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FOREWORD

This volume of the Journal Terminology Science and Research contains three papers presented at the conference "Language and Law – Theoretical and practical approaches". The conference was arranged at NHH Norwegian School of Economics on the 3 May 2014. The aim of the conference with four invited speakers from Denmark, Germany, Spain and France was to give an impetus to the candidates of the online study programme on legal translation (JurDist) given at NHH. Unfortunately the speaker from France has been unable to send his contribution for publication. However, we have added a joint contribution of most of the staff members involved in JurDist.

We present shortly the conference papers in alphabetical order. The first one is the paper of **Jan Engberg** (Aarhus University). In his paper on "What does it mean to see legal translation as knowledge communication? – Conceptualisation and quality standards" he argues that the conceptualisation of legal translation should be seen as a particular form of knowledge communication where the translator needs specific information in order to perform his/her task adequately. Consequently, he argues, that this approach helps to set up criteria for assessing the quality and efficiency of concrete translations to perform the goals of the translational process.

The next paper is from **Florian Paintner (**Paintner PartGmbH) on "The complex concept of legal translation – Examples from a German Lawyer's professional life". By discussing some illustrative examples from his professional life where he is confronted with texts/translations primarily in German and Norwegian his aim is to outline the practical relevance of some well-known problems discussed in translation studies. In his conclusion he shows to the best practice rules adhered to in his law firm.
The third paper is from **M. Rosario Marin Ruano** (University of Salamanca). In her paper "The role of legal and institutional translation in processes of identity (re)construction in multilingual and multicultural contexts" she reports on the challenges of specialized communication in multilingual und multicultural contexts as part of an ongoing research project by the Spanish *Ministerio de Economica y Competividad*. She argues that legal translation may be analysed as part of broader processes of professional, social and cultural identity construction and identity negotiation that are affected by larger tensions between the global and the local. She shows to examples of i.a. official equivalent versions where she claims that this is indeed the case. In a kind of conclusion she points to the fact that both identities and legal cultures are dynamic: they change over time and do so in dialogue with other cultures and identities. In her view the notion of identity contributes to a dynamic understanding of cultural exchanges in legal and institutional settings and offers interesting insights into the role of translation in the shaping of images of legal cultures.

The final paper is a joint article of four of the member staff: **Christian Langerfeld, Jan Roald, Beate Sandvei and Ingrid Simonnæs** (NHH Norwegian School of Economics). In their paper "Teaching legal translation in Norway – JurDist: an online course" they present the JurDist programme and its content and focus. The JurDist programme, unique in Norway, was launched only recently and consists of a two-module approach. In the first module, students are given an overview of some important parts of the Norwegian legal system and are then asked to compare the Norwegian system with the legal systems in France, Germany and Spain respectively. In the second module, the students use the insight acquired through this exercise in their translations of various legal texts, using Norwegian as source or target language. The authors argue that certain kinds of texts ought to be used for training and at the same time argue for their particular didactic choice, i.e. their focus on culturally embedded legal realia. The latter is also the focus of the case study reported on.

Bergen, December 2015

Ingrid Simonnæs
Guest editor
Ingrid.Simonnas@nhh.no

CONTENTS

Jan Engberg

Aarhus University

WHAT DOES IT MEAN TO SEE LEGAL TRANSLATION AS KNOWLEDGE COMMUNICATION? – CONCEPTUALISATION AND QUALITY STANDARDS

Abstract
In an insightful article, Obenaus (1995) argues that the legal translator has to be seen as an 'information broker' and not merely as an expert in the field of documenting in a strict manner legal texts written in one (source) language in the form of texts written in a different (target) language. Hence the necessity of creativity in legal translation depending on the needs of the receivers in the target situation (Pommer 2008). Based upon the idea to understand domain-specific communication (like communication in law) as Knowledge Communication (Engberg 2011, Kastberg 2010) I will take the idea from Obenaus a step further. Focusing on knowledge instead of on mere information especially means to take the process of the translated text being understood by someone into consideration.

INTRODUCTION: LEGAL TRANSLATORS AS PURPOSEFUL AND CONSCIENT AGENTS

One of the most basic challenges for legal translators is the fact that legal systems are inherently national. An important consequence of this is that the conceptual systems underlying expert communication in the field of law are not identical across national borders. There is even today, in the era of the European Union and its super-national legal system, a certain urge when developing legal concepts at national level not to take possible overlaps into consideration as an asset, but rather to opt for a national version that meets exactly the perceived needs of the national legal system despite its difference to similar concepts from other legal systems. As an example, let me mention the discussions documented in a report from January 2015 by a committee at the Danish Ministry of Children, Gender Equality, Integration and Social Affairs investigating the necessity of reforming the Danish system of matrimonial property regimes. The committee has reached the conclusion that it is necessary to suggest a reform overcoming the problem that it seems unfair to share all property of husband and wife (= property introduced into the marriage as well as property generated during the marriage) equally, especially in case of divorce after short marriages, as the existing statutory property regime indicates. As a solution, a minority of the members of the committee suggest a regulation following the German regime of *Zugewinngemeinschaft* ('statutory matrimonial property regime of the community of surplus'). However, the majority of the members opt for a different solution, allowing the spouses to extract a diminishing portion of their own property from the property to be shared, until after seven years they have to share all parts of their property in case of divorce. The details in the suggestions of the committee are not important here, the majority of the committee members have a number of sensible arguments for their suggestion (Retsvirkningslovsudvalget 2015: 222-271). Instead, the interesting thing is that the majority in the committee, given the chance to reach some degree of harmonisation in the field of family law, a branch of law where international contacts are not unimportant, still opt for a special national regulation. The argument explicitly given is that it is not sensible to copy the matrimonial property regimes of another country directly, due to sociological, social, economic and cultural aspects. Especially, such regimes may not be seen in isolation, but have to be seen in the context of other parts of national family law (Retsvirkningslovsudvalget 2015: 245). I.e., the committee sees it as sensible to be inspired by the regulations in other countries (and in international fora), but still to suggest a new regime that preserves the specialities of the Danish system. The argument of harmonisation plays no role at all here. On the contrary, it is discarded with recourse to the special cultural situation in Denmark.

The case is a good example of why legal translators will presumably have to cope with the fact of non-overlapping conceptual systems in the foreseeable future: To have a special legal system reflecting the special cultural characteristics of country is a very powerful argument in developing the law. This means that legal translation will also in the future have as a major challenge to translate non-overlapping concepts. This situation has been described lucidly by Šarčević (1997: 241):

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While some functional equivalents are always acceptable (near equivalence) or never acceptable (non-equivalence), ***most functional equivalents fall into the category of partial equivalence****. Accordingly, the question of* ***acceptability*** *arises primarily when a functional equivalent and its source term are only partially equivalent. In such cases, the acceptability of a functional equivalent usually depends on context, thus* ***requiring the translator to analyze each textual situation*** *before deciding whether a functional equivalent is acceptable in that particular context* (emphasis added, JE)

Importantly, Šarčević here states that the most frequent relations between concepts from different national legal systems calls for assessing the acceptability of solutions to the translation problem and that the acceptability depends on characteristics of the concrete textual situation, which the translator has to analyse and to take into consideration. In other words, this calls for active and consciously acting translators to make decisions on the basis of their insights in order to express relevant parts of a concept in their translations. In this paper, I would like to flesh out some criteria and background assumptions that are relevant for this process from the point of view of Knowledge Communication.

The term Knowledge Communication may be defined by the following description of the main aims of studying it:

The study of Knowledge Communication aims at investigating the intentional and decision-based communication of specialised knowledge in professional settings (among experts as well as between experts and non-experts) with a focus upon the interplay between knowledge and expertise of individuals, on the one hand, and knowledge as a social phenomenon, on the other, as well as the coping with knowledge asymmetries, i.e., the communicative consequences of differences between individual knowledge in depth as well as breadth (Engberg 2015b).

Central is thus the communication of knowledge of experts in different settings. Importantly, talking about the communication of knowledge, focus is upon the interactive exchange of knowledge and insights held by individuals and acquired under social conditions. The Knowledge Communication approach emphasises the importance of human minds being involved in the process of communication also in the field of specialised communication. As will be visible, this has implications especially for two aspects that will be at the centre of the deliberations in this paper: firstly, for the conceptualisation of legal translation; and secondly for the quality standards applied in assessing active and conscious decisions of translators.

In the following section, I will focus upon the difference between seeing translators as brokers of information vs. seeing them as brokers of knowledge. On the basis of these elaborations, I will suggest a tentative definition of the process of translating legal concepts in the subsequent section. Finally, the theoretical deliberations will be applied upon a concrete example of translation decisions, focusing on the characteristic that a knowledge communication approach renders testable criteria for assessing translations.

