same time, despite the fact that the United Kingdom left the EU, English remained the official and working language of the EU. The EU found a foothold for that decision in the previously defined status of English by the Council Regulation and the fact that English is also one of the official languages of Ireland and Malta.

In addition, it should be noted that Ireland did not introduce Irish as an official language of the EU at the time of its accession in 1973. It accepted English as the language of communication within the EU, which is the language spoken by almost all Irish. However, after all the new members (including Malta, which also has two official languages - English and Maltese) introduced their official languages in the EU in 2004, Ireland also expressed its desire to introduce Irish as an official language of the EU. This happened in 2007 during the accession of Romania and Bulgaria, when Romanian and Bulgarian were introduced as the new official languages of the EU. According to the Central Statistics Office of the Republic of Ireland, only 39.8% of Irish citizens speak Irish (Central Statistics Office of the Republic of Ireland, 2016), which only further confirms the thesis about the identity and political significance of languages in the European area.

3. Searching for appropriate words, tone, form and style of communication

Another aspect of diplomatic language lies in the style, tone, form and skills of diplomatic communication, which are unique and easily recognizable as diplomatic. When diplomats communicate, they must always keep in mind that they are expected to precisely apply the patterns of diplomatic communication, and that their non-application sends a clear message to the interlocutor. Moderation, openness, avoiding negative topics, leaving room to ensure the interests of all parties involved are some of the key styles of diplomatic communication.

Diplomatic communication is sometimes visible to the public, but more often, it takes place out of the limelight. The key to successful diplomatic communication is to keep an open channel of communication, especially in cases of misunderstanding. If we only talk to the persons that we completely agree with in every segment, we will be talking to ourselves in front of the mirror. Diplomatic communication is based on the search for common points of contact, positions we agree on, and attempts to converge positions and seek common solutions for open disputed issues.

3.1. Appropriate words

Searching for the right words is extremely important in diplomacy, because language is the central instrument of diplomacy's power (Bolewski 2007:14). In course of centuries, a very balanced, measured, restrained, and moderate diplomatic vocabulary and communication style have been carefully developed, which ensures a special way of refined control over nuances in the meaning of words – both in cases of agreement with the interlocutor (taking strict care not to sound excessively enthusiastic) and in disagreements, or rejection of their views (with moderation to avoid unwanted offence) (Nick 2001:20).

Words used in diplomatic communication often have a significantly different meaning than in regular communication. Since diplomatic language is very sensitive and carefully honed, it can be pleasant to the ear in principle, but at the same time, it can convey extremely dangerous messages. For example, if a high-ranking official says in a diplomatic conversation that he fears that "his government will not be able to control outbursts of anger in the media or control the feelings of members of parliament", the interlocutor can be quite sure that the official policy of the state represented by the high-ranking official is behind these actions and that it is about the announcement of a broad hostile campaign against his country (Nick 2001: 20). This is precisely why it is of great importance that before sending a letter or uttering certain thoughts, one should think carefully about how they will sound to the interlocutor and how he himself will interpret them. When a diplomat interprets the communication of his interlocutor, individual words or his non-verbal communication, he always starts from the assumption that they were used deliberately in order to send the most precise message possible, and not that this choice of words occurred due to inappropriate translation or insufficient knowledge of a certain language or phrases, style or form. This is why it is extremely important to double-check every text before sending it, especially in written communication, that leaves an eternal trace, and subsequent correction is possible with a significant delay after the potential damage has already been

done. In spoken diplomatic communication, if a misunderstanding occurs, it can be resolved by additional clarification literally during the conversation in which it occurred. At the same time, the moment when the communication takes place is extremely important. If there is a meeting outside regular office hours, outside the framework of regular meetings or a reception, we assume that it is a matter of urgency, which indicates that a certain topic is extremely important for one, if not for both parties, and needs clarification as soon as possible.

3.2. Forms of diplomatic language

The form of shorter sentences is excellent for precise messages that aim to achieve a specific goal. On the other hand, the form of longer complicated sentences, especially in a foreign language, makes it possible to avoid a potentially unpleasant topic, and despite using many words, which may sound good when put together in a certain composition, they do not actually say anything about the specific topic. A form of digression can also be used to avoid specific topics, when the conversation moves from a certain topic to a somewhat related topic, but far enough for the interlocutor to move away from the topic that is uncomfortable for him at a certain moment. At the same time, it is always possible to keep silent about a topic, not to react to it, to skip it in communication. Of course, we must be aware that this is also a reaction, often a very clear one, especially if we do not refer to some pressing topic of mutual relations. While silence is allowed in diplomacy, telling lies is not, especially when it comes to strategic and long-term relations. Once a relationship is damaged due to telling lies, especially intentionally, it will permanently damage the bridge of trust, which is a necessary foundation for the establishment of quality and fruitful dialogue and realization of common interests.

3.3. Style and tone of diplomatic language

Moderation, openness and avoiding negativity, looking for topics that bring the interlocutors together, and avoiding topics that separate them (at least if these are not key to a certain conversation), are the main features of the diplomatic style. If it is not possible to avoid a negative comment, then its tone should definitely be softened. For example, instead of saying “His Norwegian is very bad.” it can be softened with the praise and encouragement that as a foreigner he speaks a foreign language at all, such as “Norwegian must be a difficult language, and you have dedicated yourself to learning it. Have you thought about further training?”

A more measured style of communication can be achieved in various ways, starting from e.g. softening the communication with some apparent uncertainty, to opening the space for making decisions in the form of questions, instead of orders or conclusions that block dialogue and make joint decisions impossible. For example, instead of saying "We will be late.", we can express uncertainty by saying "It seems that we might be late."; the thought "Let's postpone the start of the project." can be expressed by saying "Perhaps we could consider postponing the start of the project.".

The key to the style and tone of communication is to always leave the communication channels open, and to try to understand the real interests of the interlocutors, so that both parties can present the reached agreement to their citizens as a kind of success. Consequently, if possible, it is recommended to apply a win-win strategy, whereby during the conversation, attention is paid to the real interests of all involved in the conversation and an attempt is made to realize each individual interest at least to some extent, so that all actors achieve some progress for their state and society. Of course, in certain situations, politics may deem it necessary to send a clear message to the public about who won and who lost in a certain dispute, for example after a war conflict. In this case, the principles of the win-win strategy are completely or partially abandoned.

When discussing the style of diplomatic language, the question arises whether there is room for jokes and humour in diplomatic language. Humour is an integral part of communication, and it often serves as an icebreaker, relaxes the atmosphere and potentially draws the attention of the target audience. It is especially effective when the audience belongs to the same cultural environment or when common values are shared. On the other hand, humour can be very tricky, even dangerous, if it involves jokes about sensitive or taboo subjects for the interlocutor and his cultural social circle. Such undesirable jokes can be injurious and prevent a further dialogue. For this reason, one should exercise extreme caution when it comes to jokes and humour in diplomatic communication, and avoid using them if there is no absolute certainty that the audience will recognise them as a welcome joke.

3.4. New technologies and diplomatic language

Since its origins, diplomacy has been open to new challenges. It was among the first professions that discovered the new world, tried to make contacts with other civilizations, and accepted the obligations of education, learning foreign languages, and intercultural communication. Thus, it is not surprising that diplomacy has been open to new technologies from the very beginning. However, it has been

acting so with exact caution that the use of new technologies and artificial intelligence require, among other things due to the potential exposure of data. New technologies successfully accelerate and (partially or completely) replace a number of human activities in diplomatic communication. For example, invitations to diplomatic events are now often sent via e-mail, diplomatic meetings are arranged and prepared via the ZOOM platform or WhatsApp messages. Moreover, new technologies enable online diplomatic training. Ways of functioning that were unimaginable in the past are becoming our reality in the modern era. Diplomacy relies more and more on new technologies and artificial intelligence, which is only at the beginning of its development.

Although people used to believe that new technologies could not replace human interlocutors in diplomatic negotiations (Kurbalija and Hannah 2001: 2), today it cannot be excluded that artificial intelligence at a higher level of development will not potentially be more successful than people in diplomatic negotiations, advocacy or other diplomatic activities. Firstly, it will not be burdened with emotions, and on the other hand, it will have databases of potential solutions that no individual negotiator, even those negotiating on behalf of the most powerful actors of the global community, will be able to compete with. Unless, of course, they use artificial intelligence as a means of achieving a potential advantage in diplomatic negotiations.

3.5. Special attention to form, style, tone and finesse when translating diplomatic language

Although any translation is considered a very demanding task, in the field of diplomacy, the translation literally becomes an artistic endeavour. Diplomatic language is unique, and the translator must be acquainted, in addition to the language of translation, with the context and background of the topic, as well as the subtleties and peculiarities of diplomatic language. In addition, the translator should translate diplomatic communication as meticulously as possible in style, form and tone as is done by the diplomat. At the same time, the translator must be very careful so that their attitude on the topic translated is not interwoven in the translation (Grünberg 2004: 318).

Diplomatic talks are often conducted directly between the interlocutors, without an interpreter. However, translators can significantly contribute to the fluency, precision and success of diplomatic communication, either by consecutive or simultaneous translation. While simultaneous translations as time-saving variants are preferred at diplomatic conferences, consecutive translations are generally preferred during negotiations since they give a certain natural course to the

conversation, allow the translator questions about sensitive points on the interpretation that the success of the negotiations potentially depends on (Draganovici 2014: 84). However, even with the translator, it is expected from the diplomat to use the language of communication at a high level, because a significant part of the communication takes place in an informal tone, in the corridors, over coffee between formal meetings, and it is precisely these informal meetings that may play a decisive role in successful diplomatic talks.

A special professional challenge is the translation of certain wordings leaving the possibility of different interpretations. The negotiating party who is satisfied with the scope of interpretation will advocate that the translation be as open as possible to different interpretations, while the party who is satisfied with only one version of the interpretation will insist on that translation and will refer to the necessity of a more precise translation. However, a particularly sensitive issue when translating diplomatic conversations is their secrecy, especially in cases of "tête-à-tête" conversations or diplomatic negotiations. For this reason, some diplomatic delegations have in-house translators in their teams who are additionally trained in the diplomatic language and with whom mutual trust is established.

4. Conclusion

The term diplomatic language can be understood as an internationally dominant common language of communication and as a unique style, form and tone of communication used in diplomatic communication between states, international organizations and other actors of international relations. In the modern world, English has assumed the role of the primary internationally dominant common language of communication, but there are some other languages of international communication. For example, within the United Nations system there are six official and working languages, including English, French, Arabic, Spanish, Russian and Chinese, while the European Union system recognizes as many as 24 official languages.

The common language of diplomacy in mutual, especially in bilateral relations, depends on the agreement of the interlocutors. There are several approaches to agreement on the language, in which communication will take place. For example, it is possible to use the mother tongue of one or both interlocutors as the language of mutual communication, up to a neutral language or one of the artificial languages such as Esperanto. In addition to all of the above, there is always the option of translation, which also has its own challenges. Of course, it does not suffice to know only the language, but also the meaning of certain words and phrases in the diplomatic vocabulary that is significantly different from general language vocabulary. Due to its moderation, balance, restraint and caution, the diplomatic

vocabulary is carefully considered, so that even the most unpleasant news can sound completely acceptable.

As for the form, style and tone of diplomatic language, they should be completely open in order to give room for dialogue, avoiding negative comments and always very measured. When sending messages, a diplomat must be very careful, because he is expected to master a perfect knowledge of diplomatic language, and be aware that he can send a message to the interlocutor with every word or gesture. It is always important to keep the communication channel open. One of the ways to open communication, but also to maintain it, can be humour, but one must be very careful in using it, so that it does not become the reason for closing communication channels.

Modern diplomacy uses social networks, e-mails and new technologies regularly, while classic correspondence by letters, on the other hand, has become rarer. Artificial intelligence is still developing, but it is already clear that whoever uses it wisely will have a concrete advantage in diplomatic talks and negotiations. The same advantage can be achieved by translation if there is no possibility of direct communication. At the same time, the translator should possess knowledge of the style, form and tone of diplomatic language, as well as the knowledge of the context of the topic translated. He should also take care that his attitude is not felt in the translation in the same way that the diplomat takes care not to expose his personal position in diplomatic communication, but exclusively the official position of the international relations actor that he represents in the diplomatic talks.

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Diplomatski jezik – unikatni jezik međunarodne komunikacije

Sažetak

Diplomatski jezik označava jezik (ne)formalne komunikacije u bilateralnoj i multilateralnoj diplomatskoj komunikaciji između predstavnika država, međunarodnih organizacija i drugih aktera međunarodnih odnosa. Međunarodno dominantni zajednički jezik komunikacije konstantno se mijenja. Još nedavno je tu ulogu imao francuski, a u suvremenom razdoblju engleski je preuzeo ulogu dominantnog diplomatskog jezika. No, samo poznavanje jednog od tih jezika nije dostatno jer diplomatski jezik je potpuno unikatan po svojoj formi, stilu, tonu, izboru riječi i definiranju pojmova, pri čemu se značenje pojmova značajno razlikuje od njihova redovnog tumačenja u nekom jeziku.

Uz to, diplomatski jezik označava i virtuoznu uspješnost izricanja i onih najmanje ugodnih misli na način koji je relativno prihvatljiv svim akterima i koji djeluju opuštajuće na međusobne odnose. Odlika stila diplomatskog jezika je njegova odmjerenost, otvorenost te izbjegavanje negativnosti. Diplomatski jezik ima jasno definiranu formu, stil i način izražavanja čak i u neformalnim i „tête-à-tête" razgovorima, dok njegovanje protokola diplomatskog jezika posebice dolazi do izražaja pri formalnom pregovaranju, rješavanju sporova ili dogovaranju međunarodnih ugovora.

Ključne riječi: diplomatski jezik, diplomacija, komunikacija, međunarodni odnosi, prevođenje

THE RIGHT TO LINGUISTIC DIVERSITY IN THE EUROPEAN UNION[1]

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Abstract

The right to linguistic diversity is one of the fundamental human rights guaranteed by Art. 22. Charter of the European Union on Fundamental Rights (hereinafter: the Charter). The article stipulates that the European Union (hereinafter: EU) respects cultural, religious and linguistic diversity. The same is stated in Art. 3 of the Treaty on the European Union. Furthermore, the Charter prohibits discrimination based on language. The EU has 24 official languages, which are determined by Art. 55 of the Treaty on the European Union (hereinafter: TEU). Respecting linguistic diversity and encouraging intercultural dialogue is one of the main goals of the EU, and to put this into practice, the EU encourages the learning of foreign languages and the mobility of all citizens as part of numerous education and training programs. The European Commission in its Communication (Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions 'Strengthening European identity through education and culture - The contribution of the European Union to the summit meeting in Gothenburg on November 17, 2017, COM/2017/0673 final) in 2017, presented the idea of a "European area of education", according to which by 2025, it would become common for "people to speak two other languages in addition to their mother tongue". Nevertheless, there are numerous cases before the Court of Justice of the European Union (hereinafter: CJEU) related to violations of the right to linguistic diversity. In the paper, the authors will try to determine whether the right to linguistic diversity is sufficiently respected and how the institutions of the EU act concerning this protection through the analysis of selected cases of judicial practice.

Keywords: linguistic diversity, European Union law, discrimination, the Court of Justice of the EU

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1. Introduction

The preservation of linguistic diversity has become increasingly significant in today's globalized world, highlighting the need to safeguard cultural and linguistic heritage. The European Union (EU) recognizes the intrinsic value of linguistic diversity as a fundamental human right, as enshrined in its Charter. This article explores the measures taken by the EU to promote and protect linguistic diversity, while addressing the persisting challenges and violations witnessed. The EU's commitment to safeguarding cultural, religious, and linguistic diversity, alongside its prohibition of language-based discrimination, is examined. Moreover, the EU's establishment of 24 official languages, as defined by Article 55 of the Treaty on European Union (TEU), is analyzed. The EU's initiatives, including educational and training programs fostering language learning and mobility, are highlighted, alongside the proposed "European area of education" by 2025. However, despite these endeavors, violations of linguistic diversity persist, as evidenced by cases brought before the Court of Justice of the European Union (CJEU). This paper critically evaluates the actions of EU institutions in protecting linguistic diversity, while assessing the level of respect for the right to linguistic diversity within the European Union. The protection of linguistic diversity is of utmost importance to the EU, and its institutions play a critical role in safeguarding this right. The EU has implemented various mechanisms to promote linguistic diversity and prevent language-based discrimination. Notably, the European Commission has spearheaded education and training programs aimed at fostering language learning and mobility. These initiatives encompass renowned programs such as Erasmus+, which facilitates student and staff mobility within higher education, and the EU's language learning platform that provides free online language courses. Additionally, the Court of Justice of the European Union (CJEU) has assumed a significant role in upholding the right to linguistic diversity. Through its interpretation of relevant EU provisions, the CJEU has addressed cases pertaining to linguistic diversity and language-based discrimination, thus contributing to its protection.

However, despite efforts made, challenges persist in effectively safeguarding the right to linguistic diversity within the EU. One notable concern pertains to the EU's language policy, which continues to demonstrate a preference for dominant languages such as English, French, and German, commonly used within EU institutions. This emphasis on a limited number of languages may inadvertently overshadow the linguistic rights of other EU official languages and regional or minority languages. Consequently, linguistic minorities within certain EU member states encounter obstacles in accessing education and public services delivered in their mother tongue, potentially impeding their social and economic integration. Addressing these challenges remains imperative for ensuring the preservation and inclusive implementation of linguistic diversity throughout the EU.

In the introductory part, the authors provide an overview of relevant legal sources related to the issue of linguistic diversity, including an explanation of the distinction between "official" and "working" languages. The central part of the paper is devoted to the analysis of selected case law subjects.

2. Language Policy in the European Union

Europe comprises a diverse multilingual society encompassing 24 official languages of European Union Member States, as well as numerous regional and minority languages, immigrant languages, and those used by trade partners and tourists. Although languages play a significant role in preserving our cultural heritage, the persistence of language barriers remains a formidable challenge in various contexts (Rehm, 2023). Language policy in the EU has been a topic of discussion and research for decades. The EU, as a supranational organization, has a unique position regarding language policy. The EU has 24 official languages (Art. 55 TEU), and the use of language plays an essential role in the functioning of the EU institutions (European Commission, European Union: An official website of the European Union: http://ec.europa.eu/education/languages/languages-of-europe/doc135_en.htm).

The adoption of the principle of linguistic equality in 1992, following the Maastricht Treaty and the introduction of the concept of EU citizenship, marked a significant milestone in the EU's language policy. It enshrined certain rights for EU citizens, emphasizing a common European identity (Karoly, 2008). The principle of linguistic equality entailed that all EU citizens had the right to communicate with the EU institutions in their own language (Ioriatti, 2021). The EU's language policy is grounded in the principle of multilingualism, which ensures equal treatment of all official languages. Multilingualism has a dual meaning, as described by Karoly (2008): it refers to the coexistence of multiple languages within the EU and to individuals' foreign language proficiency.

In line with EU action, the understanding of multilingualism aims to facilitate communication between citizens and member states with EU institutions, providing access to legislation and embracing the diverse cultures and languages of each individual member state (Kuzelewska, 2014). Bandov (2013) highlights that the official EU language policy is realized through the implementation of a Pure full multilingualism regime. This means that the EU has adopted numerous documents that promote multilingualism, thereby ensuring that all official languages are used in meetings, documents, and communications within the EU institutions (Nelde, 2000).

The EU's language policy traces its origins back to the Treaty of Rome, which established the European Economic Community (hereinafter: EEC) in 1957 (Yim, 2007). Initially, the EEC consisted of six founding member states, with Dutch,

French, German, and Italian serving as the first official working languages (Bandov, 2013). However, as the EU expanded its membership, the number of official languages also increased, presenting a challenge to the EU's language policy (Yim, 2007). Kuzelewska (2014) explains that Regulation number 1 in 1958 was enacted to establish the language regime in the European institutions, granting each Member State the right to request that any of its national official languages be recognized as an official language of the EU (Regulation No 1/58, OJ P 017, 6.10.1958).

One important example, of course, is the European Strategy for Multilingualism (Council Resolution 2008/C 320/01), which defines linguistic and cultural diversity as fundamental elements of European identity. According to the Strategy, multilingualism permeates and encompasses the social, cultural, economic, and educational spheres. Member states have been given obligations and guidelines for achieving the goals set out in the Strategy aimed at promoting multilingualism (Council Resolution 2008/C 320/01). Based on this, Bandov (2013) concludes that the EU's multilingualism policy has four objectives: fostering language learning and promoting linguistic diversity in society, promoting a multilingual economy, enabling access to EU legislation, procedures, and information in all official languages, and facilitating mobility and migration among member states. However, Elena Ioratti (2021), in her research, highlights concerns regarding the evident contradiction prevailing at the institutional level of the EU. The contradiction arises between "full multilingualism," which grants equal autonomy to all official languages in the legislative process, and "limited multilingualism," which appears in case law regarding judgments that are authoritative only in the language of the case. In this context, Ioratti argues that this creates uncertainty for national courts and affects the uniform interpretation of EU law (Ioratti, 2021).

In its activities, the European Commission promotes education and learning of different cultures and languages with the aim of strengthening the European identity. This gives rise to the motto "Unity in Diversity," emphasizing the unity and richness of European peoples. In the same year, in November, European leaders gathered in Gothenburg to discuss the future role of education and culture in enhancing the sense of common belonging and membership in a cultural community. As a conclusion of that meeting, the Commission presented the Communication "Strengthening European Identity through Education and Culture" (COM/2017/0673 final), which puts forward the idea of a "European education area," aiming for it to become common practice by 2025 for individuals to speak two additional languages alongside their mother tongue.

When discussing language policy, it is necessary to explain the difference between the concept of language policy and language planning. As Karoly (2008) states, language policy serves as the foundation for language planning, whereby

language planning represents the practical implementation of language policy. The purpose of language policy itself is to resolve conflicts and achieve social compromise in the context of linguistic pluralism. More specifically, an example of language policy is the aforementioned Regulation number 1 from 1958. After explaining the meaning of "language policy," it is necessary to explain the concept of institutional and non-institutional policy. The fundamental difference between these two concepts lies in the focus of communication. More specifically, institutional language policy refers to the use of language within EU institutions and between them, communication between the EU and member states, and communication by the EU to the outside (Kuzelewska, 2014), as well as, as stated by Karoly (2008), communication among citizens within a member state.

We find that the identification of institutional language policy as the use of language within EU institutions, communication between these institutions, communication between the EU and member states, and external communication is accurate. This definition captures the multilingual nature of EU institutions and their interactions, both internally and externally.Moreover, the communication among citizens within a member state emphasizes the significance of language policy beyond the institutional realm.

3. Official v. working languages in the EU

In the EU area, 24 official and working languages are officially used, as explained above, which is clearly defined in Article 1 of the Regulation (Regulation No 1/58, OJ P 017, 6.10.1958). The regulation also defines the following: EU citizens can address EU institutions in any of these languages, and they will receive a response in the same language; EU institutions will provide documents to citizens in the languages of their member states; EU-level regulations will be drafted in these languages, and the Official Journal will be published in these languages (Yim, 2007; Regulation No 1/58, OJ P 017, 6.10.1958).

In practice, as Gazzola (2006) also establishes, there is a distinction between these terms when it comes to language use. "Official languages" are generally defined as those used by institutions for external communication, while "working languages" are those used between institutions, within institutions, and during internal meetings (Gazzola, 2006). This practice is also grounded in Article 6 of the Regulation (Regulation No 1/58, OJ P 017, 6.10.1958), which states that "Institutions may, by their Rules of Procedure, determine which languages are to be used in particular cases." Specifically, a certain degree of flexibility is allowed regarding language use for internal communication, but there are no rules explicitly specifying which languages must be used as working languages. Therefore, the choice of

working languages is a matter of practice, and no language can be excluded from the selection (Gazzola, 2006). The use of working languages in internal communication varies from institution to institution. Unofficially, two different approaches have been adopted. The first applies to representative institutions and bodies such as the European Parliament, the Council of the EU, the Economic and Social Committee, and the Committee of the Regions, where multilingual communication is generally practiced across all 24 working languages. The second group of institutions and bodies, including the European Commission, the Court of Auditors, the European Central Bank, and the Court of Justice of the EU, limits multilingual communication to a certain number of working languages (Gazzola, 2014).

A potential problem arises in practice when conducting recruitment competitions for positions in specific services of institutions. In his analysis, Stefaan van def Jeught (2021) states that the former Civil Service Tribunal took the view that rules on the use of working languages can be implicit, provided that the choice of languages for internal communication is based on objective considerations relating to operational needs. A similar position was taken by the European Ombudsman, considering it reasonable that internal documents, given their nature (detailed, extensive documents), do not necessarily need to be translated into all official languages of the EU, even though the institution's rules of procedure do not establish a specific internal language policy (van der Jeught, 2021). However, the practice of the Court of Justice of the European Union (CJEU) is somewhat different, as will be explained further.

4. Language policy in the practice of the CJEU

One of the consequences of multilingualism is the obligation to translate all documents and legal acts into each of the EU's official languages. This, in turn, leads to different interpretations of legal terminology and inconsistent linguistic versions of legislation (Mucciarelli, 2017). However, in order to prevent excessive differences, the CJEU has developed a set of specific rules aimed at harmonizing the interpretation of legal terminology. Muccuiarelli (2017) states that the fundamental approach used by the CJEU is the teleological approach, which involves interpreting legislative texts according to the meaning of the majority of language versions or giving preference to the clearest version. The principle of autonomy suggests that legal terminology should be interpreted autonomously, even if the concepts contained in EU legislative materials do not necessarily correspond to those at the national level.

In the Case *Berthold Küster v European Parliament* (79-74, ECLI:EU:C:1975:85), the applicant argued, invoking the provisions of the Staff Regulation (Regulation

No 31 (EEC), 11 (EAEC), (OJ 45, 14.6.1962., pp. 1385)), that the disputed job vacancy notice published only in English, with the requirement of good knowledge of English as a condition for reserving the position for a British representative, was problematic. The Court concluded in its decision that despite the fact that the Staff Regulation prohibits "reserving" a job for citizens of a specific Member State, the appointing authority can still make its selection in the recruitment of officials based on the specific knowledge required in the interest of the service (paragraphs 16-17).

Similarly, in the Case *Parliament v Samper* (C 277/01 P, EU:C:2003:196, paragraph 35), the Court emphasizes that when assessing the interests of the service and the qualifications of candidates to be considered when making a decision on promotion in accordance with the Staff Regulation, the decision must be proportionate and objective.

The CJEU, in deciding cases related to language use and the uniform interpretation of legal terminology, has criticized the lack of formal, explicit decisions regarding internal language use rules. For example, in the Case *Italian Republic v Commission* (C-566/10 P, ECLI:EU:C:2012:752), Italy brought an action for annulment due to controversial conditions of a competition organized by the European Personnel Selection Office (EPSO). The competition was published on December 20, 2012, in the Official Journal of the European Union, aiming to establish a list of successful candidates for the recruitment of assistants in the fields of auditing and accounting, biology, life and health sciences, chemistry, physics and materials science, nuclear research, civil and mechanical engineering, and electrical engineering and electronics, as well as administrators in the field of building insurance and civil engineering. The contentious part of the competition requirements relates to the demand for a thorough knowledge of one of the official languages of the European Union, designated as "language 1" of the competition, and satisfactory knowledge of a second language, designated as "language 2" of the competition, which each candidate must choose from German, English, or French, with the clarification that it must be different from the language chosen as "language 1" by the candidate. The Court, in its decision, "condemned" such a form of competition text and annulled it, stating that an individual candidate, based on Article 2 of Regulation No. 1 (Regulation No 1/58, OJ P 017, 6.10.1958), has the right to choose the language of that text from all the official languages listed in Article 1 of the same Regulation, which has been violated by limiting the choice to German, English, and French. In the proceedings, the Commission relies on the "established practice" of using the aforementioned three languages - English, German, and French - and the fact that they are "most commonly used," supported by statistical data on working documents. However, the Court does not accept this claim as it is not substantiat-

ed with specific references. The issue also lies in the ambiguity regarding whether the simultaneous use of these three languages refers to their use as languages of internal communication in all services of all institutions to which the contested notices relate, or if certain services use one of these languages while others use a different one. Specifically, this would raise questions about the reasonableness and proportionality of restricting the choice of the second language for candidates in the respective competition to those three languages.

In this regard, it follows from all the provisions mentioned above that the interest of the service can be a legitimate objective to be taken into account. Specifically, as stated in paragraph 82 above, Article 1(d) of the Staff Regulations allows for limitations on the principles of non-discrimination and proportionality. However, these interests of the service must be objectively justified, and the required level of language proficiency must be proportionate to the genuine needs of the service (see in this regard Case 79/74 Küster v. Parliament [1975] ECR 725, p. 16 and 20 and Case 22/75 Küster v. Parliament [1975] ECR 1267, p 13 and 17. and Case Italy v. Commission, C-566/10 P, EU:C:2012:752, p 88).

In the action for annulment brought by the Kingdom of Spain against the European Parliament (Kingdom of Spain v European Parliament C-377/16, ECLI:EU:C:2019:249), the Kingdom of Spain requests the Court to annul the call for expressions of interest aimed at establishing a database of candidates who could be employed as contract staff for driver positions, which would consequently lead to the annulment of the database established on the basis of that call. The grounds of the applicant's action are based on the unlawful limitation of the choice of languages that can be used in communication between candidates and EPSO to English, French, and German, the lawfulness of the restriction on the choice of the "language 2" of the selection procedure to only those three languages, and the incorrect interpretation of the language requirements prescribed for contract staff in the Conditions of Employment. In the actual text of the call for expressions of interest, the limitation of the choice of "language 2" in the selection procedure to English, French, and German is justified by referring to the aforementioned judgment in the Xase *Italian Republic v Commission* (C-566/10 P, ECLI:EU:C:2012:752), according to which the European Parliament is obliged to justify the fact that the selection of the second language is limited to a narrow number of official languages of the Union. Accordingly, the three "language 2" options in the call for expressions of interest are determined in line with the interests of the service, which requires that new employees be immediately capable of working and effectively communicating in their daily tasks. The Court, in its ruling, annulled the call for expressions of interest and the database established based on it due to discriminatory language requirements imposed on the candidates. In the judgment, among other things,

it is stated that although institutions have broad discretionary power to limit and require specific language skills for employment purposes, they must demonstrate that any such limitation is appropriate for the actual needs of the employee's duties and proportionate to that interest. The Court also explained this in the Case *Küster v Parliament* (79/74) [1975] ECR 725 (paragraphs 16 and 20). Considering the aforementioned, the reasons provided in the call are not sufficient evidence that the driver's position in the European Parliament requires specific knowledge of one of the three designated languages. From the call, it can be inferred that the designated languages are the most commonly used, but as the Court emphasized in the Case *Italian Republic v Commission* (C-566/10 P, ECLI:EU:C:2012:752), since the European Parliament has not adopted internal rules regarding the implementation of its language rules in accordance with Article 6 of Regulation No 1/58, it cannot be argued that these three languages are necessarily the most useful languages for all positions in that institution.

The described cases concern criteria for employment or promotion in EU institutions. All four cases involved problematic and discriminatory provisions in job vacancy notices or promotion procedures regarding language requirements, which are contrary to Article 22 of the Charter. Cases C-566/10 P and C-377/16 relate to contentious job vacancy notices issued by EPSO. The same issue, despite references to the Court's judgment in Case C-566/10 P and the problem of the absence of internal institutional rules on language implementation in subsequent job vacancy notices, arises in several later judgments (see Joined Cases T 124/13 and T 191/13, Italian Republic and Kingdom of Spain v European Commission, ECLI:EU:T:2015:690; C-621/16 P, European Commission v Italian Republic, ECLI:EU:C:2019:251).

In its interpretations, the CJEU criticizes, on the one hand, the lack of clear and formal provisions regarding the internal use of languages in EU institutions and bodies, while considering specific language requirements for administrative staff justified. These specific requirements should be objectively justified and proportionate to the needs of the specific service and position (van der Jeught, 2021).

The CJEU's position reflects the delicate balance between promoting linguistic diversity and guaranteeing functional language use in EU institutions. While linguistic diversity is a fundamental right recognized by the EU's Charter, it needs to be balanced against the practical requirements of efficient communication and administration.To address these challenges, it is essential for EU institutions to establish clear and transparent language policies that strike a balance between promoting linguistic diversity and ensuring effective functioning. Such policies should provide objective justifications for language requirements, taking into account the specific needs of each service and position.

5. Conclusion

In conclusion, the right to linguistic diversity stands as a fundamental human right enshrined in the EU's Charter. The European Union has implemented various measures to promote and safeguard linguistic diversity, such as language learning initiatives and mobility programs. Moreover, the Court of Justice of the EU has played a significant role in interpreting the EU's provisions concerning linguistic diversity and combatting language-based discrimination through its jurisprudence. Despite these efforts, there remain inherent challenges in effectively protecting the right to linguistic diversity. Certain languages tend to dominate within EU institutions, posing potential barriers to equal linguistic representation. Additionally, linguistic minorities encounter difficulties in accessing education and public services in their native tongues. Consequently, it is imperative for the EU's institutions to persist in implementing proactive measures aimed at preserving and nurturing linguistic diversity. By doing so, they can ensure equal opportunities for all EU citizens, irrespective of their language backgrounds.

The practice of the CJEU is clear: any discriminatory provisions cannot be justified. The right to linguistic diversity is guaranteed by the Charter, while the TFEU grants official language status to all 24 languages and treats them equally. The distinction in language usage lies in differentiating between "official" and "working" languages for the sake of smoother communication and operational efficiency within services and institutions. However, when it comes to employment and expressing interest in a specific job, it is not permissible to impose specific knowledge of particular languages. This may be allowed in certain circumstances and in line with professional requirements and the nature of the job, but only if specified in the regulations of the respective institution or service issuing the call for applications. In such cases, the CJEU allows for discretionary judgment but under strict scrutiny for justification and non-discrimination.

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Pravo na jezičnu raznolikost u Europskoj uniji

Sažetak

Pravo na jezičnu raznolikost jedno je od temeljnih ljudskih prava koje je zajamčeno čl. 22. Povelje Europske unije o temeljnim pravima (dalje u tekstu: Povelja). Članak propisuje da Unija poštuje kulturnu, vjersku i jezičnu raznolikost. Isto je navedeno i u čl. 3. Ugovora o Europskoj uniji. Nadalje, Poveljom se zabranjuje diskriminacija na temelju jezika. Europska unija ima 24 službena jezika koja su utvrđena čl. 55. Ugovora o Europskoj uniji. Poštivanje jezične raznolikosti i poticanje međukulturalnog dijaloga jedan je od glavnih ciljeva djelovanja Europske unije, a da bi se to provelo u praksi Europska unija potiče učenje stranih jezika i mobilnost svih građana u sklopu brojnih programa obrazovanja i usavršavanja. Europska komisija u svojoj je Komunikaciji (Komunikacija Komisije Europskom parlamentu, Vijeću, Europskom gospodarskom i socijalnom odboru i Odboru regija 'Obrazovanjem i kulturom jačati europski identitet' - Doprinos Europske unije sastanku na vrhu u Göteborgu 17. studenoga 2017., COM/2017/0673 final) još 2017. godine predstavila ideju „europskog prostora obrazovanja", prema kojoj bi do 2025. postalo uobičajeno da „ljudi osim materinskog govore još dva jezika". Ipak, postoje brojni predmeti pred Sudom EU-a koji se odnose na povrjede prava na jezičnu raznolikost. Autori će u radu analizom odabranih predmeta sudske prakse pokušati utvrditi poštuje li se pravo na jezičnu raznolikost te na koji način postupaju institucije Europske unije u pogledu te zaštite.

Ključne riječi: jezična raznolikost, pravo Europske unije, diskriminacija, Sud EU

MULTILINGUALISM IN OSIJEK IN THE SECOND HALF OF THE 19TH CENTURY – LEGAL FRAMEWORK[1]

Miro GARDAŠ

Abstract

The Austro-Hungarian Monarchy was home to many nations speaking various languages. In the city of Osijek in the second half of the 19th century, the population spoke several languages in everyday life, and the town was a faithful reflection of the Monarchy itself. Almost every citizen had to master the basics of several languages to lead a normal life. This was conditioned primarily by historical and geographical, but also economic factors. Frequent military conquests, proximity to the border, large military troops, and its role as an administrative, judicial and important economic and traffic centre brought residents from all over the Monarchy to Osijek. Therefore, the use of multiple languages was common in the daily life of the city. This paper presents the legal framework for using different languages in Croatia in the second half of the 19th century, especially in light of the Croatian-Hungarian Settlement of 1868.

Keywords: multilingualism, Osijek, Austro-Hungarian Monarchy, Croatian-Hungarian Settlement

1. Introduction

The middle of the 19th century was a time of significant major changes in the social life of Croatia. In 1848, serfdom was abolished; thus, the feudal system that had existed in the region for centuries went down in history. At that time, there was also a change on the throne of the Habsburg Monarchy. After Emperor Ferdinand I, the throne was taken over by Francis Joseph I. At the same time, revolutionary forces in Hungary started demanding secession, independence and the implementation of the idea of a Great Hungary.In those stormy times in 1847 and 1848, the Croatian Parliament broke with feudalism and declared the national language, *lingua nationalis*, the official language (Mićanović 2019: 3). The process of establishing or defining the name of the Croatian language was underway, including Illyrian, Slavonic, Yugoslav, Croatian-Serbian, or only *horvatski*-Croatian.

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The open aspirations of Vuk Karadžić's followers were added to the attempts at Germanization and Hungarianization. Only in the second half of the 1950s did the national consciousness of the Croatian public grow stronger, so the term Croatian language began to be used more often (Gross i Sabo 1992: 106).

2. Geopolitical position and historical heritage of Osijek

Osijek, Slavonia and Srijem were the border regions of the Habsburg Empire bordering on Turkey and Serbia. This was the fate of these regions, unchanged since Roman times, to be border provinces of great empires and to suffer all the hardships of being a border region. They were the eastern provinces of the Roman Empire, the Habsburg Monarchy, and the Turkish Empire's western provinces. All this led to population mixing and a very diverse ethnic composition. In addition, the rulers imposed planned measures to change the demographic structure of the population and often planned to settle members of "their" nations. Germans were systematically settled in the 18th and 19th centuries, and in the 19th century, the Hungarianization of certain public services was implemented. Osijek could be said to have represented the Monarchy in miniature. Most of the population was autochthonous Croatians, but there were large groups of Germans, Hungarians, Serbs, Jews, and immigrants from all parts of the Monarchy brought here by service, military deployment, marriage or other reasons. On the streets of Osijek, apart from the Croatian, it was common to hear German, Hungarian, Serbian, Slovak, Yiddish or some other language of one of the many nations of the Habsburg Monarchy. Furthermore, educated people used Latin in official correspondence until 1848.

This was an accurate picture of the Monarchy, in which there were no borders and population fluctuation was constant. The capital city was no exception, so Vienna had residents from all parts of the Monarchy, especially many Czechs. They comprised 2% of the Vienna population in 1850, 5% in 1890, and 7% in 1900 (Taylor 1990: 329). There were also many members of other nations in Budapest. In 1910, 25% of the population was Jewish, especially lawyers, doctors and journalists (Johnston 1993: 356).

3. On the way to the Croatian language

The first important fundamental legal act regulating the use of the Croatian language was the decision of the Croatian Parliament in 1847 and then in 1848, which introduced the national language (*lingua nationalis*) as the official language. As a result, Croatian was very quickly introduced into the correspondence between administrative bodies and the judiciary. In 1849, Illyrian was introduced

as the language of instruction in six high schools in Croatia, including one in Osijek (Gross i Sabo 1992: 99).

The tumultuous events of that time in the Monarchy particularly resonated in Osijek. The town was strongly divided between the Lower Town and the Upper Town, in which the majority were Croats and Serbs, with a large German population in the Upper Town. They accepted the appointment of Jelačić as the Croatian Ban and the determination of the national language as the official of the Inner Town – Tvrđa, in which the Magyarons, who denied it, had the upper hand. It should also be pointed out that the gentry in Virovitica county, of which Osijek was the centre, mainly supported the Hungarian government (Kosanović 1987: 164).We can find interesting records about these events in the Diarium of the Osijek Franciscan Monastery. The entry of 18 October 1847 says, "The beginning of Croatia, Slavonia and Dalmatia Assembly in Zagreb. At the second session on 23 October, it was concluded that the national language of those kingdoms should become official. It was published in the newspaper as follows: Today marks the beginning of a new era of life for the three united kingdoms of Croatia, Slavonia and Dalmatia. The mainstay of national life, the national language, has today gained general recognition as the mainstay of our future political life (Sršan 1993: 163)."

In the same source, the entry for 29 April 1848 says that the school youth presented their 14 demands to the school leaders in the grammar school hall. After the discussion, it was only adopted that school speeches should be given in Croatian and not in Latin from then on and that the school youth in the church should not sing in Latin but in Croatian "since the Croatian language in Croatia and Slavonia has become diplomatic, so that is how it should feel". A few days later, on 4 May 1848, the county assembly was held in Osijek's Upper Town, where discussions were held in Croatian for the first time (Sršan 1993: 166).

The situation in Osijek soon worsened. The Upper and Lower Towns, inhabited mostly by Croatian and Serbian population, supported the Croatian Ban and the Croatian Parliament. In contrast, the inhabitants of the Tvrđa supported the Palatine of Hungary and the Hungarian Parliament. On 30 May 1848, the Franciscans recorded the following in the *Diarium*, "Alojz Schmidt, the Osijek judge, went with some citizens to Budapest, where he expressed his loyalty to the Hungarian ministry as the higher government, although he is Slavonian by nationality. Thus, he presented the position of like-minded people in Osijek (Sršan 1993: 167). *A verbis ad verbera*, from debates and polemics to weapons. On 18 October 1848, the Hungarian army, with the help of the inhabitants, captured the Fortress and hung the Hungarian flag on the commander's building and the main guard building. In the coming months, the situation escalated to the unrestricted use of the army, shooting, capturing soldiers, and even using cannons. The Hungarian

authorities in Tvrđa at one point, due to a shortage of money, even printed their own temporary money. The Hungarian option lost its advantage over time, and the Croatian and imperial forces prevailed and recaptured the Osijek Fortress.

In the Franciscan *Diarium* on 14 February 1849, we read that the Hungarian army left Tvrđa, marched towards the Upper Town, where they laid down their weapons and "the royals and Croats entered Tvrđa" (Sršan 1993: 173). The reaction of the new Croatian government was harsh, so at the session of the Osijek City Government held on 11 October 1849, a letter from the Ban Council sent to the city was read, according to which about 50 citizens of Osijek, by name, are deprived of their civil rights for helping the insurgents and causing discord.

It should be noted that the divisions in the city regarding support for the Hungarian or Croatian side were so deep that some members of one family were on one side and some on the other. This is evident from the list of citizens deprived of their civil rights. There are Hungarians and a significant number of Germans and Croats among them (Sršan 1993:179). On 25 September 1849, Ban Josip baron Jelačić also came to visit Osijek, and he gave a speech in which he reflected on the situation in Osijek in the previous months:

> "But I have to tell you this, my brothers and gentlemen! I am obviously sorry that you, the citizens of Osijek, are so divided; we know what the national proverb says: 'Concord from God, discord from evil'; therefore, we must all work together for the common good because I can't do it without your help. And that is why I recommend that you are loyal to the Emperor, loyal to your homeland, and live in harmony and love with each other; we are all sons of one God, we all have one Emperor, one homeland, and you have your Ban in me." (Sršan 1993: 179)

Shortly after these events in the development of the Habsburg Monarchy, the time of Bach's neo-absolutism began, marked by the pronounced Germanization of all parts of public and social life. The German language was re-introduced as a language of instruction in upper grades of high schools and, of course, in universities. The state authorities justified this by asserting that the German language was necessary for the unity of the Monarchy and that it was required as a carrier of culture and education to the East. They claimed that the vernacular languages were not developed to a sufficient extent to transmit science and provide higher education. Following this, by order of Minister Thun of 1854, German was introduced as the "predominant" language of instruction in high schools. In 1855, German was introduced as the language of instruction at the Academy of Law in Zagreb (Gross i Sabo 1992: 100). In practice, this meant that the Croatian language was tolerated in public schools and lower grades of high school. This situation remained until 1861/62 when classes started to be held again in Croatian.

At the end of the 50s of the 19th century, internal dissatisfaction in the Monarchy grew, and the ruler judged that it was more opportune to soften the rigid absolutism to avoid possible bigger troubles. A new imperial decree was passed, which partially introduced the Croatian language into official use, and the Emperor appointed a new Ban, Vice-Marshal Šokčević, who supported the introduction of the Croatian language. Based on this imperial decree, the Croatian language became official in everyday work at the level of municipalities, districts and counties, while German remained in use by higher authorities and in the financial sector. At the same time, Ban Šokčević was trying to introduce more local people into services and remove foreign clerks. One of the measures he introduced was a very short deadline for foreign officials to learn the Croatian language.

The next step in affirming the Croatian language was the provision, the so-called hand letter from 5 December 1860, in which Emperor Franz Joseph approved the Croatian-Slavonian language as official in the business of the Ban's Court and the Governorship (Mićanović 2019: 14).

In the early 60s, the language situation was unclear. The central authorities gave up the absolutist imposition of Germanization and the German language, but the situation with the name of the approved national language needed to be clarified. The Croatian Parliament in 1847 and 1848 introduced the national language, the Emperor approved Croatian-Slavonic in 1860, and in addition, the following terms were used in everyday life, as well as in parliamentary debates; *hervatski, horvatski, horvatsko-serbski, serbski, ilirski, jugoslavenski*, and some other variants. Representatives and intellectuals from the area of Slavonia, who insisted that the name Slavonic be included in the name of the language, played a significant role in this situation because of the reminiscences of the name of the Triune Kingdom of Croatia, Slavonia and Dalmatia. As there was a sizeable Serbian population in Slavonia and Srijem, all this was favourable for the promoters of Great Serbian ideas and their appropriation of Štokavian speakers. In August 1861, the Croatian Parliament discussed and adopted Article LVIII on the national language. This Article designates Yugoslav as the sole and exclusive official language in all parts of public life in the Kingdom of Croatia, Slavonia and Dalmatia. In the discussions that preceded the adoption of this Article, there were several proposals for the name of the official language; Croatian-Serbian, Croatian or Serbian, Croatian-Slavonic-Serbian, Yugoslav, and in the end, Yugoslav was selected as a compromise solution. However, this solution was not consistently applied in some laws passed after that, and in some texts, the term Yugoslav language is mentioned, and in some, it is still Croatian-Serbian. Ivan Mažuranić, the court chancellor at the time and later the Croatian Ban, was remarkably consistent in using the term Croatian (Mićanović 2019: 20).

At the beginning of 1867, the issue of the official language in the Triune Kingdom was brought up again in Parliament. After a short discussion, the Parliament referred the Legal Basis regarding the use of the national language to the Emperor for confirmation. This proposal was accepted without any objections, and based on it, Croatian or Serbian was determined as the official language in the Triune Kingdom, and everyone was free to use either the Latin or Cyrillic alphabet (Mićanović 2019: 21).

The next major legislative step in establishing the position of the Croatian language was the adoption of the Croatian-Hungarian Settlement in 1868. Among other issues, the Settlement defined the position and use of the Croatian language in Croatia and in relations with joint bodies with Hungary. Articles 56 to 60 of the Settlement define matters of official language. As an official language, Croatian should be used by all bodies that performed autonomous tasks, but also those operating within the framework of joint tasks within the borders of the Triune Kingdom. Also, the representatives of the Kingdoms could use the Croatian language in the work of the joint Hungarian Parliament, and the laws passed by the joint Parliament must also be published in Croatian. With this, the issue of the name of the official language in the Triune Kingdom was permanently resolved, and the terminological vacillations from Illyrian to Yugoslav that lasted over thirty years ended. Article 56 of the Croatian-Hungarian Settlement stipulated that "in the entire scope of the Kingdoms of Croatia and Slavonia, Croatian is the official language in legislation, the judiciary and administration".

With the adoption of the Croatian-Hungarian Settlement and especially with the accession of Ivan Mažuranić to the post of Ban, the prerequisites for extensive reforms in all segments of social life in Croatia were realised. Thus, Croatia finally entered a more modern civil period and broke with feudal relics. Mažuranić's reforms, especially the school system reform, contributed to the final definition and affirmation of the position of the Croatian language.

At that time, many works were published in which names and terms were defined for numerous professions and branches of social life, from medicine, law, and natural sciences to certain sports activities. This contributed to the position and reputation of the Croatian language and removed objections that it was not suitable for higher education due to the lack of specialist terminology.

All this has dramatically influenced the number of inhabitants who chose to speak Croatian. According to the 1880 census, 1,054,506 or 88.29% of the population spoke Croatian or Serbian, 60,868 or 5.10% German, 36,854 or 3.08% Hungarian, 6,839 or 0.58% Slovenian, and 5,616 or 0.47% Czech. If we study the data for the city of Osijek in more detail, we can see that according to the same census,

7,482 or 41.11% of the inhabitants spoke Croatian or Serbian, 8,970 or 49.28% German, 1,152 or 6.33 Hungarian, 125 or 0.68% Slovenian, and 329 or 1.81 % Czech (Gross i Sabo 1992: 42, 43, 68, 69.). According to this data, in Osijek's high schools, 6 out of 10 students spoke Croatian or Serbian due to the large number of Germans (Gross i Sabo 1992: 552).

Osijek continued to have many residents whose mother tongue was German in the coming years. With the increase in the number of inhabitants, this number also increased, so in 1910 there were 10,778 inhabitants whose mother tongue was German and 3,536 whose mother tongue was Hungarian living in Osijek. The total number of inhabitants in Osijek in 1910 was 28,505 (Karaman 1972: 181, 264). This is not surprising. Cities in the Habsburg Empire had a distinctly German character. Throughout the 18th and the first half of the 19th century, a class of officials was created in the centralised and bureaucratic state, who carried out state policy from the highest to the lowest positions in all parts of the Monarchy. They were mostly Germans, and official and everyday correspondence between local and central government bodies and within local bodies was in German or Latin.

It is also significant in Osijek that for a large part of its history, it had a sizeable military crew whose command staff consisted mainly of German-speaking officers. Some authors note that "Prague, Budapest, Zagreb, Brno, Bratislava were as German as Linz or Innsbruck, to the extent that they had German names: Prague, Ofen, Agram, Brunn, Pressburg." (Taylor 1990: 32) However, the Hungarian authorities continued the Magyar policy in Croatia by using the Settlement provisions and interpreting them as they saw fit. They put signs in Hungarian on financial institutions, and this caused a great revolt in the population. In the Franciscan Diary, in the entries for August, September and October 1883, it says that a multitude of people, first in Zagreb and later in other cities and villages, took down inscriptions in the Hungarian language from buildings and threw them into the water. Because of this, the function of the Ban was temporarily suspended, and an imperial commissioner was appointed; the perpetrators of the unrest were duly punished, and the inscriptions were re-installed. (Sršan 1993: 214). At the end of the 19th century, The Hungarian Royal State Railways became a powerful tool in spreading the Hungaian language and implementing Hungarianization. Hungary declared that the Hungarian language was the official language for use on railways in Hungary, as well as in Croatia and Slavonia. All officials, including conductors, used Hungarian only, so newspaper reports and literary works from that time abound with funny and sad examples. It is absurd that as many as 42% of workers of Hungarian railways in Croatia did not speak the Croatian language at that time. (Artuković 2019: 155).

The Hungarian railways went one step further and established special schools at the major railway stations where the children of civil servants attended classes exclusively in the Hungarian language. In addition to the children of Hungarian officials and workers, the children of workers of other nations were also enrolled in schools: Croats, Serbs, Germans, Czechs, etc., because their parents wanted to provide them with better employment positions and a more secure future. In Croatia, 11 such schools were founded by 1905 at major railway stations, 5 of which were in Slavonia, in Brod na Savi, Vinkovci, Našice, Dalj and Osijek (1897). (Artuković 2019: 155). This kind of behaviour provoked violent reactions, so the railway stations, especially in Zagreb and Zaprešić in 1903, were the place of frequent expressions of dissatisfaction of the Croatian population, protests, removal of inscriptions and flags, etc.

In the Hungarian railway schools, all subjects, including religion, were taught in the Hungarian language, and the managers of the railway stations did not allow Croatian priests from the surrounding parishes to teach in Croatian, even though most of the children in the classes spoke Croatian. In the Hungarian school in Brod, for example, out of 90 students, 70 spoke Croatian. Church rules dictated that religious teachers be appointed exclusively by the competent church authorities, so this practice of the Hungarian railways met with a fierce reaction from Bishop Strossmayer. He sent several letters of protest to the Department of Worship and Education of the Croatian Government and the Ban, pointing out the irregularity and absurdity of such a practice. However, due to the rigidity of the Hungarian railway authorities, the success was only partial (Artuković 2019: 156).

4. Conclusion

In the second half of the 19th and the beginning of the 20th century, Osijek was a city where members of several nations lived. The dominant language was German, and the mother tongue of many inhabitants was Croatian and Hungarian. In addition, Serbian, Czech or the language of some of the many peoples from the territory of the Austro-Hungarian Monarchy could often be heard on the city's streets. More educated residents also used Latin, which was the official language until a few decades ago.

As Osijek was the seat of the Virovitica County, it was a strong administrative but also a judicial and commercial centre. Like most city centres in the Monarchy, it had a sizeable German population and a pronounced German character. This is precisely why the German language was dominant in Osijek, which is also evident from the population census. Many of them opted for German as their mother

tongue. The German language was so widely used in Osijek that a special speech variant called "Essekerische Sprechart" developed. (Plein 1929)

We can see that in Osijek, multilingualism was an everyday thing. Almost every city resident had to speak, or at least master the basics of, at least two other languages, if not more, in addition to their mother tongue. It should be remembered that Croatia was not an independent state but part of the Austro-Hungarian Monarchy at that time. Daily life, relations with Hungarian and Austrian administrative bodies, and travel and business relations of citizens required knowledge or at least basics of the German and Hungarian languages. Also, many families in Osijek were made up of spouses from various parts of the Monarchy, so several languages were often used in the daily life of the Osijek household.

However, the fact is that the language issue was used for political purposes. Prescribing a particular language as an official language most often promoted the dominance of one specific nation. We witnessed that German was a powerful tool of politics during the time of Bach's absolutism, and in the second half of the 19th century, introducing the Hungarian language into certain areas of public life in Croatia was a powerful tool of Hungarianization.

However, during this period, the Croatian language was profiled and developed. Through the wise political action of several prominent individuals, the language in Croatia evolved from Illyrian, via *lingua nationalis*, Yugoslav, Croatian-Serbian, and Serbian-Croatian, to the Croatian language in official use.

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Višejezičnost u Osijeku u drugoj polovini 19. st. – zakonski okviri

Sažetak

Austro-ugarska monarhija bila je država u kojoj je egzistirao čitav niz naroda koji su govorili raznim jezicima. U gradu Osijeku je u drugoj polovini 19. st. stanovništvo u svakodnevnom životu upotrebljavalo nekoliko jezika i zapravo je grad predstavljao vjernu sliku Monarhije u malom. Gotovo svaki stanovnik grada morao je vladati osnovama nekoliko jezika da bi mogao normalno živjeti. To su uvjetovali prije svega povijesni i zemljopisni, ali i gospodarski elementi. Česta vojna osvajanja, blizina granice, velika vojna posada, ali i uloga upravnog, sudbenog i značajnog gospodarskog i prometnog središta u Osijek su doveli stanovnike iz svih krajeva Monarhije. Stoga je u svakodnevnom životu grada bila uobičajena upotreba više jezika. U radu ću pokušati pojasniti zakonske okvire uporabe različitih jezika u Hrvatskoj u drugoj polovini 19. st. a osobito u svjetlu Hrvatsko-ugarske nagodbe iz 1868. g.

Ključne riječi: višejezičnost, Osijek, Austro-Ugarska monarhija, Hrvatsko-ugarska nagodba

LANGUAGE – LAW – INTERROGATION

Melinda HENGL

Abstract

This paper examines the language used during the interrogation of witnesses and defendants, with special regard to questions that may be posed, may not be posed or are to be posed, while providing a comparison of the frameworks established by the Hungarian and Croatian acts on criminal procedure. This paper applies a legal-narratological approach, and calls attention to the importance of the prism effect in interrogation. It discusses the relevance of choosing the appropriate questioning technique, and expounds on the types of questions, and presents legal and criminal tactical recommendations regarding the general language of interrogation of witnesses and defendants. It deals with questions used in the CI and the SUE method of interrogation, as well as interrelations between interrogation and constructive memory (e. g. patterns, Pollyanna principle). This paper aims to show the significance and determining role of the language (adequate style and use of language, questioning technique and appropriate questions) during the interrogation of witnesses and defendants, and therefore, in evidence, in (Hungarian and Croatian) criminal procedure and law.

Keywords: interrogation, question types, language, law, Hungarian and Croatian criminal procedure

1. Legal narratology

Language is *"the mirror of thinking*" and "*the most important means of human communication"* (Bernáth and Révész 1998: 287). The saying *"a man who possesses the language also possesses the souls, thoughts and feelings of the people"* dates from the Middle Ages (Bernáth and Révész 1998: 293). Language is connected with one's way of thinking, since if someone uses a specific language, he or she is obliged to think *"within"* that language (Bernáth and Révész 1998: 287). The theory of narrativity analyses stories, their structure and the rules of story-telling (Szabó 2002: 130). Stories can also be linked to archaeology, since the Greek word *"arkhaiologia"* (*"arkhé"* + *"logia"* = study of the ancient) meant the telling of a story (Arcanum Reference Library). Law can also be regarded as a story about a world which is within reach and where there is order, peace, plenty and happiness. That order was upset at some point for some reason and man is trying to restore it, using his intellect. Law is the result of this process. The theory of narrative focuses

on the fact that the unity and coherence of law lies in the functioning of an underlying narrative grammar hidden in the deeper layers of law. (Szabó 2002: 130)

What is more, according to legal narratology, this also applies to stories existing within the law itself. Stories (narratives) in the world of law play a significant role in court procedures in particular. With regard to the given case, the court does not have preliminary knowledge of the reality, therefore during its work it has to rely on stories presented by others, basically. Such stories may be classified into two types: (1) what happened (e.g. this may be learnt from the witnesses' factual statements) and (2) what the law says (this is manifested in the interpretation of law and its application to the specific case). In joining together and selecting the stories, the judge may only rely on the other stories and narrative grammar. The selection is based on the authenticity of the stories, which depends on their coherence. Declaring the story to be coherent and, therefore, credible and acceptable is not subject to the truth of the story, because the truth is not known to the judge in this case; but rather, it lies in the structure of the story. If the story (e.g. a witness statement) conforms to one of the culturally accepted story patterns, then it is rendered coherent, consequently, realistic and, therefore, credible. (Szabó 2002: 131)

2. Interrogation

From a criminal tactical approach, interrogation is the method of questioning people who enables obtaining oral evidence (Bócz 2004: 758). The criminal tactical recommendations regarding the execution of interrogation are based on complex knowledge: legal, psychological, communicational and linguistic knowledge (Fenyvesi et al. 2022: 435). Regardless of the given criminal procedure system, testimonies are the most frequently used instruments in evidence and, at the same time, the most common source of error. In the case of testimonies, mistakes may be made in the technique of questioning, the chosen type of question, or the prism effect can also be a source of error etc. Pursuant to the prism effect, during cognition people filter the phenomena of the outside world through the *"prism"* of their own personality (consciousness), therefore each person can acquire (to a lesser or greater extent) different knowledge about the very same event. In the case of interrogation, one is always to take into account minimum two (cognizant) subjects. The primary cognition process is linked to the person being interrogated (his/her psyche), while the secondary cognition process takes place in the interrogator (his/her psyche). (Fenyvesi et al. 2022: 435-442, 473)

3. Interrogation of witnesses and defendants

From among interrogations, this paper presents some special features of the interrogation of witnesses and defendants, while comparing the Hungarian and Croatian regulatory models. In the Hungarian language, the same verb with different prefixes is used to refer to the interrogation of the defendant ("*ki*hallgatás") and the hearing of the expert ("*meg*hallgatás"). The difference in the verbal prefixes ("*ki*" or "*meg*") is due to the fact that the defendant states what has come to his or her knowledge, while the expert provides his or her opinion (Herke 2021: 182). The process of interrogation of witnesses and defendants is regulated by both the Hungarian (Hungarian Criminal Procedure Act, hereinafter referred to as HCPA) and Croatian (Croatian Criminal Procedure Code, hereinafter referred to as CCPC) acts on criminal procedure in force. I have outlined the results of the comparison in the table below (Table 1: Compiled by the author based on HCPA 176. § (1), 178. § (1-2), 179. § (1-2), 180. § (1, 3), 184. § (1-2), 185. § (1, 3), 186. § (1-2) and on CCPC 272 (1), 273 (1-6), 276 (4), 288 (2-4), 289 (1)).