TRANSLATORS - INFORMATIONS BROKERS VS. KNOWLEDGE BROKERS

Legal translators are text specialists creating new texts based on existing texts. What makes this activity legal is not mainly the type of text being translated. Instead, the fact that the translation is to be used for legal purposes is decisive. In prototypical cases like the translation of court decisions or contracts, the two characteristics mentioned often come together, but this need not be the case. For example, a court decision may be translated as part of a literary novel. In this case, it is more important to render the aspects of the court decision with importance for the plot of the novel in the translation in a way that is accessible to the reader of the target text; and it is less important to be very precise in rendering every detail of the original text, as will normally be required from a court decision being translated in an official legal setting. On the other hand, in a court case in which the case is about the interpretation of, e.g., an advertisement text in a foreign language, this text should be translated in the detailed way typical of official legal translation due to the requirements of the legal situation. It is thus clear that legal translation is mainly translation for legal purposes and only in a second step, prototypically the translation of source texts that have emerged from a legal situation. Consequently, legal translation is a type of translation, a set of reproductive or imitating communicative actions (Obenaus 1995: 249) that are adjusted to the needs of the legal situation, in which the target text is to applied.

This state of affairs means that the basic ideas on translation as being a purposeful activity, normally subsumed under the heading of Functional Translation (Nord 1997, Reiß & Vermeer 1984), is also valid for the field of legal translation: The translator is not bound by the form of the source text, but by the requirements of the target situation. This insight is not at all a new one, although it is still somewhat difficult to overcome traditional ideas especially among non-translators about legal translation as something quite mechanical where the translators do not interpret, but only render the exact meaning of the source text faithfully. In the following, however, I will look into some of the concrete consequences of accepting the functional approach, based on considerations presented by other researchers. Eventually, I will suggest a further development of these ideas as a consequence of applying the Knowledge Communication approach presented above to the description of legal translation.

In an inspiring early article, Obenaus (1995) rejects the traditional idea that legal translation is about creating equivalence at the level of individual words and concepts. Instead he states: "To be sure, precision and accuracy are essential in legal translation, not in finding equivalents but in achieving the intended function of the translation" (Obenaus 1995: 250). This leads him on to suggesting that central skills to be acquired are what he calls information brokering skills. "Information brokers act as intermediaries between information sources and people who need information" (Obenaus 1995: 250). The idea behind this suggestion is to say that translation also in the field of law is not predominantly a textual and linguistic activity. Instead, it is mainly an activity aiming at making information from a source not directly accessible to a group of receivers linguistically and textually accessible to them. Introducing information brokering as the centre of legal translation Obenaus sees as one way of enabling legal translators to assess the functional adequacy of their translations (Obenaus 1995: 250). He may be said to offer a set of criteria different from equivalence at linguistic (formal and semantic) level. As an example, he shows how the information needs of two different situations influence the strategies to be adopted by the translator. In the first situation, a US company commissions the translation of a warranty statement for use in connection with sales in a German context; in the second situation, a German company commissions a translation of the same warranty statement, but in order to know how warranties function in the US legal system. The two different situations emphasise different parts of the information presented in the source text. Due to the strong links between legal systems and legal texts, the translator will have to be able to filter out the relevant information. Thus, legal translation is about performing textual and other linguistic activities in order to fulfil underlying and decisive functions. The criteria of success are based not on the merely linguistic, but on the functional requirements.

In our context, the idea of brokerage and the ensuing idea of the active translator choosing what elements from the source text are to be focused in the target text situation are important. The idea of the active information-brokering translator leaves room for creativity in the field of legal translation, not in the form of expressing the personality of the translator, but in the form of expressing the specific choice of information rendered on the basis of the translator's insight into the needs of the target situation. Pommer (2008) develops her ideas along the same lines. Her main idea is that translation is basically a problem-solving activity (solving transfer problems when transporting legal information from one legal system and legal language to another) and that creativity is a necessary skill in solving problems of the open-ended kind that are often encountered in legal translation (Pommer 2008: 359-360). Open-ended problems are problems where there is no automated solution, but where the translator has to create the solution on the basis of assessing the concrete situation and making argued rather than automated decisions. This creative process is carried out based primarily upon expert knowledge of the legal field and of the possible translational operations allowed in the concrete translational situation (Pommer 2008: 363). The last aspect, the constraints upon creativity from the legal characteristics of the translational situation, is important as a limitation on the relevant types of creativity. Pommer (2008: 365) thus states that "(t)hese many important constraints make a more 'focused creativity' necessary …". But still she shows that creativity in the brokering of information, i.e., in the choice of what information from the source text to convey in the target situation, plays a central part.

Both of these approaches (Obenaus and Pommer) have a focus on the concept of translators as information brokers: Persons who present pieces of information in a textual format based on their understanding of the source text, according to what they think is most relevant in the situation. This is very valuable and a good rendering of what actually decides whether a legal translation is seen as being a good translation or not. Thus, from a scientific point of view it brings us closer to an adequate description of the processes of professional legal translators; and from a didactic

point of view it gives translator students a set of criteria to work with when finding their way into good legal translation skills based on the assessment of information needs. However, I suggest to take this idea one step further, shifting from seeing translators as information brokers on to seeing them as *knowledge brokers*. In a previous work (Engberg 2013b), I have worked with the distinction between information and knowledge underlying this suggestion based on work from the field of Knowledge Management. This distinction is relevant here, too. Information is in this field seen as "a message, usually in the form of a document or an audible or visible communication" (Davenport & Prusak 2000). Knowledge, on the other hand, is described as "a fluid mix of framed experience, values, contextual information and expert insight that provides a framework for evaluating and incorporating experiences and information" (Davenport & Prusak 2000). The differences lay in the distinction between merely a message and the inclusion and incorporation of the message in the cognitive stock of human actors.

In the present case, the distinction enables us to refine our description of the task of a creative translator-agent. When talking about the task of the translator as information broker, focus is still mainly upon the (textual) message: The task of the information broker is to produce a message that receivers may use in order to gain new insights relevant for them. From this perspective, the task of the information broker ends with the formulation of a target text with a specific information profile. In actual fact, however, that is not exactly what is expected of the translator by the person commissioning the translation. The task of the translator is only fulfilled when the target text is actually understood the way the translator intended it. This is naturally a somewhat more challenging task to adopt theoretically, as it widens the scope of responsibility of the translators. Probably some professional translators will be reluctant to accept this idea for that reason. But actually I think it is necessary to realise that this is actually what the translator is expected to deliver. Taking this step is consequently as necessary from the point of view of descriptive adequacy as the move suggested by Obenaus. In his article, he argues that despite what is traditionally believed and often stated by commissioners of translation it is actually not relevant to translate a text without introducing some kind of purpose filter (Obenaus 1995: 252). Similarly, I would suggest that adopting the idea of the translator as not only information, but as knowledge broker may help us to better understand, why it is nonsensical to ask a translator to 'just translate what the source text says'. Not only can translators not translate without knowing which function the target text is expected to have. It is also necessary to know, to what target group with which presumed stock of previous knowledge the translation has to be directed. Thus, adopting the idea of translators as knowledge brokers also helps us understand and describe why it is equally nonsensical to ask translators to just translate the text into English. For this can only be done adequately, if translators know which English-speaking audience they are targeting. The reason is that texts do not mean anything specific, until they are being read – and what they mean is dependent upon whether they are read by a Canadian, and Australian or someone just using English as a lingua franca. In this way, the Knowledge Communication approach renders us a supplementary set of criteria for assessing alternative solutions to translation problems: not only the information profile of the texts, but also the potential capacity of the alternatives concerning enabling the intended knowledge construction process on the part of the receiver.

Thus, I have shown that a distinction between information and knowledge is relevant for refining our conceptualisation of the task of the translator as a text producing problem solver. However, distinguishing between information and knowledge may also help us refine our conceptualisation of the processes preceding the actual text production. As indicated by Pommer above, one of the prerequisites for solving problems adequately is expertise, legal as well as translational. This entails knowledge in a different perspective, i.e., knowledge on the part of the translator as the basis for functioning as a knowledge broker. A method to help translation students to construct such knowledge in a relevant way has recently been presented by Holl & Elena (2013). The method is case oriented in the way that the students are faced with the task of translating a specific text (a prenuptial agreement) from Spanish into German. The students work with this case and carry out all relevant investigations in order to prepare them for translating the text. On the basis of their deliberations, it becomes clear what types of knowledge are especially relevant in this context. The authors divide the method in four steps:

1. Confrontation with the case and diagnosis of previous knowledge
2. Determination of the investigation method
3. Acquisition of information on the object of study
4. Demonstration of the practical application of the results of the translation

(Holl & Elena 2013: 311-312; my translation)

In all of the steps, focus is upon the previous knowledge of the students on the legal topic of the case (relevant parts of family law) as well as on the genre to which the text belongs (prenuptial agreements in the Spanish and German legal system). The knowledge is acquired based on information collected by the students using a comparative methodology. The aim of the process of investigating the information is to help them construct cognitive schemata concerning structure and content of the legal field and of the genres, guided by the perspective of comparing the Spanish and the German situation (Holl & Elena 2013: 329). Here, the distinction mentioned above between information as external input and knowledge as internalised and contextualised input reoccurs: The students study information sources in order to construct their own internalised meaning structures that are geared towards their specific needs and pre-existing stocks of knowledge. Thus, focusing upon knowledge and the difference between knowledge and information enables us to describe in more detail what the prerequisites are for carrying out the sorting tasks that are basic in the brokering function.

DEFINITION: TRANSLATION AS KNOWLEDGE COMMUNICATION

Based on the above considerations, I venture to formulate a definition of what characterises translation especially of terms in a legal context conceptualised as knowledge communication:

Translating terms in legal documents consists in strategically choosing relevant parts of the complex conceptual knowledge represented in the source text in order to present the aspects exactly relevant for this text in the target text situation ***in order to enable a receiver to construct the intended cognitive structure****.*

This definition is a development of a definition I have presented in previous work (e.g., Engberg 2013b: 25). The development is important in stating the difference between the translator as information broker and as knowledge broker. The development consists in adding the bold face part of the sentence. In this way, the task of the translator goes from creating a textual presentation with a specific profile (= information broker) to having it as the goal of the translated text to enable knowledge construction on the part of the receiver(s) of the target text (knowledge broker), in continuation of the argumentation in the previous section. Central positions in the definition are thus held by the aspects of choice (i.e., allowing an element of creativity), of knowledge as the basis for the choice and as the goal in the target situation (taking the role of the human translator and receiver seriously), and of focus upon rendering textually profiled meaning rather than full conceptual knowledge. In the following, I will elaborate upon these three aspects.

To start with the last aspect, a basic assumption for the definition is to make a distinction between concepts realised in texts and concepts as part of the (collective) knowledge of a field. This distinction also underlies the idea of Obenaus to see translation as information brokering. He uses this distinction to clarify the distinction between the quest for equivalence at word level and the quest for a functionally adequate target text (Obenaus 1995: 248-249). I have in previous work used the distinction to demonstrate the distinction between the work of a legal translator and that of a legal terminologist (Engberg 2013a). The idea is that at the level of the concepts as part of the knowledge of a field focus is upon all facets of a concept, so to speak upon the concept in its full complexity. At the textual level, on the other hand, concepts are never present in their full form (apart from encyclopaedic texts presenting the facets of a concept – but even here not all facets are present in all sentences). Instead, terms in texts are profiled representations of relevant parts of a concept. For example, when the sentencing court is mentioned in a Danish court decision the concept of 'court' is represented in a profiled way in the sense that mainly the fact that the court is competent from a geographical point of view (i.e., is located at the relevant place) and that it has the authority to issue the decision in the case (i.e., belongs to the relevant level of the court hierarchy) is important. It is not important, for example, how many judges have participated in the adjudication, and it is not important whether the court is part of three-tier hierarchy, like in Denmark, or of a four-tier hierarchy, like in England, to mention just a few examples. This means, that already the fact that the term is part of text means that the concept has been subject to a profiling process, resulting in parts of the full concept being more or less relevant.

Knowledge as an aspect acquires importance in this context. For it is on the basis of their knowledge of the field that translators understand the foregrounding and backgrounding of the full concept in the source text. And this knowledge has to be sufficiently specialized for them to understand texts in a way similar to that of the legal experts (Jermol 2012, Engberg 2009).

Furthermore, as stated in the explanation of the phrase highlighted in the definition, the construction of knowledge and not merely the presentation of information is the real task for the translator, with all the consequences that I have mentioned above concerning quality criteria and the possibility of checking the quality of a translation.

Finally, creative actions by purposeful translators are at the core of the process: Translators have to understand the selection among the possible facets of a concept underlying the specific textual formulation; they have to make a choice concerning what parts of the facets relevant in the source text situation are also relevant in the target text situation; this creative choice has to be made based upon legal knowledge. Based upon knowledge about the intended reader(s) and the target text situation, translators have to choose how to render the relevant parts from the profiled presentation of the concept from the source legal system. In this context, as the aim of the translators is to enable the reader(s) to construct a relevant chunk of knowledge, they must also creatively choose whether it is necessary to include facets of the source concept, which are not part of the rendering in the source text, but which are necessary background elements for the correct construction on the part of the receiver(s).

I hope to have demonstrated above, how a knowledge communication approach may help us grasp better the actual complexity of legal translation. In the last section of this article, I will give an example of what quality criteria for assessing translational decisions in the terminological field I can deduct from the above description of legal translation.

EXAMPLE: KNOWLEDGE-ORIENTED DECISION MAKING

As an example of what the assessment of possible translations may look like under the assumptions and conceptualisations presented above, I will in this section present two solutions to a translation assignment given in my course on legal translation at Aarhus University. As an example, focus will be upon solutions to the translation of two concepts in a sentence in a German court decision and assess these in the context of the source and target text situation. For additional to the consequences listed in the previous section, an important consequence of adopting the knowledge broker idea is that it makes it relevant to check the creative solutions of the translators empirically through surveys of the actual understanding (Engberg 2015a). The background for this consequence is that the goal is to enable a specific intended knowledge construction on the part of the receiver. This makes it relevant to present the translation to the intended readers, check what knowledge they construct from the target text and compare this to the translators' intention. Although the aim here is different, the procedure is similar to and inspired by what is traditionally done in modern approaches to the investigation of intelligibility. As an example, in her *Rechtslinguistisches Verständlichkeitsmodell* (Legal Linguistic Model of Intelligibility) used for assessing the intelligibility of statutes, Luttermann elicits a so-called *Theoriemuster* (theoretical pattern), i.e., the knowledge which legal experts relate to a specific part of a statute. This pattern is compared to the *Ergebnismuster* (result pattern), which is the aggregated result of empirically testing how non-experts relate to the same part of a statute, i.e., what knowledge they construct. The two patterns are compared in order to know how intelligible the part of the statute is (Luttermann 2010: 151). In my case, the potential difference does not lie between experts and non-experts, but between sender and intended receivers in a more general sense. However, the basic rationale for the procedure is similar.

In order not to make the practical work of translators completely impossible, however, it is important to state that I am naturally aware that it is not always practically feasible to empirically check the knowledge construction process of the intended receiver. The important thing is, however, that the knowledge communication approach to legal translation renders relevance to the construction process. As an alternative to the actual empirical testing, I suggest and present here the tool of hypothetical constructions based on experience with the intended readers. In other words, instead of an actual empirical test, I suggest that the translators carry out the last step before the test, i.e., set up an argument for why the receivers will probably construct knowledge in a specific way on the basis of the information rendered through the chosen formulation of the target text.

The text to be translated by the students is an excerpt from a court decision by the German Federal Supreme Court (*Bundesgerichtshof*) issued in 2012 (*BGH, Beschluss vom 10.1.2012 – 4 StR 632/11*). The decision treats a number of situations in which a person had driven away from

petrol stations without paying for petrol. The legal framework was that of a *Revision*, i.e., of an appeal to the supreme court solely concerning points of (interpretation of) law. The court had to decide what kind of offence it is to drive away without paying: theft (*Diebstahl*), fraud (*Betrug*) or misappropriation (*Unterschlagung*).

The translation brief that the students were given for the assignment was to produce a target text for a Danish lawyer, who is writing an article on the legal status of driving away without paying for petrol. Thus, the idea is to write a translation where the interest of the receiver in the target text situation is on understanding the framework and the argumentation of the German court and the basic legal concepts involved in the case. However, the receiver is not very interested in the concrete details of, for example, how the court decision is formulated. Furthermore, the brief leaves room for the translator to decide what level of detail is relevant in the rendering of the German original. From the point of view of the conditions for the knowledge communication process, the reader has a considerable level of specialized knowledge on relevant Danish law and is well acquainted with the situation underlying the genre of court decisions, at least the Danish version of it.

Let us have a look at one sentence from this decision and at the way two students have rendered it in Danish within the framework of the translation brief. The German sentence from the original text is the following:

Gegen das Urteil richtete sich die auf ***eine Verfahrens- und Sachrüge*** *gestützte* ***Revision*** *des Angeklagten* (emphasis added)
[Against the court decision was directed the on **a procedural and material law objection** based **appeal** of the defendant]

I have emphasised two elements and will concentrate upon how the students render these in their translation. The first emphasised words are *Verfahrens- und Sachrüge*, which cover two different subconcepts rendered together here. Both subconcepts are types of objections that a party may base an appeal upon. *Verfahrensrüge* is an objection concerning legal procedure. *Sachrüge* is an objection concerning the (interpretation of) the material law treated in the decision against which the appeal is directed. In this case, the two subconcepts are used to designate an objection combining both aspects. The distinction is known in Danish law, too (*processuel* vs. *materiel*), and a term exist for the basic word in the two subconcepts in Danish (*Rüge* → *indsigelse*). Conventionalised terms for the two subconcepts in Danish are not known to me. Thus, the expert reader may be hypothesised to possess the background knowledge to understand what is meant in German, but there is no conventionalised term with which the translator may elicit the exact concept in the mind of the reader. The second emphasised word is *Revision*. The underlying concept is a special kind of appeal that may only be directed towards points of law (wrong procedure or errors in the interpretation), where appeals may in general be directed towards decisions of previous courts in general and in their entirety. In the present case, the objection by the appealing party concerns the interpretation. *Revision* is only possible as the last appeal, regularly in third instance and always to the Federal Supreme Court (*Bundesgerichtshof*) or to the Highest Regional Courts (*Oberlandesgericht*). Danish law does not have a similar concept covering a special type of appeal, although the basic aspects of the concept are known in Danish legal theory. Furthermore, the German legal system is sometimes the subject of discussion in Danish legal contexts, too. The term normally used in Danish in such cases is *revisionsanke*.