Table 1: Particular features of the interrogation of witnesses and defendants in the Hungarian and Croatian acts on criminal procedure

Hungarian	**Croatian**
(1) Establishing personal identity	*(1) Request for data*
Witness and defendant: place of birth	
Witness and defendant: name, birth name, date of birth, mother's name, identity document number, nationality, home address, contact address, actual place of residence, as of 1 January 2023: address for service, telephone number, e-mail address or other electronic contact data	*Witness and defendant*: full name (defendant: also nickname), age (defendant: full date of birth), father's name (defendant: full name of both parents, mother's maiden name), personal identification number, occupation (defendant: position, job title)
Witness: occupation	*Witness*: residence, relationship with specific parties concerned
	Defendant: nationality, educational attainment, family circumstances, financial status, military rank and decorations, prior convictions, in case of a minor: name of legal guardian
(2) Impediments, bias, interest, rights and caution	*(2) Rights and caution*
Witness: cautioning (a witness)	
Witness: any possible impediment to the witness testifying, the witness's bias or interest in the case must be clarified, the witness must be informed of his/her rights concerning interrogation	
Defendant: information of rights, cautioning (the defendant)	
Defendant: if the defendant wishes to give evidence, he must provide further data (occupation, place of work, level of education, family situation, condition of health, income, financial situation, military rank, honorary rank and distinctions)	*Defendant:* declaration regarding the right to a defence counsel, possibility of using an interpreter
(3) Testimony	
Witness and defendant: continuous presentation, followed by questions	
	Questions to *witness*: for verification, supplementation, further specification
	Questions to *defendant*: to remedy deficiencies, to eliminate contradictions and ambiguities

Both criminal procedure acts contain the cautioning of the witness and the defendant. Apart from the identical elements in their contents (for the witness, e.g.:

telling the truth, perjury; for the defendant, e.g.: his/ her statement may be used as evidence), there are also other differences (e.g.: under the HCPA, the witness is also cautioned about the consequences of unlawfully refusing to give testimony in court; under the HCPA, a defendant is also cautioned that he may not violate any right to respect for the deceased by stating any false fact) (HCPA 176. § (1), 185. § (1), CCPC 288. (3)).

The HCPA also lays down (although in another part) that an interpreter must be used in order to ensure the right to use one's mother tongue (preferably, the interpreter should be familiar with specialized legal language) (HCPA 78. § (1)).

4. Appropriate questioning technique

The questioning technique (the formulation of the questions) must always be adjusted to the person being interrogated: his vocabulary, mental ability, age, etc. (Fenyvesi et al. 2022: 437-438). The HCPA provides for the possibility of having a forensic psychologist present during the interrogation of a person under the age of 18 (HCPA 87. § (1) ba)), while the CCPC authorizes the involvement of a psychologist, teacher or other expert in the interrogation of a person under the age of 14 as a witness (CCPC 292. (1)). With the help of their expertise, the questions to be posed can be formulated in a way that enables a child to understand them and also enables the authorities to interpret the child's answer correctly (Szabó 2003: 116).

The appropriate formulation of the questions posed during interrogation is facilitated by further provisions. In the HCPA in force, such provisions are stated in the sections that prohibit – during witness interrogation (HCPA 180. § (4) a)) and the interrogation of the defendant (HCPA 186. § (3) a)) – the use of questions that include the answer, or contain any guidance regarding the answer, or contain any promise that is inconsistent with the law, or make a false statement of fact. As for the CCPC, such provisions are found in the articles that prohibit – during the interrogation of the witness – the use of deception and asking questions that include the answer (CCPC 289. (3)), and also in the articles laying down, concerning the interrogation of the defendant, that the defendant is to be asked clear and specific questions in a way that the defendant can fully understand them and the defendant cannot be asked questions that include the answer (CCPC 277. (1)).

4.1. Question types (interrogative sentences)

Why do we ask questions? A question may be posed for several reasons, e.g.: to obtain information or to check. Whoever asks the questions has the power. The person asking the questions has power over the person being asked, because

through the questions the asking person can direct and guide the asked person (thereby consciously influencing the process of communication). At the same time, questions also reveal something about the asking person (their thoughts, expectations etc.) (Herwig-Lempp 2002: 397-398). Two traditional types of interrogative sentences are closed-ended questions and wh-questions. However, based on formal criteria, four question types may be distinguished: (1) the closed (Herwig-Lempp 2002: 399) or closed-ended question, (2) the multiple-response alternative question, (3) the constituent wh-question and (4) the open-ended question. (Kiefer 1983: 209-212)

(1) Closed questions are recommended when e.g.: One has to obtain a piece of information within the shortest possible time, when the person asking the question wants to provide a specific direction. Grammatically closed questions provoke closed answers, and they could be also called closed-ended questions. A closed-ended question always narrows down the scope for possible answers and provides the frames within which the answer is expected (Herwig-Lempp 2002: 399-404). The closed-ended question does not contain a question word (Kiefer 1983: 209-213). The types of closed-ended question are (Herwig-Lempp 2002: 399-404):

(1.1) To a yes/no question (e.g.: "*Are you married?*") – as follows from its formulation – only a *"Yes"* or *"No"* answer may be given.

(1.2) In single-answer alternative questions (e.g.: "*Were you at the cinema or at home?*"), the possible answers are preliminarily given, the answerer merely has to choose one of them.

(1.3) Questions about data (e.g.: "*What's your job?*") are considered by many open-ended questions, but Herwing-Lempp (2002: 400) classifies them rather among closed questions, because they allow for a very short answer and the content of the reply is also rather restricted.

(1.4) In the case of rating questions (e.g.: "*Which number would you give…?*"), the asking person expects a number on a scale of 0 to 10 as an answer (Herwig-Lempp 2002: 399-404).

(2) There is no question word in the multiple-response alternative question either, but it contains the conjunction *"or"*, e.g.: "*Did you see Anna or Peter?"* In essence, it is also a closed-ended question, but here it is possible to choose from three options *("Anna"* or *"Peter"* or *"I saw both Peter and Anna"*) as a reply (Kiefer 1983: 210-213).

(3) The constituent wh-question contains a question word, e.g.: *"Which town did he go to?"*. The set of answers is potentially infinite, but the noun in the question phrase (*"town"*) renders the answer pragmatically defined (Kiefer 1983: 211-213).

(4) The open-ended question also contains a question word (*"Why?"*, *"What?"*, *"What kind?"* or *"How?"*), e.g. *"Why did he leave?",* so it is also a wh-question. The set of answers is also potentially infinite and pragmatically limited, but grammatically undefined. A whole text may be given as an answer (Kiefer 1983: 212-213). Open-ended questions are recommended when the asking person wants e.g.: to reveal the least possible regarding his own thoughts, he expects lots of detailed answers or wants to exert the least possible influence on the speaker. Open-ended questions, by their structure, cause the answering person to provide a comprehensive account or description, and therefore the answer may reveal such new information that has not been originally expected by the asking person (Herwig-Lempp 2002: 400-404). The types of open-ended question are, e.g. (Herwig-Lempp 2002: 400-401):

(4.1) Questions requiring independent descriptions (e.g.: "*What were you doing the morning before yesterday?"*) provide for an opportunity for speaking about observations, feelings etc.

(4.2) Questions about causes (e.g.: "*Why didn't you stop it?"*) are directed towards the past and/or search for causes.

(4.3) Questions about intentions (e.g. *What was your aim/purpose in doing so?"*) search for future intentions. (Herwig-Lempp 2002: 400-401)

Further question forms may be distinguished and each form may be useful if used in the appropriate situation (Herwig-Lempp 2002: 398-404).

(5) Questions about specific detail are the most effective if e.g.: the asking person wants to ascertain what the answering person means by a specific statement. A question about specific detail may be realized, e.g. by:

(5.1) questions seeking further answers (e.g.: "*Anything else?"*), through which usually further information may be obtained, and

(5.2) questions about details, asking for more precise descriptions (e.g.: "*What do you mean by …?"),* which may reduce imprecise and vague information. (Herwig-Lempp 2002: 401-404)

(6) Special forms of questions include e.g.:

(6.1) suggestive questions (with a question tag: *"…isn't it?"* etc.), which may produce an affirmative answer (Herwig-Lempp 2002: 402).

The danger of suggestion is more substantial during the interrogation of a witness, because requiring straightforward and firm answers may have a suggestive effect (Fenyvesi et al. 2022: 476). During the interrogation of the defendant, suggestive questions are less dangerous, but leading or trick questions are not recommended in this case either. Pursuant to the HCPA, the interrogator must

not expressly make a false statement of fact, but some authors consider using a tactical bluff permissible (Fenyvesi et al. 2022: 467). The bluff in relation to the defendant is usually realized in the interrogator's question (Tóth 1980: 15). Such tactical move may be to offer psychological explanations and moral excuses or to use appreciative and flattering words (Fenyvesi et al. 2022: 467). Many condemn if, in relation to a juvenile defendant, the interrogator uses deception or lying, or presents false evidence or distorted facts (Feld 2006: 220-221). A question often asked by judges at a trial *"Is it possible that in your first statement you remembered the events better, because it was closer in time to the act in question?"* is actually an influencing question, yet in Szijártó's (2013: 51-52) view, it is not unlawful because it aims to reveal the cause of discrepancy between two statements of the defendant (or witness).

(6.2) Re-directing a question back to the questioner (e.g. "*What were you doing …?" – "What do you think I was doing?"*), by which you can evade or delay answering, is generally used for hiding, and

(6.3) compound questions (e.g. "*With whom… and why…?"*), which condense several questions into one interrogative sentence, are e.g.: suitable for confusing the questioned person (Herwig-Lempp 2002: 402).

The right form of question always depends on the aim to be achieved and the given context (Herwig-Lempp 2002: 404).

5. The general language of interrogations

The interrogation may be divided into four stages: (1) the introductory stage, (2) the continuous presentation of the statement, (3) the stage of questioning and (4) the concluding stage (Bócz 2004: 769).

(1) The introductory stage begins with receiving the interrogated person. This is aimed at (re)establishing psychological contact. Besides the obligatory legal formalities (e.g. verifying personal identity), the assessment of the situation of interrogation starts here already. The use of informal style and casual conversation is the most appropriate. Everything (greeting, introduction, form of address etc.) has significance, e.g. there is a vast difference between the formulations "*Sit there!"* or "*Take a seat over there, please!"* Usually a composed, objective, polite, firm, and fair behaviour is advantageous for the interrogator. It is imperative that the interrogated person and the interrogator "*speak one language*". For this purpose, the interrogator must adapt to the interrogated person (his level of intelligence, way of expression etc.). (Bócz 2004: 769-773)

(2) During the continuous presentation of the statement, the interrogator has to listen patiently, because his attentive and interested behaviour makes the interrogated person more talkative. During the free narration, the influencing effect of questioning is not felt yet: the interrogated person is speaking about what he wants to tell the interrogator and what he remembers better. It is worth watching if the interrogated person is hiding something, or giving himself away, for this may contribute to define the tactics for the questioning stage (Bócz 2004: 773-775).

(3) At the questioning stage, the order and nature of the questions asked are a matter of tactics. Purposes may include, e.g. obtaining data that have been left out, posing questions to clarify contradictions, or fill gaps. Usually, it is worth asking the questions adhering to a chronological or logical order. It is important that questions are formulated in a clear, easy to understand, and unambiguous form. Questions formulated as suppositions are to be avoided (e.g. *"Is it possible that this happened yesterday?"*), because they may be answered with an indefinite reply (e.g.: "*Maybe.*"). Generally, questions expecting a yes/no answer are not recommended. If the interrogated person provides an evasive answer or does not understand the question, the question has to be reposed in a different form (more precisely, using different words etc.). Only such words and expressions may be used that are understood by the interrogated person (as they are part of his vocabulary). The interrogation does not have to be rendered more eloquent through the use of synonymous words; instead, using consistent language and word repetition is more expedient. The interrogator has to have regard to tactical aspects when choosing the appropriate expression from among the synonyms with different connotative meanings *("stole"* or "*appropriated"* or "*took with him"* or "*put away"* etc.). (Bócz 2004: 775-777)

The situation that has evolved during the given interrogation may also determine the type of question. In the case of conflict-free interrogation (a sincere and true testimony), it is recommended to ask clarifying, supplementary, or control questions. In the case of an interrogation with uncertain outcome (where at the specific moment it is not possible to determine the genuineness of the statement) it is reasonable to use questions about further detail aimed at creating a possibility for control. (Bócz 2004: 785-788)

(4) At the concluding stage, besides the signing of the records, a cooling down conversation takes place, in which, e.g. interrogated person is informed about what will happen further. During this stage, the relationship between the interrogated person and the interrogator is developed and strengthened according to the chosen interrogation tactics (e.g. the witness may be comforted, the defendant's willingness to cooperate may be appreciated). (Bócz 2004: 783)

5.1. Cognitive Interview (CI)

The CI (cognitive interview) was developed in 1984 – originally only for the purpose of interrogating witnesses – with the main objective of retrieving reliable information from the interviewee's memory. The CI consists of four parts: reporting everything, mental reinstatement of context, changing order and changing perspective. The CI interrogation technique is based on four psychological processes: social dynamics, memory, communication and cognition. Social dynamics also covers the use of open questions, such as "*Tell me everything you remember, even the little things you think are not important, remember I was not at the crime scene so just tell me everything in your own time and words.*" (Pérez-Campos Mayoral et al. 2022: 50). During the CI, the interrogation must always be commenced with open questions relating to events, times, people, circumstances etc., as such questions facilitate obtaining new information, then later there may be a switch-over to closed questions, which serve the purpose of clarifying the details (Pérez-Campos Mayoral et al. 2022: 48-52).

5.2. Strategic Use of Evidence (SUE)

The SUE (Strategic Use of Evidence) technique aids in distinguishing between truth-telling and deception during the interrogation of suspects. The foundations of the SUE technique are rooted in psychology: the psychology of guilt and innocence, the psychology of self-regulation and the psychology of instrumental mind-reading. (Clemens 2013: 17) The questions to be posed during the interrogation of the suspect are determined by the evidence held by the investigating authority. However, the questions are to be posed in such a way that it is not revealed to the interrogated person what sort of evidence the authority has at its disposal. The SUE also starts with open questions, e.g. "*What did you do on Monday?"* which is followed by special questions, e.g.: "*Did you or anyone else use your car on Monday?"* Such questions do not reveal, e.g. that the authority has footage about the perpetrator using the car. Based on experience, the suspect telling the truth usually admits to using the car, while the suspect wishing to mislead the authority denies even using the car. (Sági 2015: 178)

6. The interrogation and constructive memory

With regard to perceiving the outside world, people use patterns that help them understand the events. A pattern is, basically, a *"knowledge-organizing skill"*, which guides perceptual exploration, and the taking of a new sample may modify the original pattern (Bernáth and Révész 1998: 108). The formulation – the use

of the appropriate expression – all play a relevant role in activating the specific patterns, which was proved by an experiment already in the middle of the 20th century. The people participating in the experiment were shown a film about a collision, and then hey were divided into two groups. The first group was asked: *"At what speed were the vehicles moving when they smashed?"*, while the second group was asked: *„At what speed were the vehicles moving when they contacted?"* Based on the results, those in the first group estimated a higher speed than those in the second group. A week later the experiment was continued and the people were asked whether they saw broken glass in the film. Although in the film originally shown there was no broken glass, 32 % of the first group remembered some broken glass, while this rate was only 14% in the second group. This result supports the idea that human memory functions rather reconstructively. (Bernáth and Révész 1998: 131)

There are processes that add information (from above) to the input and so create constructive memory. In a situation where reality is incomplete, the person constructs a more complex picture of reality. He adds such details that in high probability follow from the ones that exist already. Consequently, the person supplements reality with the missing parts through his general knowledge (what events occur together). This enables a person to explain to himself what happened. (Atkinson et al. 1999: 248-249) During the above experiment, under the influence of the questions relating to speed and broken glass, the subjects of the experiment did not simply recall what they saw in the film, but called up their patterns developed for collisions (smashing, contact), which eventually led to incorrect answers in the given case, since this caused the participants to say not what they saw, but what they believed they knew based on the given pattern. (Bernáth and Révész 1998: 131)

It is a fact that people usually perceive the surrounding world precisely, although some individual divergences may be noted, which may be due to motivational influences too. According to the Pollyanna principle (which applies to both perception and remembering), people tend to process pleasant stimuli more precisely and effectively than less pleasant ones. In an experiment, it has been found that the participants fixed pictures of threatening content for a shorter period and they rather looked at their fore- or background. (Bernáth and Révész 1998: 107)

7. Concluding Remarks

The paper focussed on the language of interrogation of witnesses and defendants with special regard to questions, while also comparing the frameworks set by the HCPA and CCPC. It emphasized the importance of using the appropriate

questioning technique during interrogation and the significance of adequately formulated questions. The above-mentioned *"collision – experiment"* draws attention to the fact, that in the administration of justice – e.g. during the interrogation of witnesses and the assessment of testimonies – the use of words may have important consequences, since the formulation of the question posed (e.g.: "*collided/ smashed/ contacted"*) may cause a change in the memory of the interrogated person (Atkinson et al. 1999: 249). The paper aimed to emphasize the importance of the relationship between interrogation, law and language.

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Jezik – Pravo – Saslušanje

Sažetak

Ovom studijom se analizira jezik ispitivanja svjedoka i okrivljenika – osobito pitanja koja se ne mogu postavljati, koje se mogu postavljati i pitanja koja treba postavljati tijekom ispitivanja – uspoređujući okvire utvrđene u mađarskom i hrvatskom Zakonu o kaznenom postupku. Temi se pristupa s gledišta pravne naratologije i skreće pozornost na značaj efekta prizme u vezi sa saslušanjima. Razmatra se važnost odabira prave tehnike ispitivanja, pobliže obrađuje tipove pitanja i iznosi pravne i kriminalističko-taktičke preporuke koje se odnose na opći jezik saslušanja svjedoka i okrivljenika. Bavi se pitanjima koja se koriste u kognitivnom intervjuu i SUE metodi ispitivanja, kao i međuodnosima ispitivanja i konstruktivnog pamćenja (npr.: sheme, Pollyannino načelo). Cilj studije je pokazati koliko sam jezik (adekvatan jezik, tehnika postavljanja pitanja i ispravna pitanja) ima značajnu i odlučujuću ulogu tijekom saslušanja svjedoka i okrivljenika, a time u dokazivanju u (mađarskom i hrvatskom) kaznenom postupku, to jest u pravu.

Ključne riječi: saslušanje, tipovi pitanja, jezik, pravo, mađarski i hrvatski kazneni postupak

POSITION OF *FRENCH* IN PRIVATE INTERNATIONAL LAW THEORY

Esra TEKİN

Abstract

Private international law is a legal discipline that deals with private law disputes involving an international element. Private international law is one of the most complex areas of law. In the civil law legal system, which includes France, legal disputes are resolved by localizing the dispute to a geographical area through connecting factors. This is called *rattachement* in French law. In order for a dispute to be resolved with connecting factors, concepts such as *qualification, renvoi* and *l'ordre public* should also be clarified. The theory of private international law has been highly debated in the French doctrine and therefore, in order to understand the historical development of these concepts, it is necessary to make use of the leading works of French private international law. Therefore, it would not be wrong to say that the theories of French law have played a significant role in the development of private international law. French terms are still used to explain important concepts of private international law, such as *renvoi.* Since French words are still used in the terminology of private international law, people working in the field of private international law should learn French. In our study, the importance of French law and therefore the importance of French in terms of private international law will be discussed.

Keywords: Renvoi, rattachement, qualification, l'ordre public, French terminology

1. Private International Law in General

The Westphalia Peace Treaty, which was signed in 1648 and ended the Thirty and Eighty Years' Wars, laid the groundwork for international relations (Patton 2019: 91). Since this peace treaty introduced concepts such as state sovereignty, diplomacy, and mediation between nations, it also played an important role in the development of private international law. However, according to Professor Westlake[1], the acknowledged leader of the English classical school, begins his treatise on private international law: "*Private international law is that department of national law which arises from the fact that there are in the world different territorial jurisdictions, possessing different laws*" (Lambrechts 1895:311).

Private international law or international private law, referred to as "*conflict of laws*" in the common law system, deals with private law relations that have a

[1] Professor John Westlake (1828-1913) was professor at the University of Cambridge.

foreign element. According to most of modern authors, private international law is the science of the conflict of laws (Lambrechts 1895: 311). The scope of private international law includes the international jurisdiction of courts, applicable law and recognition, and enforcement. Carl Friedrich von Savigny's[2] method for determining the applicable law is still valid today (Van Calster 2016: 4). Von Savigny focuses on the seat (*Sitz, le siège*) of the dispute, which today might be the equivalent of the geographic location most closely connected to the dispute (Dubay 2012).

The rules of private international law connect legal issues such as marriage, divorce, and tort to particular legal orders through connecting factors (facteur ou catégorie de rattachement). The determination of applicable law consists of three stages. These are the characterization (qualification) of the legal question, the connecting factor and *lex causae* (van Calster 2016: 5).

French jurists such as Bartin, Niboyet, and Batiffol have played an important role in the development of private international law doctrine. In this study, the concepts such as qualification and *renvoi* put forward by the French doctrine in the methodology of private international law will be explained in general terms.

2. Qualification (Classification or Characterisation)

The qualification, named by Etienne Bartin, is a crucial step to determine which conflict of laws rule will apply to the dispute (Bartin 1897: 225). It was under this title "*De l'impossibilité d'arriver à la suppression définitive des conflits de lois" (on the impossibility of achieving definitive invalidation of conflicts of laws)* that in 1897, Etienne Bartin published three series of articles in the Journal de droit international privé (Brière 2019: 86). If, so he writes at the beginning of the first article, even all the States unify their rules of international law, that, for example, they all agree that succession to the immovable property is subject to the *lex rei sitae*, that the regime of matrimonial property is governed by the law chosen by the spouses, any conflict of laws will not be eliminated (Rigaux 1956: 9). Indeed, the expressions "succession to the immovable property" and "matrimonial property regimes" do not have the same meaning in the different States. Bartin explained

[2] Carl Friedrich von Savigny (1779-1861) was one of the most influential scholars of the nineteenth century on the issues of choice of law and the classical understanding of private international law. His historical approach was detailed in his eight volume *magnum opus* entitled *System des heutigen römischen Rechts, or* "System of Modern Roman Law," published in the 1840s. The last volume of his work entitled "*A Treatise on the Conflict of Laws and the Limits of their Operation in Respect of Place and Time*" was translated into English by William Guthrie.

the qualification with the Bartolo case that was heard before the Algerian Court (la Cour d'Alger) (Boukhari 2010: 161). Maltese conjoints married without a contract, and therefore, subject to the legal community of the Rohan Code in effect in Malta (the place of celebration of the marriage and the first conjugal establishment), possess immovable property in Algeria. The surviving spouse who, after the death of her husband, doesn't have succession right under French law claimed a quarter of the property in Algeria stipulated by the Rohan Code. According to Bartin, the pretension of the surviving spouse is subject to an alternative: if this right is a matrimonial advantage, the spouse can claim it; if, on the contrary, it is a succession right, such a right cannot be exercised on French immovable property, these being subject to French succession law (Rigaux 1956: 10). In this context, Bartin discussed the law according to which the qualification is to be made (Bartin 1897: 229). However, it can be said that the problem of qualification is linked to the method of proper specialization to private international law (Rigaux 1956: 10).

This problem identified by Bartin is one of the most fundamental issues of private international law, since it is impossible to determine which law will be applied to a dispute without characterising it (Bagan-Kurluta 2019: 8). Four methods are used for characterisation: *Lex fori, lex causae*, independent qualification, and mixed method. According to the view accepted in the French doctrine, the qualification is made according to the *lex fori*, in other words, according to the law of the judge hearing the case (Bartin 1897: 233). In Turkish private international law also, qualification is made according to the *lex fori* (Şanlı and others 2021: 50). The fact that the problem in question was introduced to the doctrine of private international law by French jurists shows the importance of French in terms of private international law.

3. *Renvoi* (Tennis International)

The concept of *renvoi* is one of the most debated concepts in private international law. There are many articles defending or criticizing *renvoi* in French law. While, for example, an article written by Jean Derruppé is entitled "Plaidoyer pour le renvoi" (means plea for *renvoi*), the title of another article by Jacques Foyer is "Requiem pour le renvoi" (means requiem for *renvoi*). *Renvoi* is a French word for a concept that has been established even in English books in its French form. *Renvoi*, like qualification, is a concept introduced to the doctrine of private international law by French jurists. *Renvoi* is one of the methodological problems that arise during the operation of the conflict of laws rules.

Single *renvoi* (remission, referral to *lex fori*) occurs when the forum refers to a foreign law choice of law rules (van Calster 2016: 7). If the rules of this foreign law

send the matter back to the forum, the forum court will accept it as a remission, and apply its substantive laws to the dispute. Double *renvoi* (Renvoi au second degré, transmission) means that, when the forum court attempts to resolve a dispute by closely replicating how a foreign court would operate, and decide on the matter on hand, the way a foreign court would, for reducing the possibilities of remissions, and courts deciding on the same issue twice to ensure the international harmony of decisions and the coordination of conflict systems (Derruppé 1967: 191). However, the *renvoi* is characterised as international tennis (Derruppé 1967: 181) or carousel, as it may pose problems in some concrete cases in terms of dispute resolution (van Calster 2016: 8). Geert van Calster expressed the confusion that *renvoi* may create as follows:

> In the case of *renvoi*, the *lex fori* refers to the *lex causae*, whose private international law rules re-refer to the *lex fori*, whose private international law rules in turn re-refer to the *lex causae*, and a carousel starts which has to stop at some point.

In order to understand the basics of *renvoi*, it is necessary to mention the famous Forgo case (Cass. Civ. 1re, 24 juin 1878; req. 22 février 1882, Forgo). In this case, the courts were faced with an issue of a Bavarian national, of illegitimate birth that had died within the borders of France, and the courts were required to decide whether substantive French law or Bavarian Law would apply to the succession of his large estate (Allemès 1926: 65). He lived most of his life in France, without ever acquiring an official domicile (Remus Daniel 2013: 67). After his death his collateral relatives filed a lawsuit in France based on their rights arising from law of succession. According to French substantive law, since Forgo has no legal heirs, his estate will be inherited by the French State. However, according to Bavarian law, Forgo has legal heirs. In reference to the French conflict of laws rules, the applicable law to movable inheritance is the deceased's nationality law. In accordance with Bavarian law, the movable succession is subject to the law of the deceased's real domicile (Remus Daniel 2013: 67). In this case, the French Supreme Court accepted *renvoi* and applied French substantive law.

In the French doctrine, it has been discussed in which matters *renvoi* will be applied. For example, since the parties are given party autonomy in contractual matters, certainty is essential. In this case, the simultaneous existence of *renvoi* and party autonomy creates a contradiction (Foyer 1981: 110). For this reason, since the *Chaplin* (Ch. Civ. 1ère Sect. Civ. 28 mai 1963) case, *lex loci actus* (the law chosen to govern the substance of the act) has been applied in contractual matters and *renvoi* has not been accepted. Moreover, *Renvoi* has also been eliminated in international conventions that are among the most important sources of private international law aimed at harmonizing rules on certain subjects (Foyer

1981: 112). *Renvoi,* which has lost its importance today, is mostly valid in the field of personal status and family law. In the European Union law, there are regulations to ensure harmonization in the fields of applicable law, international jurisdiction and recognition and enforcement, which fall within the scope of private international law (Stone 2014: 4).

The Hague Conference on Private International Law of 1893 also rejects *renvoi* and ensures harmonization in certain legal areas such as protection of children, family and property relations; international legal cooperation and litigation; and international commerce and finance law (van Calster 2016: 2-3). The Turkish Act on Private International Law and International Civil Procedure (numbered 5718), regulates *renvoi* within the scope of general provisions. According to Article 2(3) of the Act, *renvoi* is recognized only in the cases of personal statute and family law. If the provisions of the applicable foreign conflict of laws refer to another foreign law, this referral will only be taken into consideration in conflicts related to personality and family law. The substantive provisions of this foreign law thereof shall be applied. Besides, in cases where there is a possibility of choosing the applicable law, unless otherwise agreed by the parties, the substantive provisions of the chosen law shall be applied.

Although *renvoi* has lost its importance today, it is still very important from a methodological point of view. When *renvoi* was discussed in French law, the interests of private international law were clarified. For example, those who argued for the acceptance of *renvoi* emphasized the international harmony of decisions and coordination of conflict systems (Derruppé 1967: 191). Therefore, in order to understand the objectives of private international law, the defences and criticisms of *renvoi* in the French doctrine make a great contribution.

4. *Lois de Police* (Overriding Mandatory Rules) and *l'Ordre Public* (Public Policy)

The concept of overriding mandatory rules was formulated by the French jurist Phocion Francescakis in his writings of the 1960's (Bonomi 2008: 288). Overriding mandatory rules, also called *lois d'application immédiate* or *lois d'application nécessaire,* are internal rules that the legal order of the forum considers applicable in any case in a certain geographical field, before any consultation of the conflict of laws rule (Nord 2003: 1). Overriding mandatory rules are directly applicable without recourse to a conflict of laws rule (Francescakis 1970: 164). Indeed, the French term *immédiate* emphasizes this. These rules are related to the political, social and economic organization of the state (Francescakis 1970: 165).

Francescakis made public policy more understandable and refined. As a matter of fact, there used to be safety and public order rules (*le lois de police et sûreté*[3]) in French law (Nord 2003: 2). Since safety and public order rules were considered together with public policy and overriding mandatory rules, these concepts were confused with each other. Francescakis put forward the thesis of overriding mandatory rules, thus putting the concepts on different grounds (de Vareilles-Sommières 2011: 215-216).

Public policy intervention is applied exceptionally in private international law (de Vareilles-Sommières 2011: 216). In other words, public policy can only have an impact on the case if the application of the applicable law is explicitly inconsistent with the public order of the forum (van Calster 2016: 235). Public policy intervention does not take place *in abstracto* (Nord 2003:11). In other words, the content of foreign law is not decisive for this intervention; what matters is the result of its application (Nord 2003: 11). Thus, an apparently shocking foreign law can still come into play as long as it produces an admissible result. This is evidence that public policy intervention should be applied in an exceptional manner.

Francescakis has clearly differentiated these general concepts, which are also included in the regulations of the European Union. For example, recognition of a judgment may be rejected where recognition would be explicitly in contrast to public policy; the application of a law otherwise required by the Rome I[4] and Rome II[5] Regulations may be refused if the application would be explicitly in contrast to public policy (Briggs 2013: 211). The public policy exception is also reserved for international private law agreements that aim to ensure harmonisation. If the application of a particular case contravened the fundamental notions of morality or policy on which the *lex fori* is based, the negative effect of public order would come into play and the rule would not apply (Lipstein 1959: 517).