I will now present the suggested translation by two students and assess what knowledge construction process is to be expected based on their formulations.

Tiltalte rettede ***revisionsanke*** *mod dommen støttet på* ***klagepunkter om rettergangsfejl og materielle klagepunkter****.* (Student 1, Aarhus University, Spring 2014)
[Defendant directed **revising appeal** against the decision based upon **items of complaint on procedural errors and material items of complaint**]

Den tiltalte ***gjorde krænkelse af den processuelle og materielle retssikkerhed gældende*** *til støtte for sin* ***anke*** *af landsrettens dom* (Student 2, Aarhus University, Spring 2014)
[The defendant **claimed infringement of the procedural and material rule of law** as support of his **appeal** against the decision of the 'landsret']

The first step of the analysis will be to study the solutions to the German formulation *Verfahrens- und Sachrüge*. As can be seen from the examples, none of the students have chosen to use the Danish equivalent term to *Rüge* (*indsigelse*). This would probably have been the easiest way to elicit the intended process of knowledge construction. Instead, they have chosen two different strategies, which I will investigate in the following:

- Student 1 uses the non-terminological formulation *klagepunkter* for *Rüge*, which is a good semantical rendering of the source language concept, despite not being the Danish term. The distinction between the two subtypes is rendered by specifying the type of *klagepunkter*. In the first case, the student uses the term *rettergangsfejl* and thus uses a relevant and specific specialized term. The student may be said to have chosen a strategy of concretisation: Instead of attributing *klagepunkter* with the adjective generally used in the dichotomy between procedural and material law (*processuel*), a relevant type of error is used to indicate this side of the dichotomy (*rettergangsfejl*). The other side of the dichotomy is indicated by the generally used term (*material*). Thus, from the point of view of the knowledge communication approach the receiver is expected to find in his background knowledge the idea of complaints supporting an appeal (although the receiver is not told that it is necessarily the specific type of complaint called 'Rüge' in German); and the receiver is told to elicit the distinction between procedural and material law, although the distinction is only indirectly introduced, as the two parts are represented asymmetrically (by a concrete type of error and by an abstract attribute).
- Student 2 uses a different strategy to render the subconcepts and the distinction between them. Instead of using the term *indsigelse* and thus sticking to the nominalised form of the German original, student 2 renders the verbal content of *Rüge* also contained in *indsigelse* by verbally expressing the process of claiming something in court (*gjorde gældende*). What is claimed is that the previous decision infringes the rule of law. This may also be said to be a kind of explicitation of aspects that are contained, but not expressed directly in the German formulation, as was done with the verbal aspect. Finally, the distinction between the two subconcepts is here indicated symmetrically through the attributes *processuelle* and *materielle*, which are the accepted terms. Thus, from the point of view of the knowledge communication approach, the receiver is also here expected to be able to construct the relevant knowledge structure, enabling him or her to know the type of objections being brought up in the case, albeit on the basis of a more explicit formulation than probably absolutely necessary.

To sum up, it would in this case have been possible to render the content of the German concept of *Rüge* directly using the Danish term *indsigelse*. This would have been the most direct and probably most efficient way of eliciting the intended knowledge construction on the part of the receiver. The equivalence relation between *Rüge* and *indsigelse* was seemingly not part of the students' background knowledge. Instead they have rendered their own understanding of the concepts underlying the sentence. Despite their differences, I reckon that both solutions would give rise to the construction of the important knowledge on the part of the receiver, i.e., that both subconcepts (procedural law and material law) are relevant for the argumentation in the case. When comparing the two, I would reckon that the solution by student 2 is the most efficient one, as it symmetrically indicates the distinction and thus gives the receiver the most direct way to constructing knowledge about the case reported here in the intended way.

Secondly, I will assess the solutions to the rendering of the German concept *Revision*, which is a concept that does not exist as such in the Danish context.

- Student 1 renders *Revision* by *revisionsanke*. As indicated above, this is the term traditionally used when talking about the special type of appeal in the German legal system. I reckon that it will lead directly to the construction of the intended knowledge on the part of the receiver.
- Student 2 renders *Revision* by *anke*. The strategy here seems to be to consider the distinction between a regular appeal and an appeal only considering points of (interpretation of) law not relevant for the receiver. Student 2 does not elicit this distinction, but only wants the receiver to construct the knowledge that the decision is part of an appeal case and not a case of first instance.

In this case, I reckon that the solution by student 1 is probably the optimal one: It renders all parts of the German concept in the Danish target text and thus elicits all relevant parts of the conceptual knowledge. Especially because the receiver is set in the translation brief to be interested in the argumentation, it may be an important aspect for the receiver to include in his

knowledge construction that the court cannot discuss all aspects of the case, but only those connected to the legal interpretation of the preceding court. In favour of the solution by student 2 it could be stated that the receiver knows that it is a case at the BGH, the Federal Supreme Court. This means that the receiver may interpret based on his or her background knowledge that it will most likely by a *Revision*, as this is the case for most cases at BGH. Thus, also in this case, both solutions will probably lead to the intended knowledge construction. Personally, I would prefer the most direct way, using the conventionalised term.

CONCLUDING REMARKS

In the education and in the scientific description of legal translation, the idea of legal translation being a type of functional communication is mainstream. The idea has, however, not fully entered the conceptual world of all users of translation. Here, one may still encounter translation briefs of the kind "just translate what the text says into English" – as this is the need that the commissioner of the translation actually has. In my view, it is difficult to change this approach on the side of the commissioners in other ways than through a slow process of reclaiming relevant information and demonstrating, also through scientific descriptions and explanations of what is going on in actual legal translation situations, that it is not possible to translate what the text says – for it does not say only one thing; and that English is actually not English, but terminologically a number of languages. That may help demonstrating to the commissioners why what they want cannot be delivered by translators, not due to the incompetence of the translators, but due to the nature of the matter. This type of process is ongoing, for example, in the European Union, where it has been suggested to implement quality standards for professional translation like EN 15038:2006 and ISO 17100 in order to emphasise the academic nature of legal translation in an EU context (Strandvik 2015: 161). The present approach to conceptualising legal translation as knowledge communication is an attempt in a similar vein: The approach helps us see, why specific information is needed in order for the translator to perform the task; and it helps us set up criteria for hypothetically (and if need be empirically) assessing the quality and efficiency of concrete translations in accomplishing the goals of the translational process.

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FLORIAN PAINTNER
Rechtsanwälte Paintner PartG mbB

THE COMPLEX CONCEPT OF LEGAL TRANSLATION – EXAMPLES FROM A GERMAN LAWYER'S PROFESSIONAL LIFE

Abstract
By giving examples from the author's professional life where he is confronted with texts/translations primarily in German and Norwegian, the article wants to outline the practical relevance of some problems discussed in translation studies. Distinguishing between intra- and interlingual translation, the article stresses the complex situation when dealing with or even translating legal texts. In order to handle this complex situation, the article concludes with the best practice rules of the law firm the author is working in.

FIRST PROBLEM: INTRALINGUAL TRANSLATION
Every lawyer is, or at least should be, aware of the fact that he is dealing with two different sets of terms – the set of terms that the professionals use and the set of terms that ordinary people use.[i] Also translation studies are aware of the problem that the intended receivers of a translated text (TT) might not have insight in its full meaning due to their lack of legal understanding.[ii] The lawyer's strategy to compensate this lack of legal understanding is to explain. I regard explicitation of a source text's (ST) connotation[iii] as a form of explanation but across language borders. A lawyer's explanation of legal technical terms to his clients is close to intralingual translation as understood by Jakobson (1959: 233). Jakobson distinguishes intralingual, interlingual and intersemiotic translation. He defines intralingual translation as "an interpretation of verbal signs by means of other signs of the same language" and interlingual translation as "an interpretation of verbal signs by means of some other language".

EXAMPLE: *BEWEISMASS*
A German term that might be needed to be explained is *Beweismaß*. Its meaning is the degree of likelyhood necessary to proof a fact in court. It could be translated into English by 'standard of proof'.[iv] I am pretty sure that almost no layperson in Germany and just few German lawyers know this word. They simply never think about this as an issue of court because they take the standard of proof as a given. From my point of view a lawyer has to explain the meaning of 'standard of proof' whenever this becomes relevant to the client. By doing so the lawyer interprets verbal signs by signs of the same language – he is using intralingual translation.