Turkish private international law regulates the public policy exception in two different ways. Enforcement of a judgement shall be rejected where enforcement is manifestly in contrast to public policy; the application of a law otherwise required by the Turkish Act on Private International Law and International Civil Procedure shall be refused if the application would be manifestly in contrast to public policy.

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3 According to the Article 3, Paragraph 3 of the French Civil Code: "The safety and public order rules oblige all those who live in the territory." (« Les lois de police et de sûreté obligent tous ceux qui habitent le territoire ») For detailed information, see Goldman 1970: 120.

4 Regulation (EC) No 593/2008 of the European Parliament And Of The Council of 17 June 2008 on the law applicable to contractual obligations, OJ L 177, 04.07.2008, 6-16.

5 Regulation (EC) No 864/2007 of the European Parliament And of the Council of 11 July 2007 on the law applicable to non-contractual obligations, OJ L 199, 31.07.2007, 40-49.

5. Conclusion

Until the 20th century, French, which was the language of diplomacy, was also a very important language in terms of private international law. French jurists such as Bartin, Batiffol and Francescakis have made a significant contribution to the methodology of private international law. Indeed, it is essential to consult the treatises of these jurists in order to understand the function of private international law.

Whatever the language of a general book on private international law, some concepts such as *renvoi* and *l'ordre public* are always expressed in French. As a matter of fact, these concepts have been introduced into the literature of private international law by French jurists. Although English has become the common language spoken by people with different native languages (*lingua franca*), the contributions of French to legal methodology, especially to the methodology of private international law, cannot be denied. The old French works on the general subjects of private international law are the basic sources for jurists working in this field. Therefore, understanding these works will make a great contribution to those working in the field of private international law.

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Place du français dans la théorie du droit international privé

Résumé

Le droit international privé est une discipline juridique qui traite des litiges de droit privé comportant un élément extranéité. Le droit international privé est l'un des domaines les plus complexes du droit. Dans le système juridique de droit continental, qui comprend la France, les litiges juridiques sont résolus en localisant le litige à une zone géographique grâce à des facteurs de rattachement. C'est ce qu'on appelle le rattachement en droit français. Pour qu'un litige soit résolu avec des facteurs de rattachement, des concepts tels que la qualification, le renvoi et l'ordre public doivent également être clarifiés. La théorie du droit international privé a été très débattue dans la doctrine française et donc, pour comprendre l'évolution historique de ces concepts, il est nécessaire de s'appuyer sur les ouvrages phares du droit international privé français. Il ne serait donc pas faux de dire que les théories du droit français ont joué un rôle important dans le développement du droit international privé. Des termes français sont encore utilisés pour expliquer des concepts importants du droit international privé, comme le renvoi. Étant donné que les mots français sont encore utilisés dans la terminologie du droit international privé, les personnes travaillant dans le domaine du droit international privé devraient apprendre le français. Dans notre étude, l'impor-

tance du droit français et donc l'importance du français en matière de droit international privé seront abordées.

Mots Clés: Renvoi, rattachement, qualification, l'ordre public, Terminologie française.

LEGAL TERMINOLOGY AND TRANSLATION IN THE FIELD OF LAW

NEW RESOURCES AND METHODS IN TRANSLATING LEGAL TEXTS: MACHINE TRANSLATION AND POST-EDITING OF MACHINE-TRANSLATED LEGAL TEXTS[1]

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Blaženka ŠOŠTARIĆ

Abstract

The topic of the paper is machine translation as a new resource in the translation process, aiming to examine the quality of machine-translated output in the legal domain and assess its suitability and usability. In the introductory part of the paper, we throw some light on the current situation with machine translation in Croatia and for Croatian as a language of lesser diffusion. In the exploratory part of the paper, we analyse different versions of a machine-translated legal text obtained using several selected machine translation engines, such as Google Translate, Microsoft Translator/Bing, ChatGPT and Modern MT. The machine-translated target text is then compared against the reference translation by a human translator, which serves as a gold standard. The quality of the machine-translated target texts is then evaluated using the BLEU score as an automatic assessment method based on comparing human and machine-translated text. Finally, we assess the usability and suitability of MT and PEMT for translating legal texts.

Keywords: Automatic MT assessment, Human MT Assessment, Machine Translation (MT), MT Quality Assessment, Post-Editing Machine Translation (PEMT)

1. Introduction

1.1. Research Aims and Objectives

Translating legal texts has always been a complex and challenging task due to the specific terminology, language nuances, and cultural contexts involved, particularly when dealing with languages of lesser diffusion, such as Croatian. This research paper examines the quality and usability of machine-translated output

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(English to Croatian) in the legal domain. The study assesses the suitability and usability of machine translation (MT) using different quality assessment methods and provides recommendations based on the findings. The paper provides an overview of the current situation with machine translation in Croatia and for Croatian as a language of lesser diffusion, with emphasis on the legal domain. It also includes a comparison of different versions of a machine-translated legal text with a reference translation by a human translator, quality assessment of machine-translated texts using human and automatic assessment methods, and recommendations for integrating MT and post-editing into the translator workflow.

1.2. Structure of the Paper

The introduction provides an overview of the current state of machine translation in Croatia, with special attention to Croatian as a language of lesser diffusion in the legal domain. The exploratory part of the paper involves the analysis of different versions of machine-translated legal text derived from several machine translation engines, namely Google Translate, Microsoft Translator/Bing, ChatGPT, Phrase, and Modern MT. This machine-translated output is compared against a reference translation by a human translator that serves as a gold standard. The quality of the machine-translated target texts is evaluated using human assessment and the BLEU score, an automatic assessment method for comparing human and machine-translated text. The study concludes with an assessment of the usability and suitability of MT and PEMT for translating legal texts and recommendations for its use.

2. Background and Context

Legal text translation is a complex process traditionally dominated by human expertise. However, recent advances in machine translation (MT) technologies have marked a shift in this domain, making the translation process more efficient and accessible. Particularly in Croatia, where Croatian is recognised as a language of lesser diffusion, MT adoption in legal contexts presents unique opportunities and challenges. This study aims to explore these challenges and opportunities, evaluate the quality of MT, and assess its suitability and usability.

2.1. Machine Translation and Post-Editing in the legal domain

Machine translation (MT) has seen rapid development over the past few decades, propelled mainly by advances in artificial intelligence and computational

linguistics (Doherty 2016; Pym, 2011; O'Brien 2012). In the era of technological advancement, the proficiency of a translator is undeniably linked to their ability to leverage various digital translation tools (Omazić and Pavlović 2021). The practice of translation is influenced by several digital resources, such as internet searches, glossaries, spell checkers, grammar checkers, translation memory, and machine-translation databases (Pym 2011: 4).

Translators are, therefore, increasingly leveraging MT to enhance their productivity. The rise of neural machine translation (NMT) has significantly improved MT quality, resulting in its widespread adoption, which has transformed the translator's role so that it often involves post-editing machine-translated text or modifying human-translated segments from translation memories (Pavlović and Antunović 2021: 186). Post-editing of machine translation (PEMT) refers to the process of reviewing and correcting the text output from a machine translation system. Allen (2003) distinguishes three PE types: no PE, light or minimum PE, and full PE.

This involves a human translator, who edits the machine-translated text to improve its accuracy, fluency, and coherence, ensuring that it aligns with the standards of a human-translated text. The level of post-editing required will depend on factors such as the quality of the machine translation output, the nature of the source text, and the intended use of the translation.

Despite this progress, the application of MT in the domain of legal text translation remains a complex challenge since legal texts are characterised by precise terminology, formulaic language, and strict compliance requirements, which can be difficult for machine translation systems to handle effectively (Šarčević 1997, 2012; Kordić 2020; Prieto Ramos 2022). While MT can significantly increase productivity, the quality of MT output might vary and, therefore, human expertise is still essential in the post-editing process to ensure the legal accuracy and appropriateness of MT output, even in the era of advanced MT technologies.

Translating legal texts into Croatian, a language of lesser diffusion, introduces a unique challenge, highlighting the need for translators to have a comprehensive understanding of both source and target legal systems, terminologies, and linguistic subtleties. The research conducted on this topic underscores the importance of this understanding to preserve the integrity of the legal text and to avoid potential legal misunderstandings (Kordić 2020).

While the use of MT and PEMT in the legal text translation, particularly for languages of lesser diffusion like Croatian, is a promising area of research, the literature suggests that there are significant challenges to overcome. The complexity of legal texts, the requirement for precision and legal accuracy, and the need for consistent terminology all highlight the importance of human expertise in the translation process. Future research in this area should continue exploring ways

to improve MT output quality, develop effective PEMT protocols, and better integrate human expertise into the translation workflow.

2.2. Machine Translation in Croatia

Research on the acceptance of Machine Translation (MT) in Croatia paints a rather complex picture. According to recent studies by Rajh, Koričan Omazić (2021) and Rajh, Omazić, and Ručević (in print), the acceptance rate of MT in Croatia remains relatively low. The researchers found that the perceived usefulness of machine-translated texts significantly impacted both the intention to use and the actual use of MT. However, perceived usefulness was generally low due to the perceived low quality of MT output and its limited availability for the Croatian language. This raises a critical question: is this really the case? Given the rapid advances in MT technology and increased focus on languages of lesser diffusion, there is potential for a shift in this perception. However, it underscores the need for further research and investment in improving the quality and availability of MT for the Croatian language to increase its acceptance and utilisation.

In Croatia, Machine Translation (MT) services are predominantly provided by well-known global MT platforms such as Google Translate, Microsoft Translator, ModernMT, Phrase Translate, and ChatGPT. Despite the availability of these platforms, the quality of MT output for the Croatian language can vary significantly depending on the complexity of the source text and the specific MT engine used. A noticeable gap in the MT landscape in Croatia is the unavailability of DeepL, a platform renowned for its high-quality translations and deep learning technologies. The absence of DeepL could potentially impact the perceived quality and adoption of MT in Croatia, as users do not have access to one of the industry's leading MT engines. This situation inevitably raises the question: What is the current quality of MT output in Croatian? This question further emphasises the need for comprehensive, objective evaluation studies to determine the effectiveness and reliability of different MT engines in handling Croatian legal texts, thereby guiding future improvements in the field.

2.3. Assessment of Machine Translation Quality by Human Translators

Human evaluation remains a critical component when assessing the quality of machine translation (MT). Several methods can be employed in this process, including ranking, grading on a scale, error analysis, and task-based assessment. Ranking involves evaluating MT output segment by segment, categorising each

from the best to the worst solution. This method can provide a clear hierarchy of MT quality, though it lacks detailed feedback on specific errors or issues.

Grading on a scale is another standard method, where fluency and accuracy are assessed on a scale from 1 to 4. This approach offers a quantifiable measure of MT quality, but like ranking, it may lack detailed insights into specific errors or issues.

Error analysis, while more time-consuming, provides a more in-depth understanding of MT quality. In this method, errors are classified by type, providing valuable feedback for improving MT systems. However, the time and expertise required for error analysis can be significant, potentially limiting its practicality for large-scale assessments.

Task-based assessments, such as post-editing and comprehension tests by users, provide a more application-focused evaluation of MT quality. Post-editing involves tracking the duration, number of corrections, and edit distance required to refine MT output, providing insights into the usability and practicality of MT in real-world tasks. Comprehension tests, on the other hand, measure how well users understand the translated text, which can be particularly relevant for assessing the effectiveness of MT in communication-focused tasks.

Despite the various advantages and insights provided by human assessment, it should be noted that this method can be time-consuming, subjective, and costly. Therefore, a balance needs to be struck between human and automatic evaluation methods to ensure efficient, reliable, and practical MT quality assessment.

2.4. Automatic Assessment of Machine Translation

Automatic assessment methods present a compelling alternative to human evaluation for machine translation (MT), offering the advantages of speed, simplicity, cost-effectiveness, and universality. These methods typically involve comparing machine-translated output against a human reference translation, providing a score-based measure of MT quality.

One of the earliest and most widely used automatic assessment metrics is the Bilingual Evaluation Understudy (BLEU), proposed by Papineni et al. (2002). BLEU assesses the quality of MT by comparing the overlap of n-grams between the machine and human translations, yielding a score between 0 and 1 (or, alternatively, the scale from 0 to 100), with 1 (or 100) indicating a perfect match.

METEOR, introduced by Banarjee and Lavie (2005), extends upon BLEU by considering synonyms, stemmed forms, and paraphrases, thereby providing a more nuanced evaluation of semantic equivalence. Translation Edit Rate (TER), proposed by Snover et al. (2006), takes a different approach by focusing on the minimum number of edits required to change a system output into one of the references.

Other automatic assessment metrics have also been developed, each with its own strengths and limitations. These include the NIST metric, which adjusts the BLEU score by considering the informativeness of the n-grams; ROUGE, which focuses on recall rather than precision; BEER, which integrates multiple features into a single trainable metric; MMS, which measures the semantic similarity between source and target sentences; CHRF, which considers character n-grams; CharacTER, which computes the edit distance at the character level; and MEANT, which evaluates MT quality based on semantic frames.

While automatic assessment methods offer significant advantages in terms of speed and cost, they cannot fully capture the nuances and context-specific aspects of human language. Therefore, they are typically used in conjunction with the human assessment to provide a comprehensive evaluation of MT quality.

2.5. The BLEU Metric for Automatic Assessment of Machine Translation

Bilingual Evaluation Understudy (BLEU), developed by Papineni et al. (2002), is one of the most common, simple, and cost-effective automatic assessment metrics for machine translation (MT). The BLEU metric compares machine-generated translations at the word and phrase levels with human reference translations, focusing on their proximity.

BLEU employs a brevity penalty to discourage overly short translations. This penalty ensures that the generated translations are of a similar length to the reference translations, thereby maintaining the full context and meaning of the source text.

A key aspect of the BLEU score is the n-gram overlap, which counts how many unigrams, bigrams, trigrams, and four-grams in the machine translation match their counterparts in the reference translations. This term acts as a precision metric, with unigrams accounting for adequacy, i.e., the extent to which the translation covers the source content, while longer n-grams account for the fluency of the translation, i.e., the extent to which the translation reads smoothly in the target language.

However, it is important to note that BLEU treats all errors the same, irrespective of their severity or impact on the overall meaning of the translation. Additionally, it penalises all differences between the machine and reference translations, even if the machine translation offers a valid or even superior alternative to the reference. This rigidity can result in BLEU scores that do not fully reflect the quality or usability of the machine translation, highlighting the need for complementary assessment methods.

3. Research Methodology

3.1. Research Design - Exploratory Analysis of Machine-Translated Legal Texts

To understand the performance of machine translation in the context of legal texts, this study conducted an exploratory analysis using several machine translation engines, including Google Translate, Microsoft Translator/Bing, ChatGPT, Phrase Translate, and Modern MT. The legal text was translated from English into Croatian using these engines, and the output was compared against a gold standard reference translation provided by a professional human translator. The quality of these machine-translated texts was evaluated using the BLEU score, a widely accepted automatic evaluation method.

3.2. Data Collection

The following source and target reference texts were selected for the purpose of this study:

a. Source text: COMMISSION OPINION of 5 May 2023 relating to the modified plan for the disposal of radioactive waste arising from the Loviisa low and intermediate level waste repository located at the Loviisa site in Finland (Official Journal C 163, 8.5.2023, p. 1–2 - EN)

b. Reference translation: MIŠLJENJE KOMISIJE od 5. svibnja 2023. o izmijenjenom planu zbrinjavanja radioaktivnog otpada iz odlagališta nisko i srednje radioaktivnog otpada Loviisa, koje se nalazi na lokaciji Loviisa u Finskoj (Official Journal C 163, 8.5.2023, p. 1–2 - HR)

3.3. Machine Translation Systems

In this study, we explored the use of five Neural Machine Translation (NMT) engines, namely Google Translate, ModernMT, ChatGPT, Microsoft Translator, and Phrase Translate, as well as three Computer-Assisted Translation (CAT) environments—memoQ, Phrase, and MateCat. To leverage the capabilities of these NMT engines, pretranslation was performed using MT APIs provided by the respective engines. In order to assess the quality and usability of the translations, a table was created with parallel solutions for the raters, allowing them to compare the different translations side by side. Raters then assessed the translations using a scale-based approach, evaluating aspects such as fluency, accuracy, and coherence. To complement the human assessment, automatic assessment was conduct-

ed using the BLEU score calculator available at https://www.letsmt.eu/Bleu.aspx. The BLEU score provides an objective measurement of translation quality by calculating the n-gram overlap between the MT output and the reference translations. By combining human and automatic assessment methods, this research aims to gain a comprehensive understanding of the performance and usability of the different NMT engines and CAT environments in the translation process.

4. Findings

4.1. Human Assessment of Usability of Machine-Translated Segments

Ten assessors, including 2 professional translators and 8 translation students, performed the blind assessment of both the human translation and 5 machine translations. Each segment was assessed on a scale from 1 to 4, with 1 denoting a segment to be discarded as unusable, 2 denoting a segment requiring major post-editing, 3 indicating a segment requiring minor post-editing, and 4 denoting that the segment is usable as is. Overall, we recorded a high level of inter-rater agreement. The average rater score (Figure 1) for the usability of machine translations was 2.99, reflecting a generally positive assessment of machine translation quality in the specific context of this study.

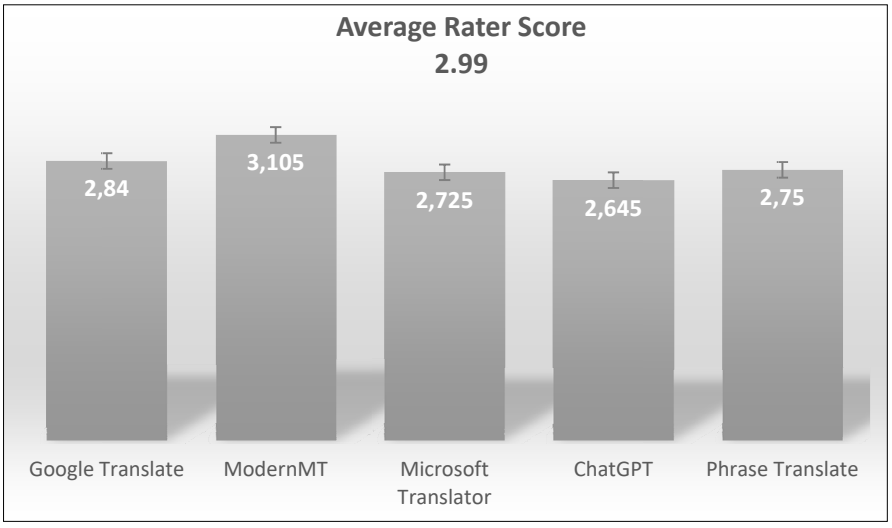

Figure 1. Rater Scores

The research findings demonstrate a high degree of usability for machine-translated segments. Remarkably, almost no segments were discarded as unusable, with only 2 out of 100 segments falling into this category. This indicates a high baseline quality for the machine translations evaluated.

Most segments were rated as usable with either minor or major revisions, suggesting that post-editing is a necessary step to optimise machine translation output. This further reinforces the importance of incorporating post-editing machine translation (PEMT) protocols into the translation workflow, mainly when dealing with complex texts such as legal documents.

Interestingly, most segments rated as usable without revisions originated from human translations, underscoring the continued relevance of human expertise in achieving high-quality translations.

Overall, the rater feedback was very positive concerning the usability of machine translations. This finding indicates that, despite the necessary post-editing, machine translation can be a valuable tool in the translation process, mainly when resources or time are limited.

4.2. Automatic MT Assessment

The machine-translated texts were then subjected to automatic comparative quality evaluation using Tilde's interactive BLEU score evaluator, which allows for comparing the MT output segment by segment and the comparison of the BLEU scores. The evaluator allows you to upload the source text, human reference translation and up to two machine-translated texts for comparison. The BLEU scores of less than 10 indicated that the machine-translated is almost useless, scores between 10 and 19 suggest that it is hard to get the gist, scores between 20 and 29 indicate that the gist is clear, but the text has significant grammatical errors, scores between 30-39 that the translation is understandable to good, scores between 40 and 49 that the translation is of high quality, the scores between 50 and 59 that the translations are of very high quality, adequate and fluent, and scores over 60 indicate the quality often better than human (which is highly unlikely). The results are presented in Figure 2:

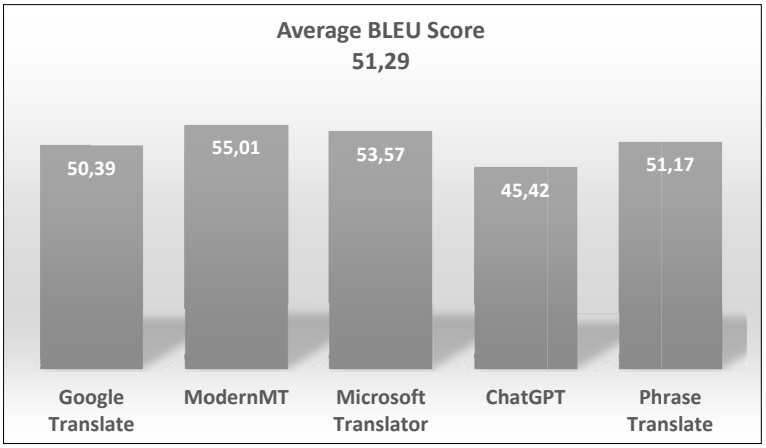

Figure 2. BLEU Scores

4.3. BLEU Scores, Human Assessment, and Machine Translation Quality in Croatian

The findings from this study provide interesting insights into the relationship between BLEU scores, human assessments, and the overall quality of machine translation output in Croatian. The comparative ranking resulting from the human and automatic assessment is shown in Table 1.

HUMAN RANKING	AUTOMATIC RANKING
1. ModernMT	1. ModernMT
2. Google Translate	2. Microsoft Translator
3. Phrase Translate	3. Phrase Translate
4. Microsoft Translator	4. Google Translate
5. ChatGPT	5. ChatGPT

Table 1. Comparative ranking of MT engines using human vs automatic assessment

It was observed that BLEU scores did not always correlate with human assessments, highlighting the inherent limitations of relying solely on automatic metrics for evaluating translation quality. However, there was a consistent correlation between BLEU scores and human assessments in the case of the highest-rated system (ModernMT) and the lowest-rated system (ChatGPT). Both systems consistently ranked at the top and bottom, respectively, in both assessment systems. This finding suggests that BLEU scores and human assessments may not always

align perfectly, but they can provide a reliable comparative measure of machine translation quality among different systems.

The study results also indicate an increased quality of machine translation output in Croatian. However, the human touch was still needed to achieve the highest levels of translation quality. This underscores the continued importance of human expertise in the translation process, even as machine translation technologies continue to advance.

These findings warrant the inclusion of MT into translator workflows, particularly for languages of lesser diffusion, such as Croatian. However, to maximise the benefits of MT, appropriate post-editing protocols need to be applied. This will ensure that the MT output meets the high standards of accuracy, fluency, and contextual relevance required in professional translation settings.

4.4. Recommendations for Using Machine Translation in Legal Text Translation into Croatian

In light of the study findings, the following best practices for utilising machine translation in the context of legal text translation into Croatian are recommended:

1. Legal Requirements: Before employing machine translation, it is crucial to check the legal requirements associated with its use. This includes understanding any limitations concerning data storage and transfer, as well as adhering to provisions under the General Data Protection Regulation (GDPR). Ensuring compliance with these regulations will help prevent legal issues that could potentially arise from the improper use of machine translation technology.
2. Data-handling Policies and Confidentiality: Given the sensitive nature of legal texts, careful attention should be paid to the data-handling policies of the machine translation provider. It is essential to ensure that these policies align with the confidentiality requirements of your project and provide adequate protection for sensitive data.
3. Court Requirements and Certified Translations: In the context of legal translations, it is also important to consider any specific court requirements or requirements for certified translations. While machine translation can help streamline the translation process, certain documents may still require human translation and certification to be legally valid.
4. Selection of Machine Translation Engine: The study indicates that the quality of machine translation can vary depending on the specific engine used. As such, it is recommended to select the machine translation engine based

on the particular needs of the project, the language pair, and the purpose of the translation. Testing different engines and comparing their output can help identify the most suitable tool for your specific requirements.

By following these recommendations, translators and legal professionals can effectively leverage machine translation as a valuable tool in the translation of legal texts into Croatian, while also ensuring adherence to legal and ethical requirements.

5. Conclusion

The research paper explored the use of machine translation (MT) in the context of translating legal texts into Croatian, a language of lesser diffusion. The findings suggest that MT, with appropriate post-editing, has the potential to be a valuable tool in the translation process. The quality of MT output in Croatian has notably improved, as reflected by the positive human assessments and competitive BLEU scores.

However, the study also underlined the continued relevance of human expertise in achieving high-quality translations, particularly in the context of legal texts. It was further noted that the effectiveness of MT can vary depending on the specific MT engine used, pointing to the need for careful selection and testing of MT tools for specific projects, language pairs, and translation purposes.

Legal, ethical, and practical considerations, including data-handling policies, confidentiality requirements, and legal and court requirements, were identified as crucial factors to consider when integrating MT into translation workflows.

Overall, while machine translation has shown promising progress in the translation of legal texts into Croatian, a balanced approach combining machine efficiency with human expertise and careful adherence to legal and ethical requirements is recommended to achieve the best results. Future research should continue to explore ways to improve machine translation engines for languages of lesser diffusion and the effective integration of human expertise in the post-editing process.

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Novi resursi i metode u prevođenju pravnih tekstova: strojno prevođenje i redaktura strojno prevedenih pravnih tekstova

Sažetak

Tema je ovog rada strojno prevođenje kao novi resurs u postupku prevođenja, s ciljem ispitivanja kvalitete izlaznih rezultata strojnog prevođenja u pravnoj domeni te procjene njegove prikladnosti i upotrebljivosti. U uvodnom dijelu rada pojašnjavamo trenutačno stanje u području strojnog prevođenja u Hrvatskoj i za hrvatski kao manje rasprostranjeni jezik.

U istraživačkom dijelu rada analiziramo različite inačice strojno prevedenog pravnog teksta dobivene korištenjem nekoliko odabranih alata za strojno prevođenje: Google Translate, Microsoft Translator/Bing, ChatGPT i Modern MT. Strojno prevedeni ciljni tekst potom se uspoređuje s referentnim prijevodom ljudskog prevoditelja, koji služi kao zlatni standard. Kvaliteta strojno prevedenih ciljnih tekstova zatim se procjenjuje koristeći BLEU metriku kao automatsku metodu procjene temeljenu na usporedbi ljudskog prijevoda i strojno prevedenog teksta. Konačno, procjenjujemo upotrebljivost i prikladnost strojnih prijevoda i redakture strojno prevedenih tekstova u svrhu prevođenja pravnih tekstova.

Ključne riječi: automatska procjena strojnoga prijevoda, ljudska procjena strojnoga prijevoda, procjena kvalitete strojnoga prijevoda, strojni prijevod (MT), redaktura strojno prevedenih tekstova (PEMT)

ASSESSING MACHINE TRANSLATION FROM ENGLISH TO GERMAN: A CASE STUDY[1]

Melita ALEKSA VARGA
Tadej GRLIĆ

Abstract

With the progress of technology and machine translation tools, there has been a belief growing as well, claiming that machine translation tools and applications are successful in overcoming the contemporary challenges and that, unlike at the beginning of this century they are now able to successfully translate texts from world languages (see Birch, Osborne, Koehn 2007, Wilkis 2008). The creators of DeepL, for instance, claim that their technology captures even the smallest linguistic nuances and that their translations are three times more accurate on average than their competitors, whereas the creators of Google Translator are also convinced that their translations resemble human translations at a very high level. This paper will therefore present a pilot study and test the said claims of the world two leading machine translators, as well as examine their success in translating legal texts from English to German language. The corpus for the research thus consists of two partial texts from the corpus of EU legal texts, EUR-LEX in English, which have already been translated into German by human translators. This paper will present the results of the analysis of the success of the translation based on the evaluation criteria by Kirchhoff et al. (2012) and compare it to human translation. The aim of this paper is to determine the advantages and disadvantages of machine translation and the possibilities of their use in the translation process of legal texts from English to German languages.

Keywords: DeepL, Google Translate, machine translation, assessment

1. Introduction

Before discussing the notion of machine translation, there has to be the terminology that will be used in defining this work, more precisely the notions of machine translation and computer-aided translation. The term machine translation

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in literature includes several types of translations, and ranges from completely machine translations or MT (Machine Translation), AT (Automatic Translation), to the so-called human-aided machine translations (HAMT), and machine-aided human translation (MAHT). HAMT is computer translation with subsequent human intervention or the translator's post editing of the finished translation (Taravella and Villenevue 2013: 65), while MAHT is a form of computer-assisted human translation, which implies human translation with the use of certain translation applications or tools. If we were to adhere to strict divisions, then we should classify the last two types of translation in the domain of computer-assisted translation, i.e. CAT (Computer-Assisted Translation) or MAT (Machine-Assisted Translation) (Hutchinson and Somers 1992; Quah 2006 in Taravella and Villenevue 2013: 65). In contrast to these types of translation, by the term MT or AT there is a complete machine translation understood, meaning that in the whole process of translation the machine is solely responsible for the final product (Azzano 2009: 19). In the course of this paper, there will be closer look taken at the success of two different machine translation tools (MT), as well as the relation of MT to human translation of the same texts. The tools chosen for the case study are Google Translate and DeepL. The first reason for this choice is that the creators of Google Translate and DeepL claim that their tools are successful in overcoming modern challenges and able to translate texts from world languages very successfully. The other reason is formulated by Rivera-Trigueros (2022) who stated that despite the current wide acceptance and popularity of DeepL (Schmitt, 2019 in Rivera-Trigueros 2022), only one study used this machine translator compared to Google and rated it lower than Google.

Since one of the aims of the present study is to compare the success of MT with regard to human translation as well, we had to choose for our research corpus the texts that had never been translated, accredited, revised or approved of by human translators. One freely accessible corpus that met all these criteria is EUR-LEX, a corpus that is part of the tool SketchEngine[2]. The aim of the present case study therefore is to determine whether machine translators are as successful as humans, and in which domains of translation they are equal, better or worse than human translators. The evaluation of the machine translation outputs will not be done from the point of view of computational linguistics, but from the perspective of applied linguists and translators.

[2] A similar study was conducted in 2008, when the corpus of legal texts EuroParl was used when comparing language pairs German and English and the possibility of automatic translation (Koehn, 2005).