EXAMPLE: *FIRMA* I
Another even more complex problem is that some words exist as terms in legal language and as lexical units in ordinary language but have a different meaning. The standard example to show that German lawyers understand some terms slightly different than non-lawyers is *Firma*. In technical German legal language *Firma* means nothing more than the name of the merchant is registered in the public commercial register [*Handelsregister*]. For non-lawyers *Firma* means the entity which is registered in the commercial register. Sometimes it is understood in an even broader sense. For example I once read an association's statute on graded membership rates. This stated approximately the following:

students: x

individuals: y

Firmen: z

By writing *Firmen* the association meant not only merchants who are registered in the commercial register but every legal entity with the intention of realising profits.

EXAMPLE: *KINDERGARTEN* I
When regarding the German legal language, it becomes difficult to define the exact meaning of *Kindergarten*. The federal law *Sozialgesetzbuch VIII* (hereafter *SGB VIII*) distinguishes in § 22 I between *Kindertageseinrichtungen* and *Kindertagespflege*, where the former means an institution wherein children stay and are fostered the whole day or part of the day (institutionally based relationship). The latter means personal relation between children and a distinct person where the children stay and are fostered by the distinct person (personally based relationship). The federal legislator does not state age limits for *Kindertageseinrichtungen* or *Kindertagespflege*. The federal legislator does not use the expression *Kindergarten* but leaves it to the federal state's legislator to decide upon the use of the expression.[v] So, theoretically there might be different understandings of the word *Kindergarten* in every of the sixteen federal states. For example Art. 2 I 2 Nr. 2 *Bayerisches Kinderbildungs- und -betreuungsgesetz*

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(hereafter *BayKiBiG*) defines *Kindergarten* as *Kindertageseinrichtung* for children predominantly used by children between the age of three years and first day at school. For children younger than three years Art. 2 I 2 Nr. 1 *BayKiBiG* states instead the expression *Kinderkrippe*. I have experienced that ordinary German people are not automatically aware of this vast terminological difference. Some use *Kindergarten* for childcare for children aged younger than 3 years[vi], some stick to the use of the Bavarian legislature. The only way to judge their exact understanding of *Kindergarten* is to estimate it from the context they use it in or to simply ask them. Serious misunderstandings of using an ambiguous expression might otherwise be the result. So be critical, be cautious and take care of the expression's context and the intended receiver's knowledge.

SECOND PROBLEM: INTERLINGUAL TRANSLATION

A translator usually interprets verbal signs by means of signs from some other language. So according to Jakobson he is translating interlingually. Whether texts are translatable is not a specific problem of translating legal texts but a general problem of translation studies.[vii] From my point of view texts are generally speaking translatable simply because translation usually works. A lot of authors group the problem around the keyword 'equivalence'.[viii] Can there be two idioms in two different languages that are fully equivalent? What shades of equivalences do exist?[ix] I am not a linguist. I cannot provide a scientific answer to these questions. But because I have to explain German law to Norwegian clients in Norway, I also have to deal with these interlingual translation problems in my professional life.

EXAMPLE: *RENTE* VS. *RENTE*, *PENSION* VS. *PENSJON*

Under the topic "interlingual translation" I also want to mention the "false friends"-category. This category is especially dangerous in related languages – like German and Norwegian. The German word *Rente* ('retirement pension') does not at all correspond to the Norwegian word *rente* ('interests') and the German word *Pension* ('retirement pension for civil servants') does not fully correspond to the Norwegian word *pensjon* ('retirement pension regardless if whether the person who receives it was a civil servant or not'). To avoid this: Be critical and cautious.

EXAMPLE: *SCHWÄNGERUNGSPERIODE*

It is trivial: Watch out for quality. I once had to work with a translation of a Norwegian judgment containing: *Eine Schwängerung am […] ergibt eine Schwängerungsperiode von 255 Tagen. Schwängern* means making someone pregnant. That for sure did not last for 255 days. From the context everyone understands the intended meaning as (*Schwangerschaft* = childbearing). Therefore this translation mistake will not lead to serious misunderstandings.

EXAMPLE: *GERICHTSVERHANDLUNG GEHOBEN*

I am not sure whether the following example belongs to the category "Watch out for quality!" or to the dichotomy verbatim vs. free translation. The translator of the above mentioned judgment translated *retten hevet*, a formula which means that the hearing is closed, with *Gerichtsverhandlung gehoben*. A verbatim word-by-word-translation of *retten hevet* might lead to *Gerichtsverhandlung gehoben*. But *gehoben* will be understood as lifted. How to lift a hearing? Taking into account that the translator was sworn translator (*statsautorisert translatør)* and that the translation was made in 1967, when verbatim translation was more common than today,[x] it could be that the translator really intended to translate it the way he did. I rather would have translated it differently because – as mentioned above – in the original text it is a formula. This formula has a corresponding formula in the target language. So why not use the target language's formula?

EXAMPLE: *FIRMA* II

The above mentioned example regarding the different meanings of *Firma* gets even more complex when interlingual translation is considered. Here emerges the problem how a translator should deal with obvious mistakes. Just translate? Garbage in, garbage out? Translate the obviously intended meaning? Or translate and annotate? I typically recommend the latter. By annotating, the translator shares his relevant additional knowledge regarding the translated term. But in this case we face the fact that both Norwegian and German have a word which features the same ambiguity – *firma* is also in Norwegian a word which can mean both the name of an entity and the entity itself.[xi] In this case I would prefer just translating it.

EXAMPLE: *KINDERGARTEN* II

In English, for example, *Kindergarten* is a loanword taken from German. Native English speakers have an idea of the meaning of *Kindergarten*. By saying *Kindergarten* a person with background from the United Kingdom, the United States of America, Russia or Sudan[xii] means probably an institution wherein children, aged three to six, stay and are fostered the whole day or part of the day.[xiii] The word is the same in English and German but the meaning might[xiv] differ.

In Norwegian there is the word *barnehage*. It consists of *barn*, Norwegian for *Kind*, and *hage*, Norwegian for *Garten* – the two components are similar but are they equivalent[xv]? By saying *barnehage* the Norwegian person means probably an institution wherein children, aged three month to six years, stay and are fostered the whole day or part of the day.[xvi]

As we have seen above, the exact meaning of the word *Kindergarten* is already difficult within the German language. When translating from German to Norwegian or vice versa, a word that is seemingly easy to translate such as *Kindergarten* or *barnehage,* respectively, becomes difficult to translate. Using Jakobson's distinction between intra- and interlingual translation, we operate at the interlingual level. But we have to take (German) intralingual aspects into account.

THIRD PROBLEM: COMBINATION OF INTER- AND INTRALINGUAL TRANSLATION

As we have seen above there is a need for intralingual translation whenever the signs of either the source or the target language are ambiguous. Acting on the assumption that the translator has to seek equivalence, it is hard or even impossible to translate an ambiguous expression the "right" way without making the intended meaning explicit (explicitation). The translator might be able to find out/discover the intended meaning of a ST's expression by analysing the ST – especially by taking into account the context, the type of the text and so on. But the translator might probably not be able to find out how a target text's expression will be understood by its receivers – especially when assuming that different receivers will understand the expression differently. Whenever there is doubt about the intended meaning, I favour explicitation very much.

EXAMPLE: *KINDERGARTEN* III

For example I have experienced that Germans are not automatically aware of the ambiguity regarding the word *Kindergarten*. Some use it like the Norwegians, some stick to the use of the Bavarian legislation, most of them mix it up. The only way to judge their exact understanding of *Kindergarten* is to estimate it from the context or to simply ask them. Serious misunderstandings of using an ambiguous expression which can be understood not quite right might otherwise be the result. So even if almost the whole world limits the use of *Kindergarten* to the age three to six years and both German and Norwegian are Germanic languages and the components of the expression are very similar, the intended receivers could misunderstand the expression. When translating *Kindergarten* from German to Norwegian the translator has to analyse (ask himself) what was meant by the expression in the ST. Did the author of the original text also mean day-care for children aged younger than three years? Then the German expression rather should be *Kindertageseinrichtung*. This could be translated simply by *barnehage*.[xvii] Otherwise the originally intended meaning has to be made explicit by translating *barnehage for barn mellom tre og seks år* ('Kindergarten for children between three and six years').

EXAMPLE: *EIGENTÜMER* VS. *BESITZER*

Another example are the two German expressions *Eigentümer* and *Besitzer*. German legal language means the possessor of a thing when the expression *Besitzer* is used, while *Eigentümer* designates the owner of a thing. But a lot of Germans use *Besitzer* when the correct term would have been *Eigentümer* from a lawyer's point of view. Additionally we face the problem that the Norwegian language uses a similar couple in a similar indistinct way. There is *eier* for *Eigentümer* and *besitter* for *Besitzer*. A lot of Norwegian dictionaries do not even include the word *besitter*.[xviii] So how to figure out the existence and the use of the word *besitter*? For me it worked with looking it up in (electronic) dictionaries, searching for it on the internet and – most efficiently – looking it up in texts deriving from the legislator. Schirmer suggests in (Schirmer, 2011): 91 *eier, innehaver* for *Besitzer*. Also http://www.heinzelnisse.info suggests *eier* for both *Besitzer* and *Eigentümer*.[xix] Simonnæs (1994: 270) suggests *besitter* for *Besitzer*. In lots of documents accessible on http://lovdata.no one can find the word *besitter*.[xx] Here one has to be aware of the grammatical forms since there is also the verb *å besitte* which has the form *besitter* in present tense. Therefore one has to be aware of the word's form. A good example is section 5-9 subsection 2 *tvangsfullbyrdelsesloven* [*Act on enforcement*], first sentence: *[…]eiendom som saksøkte helt eller delvis eier eller* ***besitter*** (emphasis added). *besitter* is here used as a verb – in contrast to the verb *å eie*. In the next sentence of the same section: *[…] har saksøkte og besitteren plikt til* (*ibid.)* is b*esitter* used as a noun. By close reading we can find out, that – despite the fact that the word *besitter* is lacking in some dictionaries – it exists. Furthermore we found out that *å besitte* is used in contrast to *å eie*. Moreover it seems that Norwegians have the same couple of words but tend to prefer the other word (*eie*) in colloquial/general language.

How should a translator translate the German sentence "*Ich bin Besitzer des Autos.*" if one knows from the sentence's context that it is not the mere possession that should be stressed but the ownership? Translate the wording? Translate the obviously intended meaning? Or translate and annotate? Here I think it depends on the particular context. If it is absolutely sure that the ownership should be stressed I

would highlight this by translating it this way. An annotation might be a good idea nevertheless. My Norwegian sentence would therefore be "*Jeg er bilens eier [NB: egentlig besitter istedenfor eier men fra konteksten går det frem at det er eierforholdet som skulle fremheves].*" Please note that we stated above that *Besitzer* in German and *eier* in Norwegian are the words that have become more common even for situations where the opposite would have been correct from a lawyer's point of view.

EXAMPLE: *AKSJESELSKAP*
Another example is the translation of German and Norwegian terms for particular forms of companies. In Germany there are traditionally two (major) forms of companies – the *Gesellschaft mit beschränkter Haftung* (*GmbH*) and the *Aktiengesellschaft* (*AG*), while in Norway there used to be just one – the *aksjeselskap* (*AS*). Because of EU regulations[xxi] which are based on the German model with two different forms of companies, the Norwegian legislator also had to introduce two forms of companies. These are nowadays called *aksjeselskap* (*AS*) respectively *allmennaksjeselskap* (*ASA*). So how to translate *GmbH*? Is the Norwegian equivalent to a German *GmbH* really the *AS* as Morck (2007) postulates?[xxii] On the one hand these are the most common forms for companies in the two countries. Both have a body, *Geschäftsführer/daglig leder,* responsible for the day-to-day operations. Both company forms also require less registered capital than respectively the *AG* and the *ASA*. But from my point of view *GmbH* cannot be translated with *aksjeselskap* – at least not without adding the original designation. The two legal institutions are simply too different. For example the *GmbH* has a body responsible for day-to-day operations and another body supervising it – the meeting of shareholders (*Gesellschafterversammlung*). There is also a meeting of shareholders at the *AS*. But the *AS* has also in addition to that a mandatory organ with competences for business transactions which exceed day-to-day operations – the *styre* 'board'*.*[xxiii]

This illustrates that a translator might need to compare the SL's and TL's law. This is a hard task even for lawyers. So take care when using functional equivalents of the TL.[xxiv] I would solve the above mentioned problem by asking if the nuances between the legal institutions – here GmbH and AG on the one hand and AS and ASA on the other hand – are important for the intended receiver. If so I would leave the SL's expression untranslated but annotated. If not I would use a TL-orientated translation.[xxv]

EXAMPLE: *PLIKTDEL*
Another word that is only seemingly easy to translate is the Norwegian *pliktdel* – which might be translated into English as 'compulsory share' (of inheritance). It consists of *plikt* and *del*. These nouns can be translated into German as *Pflicht* and *Teil*. There is also a German word for compulsory share called *Pflichtteil*. But the connotation of *Pflichtteil* for a German lawyer is that this has no effect *in rem*. That is to say the person entitled to a *Pflichtteil* becomes not heir to the heritage but has only a claim *in personam* against the heir. In contrast, the person entitled to a compulsory share in Norway becomes (automatically) heir because the testator cannot testate over the compulsory share.[xxvi] If it is of interest for the intended receiver it is desirable that a translator provides such information. Here the uncommon German word *Mindesterbteil* could be used. This designation stresses that the one who is entitled to a compulsory share directly becomes heir, not just claimant of a claim *in personam*.

EXAMPLE: *SAMBOER*
Difficult to translate is also *samboer*, which means cohabitant in the sense of one person living together with another person like a married couple without being married. Translating this with *nichtehelicher Lebenspartner* one could think of *Lebenspartner* in the sense of the German *Gesetz über eingetragene Lebenspartner* [Act on Registered Life Partnerships] – which are same-sex marriages. Here I would always tend to leave the Norwegian expression untranslated but annotated.

OUR BEST PRACTICE RULES

It is said that learning (foreign) law is learning another language because of legal technical terms and because the meaning of some terms differ in the sets of terms used amongst professionals and ordinary people. This gets even more complex when different languages are concerned. If you have clients from a foreign country, you often have to work in both the foreign legal and the foreign ordinary language. So in fact one has to deal with four languages.

This is one reason why translating legal texts is so complex and because of this complexity it is very difficult. In addition, inaccurate translation of legal texts can have serious effects. Therefore the translator has to be aware of his responsibility for the target text and the people affected by it. Our best practice rules to take this responsibility are therefore to

- be critical
- be cautious
- be aware of the context

- be aware of the intended recipient's skills
- be aware of the TT's and the ST's genre and purpose
- use dictionaries, specialist books and texts which derive from the legislator critically.

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[i] For differentiation between legal language and ordinary language cf. for example Stengel-Hauptvogel (1997:22 et seqq.).

[ii] Cf. for explicitation Simonnæs (2012: 211 et seqq.).

[iii] Cf. Simonnæs (2012: 211 et seqq.).

[iv] http://dict.leo.org/#/search=beweisma%C3%9F&searchLoc=0&resultOrder=basic&multiwordShowSingle=on [last accessed Februar 6th 2015]

[v] Struck in Wiesner (2011: § 22 sub. Nr. 3.).

[vi] Cf. e.g. https://en.wikipedia.org/wiki/Kindergarten#Germany [last accessed February 6th 2015]

[vii] Cf. Pescatore (1999: 97 et seq.); Simonnæs (2012: 176 and 222).

[viii] E.g. Jakobson (1959: 233).

[ix] Cf. Matulewska (2013: 21 et seqq.) and Williams (2013: 31 et seqq.).

[x] For the development from literal to free translation cf. e.g. Šarčević (1997: 23 et seqq.).

[xi] http://www.nob-ordbok.uio.no/perl/ordbok,cgi?begg=+&ordbok=bokmaal&s=n&alfabet=n&renset=j&OPP=firma [last accessed February 6th 2015].

[xii] List could be extended.

[xiii] https://en.wikipedia.org/wiki/Kindergarten [last accessed February 6th 2015]

[xiv] For the use of the word *Kindergarten* in German see above.

[xv] I use the expression equivalence here without further specification. For an overview over the types of equivalence discussed by the year 2013 see Matulewska (2013: 21 et seqq.).

[xvi] http://en.wikipedia.org/wiki/Kindergarten#Norway [last accessed February 6th 2015]; http://nob-ordbok.uio.no/perl/ordbok.cgi?begge=+&ordbok?bokmaal&s=n&alfabet=n&renset=j&OPP=barnehage [last accessed February 6th 2015].

[xvii] This could be solved differently when the text contrasts childcare in general to childcare of children of a special age. Then translating *Kindertageseinrichtung* with *barnehage* and *Kindergarten* with *barnehage for barn mellom tre og seks år* could also lead to confusions.

[xviii] http://www.nob-ordbok.uio.no (hereafter referred to as UiOs online dictionary) suggests as circumscription for the verb *besitte* the verb *eie* [last accessed February 12th 2015].

[xix] Last accessed February 6th 2015.

[xx] http://lovdata.no/sok?q=besitter results in 146 relevant documents [last accessed February 6th 2015].

[xxi] The Norwegian legislator had to comply with these EU regulations because of the EFTA treaty.

[xxii] Christoph Morck postulates (Morck 2007:56) that the German word *GmbH* has to be translated with *aksjeselskap* or *AS* without giving a reason for that.

[xxiii] There is the possibility that also the *GmbH* has an *Aufsichtsrat* (supervisory board), § 52 GmbHG (Limited Liability Companies Act). If the *GmbH* has more than 500 employees, it has to have an *Aufsichtsrat*, § 1 I Nr. 3 DrittelBG (Gesetz über die Drittelbeteiligung der Arbeitnehmer im Aufsichtsrat). But the great majority of *GmbH*s has no *Aufsichtsrat.*

[xxiv] See Simonnæs (2012:224) for further reading on strategies about translation of legal institutions.

[xxv] Since the essential difference between the *AS* and the *ASA* is that the *ASA* is designed to be listed on the stock exchange, I would use *AS* whenever the *GmbH* or *AG* is not listed on the stock exchange. Since one essential difference between the *GmbH* and the *AG* is that the *AG* always has an *Aufsichtsrat*, I would translate both *AS* and *ASA* with *AG*.