2. Development and functioning of Google Translate and DeepL machine translation tools

When speaking about machine translation, we have to mention at least two models or two approaches. The first is the Statistical Approach to Machine Translation (SMT) model, which has improved over the last decade of intensive research, but for some language pairs the translation quality is still low, and the second is the neural MT model. The SMT model was developed on the basis on IBM alignment models (Birch, Osborne and Kohen 2008), using a rule-based (RBMT, Rule-Based Machine Translation) and a corpus-based approach (Rivera-Trigueros 2022). The RBMT systems use bilingual and monolingual dictionaries and grammars to create translations, as well as bilingual corpora (Rivera-Trigueros 2022). This MT model was the dominant model until the recent emergence of neural MT systems (Bojar et al., 2015; España-Bonet & Costa-jussà, 2016; Hutchins, 2007 in Rivera-Trigueros 2022). Those systems use the principle of artificial intelligence, i.e. setting translation strategies in the sense of segmenting the text and producing the semantic equivalent as directly as possible, using certain semantic templates and mapping (Wilks 2009 in Rivera-Trigueros 2022). The advantage of these systems compared to RBMT systems is their solid performance. However, their translations are sometimes poorly structured or have grammatical errors, alongside the problems of finding relevant language corpora in the specific topic or domains of the language pairs that they use (España-Bonet & Costa-jussà, 2016; Habash et al., 2009 in Rivera-Trigueros 2022). The neural MT model attempts to build and train one large neural network that provides an accurate translation (Bahdanau et al., 2015 in Rivera-Trigueros 2022), due to the neural architecture based on the encoder-decoder model. In this model, the encoder reads and encodes the original sentence into a fixed-length vector, while the decoder produces a translation from the encoded vector (Bahdanau et al., 2015; Cho et al., 2014 in Rivera-Trigueros 2022). The success of these models has been such that major MT companies - Google, Systran, Microsoft, etc. - have already integrated them into their machine translator technologies (Rivera-Trigueros 2022).

An example of the first model is Google Translate, a free online translator and perhaps the most widely used machine translation tool that uses a statistical approach and includes 108 languages. Google translator has access to the largest database in the world, namely the Google search engine, which serves as a corpus for Google translator. Since 2016, a neural model (Wu 2016: 1-2) called Google Neural Machine Translation (GNMT) has also been used to improve translation quality using an example-based machine translation method. The system thus "learns from millions of examples", translates whole sentences at once, not just

part by part, and uses the wider context to more easily identify the 25 most relevant translations, which are then rearranged and adapted, i.e. try to be as similar as possible to a human translation using grammatical rules (Gers, Schmidhuber, Cummins 2000). Data from June 2018 according to Google's translation accuracy test and user reviews say that for most of the world's major languages, Google Translate received an average score of 5.43 out of a possible 6.

The representative of the second model is DeepL or Deep Learning (DL), which is also a branch of machine learning (ML) that uses artificial intelligence (AI) and today is considered the fundamental technology of the Fourth Industrial Revolution (4IR or Industry 4.0). DeepL bases its work on the possibilities of learning from data, and the technology itself is derived from an artificial neural network (ANN, Artificial Neural Network). Today, DeepL is applied in various fields such as healthcare, visual recognition, text analytics, cyber security, etc. (Sarker 2021). It is owned by the company DeepL SE and was launched in 2017. It originally offered translations in seven languages, while in the meantime the number of languages supported by DeepL has increased to 31[3].

3. Translation of legal documents with the help of a machine translation

As previously stated, the corpus for this pilot study consists of texts from the small sample of legal texts on the topic of European Union law EUR-LEX in English, which have already been translated into German. Due to the constraints of this paper and the fact that this is only a case study, there had been two English legal texts chosen. The first text is Article 1 of the Treaty on European Union, and the second refers to the Charter of Fundamental Rights of the European Union, more precisely to Article 49 (Principles of legality and proportionality of criminal offenses and punishments). The first reason for choosing the mentioned texts is that they are part of the treaties currently in force in the EU member states, and they are not too long, so their analysis will fit the scope of the present paper. In our opinion, the chosen texts are sufficient to determine the advantages and disadvantages of machine translation of legal texts from English into German language in the present case study. The human translations of the original texts have been revised, approved of and validated in several languages including German. The texts have a structure typical of legal texts and use a specific legal lexicon. The source texts in English contain 112 words (673 characters with spaces) the first, and 132 words (774 characters with spaces) the second one. According to the available

[3] https://www.deepl.com/en/publisher/, retrieved on April 25, 2023

data from the EUR-LEX corpus, the human translations into German were approved on June 7, 2016. The length of the translated texts, at least when talking about the number of words, is smaller than the original one and amounts to 88 words (671 characters with spaces) for the first, and 99 words (693 characters with spaces) for the second translation (Tables 1 and 2).

Table 1: Original English text 1 with human and machine translations into German

Original English test from EUR-LEX[4]	German human translation from EUR-LEX	Google Translate	DeepL
By this Treaty, the HIGH CONTRACTING PARTIES establish among themselves a EUROPEAN UNION, hereinafter called 'the Union', on which the Member States confer competences to attain objectives they have in common. This Treaty marks a new stage in the process of creating an ever closer union among the peoples of Europe, in which decisions are taken as openly as possible and as closely as possible to the citizen. The Union shall be founded on the present Treaty and on the Treaty on the Functioning of the European Union (hereinafter referred to as 'the Treaties'). Those two Treaties shall have the same legal value. The Union shall replace and succeed the European Community.	Durch diesen Vertrag gründen die HOHEN VERTRAGSPARTEIEN untereinander eine EUROPÄISCHE UNION (im Folgenden "Union"), der die Mitgliedstaaten Zuständigkeiten zur Verwirklichung ihrer gemeinsamen Ziele übertragen. Dieser Vertrag stellt eine neue Stufe bei der Verwirklichung einer immer engeren Union der Völker Europas dar, in der die Entscheidungen möglichst offen und möglichst bürgernah getroffen werden. Grundlage der Union sind dieser Vertrag und der Vertrag über die Arbeitsweise der Europäischen Union (im Folgenden "Verträge"). Beide Verträge sind rechtlich gleichrangig. Die Union tritt an die Stelle der Europäischen Gemeinschaft, deren Rechtsnachfolgerin sie ist.	Durch diesen Vertrag gründen die HOHEN VERTRAGSPARTEIEN untereinander eine EUROPÄISCHE UNION, im Folgenden „Union" genannt, der die Mitgliedstaaten Zuständigkeiten übertragen, um ihre gemeinsamen Ziele zu erreichen. Dieser Vertrag markiert eine neue Etappe im Prozess der Schaffung einer immer engeren Union der Völker Europas, in der Entscheidungen so offen wie möglich und so bürgernah wie möglich getroffen werden. Die Union gründet sich auf diesen Vertrag und den Vertrag über die Arbeitsweise der Europäischen Union (nachstehend „die Verträge" genannt). Diese beiden Verträge haben den gleichen Rechtswert. Die Union ersetzt die Europäische Gemeinschaft und folgt ihr nach.	Durch diesen Vertrag gründen die HOHEN VERTRAGSPARTEIEN untereinander eine EUROPÄISCHE UNION, im folgenden "Union" genannt, der die Mitgliedstaaten Zuständigkeiten zur Verwirklichung ihrer gemeinsamen Ziele übertragen. Dieser Vertrag stellt eine neue Etappe auf dem Weg zu einer immer engeren Union der Völker Europas dar, in der die Entscheidungen so offen wie möglich und so bürgernah wie möglich getroffen werden. Die Union gründet sich auf diesen Vertrag und auf den Vertrag über die Arbeitsweise der Europäischen Union (im Folgenden "die Verträge"). Diese beiden Verträge haben denselben rechtlichen Wert. Die Union tritt an die Stelle der Europäischen Gemeinschaft und wird deren Nachfolgerin.

[4] https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:12016M001&-from=EN, retrieved on April 7, 2023.

Table 2: Original English text 2 with human and machine translations into German

Original English test from EUR-LEX [5]	German human translation from EUR-LEX	Google Translate	DeepL
1. No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence under national law or international law at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the criminal offence was committed. If, subsequent to the commission of a criminal offence, the law provides for a lighter penalty, that penalty shall be applicable. 2. This Article shall not prejudice the trial and punishment of any person for any act or omission which, at the time when it was committed, was criminal according to the general principles recognised by the community of nations. 3. The severity of penalties must not be disproportionate to the criminal offence.	(1) Niemand darf wegen einer Handlung oder Unterlassung verurteilt werden, die zur Zeit ihrer Begehung nach innerstaatlichem oder internationalem Recht nicht strafbar war. Es darf auch keine schwerere Strafe als die zur Zeit der Begehung angedrohte Strafe verhängt werden. Wird nach Begehung einer Straftat durch Gesetz eine mildere Strafe eingeführt, so ist diese zu verhängen. (2) Dieser Artikel schließt nicht aus, dass eine Person wegen einer Handlung oder Unterlassung verurteilt oder bestraft wird, die zur Zeit ihrer Begehung nach den allgemeinen, von der Gesamtheit der Nationen anerkannten Grundsätzen strafbar war. (3) Das Strafmaß darf zur Straftat nicht unverhältnismäßig sein.	1. Niemand darf wegen einer Handlung oder Unterlassung, die zum Zeitpunkt ihrer Begehung nach innerstaatlichem oder internationalem Recht keine Straftat darstellte, für schuldig befunden werden. Es darf auch keine schwerere Strafe verhängt werden als die zur Zeit der Begehung der Straftat geltende Strafe. Sieht das Gesetz nach Begehung einer Straftat eine mildere Strafe vor, so ist diese Strafe anwendbar. 2. Dieser Artikel berührt nicht das Verfahren und die Bestrafung einer Person wegen einer Handlung oder Unterlassung, die zum Zeitpunkt ihrer Begehung nach den von der Völkergemeinschaft anerkannten allgemeinen Grundsätzen strafbar war. 3. Die Schwere der Strafe darf nicht außer Verhältnis zur Straftat stehen.	1. Niemand darf wegen einer Handlung oder Unterlassung verurteilt werden, die zum Zeitpunkt ihrer Begehung nach innerstaatlichem oder internationalem Recht keinen Straftatbestand erfüllte. Es darf auch keine schwerere Strafe verhängt werden als diejenige, die zum Zeitpunkt der Begehung der Straftat anwendbar war. Sieht das Gesetz nach der Begehung einer Straftat eine mildere Strafe vor, so ist diese Strafe anzuwenden. 2. (2) Dieser Artikel berührt nicht die Verurteilung und Bestrafung einer Person wegen einer Handlung oder Unterlassung, die zur Zeit ihrer Begehung nach den von der Völkergemeinschaft anerkannten allgemeinen Grundsätzen strafbar war. 3. Die Härte der Strafe darf nicht außer Verhältnis zur Straftat stehen.

[5] https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:12016P049&-from=EN, retreived on April 8 2023.

3.1. Qualitative analysis of machine translations

There are several models and criteria upon which the analysis of machine translations can be conducted. For the purpose of the evaluation of texts in the course of the present study, the criteria from Kirchhoff et al. will be used (2012) with the model of linguistic and error analysis presented in Table 3.

Table 3: KIRCHHOFF ET AL. error categories

level 1	level 2
missing words	content words function words
extra words	content words function words
word order	local range long range
morphology	verbal nominal
word sense error	
punctuation	
spelling	
capitalization	
untranslated	medical term proper term other
pragmatics	
diacritics	
other	

As can be seen from the above table, the model contains two levels of error categorization, and the differences in translations are indicated by a detailed taxonomy. The quality of the translation itself is assessed by ranking, after which there is a joint analysis applied to find relationships between them (Kirchhoff et al. 2012 in Popović 2018: 6).

For the purpose of this study, the quality assessment was conducted by two independent professional translators. Each sentence of the machine translation was assigned a quality rating from 1 = bad to 5 = perfect, thus determining the subjective success of the translation, the results of which can be seen in tables 4 and 5.

Table 4: Quality assessment of machine translations of the first text

Sentence no.	**Quality Assessment for Google Translate**	**Reason**	**Quality Assessment for DeepL**	**Reason**
1.	4,7	the German perfect participle is inserted *genannt* (better without)	4,5	the word *folgenden* is written with a small letter instead of a capital letter; the perfect participle *genannt* (better without) is inserted
2.	4,5	the verb *markieren* (better *darstellen*) was used; the noun *die Etappe* (better *die Stufe*) is used	4,7	the noun *die Etappe* (better *die Stufe*) is used
3.	4,5	the adjective *nachstehend* (better *im Folgendem*) was used; the participle perfect *genannt* (better without) is inserted	5	
4.	5		5	
5.	4,7	the verb *ersetzen* was used (better *an die Stelle treten*)	5	
	Final assessment grade: 4,7		**Final assessment grade:** 4,8	

Table 5: Quality assessment of machine translations of the second text

Sentence no.	**Quality Assessment for Google Translate**	**Reason**	**Quality Assessment for DeepL**	**Reason**
1.	4,5	the passive construction *befunden werden* is at the end of the sentence (better at the beginning); the phrase *zum Zeitpunkt* (better *zur Zeit*) was used	4,7	the phrase *zum Zeitpunkt* (better *zur Zeit*) was used
2.	5		4,7	the phrase *zum Zeitpunkt* (better *zur Zeit*) was used
3.	4,7	the verb *ist anwendbar* is used (better *ist anzuwenden* or *zu verhängen*)	5	
4.	4,5	the noun *das Verfahren* (more precisely *die Verurteilung*) was used; the phrase *zum Zeitpunkt* (better *zur Zeit*) was used; the verb *berühren* (better *ausschließen*) was used	4,7	the verb *berühren* (better *ausschließen*) was used
5.	5		5	
	Final assessment grade: 4,7		**Final assessment grade:** 4,8	

By analyzing the two original texts and their machine translations, it can be concluded that their overall success rate is very good. The MTs contain almost no syntactic and grammatical errors and the subjective quality assessment gave 4.7 to Google Translate and 4.8 to DeepL.

However, despite the overall good quality assessment, the detailed analysis based on the criteria from Table 3 showed differences and deviations, in particular when comparing machine translated text to the human translation (Table 6):

Table 6: Analysis of MT errors of the first text according to the categories of Kirchhoff et al.

level 1	level 2: Google Translate difference compared to HT	level 2: DeepL difference compared to HT
missing words		
extra words	**function word:** past participle *genannt* was inserted after the word *„Union“* **function word:** past participle *genannt* was inserted after the word *„die Verträge“* **function word:** demonstrative pronoun *Diese* was inserted before the word *beiden*	**function word:** past participle *genannt* was inserted after the word *„Union“* **function word:** demonstrative pronoun *Diese* was inserted before the word *beiden*
word order		
morphology	**verbal:** infinitive+zu was used: *zu erreichen*	
word sense error		
punctuation		
spelling		
capitalization		*folgenden* wasn't capitalized
untranslated		
pragmatics		
diacritics		
other		

Table 7: Analysis of MT errors of the second text according to the categories of Kirchhoff et al.

level 1	level 2: Google Translate difference compared to HT	level 2: DeepL difference compared to HT
missing words		
extra words		
word order	**long range:** the passive construction *befunden werden* is at the end of the sentence **long range:** the passive construction *verhängt werden* isn't at the end of the sentence **long range:** the word *allgemeinen* was inserted after the word *anerkannten*	**long range:** the passive construction *verhängt werden* isn't at the end of the sentence **long range:** the word *allgemeinen* was inserted after the word *anerkannten*
morphology	**verbal:** infinitive+zu wasn't used: *ist anwendbar*	
word sense error		
punctuation		
spelling		
capitalization		
untranslated		
pragmatics		
diacritics		
other		

As can be seen from the analysis of the sample texts, when compared to human translation, Google Translate made slightly more errors than DeepL. The most frequent errors of machine translations are related to the use of additional words, which are probably the result of the statistical processing of the corpus on which the MT is based. Also, the word order in a German sentence differs from that in human translators. We can thus conclude that both machine translators have reached the admirable level of the translation quality at the semantic level, however, additional improvements are needed at the morphological, syntactic or pragmatic level. If we furthermore analyze the types of mistakes made by machine translators, we can conclude that DeepL's machine translations are somewhat closer to the human ones. However, it should also be taken into account that

human translations are not necessarily perfect and that in some cases there are more suitable solutions for the translation of certain expressions or phrases.

4. Conclusion

On the basis of the presented theoretical framework and the conducted case study of machine translation of a legal text from English to German language, we can conclude that the assessment and the topic itself is extremely complex and definitely requires further, more extensive research. Since in the course of the present paper only of a portion of machine translated legal texts had been analyzed, the conclusions have to be taken with an amount of precaution and considered merely as guidelines into further studies. Although both Google Translate and DeepL scored significantly high in the present study, one of the biggest problems of MT is the quality of the final product, that is, the need for post-editing of translations, as could be concluded from our error analyses. This could be improved by developing scales for the analysis of automated and human translations, which should also take into account their post-editing. Concerning the quality of MT, they are still inferior to the quality achieved by professional translators (Rivera-Trigueros 2022). Our study showed that in translating legal texts from English to German MT's biggest advantage is the speed of translation and that MT as an available translation tool can be of great help to professional translators during the translation process.

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Evaluacija strojnih prijevoda s engleskoga na njemački jezik – analiza slučaja

Sažetak

Napretkom tehnologije i alata za strojno prevođenje, jača i uvjerenje da su alati i aplikacije za strojno prevođenje uspješni u savladavanju suvremenih izazova te da, za razliku od početka ovog stoljeća, sada mogu uspješno prevoditi tekstove sa svjetskih jezika (v. Birch, Osborne, Koehn 2007, Wilkis 2008). Tvorci DeepL-a, primjerice, tvrde da njihova tehnologija obuhvaća i najmanje jezične nijanse te da su njihovi prijevodi u prosjeku tri puta točniji od konkurencije, dok su tvorci Google Translatora također uvjereni da njihovi prijevodi dostižu ljudske prijevode na vrlo visokoj razini. U ovome će se radu stoga predstaviti pilot istraživanje s ciljem testiranja navedenih tvrdnji dvaju vodećih svjetskih strojnih prevoditelja te analza njihove uspješnosti u prevođenju pravnih tekstova s engleskog na njemački jezik. Korpus za istraživanje sastoji se od dva dijela pravnih tekstova iz korpusa pravnih tekstova Europske unije EUR-LEX na engleskom jeziku, koje su profesionalni prevoditelji već preveli na njemački. U ovom radu su prikazani rezultati analize uspješnosti prijevoda na temelju kriterija Kirchhoffa i sur. (2012) i njihove usporedbe s ljudskim prijevodima. Cilj je ovoga rada utvrditi prednosti i nedostatke strojnog prevođenja te mogućnosti njihove primjene u procesu prevođenja pravnih tekstova s engleskog na njemački jezik.

Ključne riječi: DeepL, Google Translate, strojno prevođenje, ocjenjivanje

MULTILINGUALISM AND THE "ENGLISHIZATION" (EUROPEIZATION) OF CROATIAN LEGAL TERMINOLOGY IN THE EU – A DIACHRONIC APPROACH[1]

Ljubica KORDIĆ

Abstract

Notificirati Europski parlament, aplicirati za europske projekte, klasificirani dokument – examples like these illustrate a linguistic process that can be determined as "Englishization" of the Croatian legal language, in which some terms have entirely changed their original meanings, some new terms have been coined, and new "European" legal terms have been introduced. The latter phenomenon is observable in the English legal language as well. That is why the process could be qualified as the "Europeization" of the EU-law terminology. These linguistic phenomena can be observed as specific features of the legal language of the Republic of Croatia after it became a full member of the European Union. By analyzing this phenomenon diachronically, the author strives to show that political changes influence not only the changes in legislation, but also shape the corresponding legal terminology. In the introductory part, a historical development of Croatian legal terminology is presented with specific reference to the official translation of German legal terms into the Croatian in 1850 when Croatia was part of Austro-Hungarian Monarchy. In the main part, the author discusses the translation of the Acquis of the Republic of Croatia and the Acquis Communautaire into the Croatian language in the period of Croatia's accession to the EU. Although Croatian legal history is founded on German-speaking legal traditions, Croatian laws have been translated into the English language, and more hundred thousand pages of the Acquis Communautaire and EU laws from the English language into Croatian. This has provoked some problems in the translation process, which especially refers to the terms for the concepts specific to the Continental Civil Law system not existing in the Anglo-American legal system. As consequences of this approach, and particularly of the standardization and harmonization of all multilingual versions of EU laws, the internationalization of English legal terminology on one hand, and the "Englishization" of some EU Law terms on the other hand, have been developed. In the conclusion, the author argues that many misunderstandings would have been avoided if EU primary

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and secondary laws had been translated from German instead of from English into Croatian and vice versa. This statement is corroborated by numerous newly coined words, internationalisms, and terms that have changed their original meaning in the Croatian and English languages of EU Law.

Keywords: Multilingualism, legal terms, translation, Europeization, Englishization, EU law

1. Introduction: Scope, Goal, and Methodology

The expansion of information technologies, public media, and social networks in private and professional life has changed the paradigm of modern communication. It is dominated by the English language, which has influenced lexical changes in all aspects of public communication. English borrowings like *skenirati, uploadati, updatati*, *lajkati, hejtati, ghoustati* have become common terms in everyday communication of young people in Croatia. Not only single verbs, but also phrases and idioms that represent a cultural feature of English-speaking countries, have become a part of the everyday speaking style of young people in Croatia and worldwide: *win-win situations*, *comfort zone*, *beauty sleep*, *by the way, no way*, etc. Even the abbreviations like *O.M.G.* or *R.I.P.* occur every day on social networks of different kinds. No wonder that this phenomenon, often determined as the *Englishization* of public communication worldwide, has spread its influence to technical languages as well. The language of the law makes no exception.

The aim of the paper is to show by a diachronic approach that political changes at the international level influence the changes in legal systems, and that those changes are inevitably accompanied by the changed legislation and its corresponding legal terminology. The author also strives to prove that in the process of European integration, the specific multilingual translation policy of the EU Commission's DGT services has brought about lexical changes in the languages of the European Union. Based on a number of examples and on the secondary literature, the author explores Englishization and Europeization as two characteristic phenomena that can be observed in shaping the EU Law terminology.

A combination of synchronic and diachronic approaches is used to explore these phenomena in the Croatian language of EU law, supported by the method of analysis of relevant examples. The analysis of English legal terms is founded on examples excerpted from a number of EU legal texts as well as on the examples and linguistic observations by Gardner (Gardner 2016).

In the introduction, after giving a short theoretical background to the topic, the historical development of Croatian legal terminology is presented with specific ref-

erence to the official translation of German legal terms into the Croatian language in 1850, when Croatia was a part of multiethnic and multilingual Austro-Hungarian Monarchy. In that context, the author refers to the contemporary translation process in the multilingual community of the European Union. In the main part, the author analyses the examples of loanwords from the English language that have become a part of the Croatian legal terminology in recent years, with specific reference to newly coined legal terms that have been introduced and the terms of legal character that have changed their meaning with regard to the English standard language. Some legal terms of French origin and some internationalisms used in the EU legislation are analyzed to prove that the English legal language has also experienced lexical and semantic influences of other languages of EU member states during the multilingual translation process in EU institutions. As some impacts of the French and to some extent of the German legalese can be observed in English legal terminology, one can claim that in the translation process of primary and secondary EU legislation, some new EU-law terms have been created and some existing legal terms have changed their original meaning. This phenomenon can be explained as a direct consequence of the terminological standardization and harmonization process in the EU. The author introduces the term *Europeization of legal terminology* to describe this phenomenon typical of the legal language of the EU.

2. Theoretical Background

Before analyzing lexical and semantic changes in the Croatian language of the law, basic linguistic terms should be explained that will be used in this paper. The commonly used term "loanwords" refers to words or terms borrowed from one language into the other in the same or adapted lexical form. The terms "internationalism", "Englishization", and "Europeization" should be clearly determined as well, as they will be often used in this paper.

Internationalisms denote "lexical items that are formally and semantically similar across unrelated languages, mainly of neo-classical origin. Internationalisms are characteristically unmarked for a specific national provenance, like the pair En: electricity / It: elettricità." (Pulcini 2019: 121). Sometimes it is difficult to differentiate between internationalisms and borrowings from English, Greek, Latin, or French, and the international character of a lexical item can be established only on etymological and historical grounds. In recent secondary literature, we can find several definitions of the term Englishization. From the economic point of view, the term denotes "making use of the English language as *lingua franca* and converting materials in local language to English in an international corporation

or organization"[2]. The second usage of the term is in the field of Higher Education: Englishization denotes "the spread of English as a medium of instruction in institutions of higher education in non-Anglophone countries" (Daryai-Hansen and Kirilova 2019: 43). In this context, some authors[3] refer to Englishization as a key driver to achieve a high rank in university rankings. The expanding use of English as a medium of University rankings in pursuit of "global excellence" represents one of altogether four essential assessment areas: research and publications, learning environment, the reputation of graduates, and internationalization. All of them, except for 'learning environment', are language-dependent criteria. The global process of Englishization is closely correlated with 'research and publication,' as the most heavily-weighted criterion in higher education assessment. The most highly ranked journals with the highest impact factor are mostly published in Anglophone countries and many esteemed professional journals published in other countries mostly use English as a medium of publication (Piller and Cho 2013).

In this paper, the Englishization of the Croatian language (and of other European languages) of law is understood as making use of English legal terms as a constituent part of EU Law terminology. It is in close correlation with the harmonization of EU legislation and the process of drafting primary and secondary EU laws and their simultaneous translation into all official languages of EU member states. Accordingly, the phrase *Europeization of legal terminology*, which is introduced as a neologism by the author of this paper, denotes using legal borrowings or adaptations from other European languages in the languages of EU-member states as a phenomenon typical of the EU-law terminology.

3. Historical Background: Shaping the legal terminology of the Austro-Hungarian Empire

The Croatian legal system is historically rooted in the legal system of the Austrian Empire, later the Austro-Hungarian Empire. Accordingly, the Croatian legal language is connected to the German legal language. In 1850, as the quadri-lingual dictionary "Juridisch-politische Terminologie für die slawischen Sprachen Österreichs" (Juridical-political terminology for the Slavic languages of Austria) was published in Vienna, legal terms and phrases were translated from German

[2] https://www.igi-global.com/dictionary/multilingualism-in-international-business/66386

[3] See: Piller, I., & Cho, J. (2013), Neoliberalism as language policy Language in Society, 42 (01), 23-44; and Piller, I.: Internationalization and Englishization in Higher Education, *Language on the Move*, https://www.languageonthemove.com/internationalization-and-englishization-in-higher-education/ 13.4.2023.

into Croatian. Many new legal terms have been coined in line with the Purist aspirations, which happened partly under the influence of national movements that were spreading all over Europe at that time. A number of technical terms were also derived from the German or Latin language, while many terms were literally translated from German or Latin into Croatian. Many Latin terms and legal quotations have been retained in all four languages. Interesting examples are literal translations of metaphorical phrases like *Klage erheben – podići tužbu /indict/, Einspruch einlegen – uložiti prigovor /lodge an appeal/, in Kraft treten – stupiti na snagu /enter into force/, zur Last legen – stavljati na teret /charge with*/. Examples of the literal translation of German legal terms into Croatian are numerous: *očevid* (from *Augenschein – police investigation of the crime scene*), *tužitelj* (*Kläger*), *tuženik* (*der Beklagte*), *okrivljenik* (*der Beschuldigte*), etc. In some cases, original Croatian legal terms were coined, such as the term *vještak* for the term *Sachverständiger – court expert.*

The process of the formation of the legal terminology of the Austro-Hungarian Empire can be illustrated by the example *of Gespan,* which was at that time a newly coined term for a local self-government unit. Simultaneously, a newly coined Croatian equivalent was a phonetically similar neologism župan*,* and the Hungarian equivalent was a newly coined Hungarian term *ispán* (*the head of the county*).

These historical connections imply that Croatian and Austrian/German legal systems are founded on the same legal concepts that are expressed in the German language and mostly literally translated into Croatian by using semantically identical terms. The English language of law is constituted of legal terms that cover legal concepts of the Common Law System, which differs in many respects from the Continental Legal System. The logical consequence of these relations is that the English language does not dispose of the terms for all legal concepts of the Continental Civil Law system and vice versa. Due to the fact, that translation companies and individuals were engaged in the translation of Croatian legislation (the legal Acquis of the Republic of Croatia) from English and not from the German language[4], some mistranslations and terminological errors occurred that

[4] The Government decided that all legal regulations of the Republic of Croatia had to be translated into English as one of the official languages of the EU (…), with the purpose of establishing the harmonization with the EU legislation. / "(…) da se pravni propisi Republike Hrvatske prevedu na engleski jezik kao jedan od službenih jezika Europske unije (…) s glavnim ciljem da se ustanovi usklađenost s propisima Europske unije. Priručnik za prevođenje pravnih propisa Republike hrvatske na engleski jezik."/ Manual for Translation of the Legislation of the Republic of Croatia into the English Language; Priručnik za prevođenje pravnih propisa Republike Hrvatske na Engleski jezik, Zagreb, MVEP, 2006.

have become a part of public and professional communication after Croatia has become a full member of the European Union. Consequently, some "false friends" in the Croatian EU-law terminology occurred. *Secret documents* /*tajni dokumenti*/ became *klasificirani dokumenti* /from: *classified documents/, important fact* became *materijalna* činjenica /from: *material fact/,* and *pravni posao* became *pravna transakcija* under the influence of the English term *legal transaction* (the common usage of the term transaction in the Croatian language is in the meaning of bank transaction/ financial transaction).

Similarly, the term *to deliver law* was translated by the term *isporučiti pravo*, which is inconsistent with the real meaning of the verb. Accordingly, in creating a new supranational legal system, English terms have been borrowed to cover new legal concepts of the EU, which have been taken directly or adapted into Croatian: *rezident, apliciriati za Europske fondove, implementacija, harmonizacija, transparentnost, alokacija, direktiva*.

The terms for legal concepts that are not identical to those in the English/ American Common Law system represent another translation issue. Such terms are *prekršajno pravo, izlučni vjerovnik, razlučni vjerovnik*. On the other hand, there are some English and American concepts that do not exist in our legal system and their corresponding legal terms do not have their Croatian equivalents, e.g. *tort, Conflict of Laws, precedent*, etc. In the beginnings of the translation process of the Acquis Communautaire, the official Manual for translators of 2006 suggested that in those cases, Croatian terms can be translated literally if their meaning is clear or obvious from the context, and if the English term has no other technical meaning in Anglo-American law[5]. This implies that linguistic manipulation and terminological changes have been predicted before the translation process started and have become a part of the process.

Taking into account the historical background and the legal and linguistic differences between the Croatian and the English languages of the law, the logical conclusion is that mistranslation and problems in searching for adequate corresponding terms would have been avoided if most EU law legislation had been translated from the German language into Croatian[6].

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5 The Introduction to Priručnik za prevođenje pravnih propisa Republike hrvatske na engleski jezik (the Manual for Translation of the Legislation of the Republic of Croatia into the English Language), 2006, written by Susan Šarčević, p. 12.