[xxvi] Frantzen et al. (2014) recommend, that the *pliktdel* should be payable in cash (NOU 2014:1 page 146). Because of that there might be legislative actions in the future that lead to a claim *in personam*.

M. Rosario Martín Ruano

University of Salamanca

THE ROLE OF LEGAL AND INSTITUTIONAL TRANSLATION IN PROCESSES OF IDENTITY (RE)CONSTRUCTION IN MULTILINGUAL AND MULTICULTURAL CONTEXTS[i]

Abstract

In the hybrid, multicultural societies of the global age, marked by migration, cultural diversity, social differences and power imbalances, legal and institutional translation takes part in complex processes of identity construction and negotiation. The concept of identity, which has been very productive in other translation fields (Robyns 1994; House, Martín & Baumgarten 2005; Cronin 2006; Vidal 2007, 2010), used as an explanatory variable in legal and institutional translation, helps to shed light on these processes and on some of the challenges that legal and institutional translators face in order to foster intercultural dialogue and symbolic respect for diverse identities in legal and institutional settings.

INTRODUCTION

Legal and institutional translation operates today in ever more diverse societies, radically transformed by the phenomena of migration and globalization, where diversity and cultural differences but also rampant asymmetries, sheer inequalities and constant misunderstandings are common currency. What is more, in our era, diversity is not only a prominent feature of our hybrid societies, as can be easily seen in situations where the legal translator operates today (especially, police stations and courts, NGOs and local institutions, but also in international organizations); it is a value considered to be institutionally protected and promoted.

In this transformed scenario, an increasing body of literature on legal and institutional translation and on public service interpreting and translation seems to be expressing the need to broaden, redefine and fine-tune the normative model on legal translation in institutional settings (i.e., the narratives shaping general ideas on what a legal translation is or should be, but also the academic, institutional, professional and pedagogical discourses underpinning legal translation practices) in order to meet the challenges of our multicultural era (see for example Monzó 2005, Ko 2006, Vidal and Martín Ruano 2003, Vidal 2005 and 2013, Valero and Gauthier 2011, McDonough 2011). Theo Hermans' general call to "foster […] a more diversified, richer vocabulary" (2007: 8) in translation studies seems most pertinent for legal and institutional translation. In what has been described as a low-status field with many signs of market disorder and underprofessionalization (European Commission 2009, 2012), efforts contributing to the consolidation of a solid and elaborate theoretical base (a prerequisite of every discipline and/or established profession) are seen as a decisive factor in the process towards professionalization and towards an enhanced social recognition of this activity. In addition to this, theory has been recently praised for allowing practicing legal translators to operate better and more self-confidently in new environments where they are routinely confronted with tough ethical dilemmas triggering feelings of unease and vulnerability (Guzmán in Gill and Guzmán 2010: 122): Koskinen (2008) advocates theory as a key and valuable instrument not only for "reflexive" practice but also for professional self-assertion. Indeed, in line with Chesterman's view of conceptual tools as aids both for problem-solving and also for developing the translator's self-image (Chesterman, in Chesterman and Wagner 2001: 7), in a recent publication on legal translation, Simonnæs (2013: 152) suggests that translation theories affect the approaches adopted by translators, i.e. they influence their professional identity.

Precisely in order to contribute to this goal of enlarging our theoretical models to better address the unparalleled challenges of our day and age, in this article I will try to explore the usefulness for legal and institutional translation of a concept that has been very fruitful in other fields of the discipline: that of identity (cf. Robyns 1994; House, Martín Ruano and Baumgarten 2005; Cronin 2006; Vidal 2007, 2010). "Identity" may help us understand (and probably act in) many situations where legal translation is characterized by conflict, understood in its wider sense (see Baker 2006). In a "global" society where differences among globalizing actors and globalized, recessive cultures are increasing, legal translation can be analyzed as part and parcel of broader processes of (professional, social, cultural) identity construction and identity negotiation affected by larger tensions between the global and the local. Given

that equality and sameness (be it at a discursive, textual, terminological or lexical level) have often proved to foster, in a veiled manner, cultural homogenization, ideological imposition, identitarian alienation and social exclusion, the concept of "identity" helps to explore new possibilities of conciliating differences in and through translation in the legal and institutional realms. My contention is that the notion of identity may help us foresee the implications of the intricate workings of legal and institutional translation as an activity conditioned by and involved in complex geopolitical dynamics and may also give practical orientation to professionals who, given the taxing demands of today's heterogeneous, difficult situations where diversity and difference are the norm, suffer professional and ethical disorientation (see for instance Baker and Maier 2011: 3). In short, "identity" as an explanatory variable may help practicing professionals to develop strategies for responding ethically to society's changing scenarios and demands.

1. DEFINITIONS OF IDENTITY: A DYNAMIC CONSTRUCT

In recent times, disciplines as diverse as anthropology, ethnology, sociology, literary studies or cultural studies have embraced a conceptualization of identity as a fluid, open and changing construct. A first characteristic attributed to identities is that, although they tend to crystallize in totalized, stereotypical forms, they are kaleidoscopic, fractured and fragmented constructs marked by significant internal heterogeneity (Hall [1996] 2005). Identities are never static and monolithic, but diverse, often contradictory, and dynamic. For many authors, identities are constructed and reconstructed by discursive practices, including translation (cf. Butler 1990; Hall [1996] 2005; House, Martín Ruano and Baumgarten 2005; Cronin 2006).

Moreover, and as a second characteristic, identities are never monolithic: both individuals and groups have plural and multifaceted identities which are continuously being (re)negotiated. This plurality of identities often represents an asset, but can also be a source of conflict, as adscription to or activation of a salient identity generates expectations to be fulfilled which in their turn may conflict with diverging expectations associated to other co-identities. In the field of legal and institutional translation, this conceptualization is very useful in order to understand conflicting pressures affecting translation both as an activity being performed by individuals with plural identities and as a discursive practice negotiating collective identities. In relation to the first aspect, for instance, Koskinen (2008: 44-47) has identified personal dilemmas faced by EU translators with "split loyalties" derived from the conflicting demands of their many identities (national, intercultural, institutional, professional identity, etc.), which are negotiated in various forms. In relation to the second aspect, with Lambert, Biel (2014:13) highlights that EU-related translation not only has legal implications, but also social, cultural and political implications and is fundamentally related to identity. Her study focused on the Polish case very aptly illustrates how translation raises identitarian issues and how translation has an impact on the (re)construction of identities. This author reports on the criticism and debates triggered by the divergences between non-translated pre-accession Polish legislation and translated EU legislation, which thus initially challenged the recipients' expectancy norms (2014: 72-75). The power relations maintained by the languages involved in the translation event and the institutional translation norms, favouring literal translation strategies, are considered among the factors explaining this variation. In any event, confirming that identity is a changing construct and that translation also plays a role in this change, Biel also proves that EU translation into Polish seems to have fostered changes in the national post-accession legislation, notably at terminological level (2014: 299-305).

A third important feature of the conceptualization of identities which interest us for the purposes of this article is their relational nature. Identities are always fashioned and reshaped by opposition to other identity or identities. Indeed, a particular identity emerges and is asserted only in the confrontation between Self and Other, Us and Them. The perception of one's cultural identity is always dependent on the point of comparison that prompts such identification. In translation studies, many authors emphasize that, to the extent that any translation projects specific visions of the Other, and to the extent that discovering the Other as Other, as an Other in a particular form, necessarily involves coming to terms with the Self, by inversion translation reveals the translating culture self-perception: according to Hermans, translation is a powerful "index of cultural self-definition" (1999:95). This conceptualization may be eye-opening when examining translations in the legal and institutional field, where all versions have been long presumed to have (and expected to search for) the same meaning and intent. Analyzing the behaviour of legal translation (be it at the level of terminology, rhetoric or cultural discourses) as a relational response that reveals a particular image of the translating culture vis-à-vis other culture(s) may give us insights into the influence of the complex and asymmetrical dynamics of globalization in translated legal texts.

At this point it might be convenient to point out the four attitudes towards the Other with which, according to Clem Robyns in a much quoted essay (1994), any identity can face a translation. For Robyns, identities departing from a feeling of power or superiority over the Other may show an "imperialist" behaviour in translation, i.e., the tendency to impose their own terms, models, ideologies or rhetorics in the translated text. On the contrary, identities may adopt a "defective" attitude vis-à-vis the Other and sublimate, import or imitate alien elements in translation. In what Robyns calls "defensive" behaviors, identities accept the alien influence, although this influence may be perceived as a threat to their own identity, as an invasion. Both defective and defensive attitudes are reactive inasmuch as they react to the presence or absence of the alien. Lastly, in situations which seem to be the exception and not the norm, identities can face translation on an equal footing, with "transdiscursive" translations in and through which discourses would circulate freely. This taxonomy, and the idea that our perception of the Other vis-à-vis the Self largely conditions the strategies that are selected for translation and the resulting texts, are very relevant for the field of legal and institutional translation. As a case in point, it sheds light on the reasons why certain renderings are validated and institutionalized as legal equivalents despite their obvious divergence with the original. Examples from the past that will be analyzed in the following sections prove that identity issues and power relations to a great extent condition the wording found in authenticated legal translations showing important shifts regarding the image of the cultures involved in relation to the original texts.