6 Some Croatian lawyers argued for this solution, one of them being Professor Jakša Barbić from the Faculty of Law, University of Zagreb, who pointed this out in his visiting lecture at the Faculty of Law Osijek back in 2013.

4. "Englishization" of professional communication in EU Law

The language of the law is not exempted from the growing trend of the Englishization of professional languages. Anglicisms and internationalisms have become an inalienable part of modern Croatian legal terminology, especially after the Republic of Croatia has become a member of the European Union. In recent years, we can witness linguistic changes in public and professional communication on a daily basis. The terms like *notificirati Europski parlament*, *aplicirati za europske projekte*, *klasificirani dokument, alokacija sredstava, implementacija, harmonizacija, transparentnost, alokacija, direktiva* are legal loanwords from English that are often used in Croatian media and in political, legal, and economic professional fields. The above-listed terms and phrases are borrowed in their original lexical form from English, but in the Croatian language, they are used with a new "European" meaning, different from their usual meaning in the Croatian language. For example, the loanword *aplicirati* is used only in the meaning "to implement" (*primijeniti*), while in modern political and legal communication, it is used in the meaning of *apply for* ("request for something in a written form"): *apply for EU projects / EU funds - prijaviti se za EU projekte/ sredstva EU-a*[7]. Examples like these lead to the further obscurity of Croatian legal language and difficulties in its understanding by lay people. This can be well illustrated by the term *klasificirani dokument*, in which the loanword *klasificiran* is used in the meaning of *secret* document, although *klasificiran* in the Croatian language means *grouped in classes*. On Croatian national TV, we can often witness a wrong usage of English professional terms that may sound funny in cases when the term is used in a meaning different from the usual one in the Croatian language. Such examples represent "false friends" of the Croatian terms of the same lexical form. An interesting example is the phrase *preparirani svjedok* used in the meaning of *prepared witness,* although the adjective *preparirani* in the Croatian standard language means *stuffed*. These examples prove not only that the English language is a *lingua franca* of professional communication but also confirm the presence of Englishization in the public, private, and professional spheres.

Leaning on the previous analysis, it is not an exaggeration to claim that Englishization is more intensly present in the Croatian language of law after the Republic of Croatia has become a full member of the EU. Some terms borrowed from the English language have completely changed their original meanings, some new terms of international origin have been coined, and some new "European" legal

7 These two meanings are explained in Meriam Webster's Collegiate Dictionary in the following way: 1a: to put to use esp. for some practical purpose (…); 2: to make an appeal or request esp. in the form of a written application / ~ for a job/, p. 57.

terms introduced. This can be explained by the process of harmonization of EU laws in all member states and standardization of the EU-law terminology in the translation process in DGT of the European Commission. This complex translation activity is by some linguists denoted as multilingual drafting rather than translation because all legislation is at firs drafted in English, French, and German languages, and subsequently translated from those languages into other EU languages (Šarčević 2000: 271). Cosmai uses the term "co-drafting in all EU languages" for the same procedure (Cosmai 2014: 42). The statistics on the translation activity of the Commission of the year 2012 indicate that 73% of its documents were drafted in English, 12% in French, and 3% in German. As for the target languages in the translation process in all EU institutions, most documents are translated into English (14.92%), French (8.25%), and German (6.47%), while the remaining languages range from 3.37% to 4.4% (Cosmai 2014: 100). No wonder that the English language has influenced EU terminology to the highest degree, followed by French, and certain influence of the German language.

According to instructions given to Croatian translators[8] before the official translation of the Croatian legal Acquis for the EU, the consistency of legal terminology is perceived as an indispensable condition of legal translation. It was one of the means to achieve legal certainty, i.e. all laws should have the same meaning, the same legal power, and the same legal effects in all the member states. It was explained in the Manual for Translators that each term was part of the Croatian legal system and that "the choice of English equivalents is often not free. If an English equivalent has already been determined for a Croatian concept or term, it should be used in all translations according to the rule: one concept means one term if possible"[9]. Deliberate interventions into the legal terminology of the EU are confirmed by the following instruction:

> For the sake of consistency, the translator is obliged to use the official nomenclature even if he does not agree with it. When there is no official nomenclature or proposal, neutral English terms are preferred. English legal terms of a technical nature should certainly be avoided so as not to mislead the foreign reader that these are the same concepts as in Anglo-American law. It must always be clear to the reader that English terms in translation should be interpreted based on the terms of the Croatian legal system. Generally, Croatian terms can be translated literally, if their meaning is clear or obvious from the context and if the English term has no other technical meaning in Anglo-American law. In practice, a misunderstanding often arises when the trans-

8 Priručnik za prevođenje pravnih propisa RH na engleski jezik, Zagreb: MVEP, 2006.

9 From the Foreword to Priručnik za prevođenje pravnih propisa RH na engleski jezik by prof. Susan Šarčević, Zagreb: MVEP, 2006, p. 12.

> lator translates literally without knowing that there is a technical meaning in English. (Šarčević 2006: 12)

In the following part of this paper, the author strives to prove that these mutually accepted translation principles represent the main origin of changes in the legal terminology of the EU-member states and that those changes are observable in modern English legal terminology as well. This phenomenon of using legal borrowings or adaptations from other European languages in the languages of EU-member states is qualified as a phenomenon typical of the EU-law terminology and denoted here by a neologism "Europeization" of legal terminology.

5. "Europeization" of English legal terms

Due to the specific translation process of the standardization of legal concepts and terms across the EU, newly coined words, or loanwords with different meanings from their essential meaning in the mother tongue are not an exclusive feature of the Croatian or the German language of EU law. They are intensively present in the English language of the EU law as well. Several British linguists have criticized the "European" use of English terms in EU texts as inconsistent with their generally accepted meanings. One of them is Jeremy Gardner, who criticized the wrong usage of some English words and especially the manipulation of English terms contrary to the rules of English grammar. He created a list of 128 misused terms of the English language in the EU institutions (Gardner 2016). Gardner strongly rejects the argument by some linguists that those terms should be used 'even if they are wrong' because they have become common in professional communication within EU institutions. Gardner argues that it is "remarkably easy to replace unclear and misleading terms with something more sensible and meaningful" (Gardner 2016: 2). To support Gardner's arguments, we are quoting here some of the misused terms from his list:

action, actor, adequate, agenda, agent,

cabinet, citizen, coherence, competence, conference, consider as, contradictory procedure, deepen, define, definition, dispose (of),

elaborate, ensure (to), enterprise, establish, eventual/ eventually, expertise, externalise

foresee, formulate, frame, homogenise, important, informatics, intervention, introduce, justify/justification, legislator, modify/modification, note, notify to, operator, orientations, perspective, planification, project, reasonability, responsible, retain,

service, so-called, suppress/suppression, third country, transmit, transpose, treatment, visa.

Gardner claims that some of these words are unknown to native speakers of English, like *coherent*, *coherence*, or *to precise*. We can see that some of the above listed words are of French origin (*actor, action, agent, service, transpose, treatment*), some are internationalisms (*define, dispose*, *formulate, homogenise, expertise, informatics*). Some can be found in the German language, e.g. *foresee – vorsehen; in the frame – im Rahmen; undertaking – Unternehmen* (these examples are commonly used terms in German), while some other terms may remind Croatian readers of political rhetoric from the times when Croatia was a part of the communist Yugoslavia: *to deepen, perspective, planification, third countries*).[10] Gardner compared the meaning of every term from his list with that of its "traditional" meaning as described in the Oxford Dictionary of the English Language. For example, the term 'actor' in EU usage denotes people who perform actions, or 'the people and/or organizations involved in doing something'. He notes that this term can be found in the same meaning in US English, which can be explained by the fact that in the translation process in DGT, translators or the linguists who prepared the glossaries for the purpose of the EU translation process probably were experts in American English rather than in British English (Gardner 2016: 9).

Etymological analysis of the listed terms indicates that many of them are derived from Latin or French and can be regarded as internationalisms in most EU languages. Internationalisms are 'words that coincide in their external form (taking into account regular correspondences of sounds with graphic units), fully or partially correspond in meaning, express concepts of international significance, and coexist in various languages, including those that are unrelated or distantly related'[11]. In some cases, the terms do not cover the same semantic field in the English language and in the EU terminology, like the adjective *adequate*: „*Adequate* is frequently used with the meaning of 'appropriate'. However, its actual meaning is closer to 'satisfactory' or sometimes even 'barely satisfactory'. An 'adequate solution' to a problem may not be the best one, but it will do. An 'appropriate solution' is one that is fitting. Finally, in English, we say that something is 'adequate for' something else, not 'adequate to' (Gardner 2016: 11). Gardner also mentions the changed use of *shall*. In English legal tradition, the normative *shall* was used to denote normativity, obligation, and prohibition (*shall not*). That was also changed

[10] We shall not conduct any deeper etymological analysis to check which language these terms initially stem from, but most of those terms can be qualified as internationalisms as they can be understood in many languages.

[11] The Free Dictionary. Internationalisms. https://bit.ly/2vjxIKl, accessed on 19. April 2023, 20:39

in the EU English, which corroborates the claim about the Europeization of Legal English. The phenomenon of changes in the English language in EU institutions is commonly denoted today as Euro-English. Deliberate interventions in the traditional use of the verb *shall* are confirmed in the Manual for Translation of the Legislation of the Republic of Croatia into the English Language, issued by the Ministry of Foreign and European Affairs:

> While before in such provisions in the English language mainly *shall* was used, today they are more often expressed in the present tense. For example, provisions on the creation of a subject or body in older regulations were expressed with "There shall be..." and today with "There is hereby established..." (e.g. "There is hereby established a corporation." instead of "There shall be a corporation."). However, the translator should be careful. For example, "Nema smrtne kazne" is translated as "There shall be no death penalty" because it is a prohibition."[12]

6. Discussion and concluding remarks

As stated in the introduction to this paper, English loanwords or the adaptations of English terms have been used in the Croatian language of public communication more intensely than ever before. They are present in the language of law as well. Some English loanwords are adapted to the Croatian language, like *direktiva* (*directive*), *harmonizacija (harmonization), transparentnost (transparency), implementacija, senzibiliziranje*, etc. In some cases, "false friends" to existing Croatian terms have been created by introducing the legal terms of EU Law with different meanings from those traditionally used in the Croatian language: *klasificirani document*, *preparirani svjedok*, *materijalna istina, materijalna* činjenica. Accordingly, the collocation *notificirati parlament*, which was literally translated from *to notify the Parliament*, is a neologism, as the word *notificirati* did not exist in the Croatian language before 2013. Examples like these confirm the thesis about the Englishization of Croatian Legal terminology. This hypothesis was examined (and confirmed) by analyzing the examples from Croatian and English legal terminology. Englishization is accompanied by another phenomenon determined here as the *Europeization of EU terminology*. Both phenomena have developed simultaneously as a direct consequence of a specific approach to multilingual translation in EU institutions.

In the complex machinery of multilingual translation in the DGT, clear criteria and the rules of conduct for translators were needed to ensure the legal certainty of all linguistic versions of EU legislation. This included a strict following of

[12] From the Introduction to the Manual.

fundamental principles that are not present in the translation of languages for specific purposes other than law: the principles of consistency, standardization, and harmonization, their main purpose being legal certainty and linguistic equality of all translated versions. Some translators might be constrained by the claim expressed in *The Manual for Croatian Translators* that in translating Continental legal terms into English, English "technical legal terms" should be avoided so as not to mislead the foreign reader that these concepts are identical with those in Anglo-American Law[13]. Creating new legal terms, some of which do not exist in the English language, represents an argument in support of the claim that there are two linguistic phenomena typical of the contemporary language of the EU law – Englishization and the Europeization of legal terminology. The existence of the latter has been corroborated by some examples from the Croatian language and by the etymological analysis of wrongly used English words conducted by Gardner. 128 examples of wrongly used English terms in EU legislation confirm that the lexical influence of English language in creating legal terminology of the European Union Law is not a one-way process. These linguistic changes can be observed as a consenquence of fundamental principles of translation procedure in EU institutions: standardization, terminological consistency, and harmonization, which have to be strictly obeyed during that procedure to achieve legal certainty of all translated versions. Problems in the translation of some legal terms, the occurrence of "false friends", and misunderstandings arising from the changed meaning of some English terms represent linguistic phenomena typical of the language(s) of EU-Law. They confirm our hypothesis that many misunderstandings, ambiguities, and mistranslations could have been avoided if the legal Acquis of the Republic of Croatia had been translated into German instead of the English language, and if the Acquis Communautaire had been translated from its German or French versions into the Croatian language.

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Višejezičnost i „anglizacija" (europeizacija) hrvatskoga pravnog nazivlja u Europskoj uniji – dijakronijski pristup

Sažetak

Notificirati Europski parlament, aplicirati za europske projekte, klasificirani dokument – primjeri su koji ilustriraju jezični proces koji možemo nazvati „anglizacija" hrvatskoga pravnog jezika, u kojemu su neki pojmovi potpuno promijenili svoje izvorno značenja, nastali neki novi pojmovi, te su uvedeni novi "europski" pravni pojmovi. Potonji fenomen vidljiv je i u engleskom i njemačkom jeziku pravne struke. Stoga bi se taj proces mogao nazvati "europeizacijom" terminologije prava EU-a. Ove se jezične pojave u pravnom jeziku uočavaju nakon što je Republika Hrvatska postala punopravnom članicom Europske unije. Ovaj rad ima za cilj dijakronijski analizirati ove jezične fenomene i pokazati da političke promjene utječu ne samo na promjene u zakonodavstvu, već i na oblikovanje pripadajuće pravne terminologije. U uvodnom dijelu prikazan je povijesni razvoj hrvatskog pravnog nazivlja s posebnim osvrtom na službeni prijevod njemačkog pravnog nazivlja na hrvatski jezik 1850. godine kada je Hrvatska bila dijelom Austro-Ugarske Monarhije. U glavnom dijelu autor se fokusira na prevođenje pravne stečevine Republike Hrvatske kao i pravne stečevine Europske unije na hrvatski jezik u razdoblju pristupanja Hrvatske EU. Iako je hrvatska pravna povijest utemeljena na pravnoj tradiciji njemačkog govornog područja, hrvatski zakoni prevedeni su na engleski jezik, a više stotina tisuća stranica pravne stečevine Europske unije s engleskog na hrvatski jezik. To je izazvalo određene probleme u procesu prevođenja, što se posebno odnosi na izraze za pravne koncepte kontinentalnog građanskog prava koji ne postoje u anglo-američkom pravnom sustavu. Kao posljedica ovakvog pristupa, a posebice standardizacije i harmonizacije

višejezičnih verzija zakona EU-a, razvila se internacionalizacija engleske pravne terminologije s jedne strane i „anglizacija" nekih termina iz prava EU-a s druge strane. Temeljem provedenog istraživanja, u zaključku autor tvrdi da bi se mnogi problemi i nesporazumi izbjegli da je pravna stečevina EU-a prevođena s njemačkoga umjesto s engleskoga na hrvatski jezik i obrnuto, što potvrđuju brojni neologizmi, internacionalizmi i izrazi koji su izgubili svoje izvorno značenje.

Ključne riječi: višejezičnost, pravni pojmovi, prevođenje, europeizacija, anglizacija, pravo EU

TEACHING LEGALESE AND OTHER LANGUAGES FOR SPECIFIC PURPOSES

WHAT DO LAWYER LINGUISTS NEED TO KNOW?[1]

Željko RIŠNER

Abstract

The paper analyzes some of the problems in the training of lawyer linguists as specialized translators, whose skills are becoming increasingly important, especially in the EU member states, whose cooperation takes place in the 24 official languages of the Union. With its language policy, the EU strives to preserve the guaranteed rights of all member states to use their own languages, but at the same time, it takes care of rationalization through multilingualism and various projects aimed at better and faster communication within the Union. In this regard, the paper presents a part of the lifelong education programme for lawyers and linguists the goal of which is, on the one hand, to improve the linguistic competence of lawyers, and on the other hand, to acquaint linguists with the specific characteristics of the legal profession that make the translating of legal texts extremely demanding. The information and research results from contemporary professional literature dealing with the problems lawyers and linguists are facing have been used in designing various courses that tackle the problems of legal translation. This paper presents the courses dealing with the translation of legal terminology specific to the EU from English to Croatian, as well as the databases and various tools that make the translation easier and provide for the uniformity of translations.

Keywords: EU language policy, lifelong learning, lawyer linguists, translation, translation tools

1. Introduction

Some critics would say that lawyer-linguists are merely a hair-splitting and trendy product of the constantly diversifying labour market. This statement may even be justified by the fact that, essentially, lawyer-linguists are professionals in the field of law with good command of at least one language other than their

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mother tongue who have combined their skills to improve their chances of getting employment.

The rise of that profession has indeed been conditioned by the labour market but not as a whimsical product of someone's idle mind but as a pure necessity in the world marked by various processes that sometimes run smoothly and harmoniously, but sometimes push the world in opposite directions. On the one hand, there is the omnipresent globalization and on the other hand, there is the requirement to protect the diversity throughout the world. Everything around us is being regulated and at the same time, we make great efforts to protect the liberties and cut the boundaries. All that takes place in a world that is getting smaller and more accessible but at the same time in a world that is growing apart because of ideological, religious, or economic differences. All these processes of globalization, internationalization, localization, translation (GILT), integration, specialisation, informatisation, digitalisation and competition on the global market are accompanied by an enormous quantity of documents, most of which had to be translated into a multitude of language combinations[2]. What used to be a relatively clear task for translators[3] gradually became extremely complex and legally demanding so a good understanding of the law became indispensable. To make things even worse, the past three decades have been marked by the decline of some federal states and alliances, the creation of new states, the expansion of the EU, wars and terrorist attacks, pandemics, economic and political crises, and global climate changes. All this had a strong impact on countries around the globe who needed to adjust their legislation to the new challenges and even more importantly, to make their legislation understandable to their own citizens and to people around the world. It is no surprise that the first attempts to combine legal and linguistic skills were already made in the 1960s in countries such as Canada, which has a dual legal system combining the Common Law system and French law in a part of its territory. This fact resulted in *iurilinguists* - professionals combining language skills and knowledge of the law. Similar experts are required in all democratic multilingual societies and their main task is to provide legal translations into all official languages of the respective country.

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2 For example, in the EU with 24 official languages, there are 552 possible language pairs. Even the numerous and highly skilled DGT personnel of EU institutions, can hardly deal with this daunting task; therefore some language pairs are rarely used. The same applies to the minority languages recognised in the EU member states.

3 Translations of legal texts have a very long tradition; in fact, some of the first translated texts were legal documents such as the bilingual Treaty of Kadesh from 13th century BC written in ancient Egyptian and Hittite. Since those ancient times until today, translation of legal texts has gone a long way from strict literal translation over near idiomatic translation to legal co-drafting and drafting today.

With the creation of the EU, and especially following its rapid expansion at the beginning of this century, legal translation became even more important and demanding. The translators were no longer expected simply to translate the texts of fundamental EU documents – they had to produce new "originals" in different languages with the same meaning and the same legal effect in all member countries. With only four official languages at the birth of the EU, this may not have been too difficult, but as the number of member states was growing translation problems became more than obvious. The fact that some new member states had completely different concepts of law and very different legal and historical backgrounds was not helpful either. At this point, translators started to specialize in translations in the field of law, and lawyer-linguists – the EU version of *iurilinguists* – are one of the products of this specialization.

This paper is the result of nearly 15 years of practical work on the training of graduate lawyers with the required language skills and with the potential to become lawyer-linguists. This training is now a part of the lifelong learning programme for lawyers at the Faculty of Law Osijek. With some changes and alternations, it is also a part of the Jean Monnet LEULEX Project (of Language and EU Law Excellence) financed by the European Union. Following the EU Language Policy and the professional requirements for lawyer-linguists set up by the European Personnel Selection Office (hereinafter: EPSO), the training programme has been designed to cover all of the requirements. It includes courses that are deepening the knowledge of the Law of the EU, the perfection of proficiency in the mother tongue (L1), and practice in translating from the foreign language (L2) into L1 and vice versa. Foreign language courses include three languages: English, German, and French. English and German courses are offered at two different levels depending on the attendants' previous education and existing knowledge and skills. Attendants with the minimum B2 or the preferred C1 proficiency level in the respective language take the advanced level courses, and those with B1 (or, exceptionally, A2 level) take the lower level courses. Since few schools in Croatia offer French as a foreign language, most attendants have only rudimentary knowledge of French, if any at all. Therefore, the programme includes a compulsory French course for all attendants in which they learn essential French legal terminology and elementary French for communication.

2. Who Are Lawyer-Linguists?

According to the information provided by EPSO, "Lawyer-linguists are Administrator (AD) level officials who (...) must stay in their position for at least three or more years without being able to transfer to other EU institutions or

positions. A legal diploma is required, along with the knowledge of at least two or three languages at a very high level so that they can carry out translations and revisions from multiple source languages. Lawyer-linguists generally work for the Council of Ministers, the European Court of Justice or the European Parliament, though some other institutions may employ a few of them as well"[4].

This description is limited to lawyer-linguists employed in the institutions of the European Union but it points out some of the features of that profession that would be found in any definition. The most important is the fact that lawyer-linguists unify two seemingly very distinct professions: lawyers and linguists. However, if we keep in mind that language is the law's most powerful tool (Domijan-Arneri 2009), then the 'marriage' of these two professions looks much more natural.

Lawyer-linguists are primarily lawyers with a law school diploma (scientific degrees are not a requirement but may be very helpful and are likely to become one of the requirements at some point in the future) and with a thorough knowledge and understanding of their domestic law. In addition, they are expected to have an excellent command of their mother tongue and at least two other languages at preferably C1 or minimum B2 level. This requirement refers to general language but it is essential that lawyer-linguists have excellent knowledge of the language of law in their chosen language pairs. Theoretically, primarily linguistic experts with additional training in law are also eligible but they are far less common. In more recent times, legal and linguistic expertise alone has become insufficient, and, wherever possible, lawyer-linguists should specialise or even sub-specialise in very specific fields of law.

The primary duty of lawyer-linguists is to translate texts from a foreign language into their mother tongue. To be able to do that, they must not only fully understand the texts in the source languages, but they must also understand the legal system and fundamental legal principles in the country of the source language. This is extremely important if there are significant differences between the legal systems behind the source language and the target language (for example between the Common Law and Continental Law systems), but even if the two countries and their languages belong to the same legal circle, there may be some significant conceptual or terminological differences. Lawyer-linguists must be familiar with such cases, since they may have far-reaching legal (and other) consequences. Finally, culture may play a significant role in the proper understanding of legal texts and may affect their proper translation. It is therefore very important to understand the culture of the country of the source language.

4 https://eutraining.eu/epso-glossary/lawyer-linguists

3. What Do We Teach Lawyer Linguists?

Although at first glance, it is quite clear what lawyer-linguists are expected to do, the profession offers different options. The first thing to consider is whether one will work as an interpreter or as a translator, which may require some additional skills. Furthermore, translating includes the use of some technical devices and various software for individual work or teamwork, which also may require additional practice. The language of the law is a language within a language; it has a life, a vocabulary, and rules of its own that are frequently different from those in general language and therefore they must be learned. There are many official aids for lawyer-linguists working as translators in the institutions of the EU. It is therefore necessary for a future lawyer-linguist to learn how to use them. The same goes for machine translation (MT) programmes and software for computer-assisted translation (CAT), which are available for some translation services in the EU. Finally, future lawyer-linguists must be informed about their potential employment options and some scenarios for the development of that profession in the future.

3.1. Interpreters vs. Translators

One of the first issues that need to be clarified is the fact that lawyer-linguists employed as translators may be required to do two different things: interpreting and translating. Interpreting means real-time oral translation, which can be either simultaneous (requiring the use of specific technical equipment in an isolated working environment – interpreter's cabin) or consecutive (which may also require some additional skills such as shorthand writing or specific mnemonic techniques). Both forms of interpreting require perfect command of both source and target languages, thorough knowledge and understanding of the respective legal systems in general, and expertise in the field of law in question, and great power of concentration. Simultaneous interpreting is basically a process of receiving, processing and emitting spoken content almost instantly without any modification or only with some necessary adjustments. It, therefore, leaves no or very little time for corrections, so the interpreter must be highly focused on the subject matter and be able to anticipate what the speaker may say next. Consecutive interpreting may seem to be easier because the interpreter has some (very short) time to (re) organise the translation of the heard content; it is possible to take notes (provided the interpreter has mastered one of the shorthand writing techniques) and even to make some corrections if necessary. Most problems in consecutive interpreting arise from the fact that speakers usually pay little or no attention to the fact that somebody has to translate their words and simply continue speaking, thus pro-

ducing huge chunks of information that have to be processed. In such situations, interpreters are likely to reduce or summarize large sections of what the speaker has said; this may sometimes work, but with legal content, it is never a good idea to make any interventions in the content of the speech. All of the mentioned problems suggest that it is necessary to offer future lawyer-linguists quality training options so that they may "feel" the real-life situation.

Although it is also connected with various problems, written translation is less stressful since it includes much more time (although there are fixed norms that have to be respected) and most importantly, it allows the translator to correct possible errors or mistranslations. On the other hand, this means that in final versions of written translations, no mistakes are allowed (whereas they might sometimes be tolerated in interpreting because of the time pressure and stress to which the interpreters are exposed) since these mistakes remain in the text and may then be repeated and multiplied with every use of the wrongly translated document.

Once future lawyer-linguists have passed the training in interpreting and once they have analysed translations and translated texts themselves, they will be able to decide which form of translating they are better at or which form they prefer. Whatever their choice, they must always keep in mind that a translator is a negotiator of meaning, a risk taker, and a person with great ethical responsibility (Williams 2013).

3.2. Linguistic Features of the Language of Law

One of the fundamental problems future lawyer-linguists are faced with is the fact that the language of the law has some specific characteristics that are not found in general language or that may even be regarded as wrong outside of the legal context. They must therefore be informed about such forms, about their use, and about their equivalents in both the source language(s) and the target language(s). Typical features of Legal English and Croatian language of law include the following:

- use of impersonal forms: legal texts are mostly written in 3rd person singular or plural or they use impersonal pronouns (or forms with reflexive pronouns in Croatian);
- passive voice: this is one of the typical markers of legal texts, even in Croatian which otherwise avoids using passive voice. As a substitute for the Passive Voice, Croatian frequently uses combinations of infinitives + reflexive pronouns;

- nominalizations: in both English and Croatian nominalizations are perceived as unnatural and unnecessary; however, in both these languages (as well as in a number of other languages, e.g. German or Italian) they are one of the essential features of the language of law (*'to file a complaint' (instead of 'to complain') – 'uložiti žalbu' ('*žaliti *se'); 'to conduct an investigation' (instead of 'to investigate') – 'provoditi istragu'(istražiti);'to pronounce a sentence' (instead of 'to sentence') – 'izreći kaznu' ('kazniti'), etc.);*
- avoiding names of people in actions in law and using their function/position in the procedure instead (*the suspect, the accused, the defendant, the claimant, the counsel, the witness, etc. – osumnjičenik, optuženik, tužitelj, odvjetnik (branitelj), svjedok*[5]*,* etc.);
- numerous Latin phrases (*ab initio, mens rea, in dubio pro, de lege ferenda, in judicio, in jure,* etc.)
- specific abbreviations and acronyms originating from different languages and written in different ways – with capitals, in lower case, or as a combination of both (*Art.; i.e.; EU, EPSO; GILT; DGT; EUR-Lex; cf.; Hon.*; etc.);
- doublets, triplets / multi-word expressions that are quite frequent in Legal English (*null and void; void or voidable, final and conclusive; fit and proper; last will and testament; signed, sealed and delivered;* etc.) and not so frequent in the Croatian language of law (*počinitelj ili počinitelji; nevažeći, ništavan i bez učinka, vremensko razdoblje,* etc.).

3.3. Effects of Legal Translation

Lawyer-linguists must constantly bear in mind the intention and the effect of the legal text they are dealing with. Unlike other types of translation that may require some changes and adaptations to allow all readers to understand them, translations of legal texts must strictly follow the source version (accuracy before beauty) and must retain the same legal intention and legal effects. Therefore, the work of lawyer-linguists is frequently described not as translating but rather co-drafting legal texts. In other words, as suggested by various scholars (e.g. Šarčević & Robertson 2013 or Gémar 2013), they are not providing translated copies but identical originals of legal documents in a different language.

[5] Since Croatian is a gender-marked language, each of these Croatian nouns in masculine form also have their feminine versions (osumnjičenica, optuženica, tužiteljica, odvjetnica (braniteljica), svjedokinja, etc.)

3.4. Assistance in Translating

Every translator knows how valuable and important various printed or electronic dictionaries are. In this category of aid for translators, special attention should be paid to dictionaries of abbreviations and acronyms and to other branch-specific dictionaries. For lawyer-linguists, especially those at the beginning of their career, language corpora[6] may be of great importance as well because they contain examples of the use of some problematic words. Equally important are concordancers[7], which allow the translator to observe specific terms in different environments the scope of which can be individually determined. Furthermore, there are glossaries containing branch-specific official terms. Since our programme is focused on the EU and its *acquis communautaire*, the most important such glossary is the EuroVoc with official EU legal terminology in all 24 official languages. It can be searched by sectors, policies or alphabetically, starting from any of the official languages and pairing it with any of the remaining 23 official languages. Being very specific, legal texts may also pose some stylistic problems; to resolve these, translators can use style guides or manuals, such as the Interinstitutional Style Guide with instructions relating to texts produced in the institutions of the EU. Finally, there are various databases in which all relevant data are safely stored, managed and updated, and from which these data are easily retrievable. These databases differ in the type of data they contain. **EUR-Lex** contains data about the EU and the implementation of its laws including treaties, legislation and consolidated legislation, EFTA documents, pre-accession acts, the case law of the EU, international agreements, legal issues raised in the EU Parliament, as well as national laws and relevant judgments of courts in the member states and of the EU Court of Justice. **IPEX** is a platform for the inter-parliamentary electronic exchange of all information relevant for the EU; it facilitates inter-parliamentary cooperation in the EU and offers first-hand information about the state of affairs in the Union. **IATE** (InterActive Terminology for Europe) may be the first source of information about the EU legal terminology. It is primarily intended for a general audience and not for any legal or technical purposes because it does not guarantee that the available documents are actually officially adopted authentic texts (authenticity is guaranteed only for the texts imported from the Official Journal). It is helpful because it provides initial information about the meaning of the term in question and points to the document(s) in which the term is used. Almost all

6 They exist for most languages and contain actual texts in which the requested words are used in different contexts; there are, for example, HNK (Croatian National Corpus); BNC (British National Corpus); Croatian-English Parallel Corpus, etc.

7 Similar to corpora but focusing on the environment in which a particular word/term is used; there are various concordancers accessible online (Lextutor, CLARIN, Sketch Engine, etc.)

EU documents are available in English, French, German, and Spanish. Additional language versions are available depending on the relevance of the documents; e.g. documents of importance for Croatia would also be available in Croatian, but not in any other of the official languages. There are other databases, but these are left to the attendants of the programme to examine depending on their individual interests.

3.5. Can AI (CAT and MT) Replace Human Translators

In this age of automation and rapid development of artificial intelligence (AI), it is also necessary to inform future lawyer-linguists about the possibility to use AI in the translation process. This can be done at two different levels: computer-assisted translating (CAT) and machine translating (MT). Both types of translation programmes have been developing rapidly in recent years. At first, only translation pairs of the so-called world languages (English, French, German, Spanish, Italian, and some non-Indo-European languages, such as Mandarin Chinese or Japanese). Today, some programmes also translate from and into "small" languages, including Croatian.

Computer-assisted translating uses vast computer databases of already translated texts from which the programme samples the translation of the source text. There are many such programmes on the market (Neurotran, Pairaphrase, Trados, MemoQ; DeepL; Yandex, Reverso, etc.) that can be used upon the payment of more or less expensive licenses. The common characteristic of all these programmes is that, at first, they require a lot of human cooperation, but with each new translated text, the programme expands the database and "learns" how to distinguish between different meanings and forms. This learning process has problems with complicated languages such as Croatian, with a great number of different forms of words and countless exceptions from the rules and this is one of the reasons (in addition to the size of the potential market) why Croatian was only recently included among the language pairs for translation.

Machine translation programmes (Unbabel, Google Translate, Microsoft Translator, etc.) work on a different principle: they combine existing databases with translating "on the go", implementing the language rules as they advance through the text. This results in a much faster high-quality translation (which, however, has the same problem with the languages like Croatian, which have complex grammar). These programmes can be used for general language or specialized translations; some of them are free, some are commercial, and there are some that are exclusively reserved for in-house translators of particular institutions.

As for the growing fear that AI will "steal" jobs from human translators, the reality is not that grim. As advanced as the translating software may be, its translations still require human editing because (at least for the time being) AI is unable to distinguish between shades of the language. AI does not understand irony (yet) and cannot determine whether something is the truth or a lie, nor can it recognize the intention of a text - to mention just some of its shortcomings.

4. Working on Sample Tests

The final part of the training programme for lawyer-linguists includes tests of their acquired knowledge and skills. For that purpose, the actual sample tests are used that are offered by EPSO on their official internet pages. The tests are selected based on the potential future employment of the candidates. Since the EU institutions mostly employ staff on the administrative level, that was the chosen test level. The choice included the typical first-round tests of the kind the candidates would have to take should they apply for a job. The tests cover three types of reasoning: verbal, numerical, and abstract.

The verbal reasoning test usually consists of 10 questions and its purpose is to determine how well the candidate understands the text. The candidate must read a text and then choose between offered statements, picking the one that is most true regarding the information given in the passage. The candidate must work quickly and accurately because although all offered statements are similar, only one of them is true. The reasoning must be based solely on the information in the text.

The numerical reasoning test mostly comprises five questions each including a chart, a passage of text with a question and a series of five possible replies. The task is to use a calculation to find which one of the five offered answers is correct. Again, only pieces of information from the task are allowed to be used in the calculation, and, as always, there is only one correct answer. **Abstract reasoning test** is usually a series of 10 questions testing the candidate's logical thinking, orientation in space, and observation skills. Each question consists of a series of diagrams that follow a logical sequence or contain a set of underlying rules. The series reads from left to right and the task is to choose the diagram that continues the series.

5. Conclusion

The programme of life-long learning for lawyers started in 2009/2010 with the intention to train lawyers for potential jobs in the EU institutions once Croatia

becomes a member of the EU (Croatia was then closing some of the final chapters in the pre-accession talks with the EU – before the talks were halted because of some disagreement with Slovenia). Candidates were also being prepared for work in Croatian institutions involved in the preparation of Croatia for the EU – this included primarily work on the translation of the remaining acquis communautaire into Croatian and translation of some Croatian legal documents into English, German (or French). Over the years, and especially after Croatian accession to the EU on 1st July 2013, the goals of the programme have been changing in an attempt to follow the current interests and needs of the Republic of Croatia but at the same time following the demand for lawyer-linguists in the institutions of the EU. The skeleton of the program remained the same over all these years, but the content, the materials, and the approach to various problems have changed significantly. Most importantly, the program tried to take into consideration all new insights, new theories and approaches to the problem of translating in general and legal translating in particular. The result: generations of candidates who have finished the programme and who have expressed their satisfaction with the knowledge, skills, and experience they have gained by finishing it.

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Što trebaju znati pravnici lingvisti?

Sažetak

U radu se analiziraju neki od problema u obrazovanju pravnika lingvista kao specijalizirane inačice prevoditelja čija je uloga sve značajnija, osobito u državama članicama EU-a čija se suradnja odvija na 24 službena jezika Unije. Svojom jezičnom politikom EU nastoji očuvati zajamčena prava svih država članica na uporabu vlastitoga jezika, ali se istodobno vodi računa o racionalizaciji kroz višejezičnost i različite projekte usmjerene na kvalitetniju i bržu komunikaciju unutar Unije. S tim u svezi u radu se prikazuje dio programa cjeloživotnoga obrazovanja za pravnike i lingviste čiji je cilj s jedne strane unaprijediti jezične kompetencije pravnika, a s druge strane lingviste upoznati sa specifičnostima pravne struke koje prijevode pravnih tekstova čine iznimno zahtjevnima. Na temelju spoznaja iz suvremene stručne literature koja se bavi problemima s kojima se susreću pravnici lingvisti oblikovani su sadržaji obuhvaćeni različitim kolegijima. U ovom se radu prikazuju kolegiji koji se bave prevođenjem pravne terminologije specifične za EU s engleskoga na hrvatski jezik te bazama podataka i različitim alatima koji to prevođenje olakšavaju i omogućuju ujednačenost prijevoda.

Ključne riječi: jezična politika EU-a, cjeloživotno učenje, pravnici lingvisti, prevođenje, prevoditeljski alati

BETWEEN LANGUAGE AND CONTENT: REALIZED AND POTENTIAL AVENUES OF CO-OPERATION BETWEEN TEACHERS OF ENGLISH FOR LEGAL PURPOSES AND CONTENT SUBJECT TEACHERS

Miljen MATIJAŠEVIĆ

Abstract

Teaching of foreign languages for specific purposes is inconceivable without teaching actual professional content. Not only do LSP competences include knowledge of legal terminology, but also specific text types and writing styles of particular types of legal documents. Linguistic knowledge of a language professional is indispensable for mastering these skills, but the LSP teacher needs to invest substantial efforts to acquire as much knowledge and understanding of legal subjects, and these efforts must be continuous throughout their career. Written sources are, without a doubt, a useful and convenient way to learn about areas of law and legal concepts, but talking to a living expert, or even better, co-operating on a project or activity where professional knowledge and experiences are exchanged present an invaluable source of knowledge for the language teacher. Yet, opportunities for such co-operation are few and far between. Teachers of foreign languages for specific purposes brush shoulders with content subject teachers and yet, despite the fact that they have much to offer to one another in terms of professional knowledge, these potentials are not fully realized. In this paper, I will provide an overview of instances of successful and fruitful co-operation between members of the foreign language department and other departments and illustrate the somewhat ambiguous relationship between the FL departments and various faculty administrations. Finally, I will point to unexplored and unrealized potentials for such co-operation that might enrich the professional activities of both sides and benefit students as future legal professionals.

Keywords: language for specific purposes, teaching of LSP, CLIL, content-based teaching, interdisciplinary co-operation

1. Introduction

The challenges of teaching foreign languages for specific purposes are a frequent and inexhaustible source of inspiration for research. One of the reasons for this lies certainly in the interdisciplinary nature of this field, which requires of the LSP professional to constantly acquire and expand not only their knowledge of

the relevant terminology, but also gain a broader and deeper understanding of the pertinent content. The content often belongs in a completely different discipline than linguistics, such as physics, medicine, engineering, or agriculture. What of the language of law, i.e., language for legal purposes (hereinafter: LLP)? Law may seem to be a comparatively 'easier' professional area for a language teacher (with a linguistic background) to delve into than, for instance, medicine. After all, law belongs in the domain of social sciences and humanities, just like linguistics. It deals with "customs, practices, and rules of conduct of a community" (britannica.com), and we are all part of that community. What is more – it revolves around language. There is no law without language. Legal concepts, principles and rules are defined and set out in words. Those words are, in turn, interpreted by the professional but also the general public. So far, so good! But let us not forget the 'legal' in LLP – law is indeed a specialist area. Moreover, the language of law has more than a few tricks up its sleeve: specialist words disguised as ordinary words and a plethora of false friends. In other words, a non-lawyer must tread very carefully through this minefield. The question arising at this point is: is an LSP teacher a lay person in terms of law? The answer is undoubtedly 'yes'. But can they afford to be? LLP teachers at university level in the Croatian context invariably have a linguistic background and are expected to acquire some knowledge of law to be able to teach LLP (although this is often taken for granted), irrespective of whether the instruction is language- or content-oriented. Foreign languages often being taught at Croatian university in the first two years of undergraduate study, students' first encounter with many professional terms will occur precisely in their LSP course. Other terms will have a familiar ring to them as they make connections to content learned in their law courses, but they will still need clarification and confirmation of their equivalence. How do LSP teachers with a background in linguistics rise to those challenges? Some might have had previous experience in translating related professional texts. Rare are those who have had the opportunity to attend any kind of formal targeted training. Most of the time, for a lack of choice, they are self-taught.

In this paper, after providing some background for the research, I will recount my personal experiences in acquiring subject-matter knowledge, particularly focusing on instances of learning that happened in the interaction with subject-matter experts. I will then present the survey I conducted with other university-level LLP teachers, whose purpose was to find out if their experiences and thoughts on co-operation with subject-matter experts match my own. The results will be presented and discussed. Finally, ideas about further possibilities of this co-operation and avenues of further research will be explored.

2. Inspiration for the research

As pointed out above, a degree of knowledge of the subject matter is indispensable in teaching languages for specific purposes. The question that arises is how deeply should an LSP teacher delve into the subject whose professional language they are teaching? Some will say that superficial knowledge and understanding is sufficient, while others will expect the LSP teacher to be very proficient (Sierocka 2016). According to Alcaraz Varó and Hughes (2002:4), a legal translator needs to be acquainted with the main characteristics of both the source and target legal systems. It is safe to draw a parallel between the extent of knowledge required of a legal translator and an LLP teacher considering that both jobs require making connections between the domestic and the foreign legal systems.

When it comes to teaching the language of law, the problem of getting acquainted with the subject matter and the pertinent terminology is compounded by the fact that there are frequent discrepancies and lexical and conceptual gaps between the legal terminology in L1 and L2. This stems from the fact that each legal system builds its legal rules and principles (in its own language!) on diverse cultural backgrounds. Contemporary European and global economic and political integration tends to alleviate this problem as different countries strive to come closer to one another to facilitate co-operation, which is also reflected in their respective legal systems. Still, numerous differences remain. A non-lawyer may (incorrectly) assume that they understand the meaning of terms (e.g., *claimant*, *judicial review*), distinguish between similar terms (e.g., *claimant* vs. *applicant* vs *petitioner*), or assume two terms mean the same (e.g., *odbiti* vs. *odbaciti*). How does an LSP teacher tackle this problem? The principal resources for learning about a subject are books. Some of these differences can be spotted on careful examination, understood by studying law textbooks and encyclopaedias, or cross-checking in L1 and L2 dictionaries. This can be very time-consuming in the least. But some of those linguistic conundrums, at least in my experience, are best resolved when an expert in law explains and demonstrates the difference. This leads to the next question: how do you get a hold of an expert for a consultation? This should be easy – working in a university setting, LSP teachers are surrounded by subject-matter experts. But does that mean that this kind of co-operation happens automatically? Most of the time, we brush shoulders with each other in faculty halls, but mutually beneficial professional contacts occur very seldom.

My first experience in contacting colleagues from other departments of the Faculty of Law in Zagreb in a comprehensive and organised manner took place in 2013, after I had been a full-time employee for four years. Together with a colleague, I carried out a survey to find out their views on the importance of learning

a foreign language in the field of law, the topics, content and skills that they think should be part of an LLP curriculum (Matijašević, Javornik Čubrić 2013). A similar study was carried out a year later by our colleagues from the Faculty of Law in Osijek (Kordić, Papa 2014). One of the goals of their study was to compare the results with the ones obtained in Zagreb. The results were indeed similar, but the detail that I found the most striking was the response rate. In Zagreb, the response rate to the questionnaire was a mere 28%, while in Osijek it was a high 58%. What conclusions can be drawn from this striking difference? The Zagreb Faculty had a teaching staff of about 140 at the time of the survey, while the Osijek Faculty had 50. Does the fact that they are a considerably smaller (and probably tighter) community explain the fact that the response rate was markedly higher? Do the Osijek colleagues generally attach more importance to the fact that their students learn a foreign language, and do they care more about what they learn in their LLP courses? While both could be true, the number may suggest that the law teachers in Osijek, at the time, did value the foreign language department as such than their Zagreb colleagues did. I wonder if the response rate would be as low at the Zagreb faculty if the same survey were to be carried out today, ten years later. There are reasons why I am led to believe that it would not.

In the last ten years, certain forms of co-operation between subject-matter teachers and the members of the Department of foreign languages (hereinafter: DFL) have taken place, which have led to a better visibility of the DFL and more frequent contacts with subject-matter experts. Some members of our department are regularly engaged for proofreading and sometimes translating papers written in English by Faculty staff, and occasionally other materials such as conference programmes and web site content, or correspondence in English from the faculty management. In fact, a new web site for our faculty is about to be launched and, for the first time, our department is actively engaged in producing the English version. The English version of the old web site contained language errors, some of which concerned the wrong choice of terms, but our warnings about them were (surprisingly) ignored. The DFL's recent activities in the faculty's lifelong learning endeavours have certainly drawn much attention and earned praise and recognition by the faculty management. The DLF has organised nine lifelong learning workshops in legal translation and terminology, four of which were realised in co-operation with subject-matter experts from the following departments: civil procedure, criminal procedure, criminal substantive law and family law. The criminal substantive law programme earned Dean's award for best lifelong learning programme for the academic year 2021/22. More such programmes are being prepared.

What are the concrete benefits of these forms of co-operation? In this part, I will present my personal experience and opinions thereon. As regards proofreading and translation, I am regularly engaged by the editorial board of one of our faculty publications to proofread summaries and occasionally full texts of scientific and professional papers. This also leads to direct contacts with authors from both our faculty and other institutions, who engage me for the same service. Occasionally, these contacts become closer and evolve into continued professional co-operation. The benefit for the authors is obvious – a better written text. The occasional if not regular benefit for me, apart from making professional acquaintances and contacts, is the opportunity to talk to an expert about legal terminology. Even though many of those engagements do not necessitate direct contact with the author, as they do not pose challenges in regard to specialist terms, occasionally mutually beneficial discussions ensue in which we exchange our knowledge of terms and the subtleties of concepts and their meaning in both Croatian and English. These (often brief) discussions provide for invaluable learning experiences as they result in knowledge that would be impossible, or at least very difficult to draw from literature, or would, in the least, take much more time.

Benefits of a similar kind, but multiplied tenfold, are drawn from co-operation in the development and delivery of the above-mentioned lifelong learning programmes. Designed for legal translators, they focus on providing comparative terminology in an area of law, outlining the pertinent theory and practice, the meaning behind the concepts with a special emphasis on common mistakes and misconceptions, false friends, misleading or imprecise translations found in literature and dictionaries, and suggesting solutions that would otherwise be very difficult to arrive at. Preparing a programme also involves building a glossary of relevant terms. This is a far more comprehensive and ambitious accomplishment than discussing occasional incidental terms that occur in a scientific paper at proofreading. In this process, the subject-matter expert becomes aware of potentially wrong terms or structures they had previously been using, while the LLP teacher benefits from the input on the subject-matter and gets acquainted with the subtle differences between certain legal terms and concepts (in both Croatian and English) that they have missed while studying literature. It should also be noted that these workshops invariably receive high praise from the participants, and that the subject-matter experts were surprised every time to discover what great need and interest for the knowledge they have to offer exists among translators and language professionals in general.

To conclude, the benefits for myself as an LSP teacher in direct contact and discussions with subject-matter experts, even though not necessarily frequent, have always proved invaluable. This made me wonder if my colleagues have had

similar experiences and, if they have, whether they valued these learning experiences as much as I did. I also hoped to hear about other forms of co-operation that they have experienced and possible ideas that might be realized in the future. For all these reasons, I decided to carry out this survey.

3. The survey

In this study, I focused on the LLP teachers at the four Croatian faculties of law: Zagreb, Osijek, Rijeka and Split. The Zagreb DFL has five employees. I did not include a colleague who had just started work at the faculty and myself, meaning that the invitations were sent to the three remaining colleagues. The Osijek department has three teachers, Rijeka two, and Split has one full-time teacher and one external associate. Nine responses in total were collected, which means that all full-time teachers completed the survey.

The questionnaire contained 11 compulsory questions and five optional questions, which gave the respondents an opportunity to comment on their answers to the multiple-choice questions.

The first set of questions concerned co-operation with subject-matter teachers. The respondents were presented with a list of forms of co-operation with subject-matter teachers, where multiple answers could be selected. The list goes as follows: translation of professional or scientific papers or books, proofreading of professional or scientific papers or books, translation or proofreading of other materials, reviewing coursebooks or other course materials, joint preparation and delivery of a professional training programme, co-operation on a research project, assistance to subject-matter teachers in delivering courses in English, and 'other', where the respondents could add another form of co-operation not included in the list. The respondents were then asked to assess the success, usefulness and frequency of this co-operation, and were given an opportunity to comment. The next set of questions referred to the initiative for co-operation, i.e., how often it comes from the subject-matter teachers, themselves, or from faculty management or the editorial board of a publication. These were followed by a set of questions regarding direct contacts with subject-matter teachers for the purpose of consultation regarding Croatian legal terminology or other law-related matters in the preparation for their classes and other LSP-related activities, their usefulness and the circumstances under which they contact them directly. One question asked the participants how often they were contacted by subject-matter teachers for consultations about terminology in the foreign language they teach or other language-related matters. The final open-ended question asked the participants for their opinion on whether they thought that co-operation with subject-matter

teachers should be encouraged by the faculty management and whether they were satisfied with what had been done to date.

As regards my assumptions, in the first set of questions, I expected that translation and proofreading of papers, books and other materials would be the most frequently selected forms of co-operation. I had no expectations as to the other forms of co-operation. In regard to the frequency and success of such co-operation for the LSP teacher, average frequency and a high success rating was expected. As concerns the usefulness of co-operation, seeing as I found my own experiences very useful, I expected a similar rating from my colleagues, allowing for more conservative assessments as I have often heard colleagues complaining that such engagements are time-consuming, reflecting a somewhat negative attitude. As concerns initiative, I expected that the respondents would select the faculty or editorial board of a publication as the main initiator of such co-operation, while I expected that initiative coming from the LSP teachers themselves and subject-matter teachers would be assessed as very rare. With respect to contacting subject-matter teachers directly for the purpose of consultation regarding Croatian legal terminology or other law-related matters, I had no clear expectations in terms of their frequency, but assumed they would be assessed as very useful. Also, I presumed that most respondents would say that they only contacted those subject-matter teachers whom they had met previously. In the question concerning how often subject-matter teachers contacted the respondents for consultations on language-related matters, I expected the frequency to be assessed as low to very low. I base this on my personal experience where I am almost exclusively contacted by subject-matter teachers whom I know personally or with whom I otherwise co-operate. Considering the fact that all our teaching staff write and publish in English and that a large part of them deliver courses in English for exchange students, I find this frequency to be somewhat surprising. Finally, I did not have clear expectations for the final question. I thought it possible that some of my colleagues would see it fit for faculty managements to mobilize the forces of DFLs in the production of any materials in English and for assistance in preparing classes in English for exchange students, which many of our teaching staff do without being provided any formal training in that regard. Equally, I expected that some of my colleagues would likely take a more pessimistic view and be in favour of a more *laissez-faire* approach, not believing that faculty management can or should do anything about putting the language experts from foreign language departments to any good use other than teaching foreign language courses.

4. Results of the survey

As predicted, the activities of translation and proofreading of professional or scientific papers or books was the most frequently selected activity by the respondents. Eight of the nine respondents (88.89 %) chose these two forms of co-operation as something they engaged in. This was followed, not surprisingly, by translation or proofreading of other materials, which was selected by six respondents (66.67 %). However, somewhat surprisingly, the same number of respondents selected the activity of joint preparation and delivery of a professional training programme. This was closely followed by reviewing coursebooks or other course materials, which was selected by five respondents (55.56 %). Three respondents (33.33 %) said that they had co-operated on a research project with a subject-matter teacher, and one respondent (11.11 %) added an activity which did not appear in the list and referred to the preparation and implementation of a part of a test in English given to PhD students applying for the position of a teaching/research assistant at selected faculty departments. No respondents selected assistance to subject-matter teachers in delivering courses in English as an activity they were involved in.

In rating the success of those activities, on a scale from 1 (poor) to 5 (excellent), no respondents chose 1 or 2, with the average success rating being 4.56, which meets and slightly exceeds expectations. When it comes to the usefulness of co-operation, the respondents had to rate it on a scale between 1 (not very useful) to 5 (very useful). The results were very similar, with no respondents selecting 1 or 2 and the average usefulness rated at 4.44, which is again a very high rating, as expected. Eight of the nine respondents wrote comments concerning the forms of co-operation and usefulness, providing more insight into the numeric rating. These comments will be summarized and discussed in Chapter 5 below. As regards the frequency of co-operation, the average frequency rating on a scale from 1 (never) to 5 (very frequently) was 3.77, putting the frequency at slightly above average and meeting or slightly exceeding expectations.

The next set of questions concerned the initiative for co-operation. When asked how often they initiated this co-operation, the average rating on a scale from 1 (never) to 5 (always) was 2.66. Six respondents also provided comments on this question, but those will also be presented and discussed in the following chapter. Subject-matter teachers as initiators of co-operation were given the average frequency rating of 3.56, and the faculty or the faculty publication editorial board 3.44. These results slightly differ from my expectations in that the co-operation was assessed as coming most frequently from subject-matter teachers, and the faculty or faculty publication editorial boards. The difference in the overall

rating is negligible, but it might be worth noting that as many as six respondents gave the initiative rating of 4 to the faculty or editorial boards, while the ratings concerning subject-matter teachers were more widely dispersed, from 2 to 5, suggesting that personal experiences vary greatly.

The survey showed that the respondents do not contact subject-matter teachers for consultations regarding legal terminology or law-related matters very frequently. On a scale from 1 (never) to 5 (always), the average frequency of contacting colleagues was rated as 2.67. Five respondents gave it the medium rating of 3, three assessed it as happening very seldom or never, while only one respondent gave it a rating of 4. This is only slightly below expectations, even though two thirds of the respondents gave it a rating of 3 or 4. The respondents were then asked to choose a statement describing the usefulness of these consultations. Two respondents (22.2 %) said they find this very useful and try to consult subject-matter teachers as often as possible. The majority of six respondents (66.7 %) assessed it as useful but not necessary. One respondent replied that they believed it could be useful but that they had not often consulted subject-matter experts. This finding is below expectations as the answers suggest that a minority put a high value on such consultations, while most respondents do not believe it necessary to consult subject-matter teachers. As regards the circumstances in which they seek assistance from subject-matter teachers, five respondents (55.56 %) said they contacted only the subject-matter teachers they had previously met, while two (22.22 %), surprisingly, said that they contact teachers of the pertinent subjects regardless of their previous acquaintance. One respondent said they avoid contacting subject-matter teachers, while one submitted their own answer, saying that if they thought it necessary, they would contact a subject-matter teacher regardless of their previous acquaintance, even though they would be more comfortable approaching someone that they know. According to the survey, subject-matter teachers seem to contact LSP teachers more frequently than vice versa, with the average frequency rating of 3.22 (compared to 2.67).

Finally, the respondents provided their assessments and suggestions concerning the role of the faculty in encouraging and fostering co-operation between LSP teachers and subject-matter teachers. Most answers suggested that the respondents believe faculties should be more involved in such endeavours, some said that the level of co-operation was already satisfactory, while only one respondent did not see it as the faculty's job to initiate such co-operation, and one commented on a lack of time as being the dominant impeding factor for such efforts.

5. Discussion

Translation and proofreading of specialized texts and other material seem to be the co-operating activities in which almost all respondents participated. Two thirds also reported co-operation with subject-matter teachers in professional development programmes. I see these two activities as substantially different seeing as in translating and proofreading the LSP teacher provides a professional service, which could very well be carried out in a one-directional manner, with probably little to no discussion with the authors regarding the terminology and the text in general. The other activity, however, presumably requires more involvement by the LSP teacher and is certainly an encouraging result. As regards the initiative, it can be said that the initiative more frequently comes from subject-matter teachers themselves or from editorial boards than from the LLP teachers. Both the success and usefulness were numerically highly rated, but more insight is provided in the comments. Five respondents responded with very positive comments, saying that such co-operation is mutually beneficial, providing opportunities for discussion and exchange of views and learning (for both sides), and helps build relationships and mutual respect between the LSP and the subject-matter teachers. One of them even specifically said that the reading, translation and proofreading of professional texts gave them an opportunity to apply existing knowledge and make new discoveries, while two of them expressly said that such co-operation increases our competences as LSP teachers. Conversely, two respondents did not report very particularly beneficial outcomes, saying that the translation and proofreading they were hired to do did not help them as the content did not relate to what they taught in their LSP courses, i.e. that even though the co-operation was a positive experience, it did not expand their knowledge of law. In sum, it can be said that co-operation with subject-matter teachers is very highly valued among the respondents.

As concerns the success and usefulness ratings for co-operation in general, I would say that the results are completely satisfactory and encouraging. As regards the average frequency of 3.77, I find it to be realistic and quite satisfactory. It must be borne in mind that LSP teachers in our circumstances tend to have an increased number of students and teaching hours compared to subject-matter teachers, leaving them less time to engage in other activities more often than is suggested here.

When asked to comment on why the initiative for co-operation does not come from them often, six responded provided some interesting replies. Some stated a lack of time as the reason, while one said that lawyers are generally not aware of the importance of language in the study and teaching of law. Two respondents

stated that the reason why the initiative does not come from them is that it concerns translation or proofreading, sought by subject-matter teachers, while one of them said that translation and proofreading could hardly be considered co-operation. Interestingly enough, in a similar study, Sierocka (2016) reported that, in her survey, LSP teachers thought that faculties did not co-operate well with foreign language departments and that they did not maintain regular contact because they had a different outlook on teaching LSPs. I find this response to be slightly more negative than what the present survey suggests, but some common ground can be found in the second part of the statement. It does seem that, despite many positive responses, co-operation overall could still be improved.

An interesting and surprising finding is that none of the respondents were approached for help by the faculty or subject-matter teachers in preparing for delivery of law courses in English. This is indeed a worrying finding. Subject-matter teachers seem to be left to their own devices in preparing courses for exchange students. Anecdotal evidence suggests that they do fine, but would it not be in everyone's interest if they were provided assistance by their LSP colleagues, and, moreover, should this cooperation not be encouraged or even organised by the faculty? On another note, in Sierocka (2016), as many as 78 % of the respondents assessed subject-matter knowledge as helpful but not indispensable, while 22 % thought it was crucial. Interestingly enough, 66% reported that they had consulted subject-matter specialists at varying degrees of frequency, while 33 % said they had not. In the present survey all but one respondent had at some point consulted subject-matter specialists, which is more than in the Polish study. However, our results here suggests that the majority found these consultations useful but not necessary, while only two regarded consulting them as very valuable. It is interesting to compare this relatively disappointing assessment to the above positive reactions to co-operation in general. What do these numbers suggest? How come the respondents predominantly assess co-operation as useful, but consulting subject-matter experts not as much? Could this be because co-operation on concrete activities provides a context where it is expected for the LSP teacher to ask questions? Is the mere context of co-operation more conducive to learning? Is direct consultation not considered as useful merely because the LSP teachers are reluctant to take the initiative to make direct contact with subject-matter experts in order to seek assistance? The results above certainly seem to suggest so as few seem to reach out to co-workers they do not already know. Is it fear of being a bother, or could it be that they are afraid of being judged for seeking help? These are possible answers that might be worth looking into in a future study.

As regards the respondents' assessment on the situation and suggestions as to further development of co-operation, five of them believe that this co-operation

should be enhanced and encouraged. Four of those respondents think that this should be initiated by faculty management, while one of them believes that this should be done by departments. There are again complaints that LSP teachers are often seen as mere translation/proofreading service providers, and that the whole perception of LSP teachers should be changed. One respondent put forward the idea that the faculty should encourage professional development of LSP teachers in areas of law as part of their jobs, possibly having them attend certain law courses together with students.

6. Conclusion

Personally, I agree with the majority view in this question and contend that faculties should indeed appreciate more the benefits of having language (or LSP!) specialists on staff and possibly make even better use of them. Even though, the reported frequency and initiative for contacting and engaging LSP staff in various activities is far from discouraging, opportunities for improvement are suggested by the survey results. At the same time, faculty management should recognize the LSP teachers' need for continuous professional development and the fact that they are mostly self-taught in the subject matter. I find the idea that the faculty should actively organise training in subject-matter topics for LSP teachers encouraging if not ground-breaking. It would absolutely increase their competences and consequentially boost their confidence. In turn, they would become not only better qualified LSP teachers, but would also be more helpful in providing any kind of language-related assistance in the faculty's activities. Finally, these benefits would inevitably enhance any form of interdisciplinary co-operation. In her conclusion, Sierocka (2016) suggested that there might be communication problems between LSP teachers and subject-matter specialists, as the results of her study seem to indicate. She contends that "they are either unwilling to ask for assistance or use other strategies to dispel their doubts or dilemmas". She also adds that this issue should be approached as a matter of faculty policy, which resonates with my findings and views.

In a further study it might be interesting to investigate more closely LLP teachers' attitudes towards and ideas for structured and more formal types of training provided by their respective faculties. At the same time, it would be worth looking into the attitudes of faculty management and their openness to strengthening the competences of their LSP staff in a thought-out and organised manner. In addition, finding out how they feel about employing the specialist skills and knowledge of the LSP teachers to raise the overall quality of the faculty's work, both in teaching and in research, requiring proficiency in a foreign language would be another valuable research point. Considering that faculties bring together subject-matter

experts and LSP professionals, opportunities for growth and mutual assistance are always present. All everyone involved needs to do is recognize and seize them.

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Između jezika i sadržaja: Ostvareni i potencijalni oblici suradnje između nastavnika engleskog jezika pravne struke i nastavnika stručnih predmeta

Sažetak

Poučavanje stranih jezika struke nezamislivo je bez poučavanja stručnog sadržaja. Kompetencije jezika struke, odnosno jezika pravne struke, ne uključuju samo poznavanje pravne terminologije, nego i posebnih tekstnih vrsta i stilova pisanja određenih vrsta pravnih dokumenata. Lingvističko znanje jezičnog stručnjaka neophodno je za savladavanje tih vještina, no nastavnik jezika struke mora uložiti priličan napor kako bi usvojio što je više znanja i što bolje shvatio pravne teme, što mora činiti kontinuirano u čitavom svom radnom vijeku. Pisani su izvori nesumnjivo koristan i prakitčan način učenja o područjima prava i pravnim pojmovima, ali razgovaranje sa živim stručnjacima, ili još bolje, surađivanje na zajedničkim projektima ili drugim aktivnostima u kojima se razmjenjuju znanja i iskustva čine neprocjenjiv izvor znanja za nastavnika jezika. No, prilika za takvu suradnju nema mnogo. Nastavnici stranih jezika struke često se sreću s nastavnicima stručnih predmeta, ali usprkos tomu što oni jedni drugima imaju mnogo za ponuditi u smislu stručnog znanja, ti potencijali za suradnju nisu u potpunosti iskorišteni. U ovome ću radu izložiti primjere uspješne i plodne suradnje između članova katedri za strane jezike i drugih katedri kako bih ilustrirao ponešto dvosmislen odnos između katedri za strne jezike i fakultetskih uprava. Konačno, bit će riječi o neistraženim i neostvarenim potencijalima za suradnju koji bi mogli obogatiti stručne aktivnosti obje strane te posljedično donijeti koristi i studentima kao budućim pravnim stručnjacima.

Ključne riječi: jezik struke, poučavanje jezika struke, integrirano usvajanje jezika i sadržaja (CLIL), poučavanja temeljeno na sadržaju, interdisciplinarna suradnja

DEVELOPING ORAL PRESENTATION SKILLS IN MEDICAL ENGLISH COURSES – BENEFITS FOR EFFORTS OR NUISANCE?

Lorna DUBAC NEMET,
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Abstract

To present or not to present? Is that even an option nowadays, when visual experiences combined with auditory input and underlined by dynamic interaction in the form of Q&A take precedence over other forms of communication? In order to inform, raise awareness, compare results, provoke interest, and enhance visibility, presentation is all about delivering clear and coherent information with or without the use of visual aids. That being said, the attention must be drawn to the fact that in order to maximize the adaptability of our students/future professionals, we must foster the development of those transferrable skills encompassing time, space and structure management, level of coherence, but also without minimizing the importance of vocabulary/lexis, grammar, and pronunciation.

Strong apprehension towards speaking in public does not create a motivational climate to approach such a demanding field, however providing the students with an effective tool in the form of do's and don'ts of structuring and overall preparation of their oral presentation, as well as scaffolding during practicing, advocates for a much less stressful atmosphere. The paper discusses the general steps of oral presentation (OP) preparation with the focus on discourse markers (DMs).

Keywords: oral presentation, medical English, scaffolding, discourse markers, English for specific purposes

1. Introduction

Nowadays, more than ever in history, presentation skills have taken predominance over other communication skills: in the world of *ad hoc* meetings, online staff consultations, project proposal briefings, and job interviews, it has become obvious that there is an increased demand for the evolution of those particular skills. Bearing multiple purposes in mind, all of which may be gathered under the umbrella concept of enhancing visibility, presentation is all about delivering pieces of information in a clear and organized manner. That being said, we must draw attention towards maximizing the adaptability of our students/future professionals, as well as systematically approach the development of transferrable

skills which will then contribute to interactive communication: visual experience in combination with auditory input, followed by dynamic interaction in the form of a Q&A session. The learning objectives for such an ESP course are to become familiar with the concept and successfully create well-designed slides, with easy-to-follow bullet points structured around three basic parts of the presentation (Introduction, Body, Conclusion) in which they are to present the content.

In such usually time-framed pieces of oral contribution, the audience obviously does not have a presentation script in front of them, which consequently highlights the importance of the presenters' skill in knowing their audience (targeting) and guiding them through the presentation. The internal structure of the presentation, starting with the Introduction and the Outline, should flow logically slide by slide over the Body to the Conclusion. The parts should be glued together with linking phrases, identifying sections to be discussed and relating ideas and notions to one another, setting the rhythm by using rhetorical questions, accomplishing, in the end, a well-packed and clear piece of work, which is to prompt a desired response/feedback.

All of the previously mentioned desired outcomes should be pre-planned in a presentation script, which is beyond doubt to have multiple working versions and end with a concise and coherent plan for oral contribution.

2. Planning for Content, Structure, and Delivery

When talking about the structure of the presentation, we are frequently introduced to a human body simile, addressing the *skeleton* of the presentation (Outline - Structure), and *meat* (organs) in between (Content). In that way, we may now refer to discourse markers as being the *ligaments and tendons* and in the end accomplishing the desired *movement*, i.e. delivering the pieces of information to the audience and receiving the feedback (any form of Q&A), therefore consequently modelling the two-way communication pattern. The preparation-and-planning stage involves raising particularly essential questions addressing the aim of the presentation, the audience, and the main points the presenter wishes to make, as well as pondering upon the end result: what is the audience supposed to do after witnessing the presentation?

Field-tenor-mode framework, described by Halliday & Hasan (1985: 12), addresses three major contextual features affecting our choices within the language system. When talking about the oral presentation in medical English classes, the FIELD is of course medicine and health, TENOR relates to the audience of peers (students of the same study year) and the channel of communication is the spoken MODE. According to the situational context in the future (REGISTER), different

choices will be made, directly affected by the content to be communicated (scientific research advances, or public health lectures for laypersons), by the participants in a discourse (status, level of expertise, age), and the channel of communication (oral, visual, multimodal).

Another important issue to be included in planning is the time framework: it will for sure provide the presenter with a useful *demarcation line* helping to discriminate between the important and less important pieces of information to be either included or discarded. Being both time-and space-confined, the content of the presentation must be carefully tailored in order for both the audience and the presenter to profit from it: the PRESENTER to get the message across to the audience, and the AUDIENCE to receive the main message without information overload.

Planning for the execution of the oral presentation involves catering to three major components: verbal, vocal, and visual. The verbal component encompasses everything that is planned to be talked about (structure, content), the vocal addresses how the content is delivered by employing one's voice and its features (pronunciation and intelligibility; sentence stress, intonation), and the visual component (posture, gesture, eye contact). Technical particularities (computer equipment and projector), together with the size of the room and the estimated number of people in the audience should also be taken into consideration, just like the issue of the appearance of the presenter (hair, nails, clothes, shoes). Over a couple of decades, the traditional ESLT approaches have resulted in focusing on the semantic meanings of words rather than on their use in spoken language, leaving our students for the most part dissociated from the skill/ability to recognize interpersonal communication specificities, as well as depriving them of tools important for independence in engaging in cross-cultural interaction.

Another important issue was setting an unrealistic goal for a non-native English speaker (NNES) to sound like a native speaker (NES). It is obvious that both of those issues create a non-motivational atmosphere and together with stage fright comprise a notorious Triad of Threats when launching an Oral Presentation Task, contributing to the overall lack of competence in performing oral presentation resulting in poor performance underlined usually by the underuse of discourse markers. Since academics are expected to move beyond the bare understanding when creating different graduate and postgraduate study programmes all over the world, the concept of active participation in various settings and dimensions within the basis of academic research and practice is being stressed, with the development of conference English presentation skills taking the precedence (as cited in Guest, 2018:49). In addition to that, it is important to accomplish not only a practical understanding of the general structure of the presentation, but one

should also be able to comprehend both grammar and terminology aspects within specific fields with the purpose of being efficiently prepared for the application of these skills within their relevant academic/professional field.

For ESP students studying professional English, learning spoken English with its particularities should aim at developing NNES skills of interaction and international exchange of information in their field of work. Instead of trying to mimic the North American standards of accent, Guest (2018, pp58-59) suggests the more internationally accepted standard – aiming toward intelligible pronunciation, justifying his conclusions by mentioning that there are around 95% of the NNES presenters who are successfully presenting their scientific and professional work at conferences. The fact that they are more relaxed, enables them to further improve their communicative skills, as well as enhances their motivation to engage in interaction and networking with colleagues from all around the world who share the same or similar field of interest. A shift from the native American accent focus towards communicative effectiveness provides a platform in which ideas and concepts can be expressed more clearly with the help of discourse markers. Unfortunately, this is not something that can be launched by pressing a start button. The development of communicative effectiveness is, however, a plausible general desired outcome of Oral Presentation (OP) tasks during secondary and especially tertiary education (ESP). By launching such tasks during the education span covering a period of about 10 years, ESL students are provided with vast opportunities to use the language they are learning in meaningful activities (Brooks&Wilson, 2014:199) parallelly developing independence in their learning as well as assuming responsibility for it. In such a real-life-mimicking task, which is actually a multi-faceted process involving preparation, practicing, and execution, students are independently employing LSRW (listening, speaking, reading, and writing) skills in order to create the final product.

Bearing in mind the fact that the OP is not just a sequence of independent, visually appealing slides carrying isolated pieces of information, the discourse signals or markers (DMs) help create a coherent narrative in that way attributing to comprehensibility and the rhetorical flow. The lack of presentation cohesion results in the absence of audience guidance and brings about the issue of different levels of attention wandering to complete attention loss. In that way, the primary goal of the presentation, which is to get the message across to one's audience, will not be accomplished.

3. Discourse markers (DMs) – presentation *glue*

3.1. Historical overview

Some forty years ago, Robert E. Longacre (1976:468) identified the "mystery particles" in the text that spiced it up providing notions of its style and scratching the surface of the sentence itself. It was then that discourse analysis, defined by Zellig Harris in 1952, came into the focus of linguistic interest. Consequently, the concept of Discourse markers (DMs) has been researched by many scientists over those forty years, yet still there are many disputes, starting from the name of the "mystery particles", to their characteristics and definition. The subject of the research is aimed at, but not limited to, what is observed in the broadest sense as discourse connectives, discourse operators, discourse signalling devices, cue phrases, pragmatic particles, etc. (Fraser, 2009:294).

Four years before Schiffrin came up with an elaborate piece of work on Discourse markers, Levinson (1983:87-88) was the one to recognize DMs as a group worth studying, since both in English and in other languages there is a significant number of words and phrases, "that indicate the relationship between an utterance and the prior discourse". In the years to follow, the research was concentrated around two representative groups of scholars – coherence theorists represented predominantly by Schiffrin and Fraser, and relevance theorists represented by Blakemore, Sperber and Wilson. Coherence theorists study DMs mainly within the discourse itself under the presumption that the DMs contribute to discourse coherence, whereas relevance theorists investigate them beyond the discourse, advocating the research within the framework of relevance. (Fung & Carter 2007:411)

3.2. Types of discourse markers (DMs)

As for the most part agreed upon, DM is observed as a lexical expression, displaying the syntactic independence of a well-formed sentence, such that its absence has no impact on the grammatical properties of the sentence. On the other hand, by removing DMs from the sentence, we are extracting clues about the relationship between present and prior discourse and therefore directly affecting communication. (Fraser, 1988:22)

According to the message they convey, Fraser (1988:27-31) categorizes DMs into three classes:

I) TOPIC MARKERS – indicating aspects of topic change; whether they are introducing a different topic (initial one: *back to my original point, in case you*

don't recall, just to update you)) or re-emphasizing the present one (*again, indeed, listen, look, you see*).

II) DISCOURSE ACTIVITY MARKERS – signalling the type of discourse activity the speaker communicates (explaining + summarizing), Fraser identifies seven (7) types of related activities:

a) clarifying (*to clarify*),

b) conceding (*anyway; in any case*),

c) explaining (*if I may explain*),

d) interrupting (*if I may interrupt*),

e) repeating (*at the risk of repeating myself*),

f) sequencing (*finally, lastly, next, on the other hand, to conclude*),

g) summarizing (*in summary, overall, to sum up*).

III) MESSAGE RELATIONSHIP MARKERS – indicating how the present message relates to the previous section of the discourse. There are four groups listed:

a) parallel markers: the current message is parallel to the aspect of the previous discourse (*correspondingly, likewise, similarly*); basic marker - AND

b) contrasting: indicating a sense of dissonance between two messages (*in contrast, nonetheless, on the contrary, otherwise*); basic marker - BUT

c) elaborative: indicating additional aspects, refined characterization or illustration (*above all, indeed; in particular, more accurately, more specifically; in addition, moreover*)

d) inferential: indicating that the consequence is the result of the previous utterance (*as a consequence, as a result, therefore*)

3.3. Characteristics of discourse markers

With a plethora of research being undertaken over the years, based predominately on different functions of such particles, the results appear to be slightly disappointing, since there is no consensus regarding the expressions that are to be comprised within the class. Although the concept of DMs is quite difficult to grasp, there is a more or less general agreement on some basic characteristics. The Relevance theory framework developed by Sperber and Wilson (1995) during the 1980s and 90s set the foundation for a comprehensive pragmatic model for DM analysis based on cognitive principles. It judged the relevancy of the utterance according to the cognitive effects it achieves. Schourup (1999: 230) further built

upon the relevance theory perspective, referring to the main characteristics of DMs: non-truth conditionality (the truth conditions in the utterance are not influenced), optionality (DMs do not affect the syntactic structure of the utterance), connectivity (they link the utterance to the context), multi-categoriality (they are derived from a variety of word classes), weak clause association (being outside of the syntactic structure), orality (used in oral speech), and initiality (located in the front position of a clause).

Although she initially listed seven (7) characteristics, only the first three were consistently regarded as criteria for DM definition and have been attested as such in multiple investigations.

3.4. Micro vs macro markers

In addition to the message-conveying aspect of DMs, Chaudron and Richards (1985:78-82) who studied discourse markers in the lecture discourse, emphasize the distinction between a micro marker and a macro marker, explaining why the latter is more efficient for successful coherence and consequently better understanding while listening.

Micro markers for the most part represent pause fillers or links between sentences within the lecture. They provide extra time for the speaker to reflect (verbal thinking), to search for the right words, but at the same time for the listeners to process what they have heard up to then. Frequently they are used as temporal links (*then, now*), causal links (*because, so*), contrastive (*but, actually*), and framing forms (*well, OK, all right?*).

As confirmed by the research of Chaudron and Richards (1985:78-79), the macro markers facilitate a better understanding, and easier following of the presenter/speaker/lecturer, whereas the micro markers do not add enough content, therefore being for the most part distraction, rather than a linking asset when overused. In general, macro markers are considered more important when used in an oral presentation because they are used to define the major structure of the lecture as well as to properly sequence the pieces of information, therefore being the explicit expressions of the lecture planning.

3.5. DMs – misuse, overuse, underuse

Experiential learning, or learning by doing together with the scaffolded practicing in EFL courses during the primary and secondary education cycle, presents a missing link that can influence the proper use of DMs in ESP courses of grad-

uate and postgraduate study programmes, which are to prepare the students for future lifelong learning and successful professional interaction as well as clear and effective presentation of research results and ideas. In order not to witness NNES overusing or misusing DMs (*so, next, then, but*), the first step is to rethink the curricula of EFL in primary and secondary schools and introduce graded tasks and activities which will provide a firm foundation for higher education preparing the students for their future career demands.

As mentioned by Mihaljevic Djigunovic and Vickov (2010:274) in their research on the use of DMs in primary and secondary school EFL learning in the Republic of Croatia, pupils use a relatively modest range of DMs, whereby they are more prone to using the ones that can be correlated to their mother tongue (L1). The previously mentioned conclusion is highlighted by the fact that the highest frequencies were displayed by the discourse markers: *and, but, because (of), when* and *I think*, which seems quite logical if we assume pupils' affinity for translating from their mother tongue. Another important factor contributing to the modest use of DMs lies in the teaching materials which present a basic variety of DMs as well as in the teaching approaches not focusing on the pragmatic use of words. An additional issue is reflected in the fact that a significant number of Croatian EFL teachers do not use discourse markers frequently (Mihaljevic Djigunovic & Vickov, 2010:272). Without an adequate model in the classroom, pupils are deprived of valuable exposure and accidental learning.

Although the research of Mihaljevic Djigunovic and Vickov was focusing on DM use in writing, the insights they have collected are definitely a good landmark for reflecting upon tertiary education and ESP. Consequently, it can be concluded that organised teaching and practicing of DMs use should be also systematically implemented in ESP curricula (including DMs for spoken interaction). Do's and don'ts with models of successful use, followed by recognizing the patterns and practicing them in scaffolded sessions, prove to be of significant value for future oral presentations of a professional topic. The most studied DMs overall in the last 20 years were: *listen, well, you know, like, you see, actually, basically,* etc. The global conclusion reached by those pieces of research underpinned the predominantly complex picture of overuse, underuse, and misuse. When comparing NNESs and NESs, Fung and Carter (2007) concluded that *so, you know,* and *like* are more frequently used by NESs. Interestingly enough, the contradictory aspect can be traced between the findings of Huang (2019) who reported Chinese EFL learners underusing the DM *well*, whereas in the research by Mueller (2005) *well* was the only DM that was NOT underused by German EFL learners. The idea behind it probably correlates to the L1 use of DM (*well* translates as *also* in German and

is very often used in spoken discourse: *Also, was meinst du? / Well, what do you think?*).

Scaffolded pre-planning of DM use within the presentation script may be a remedy for frequent problems listed by Rahayu et al (2021:7). They list several categories of misuse, namely: distraction (DM is absolutely not necessary), overuse (using two or more DMs, when one is enough, e.g. but and also), wrong relation (inappropriate type of DM is used), semantic incompletion (disturbing the completeness of the sentence), etc. Although pre-planning the talk may interfere with its spontaneity, by thinking over the data to be presented in advance one can more easily compose a coherent piece of oral contribution. In that way, students are provided with the blueprint of their presentation more or less in the way the audience is going to hear it, and additionally, they get the opportunity to become familiar with the concept of time framework in planning the presentation in which the particular sections of the OP should be carefully balanced.

4. Signposting or signalling in oral presentations of medical topics

As is the case in every audience-presenter interaction, the performers/presenters want to hold the undivided attention of the audience for the duration of their oral contribution. Starting from the fact that the majority of the audience came for the presentation free-willingly, the starting point is already present: the motivation of the audience member. What needs to be accomplished is that the audience remains interested and attentive. They will definitely sustain the attention and follow the presentation if it is understandable and easy to follow, if they are for the most part guided through it, all of the time being informed about what is to come next, if the interaction between the presenter and the audience is vivid and constant, and if the member of the audience is prompted to think about what is being said by the presenter during the presentation.

One of the most important prerequisites for the above-mentioned *audience focus* is achieving cohesion in the presentation. That deeper sense of cohesion and flow is equally important for the presenters themselves because by quality-based preparation and planning, they become equipped with transitional phrases, and accomplish the logical flow of the presentation.

4.1. Practicing for structure and coherence (medical topic)

The first level of dealing with structure and coherence targets students becoming familiar with the macro-structure of the genre, providing examples of suc-

cessfully organized oral presentations, addressing particular structural elements, as well as the concept of discourse markers and their use, starting from the task of raising awareness, in which they are to single out particular DMs while listening or reading, over matching the particular DMs, to specific tasks referring to oral presentation scaffolding, like filling in on gaps in the presentation script, or creating particular sections of the oral presentation using DMs to accomplish cohesion between bullet points. Both micro and macro skills related to the OP task should be given proper attention to, discussed in detail, and practiced while being properly scaffolded, in order to prevent the negative aspects arising from the sense of abandonment felt by the students if pushed into the Task without proper preparation and training (King, 2022:406).

When practicing for structural organisation of the slides and the OP itself, students are prompted to create particular sections of the Oral Presentation (Introduction, Outline, Body, Conclusion), using adequate DMs to plan for coherent slides, as well as to accomplish the aspect of guidance through the presentation. In this scaffolded preparation for their task, students are creating the Introduction slide, accounting for their choice of topic.

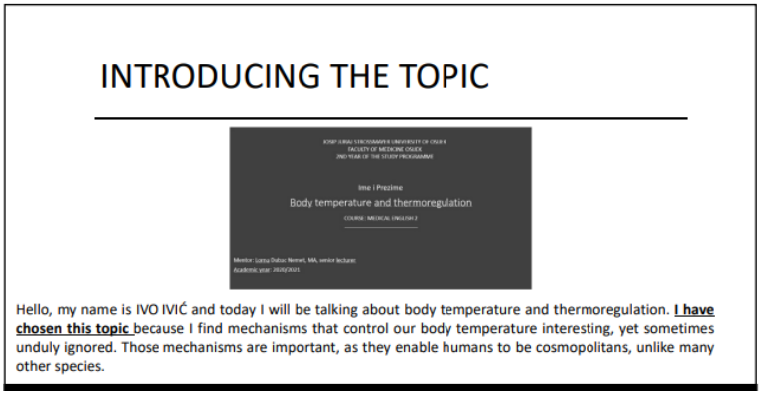

Figure 1: Example of the student's Introduction slide

After the Introductory slide, the next task involves the production of the Outline slide, in which the student explains what he is going to talk about and why.

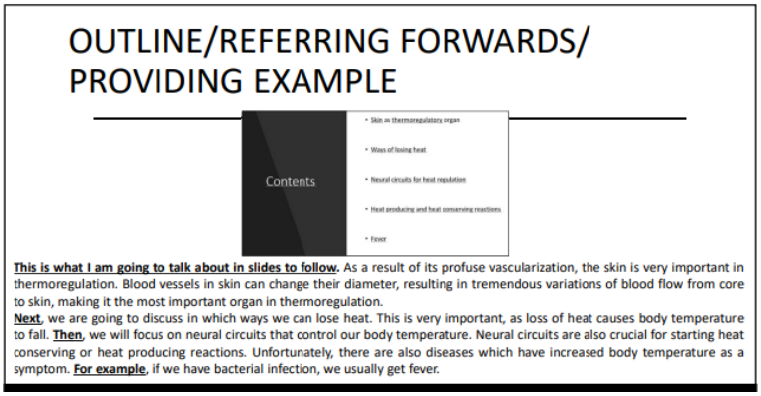

Figure 2: Example of the student's Outline slide

The Body of the presentation provides opportunities to practice DM use and signposting while addressing different purposes: introducing the main point, rephrasing it, moving to another point, or introducing an example. The most frequently used linking phrases and signposting expressions were the ones referring backward and forward (anaphoric vs cataphoric), as well as to a particular object on the slide (*Let's have a look at the graphics…*)

Additionally, students were vigilant in using words and phrases indicating contrast, elaborating and emphasizing, as well as signalling sequence. For elaborating and emphasizing, the phrases that were frequently used were "*As a result* and *What I'd especially like to emphasize is…*"

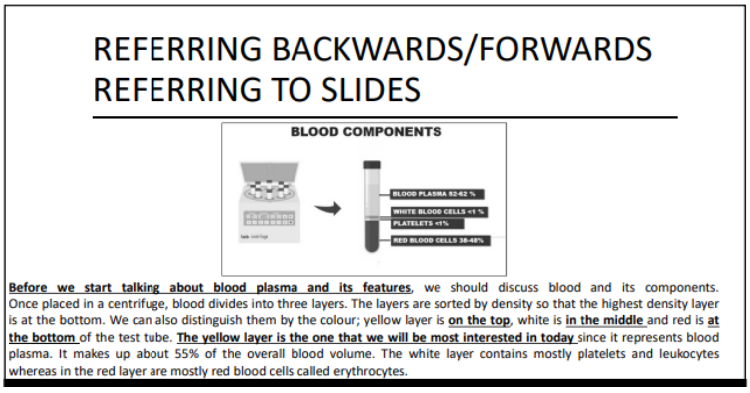

Figure 3: Example of the student's Body slide:
Referring backward/forward: Referring to slides

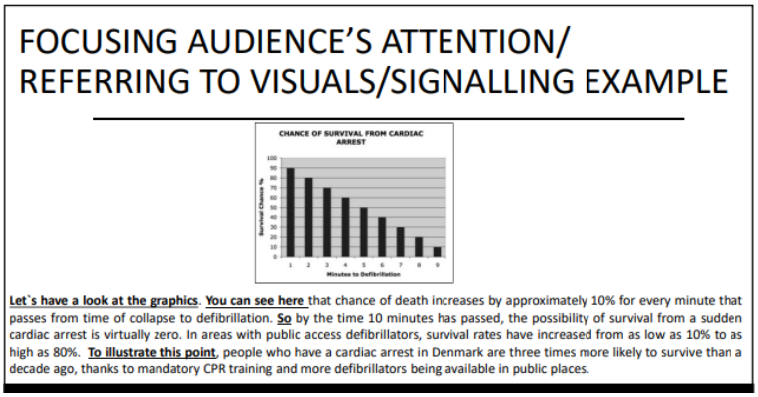

Figure 4: Example of the student's Body slide:
Focusing audience's attention/Referring to visuals/Signaling example

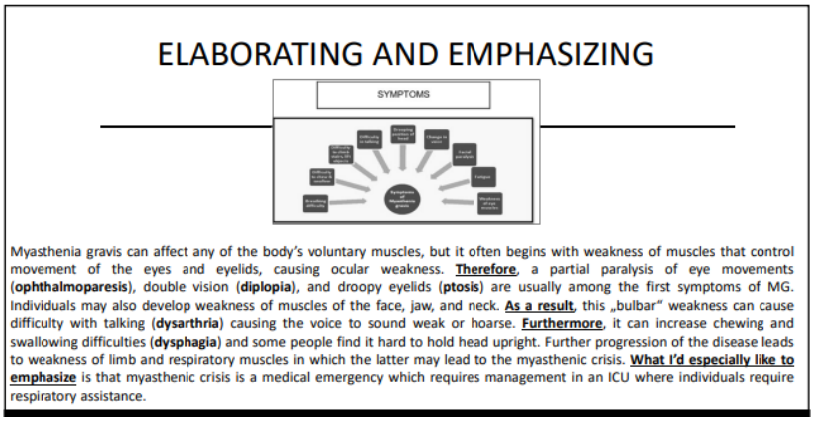

Figure 5: Example of the student's Body slide: Elaborating and Emphasizing

Finally, in practicing for the Conclusion slide, students are assisted in composing a closure, usually expressing their opinion or summarizing the most important pieces of information they reported on during their presentation.

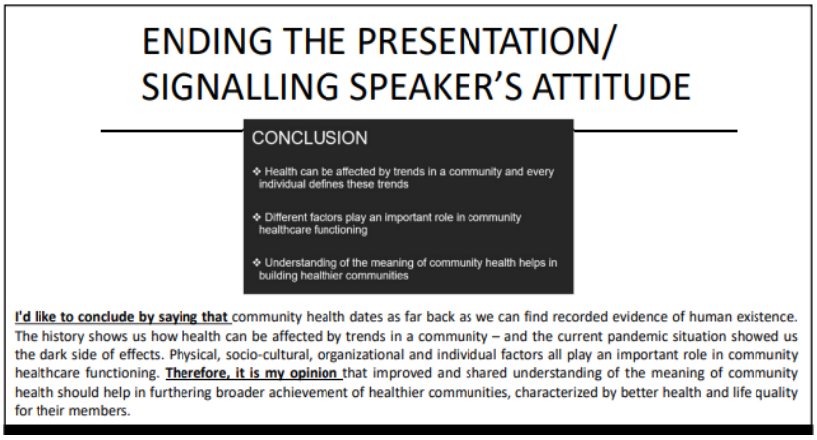

Figure 6: Example of the student's Conclusion slide: Ending the presentation/ Signaling speaker's attitude

5. Conclusion

Bearing in mind the ever-existing gap between theory and practice (or the educational provision and the real-world demands), and one of the ESP teacher's primary tasks to bridge that GAP, it is important to underline the fact that at the moment, millions of people all around the world are giving their presentations in English or in their mother tongue. Only a small number of them are highly experienced speakers, enjoying the limelight. The majority of the presenters are beyond doubt, in need of some assistance. The prevention for future potential issues with underdeveloped presentation skills generating stress, anxiety, and failed opportunities is to incorporate Oral Presentation tasks and pre-task scaffolded practice systematically into professional English curricula (ESP). Providing our students with tools that help them to create a successful presentation in theory, with examples of good practice and safety nets for scaffolded practicing, does not mean all of them will enjoy future opportunities for giving a presentation. Some of them will unfortunately always feel reluctant about it, trying to avoid situations in which they might be called upon to engage in any form of oral contribution. Nevertheless, having mastered the theoretical aspects of Oral Presentation together with teacher scaffolding during the preparation and practice phase will definitely equip them with transferrable skills to use according to the need. Being able to use discourse markers and linking phrases correctly and efficiently will unquestionably add to both their fluency and the overall coherence of the presentation.

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Razvijanje vještina izlaganja tijekom nastave Medicinskog engleskog jezika – trud koji se isplati ili puka gnjavaža?

Sažetak

Izlagati ili ne? Je li to uopće opcija danas kada vizualna iskustva praćena zvučnim sredstvima, nadopunjena dinamičnom interakcijom u obliku pitanja i odgovora preuzimaju primat u odnosu na druge oblike komunikacije?

Izlaganje jest u suštini predstavljanje jasnih i povezanih informacija s ili bez uporabe slikovnih pomagala s ciljem pružanja informacija, osvješćivanja, uspoređivanja rezultata, pobuđivanja interesa te povećavanja vidljivosti. S obzirom na to, potrebno je osvijestiti činjenicu da u cilju poboljšavanja prilagodljivosti naših studenata, budućih stručnjaka, moramo poticati razvoj transverzalnih vještina koje obuhvaćaju upravljanje vremenom, prostorom i strukturom, razinu koherentnosti, no također ne umanjujući važnost vokabulara, gramatike i izgovora.

Snažan otpor prema javnom izlaganju ne pridonosi stvaranju ozračja motivacije u kojem bi se posvetilo tom zahtjevnom području, međutim, ako studentima ponudimo koristan alat u obliku dobrih i loših primjera iz prakse vezanih uz strukturiranje i cjelokupnu pripremu izlaganja, kao i potporu tijekom uvježbavanja, doprinijet ćemo stvaranju manje stresnog ozračja. Ovaj rad obuhvaća osnovne odrednice u pripremi usmenog izlaganja s fokusom na korištenje diskursnih oznaka i konektora.

Ključne riječi: usmeno izlaganje, medicinski engleski, pomoć i potpora (scaffolding), diskursne oznake, engleski za posebne namjene