In fact, a fourth characteristic of identities is that, inasmuch as they are relational, identities are influenced by power relations and power differentials, a factor which should not be either understood as static or given, but as changing. Identities are constrained by the hierarchies in the context where they are articulated, but when they are acted out performatively (for instance, in translation) they can also contribute to redefining existing power relations. Along these lines, several authors, also in translation studies, have underlined the importance of understanding identity as "strategic" and "positional" (Hall [1996] 2005; Vidal 2010: 84). In what follows, I shall analyze a number of cases in which accepted equivalences allow for a reading in identitarian terms revealing deep asymmetries behind a seeming sameness at surface-level. "Identity" as an analytical category may help us to diversify the vocabulary we use to assess legal translation and to search for adequate strategies to be applied in contexts where the need for harmonization and/or accuracy often conflicts with target user expectations and with quality perceptions related to the norms, beliefs and values that are dominant in the receiving cultures (see for example Šarčević 2015; Strandvik 2015). If we assume that legal and institutional translation is an activity taking part in larger processes of identity (re)construction, we might approach legal translations validated (or proposed) as equivalent as instances where certain identities are being affirmed and asserted, perhaps to the detriment of other identities; conversely, we might also perceive that, by establishing equivalence, legal translation may be engaging in the negation, alienation or exclusion of particular identities. If we take into account that the respect for identities is a challenge for our multicultural societies, we might build upon this theoretical construct in order to search for translation formulae allowing for the peaceful coexistence, mutual recognition and intercultural dialogue of the various identities which are brought together in the translation event.

2. IDENTITY AS NEGOTIATION OF SYMBOLIC POWER: SOME LESSONS FROM THE PAST

Legal translation often takes for granted, as if they were "natural" or "inescapable", certain renderings which, once authenticated as equivalent, are considered to be binding, in the guise of translations "engraved in stone" (Šarčević 1997: 117), "blocked" for the future. However, any equivalence (including that in legal texts) is also a snapshot of a (perhaps asymmetrical) intercultural relation at a given moment in time, an image or reflection of an on-going dialogical process in which cultures decide at the level of words and texts on their mutual intelligibilities, their cultural specificities and their intercultural divergences. In this light, translated legal texts can be studied as instances where differences need to be negotiated in a particular form, inevitably influenced by larger macro textual factors, including a (legal) culture self-perception as against other identities.

An example from the past may give us insights into the complex factors determining equivalence in legal and institutional translation, which is always largely conditioned by the preexisting identity dynamics and power relations among the cultures involved *and* by the particular purpose which that particular translation is made to serve in order to perpetuate or alter the terms governing intercultural relations. In a PhD dissertation analyzing the translations of the foundational legal texts of Puerto Rico, Álvarez Nieves (2013) perceives that translation behaviour in these texts is far from straightforward and cumulatively consistent, but is deeply affected by the changes in the political relation between the participating

cultures and clearly embedded in identity politics. His analysis of the shifts in the translation of the *Carta Autonómica de 1897/Charter of Autonomy, 1897*, an originally Spanish document prior to the change of political status in 1898 and included with its English translation in *Leyes de Puerto Rico Anotadas/Laws of Puerto Rico: Annotated,* concludes that the translation systematically deprives Puerto Rican identity of its autonomy or capacity for self-government by means of "imperialist" translation strategies[ii]. Proving that power relations can be transformed through translation, this same study shows that the rendering of the *Proclama: Fundación del Estado Libre Asociado – Proclamation: Establishing the Commonwealth of Puerto Rico* adopts strategies that could be considered to be "reactive", "defensive" translations, for instance with the selection as equivalent for "Commonwealth" of "Estado Libre Asociado"[iii]. In later texts such as the *Ley Pública 600, 1 L.P.R.A.* reverse strategies in the Spanish text show that legal translation may play an important role in the development of "national" or "collective" identities[iv]. Consistently, the features linked to American citizenship suffer a subtle depersonalization in the translation of the *Preámbulo/Preamble, Constitución del Estado Libre Asociado de Puerto Rico* ('Constitution of the Commonwealth of Puerto Rico')[v]. Similarly, the bold, terminologically-inconsistent but contextually justified and ideologically-loaden translation of the term "Commonwealth" merely as "*Estado Puertorriqueño*" in this *Preámbulo/Preamble*[vi] evidences that legal translation may serve other purposes in addition to establishing equivalence in specific hallmarks of political negotiation: it is sometimes used as a powerful mechanism in broad processes of identity development and a vehicle for given social discourses to transform the established formulae of social or political coexistence.

In these officially equivalent versions, equivalence emerges not as the realization of sameness, but as an iconic representation and an instrument in the intercultural negotiation of diversity between different worldviews during a process of identity (re)construction. As many different identities legitimately seek today to be fairly represented in the dominant cultural and institutional discourses in our multicultural and multilingual societies, these lessons from the past can be enlightening in order both to understand and to face the deals of our present and our future.

3. LEGAL TRANSLATION AND IDENTITY (RE)CONSTRUCTION IN CONTEMPORARY MULTICULTURAL SOCIETIES: PURPOSES AND IMPLICATIONS

Bringing the concept of identity into play as an analytical category in legal translation may promote an approach to certain practices in the institutional realm in a critical frame of mind. Theorizing legal and institutional translation as an instrument involved in identity negotiation – a mechanism whereby identities assert themselves or can be asserted, by which certain identities deliberately or involuntarily deny or alienate other identities, or one in which identity exclusion can be seen as a intended goal or a side-effect – contributes to an enlarged understanding of the implications of this activity, as it shifts focus away from terms, words or sentences and even meaning or legal intent to broader macro-structural, symbolic and geopolitical factors which allow for the effects of ideal and expected correspondence (or non-correspondence) between source and target texts to be appraised in another light.

As against the "unnecessarily narrow interpretation of equivalence" equating equivalence to linguistic correspondence or literal renderings that Koskinen (2000: 85) perceives in certain practices in the legal and institutional domain, in some cases larger factors need to be taken into account in order to discover the "'meaningful relation' between two texts in different languages" that, for this author, defines equivalence in translation (Koskinen 2000: 54-55). This author coins a name for a special type of equivalence, "existential equivalence" (2000a: 51), in order to describe translations which respond to powerful identitarian needs. In the opinion of this author, in these cases, the actual existence of the translations is more relevant than the way in which the translation is done, the concrete strategies chosen or the final result. In a report on the 2013 translation and interpreting volumes in the court system in the Basque Country, where texts are translated both from the Basque language into Spanish and vice versa, the Basque Government expressly states that "with this Service, the Basque Government guarantees the citizens' right to use both official languages in the courts" and announces further support to guarantee "the citizens' right to interact in Euskera" in the justice system (Justizia.net 2014; our translation). In the case of translations from Spanish into Euskera, identity claims outweigh informative purposes.

In the pursuance of or struggle for recognition and legitimacy, legal translation is one important tool used by certain identities to claim for and substantiate their specificity as against other identities. Indeed, international organizations, where identity struggles at national level become diluted and where the expression of diversity may be better tolerated, are often chosen by identities as a peaceful battleground

to advance their positions and gain symbolic ground. This was evidenced by the five language versions of the Treaty establishing a European Constitution in 2004 presented to the European Union by the Spanish authorities (in Spanish, Basque, Galician, Catalan and Valencian, the latter two involved in a fierce language controversy in relation to the separate entity of Valencian). Legal and institutional translation is a powerful weapon that can be brandished by emerging identities in politized scenarios in the search for larger shares of power, be it real or symbolic. Although perhaps unnecessary from a communicative point of view, from a representational perspective translation might be essential, as its absence is a marker of unequal presence and institutional neglect.

In some instances legal translation is a weapon deliberately deployed at the service of identity (re)assertion, as in the case of the act which came to be known as the *1867 Loi Constitutionelle*, originally *Acte de l'Amérique du Nord Britannique* (Gunnoo 2005). In this text, the rendering of "one dominion under the name of Canada" as "une seule et même Puissance sous le nom de Canada" is considered to be a major milestone in the nation-building process. In any event, for the purposes of this article, it is extremely important to bear in mind that the reinforcement or affirmation of a given identity often sometimes comes as an involuntary side-effect of embracing dominant narratives or ideologies. In "Interpreted Ideologies in Institutional Discourse", Morven Beaton (2007) finds that, by extensive use of conventional conceptual metaphors linked to the European construction process to render metaphor strings uttered by European delegates, simultaneous interpreters intensify the institutional pro-European imaginary. In a later study, Beaton (2010: 117) proves "the tendency of SI to strengthen the dominant institutional presence, ideology and identity and weaken or fail to represent the full complexity of the 'traffic in voices' […] and heteroglot identities present at such an institution". Koskinen also observes that translators in European institutions use strategies tending to institutionalized discourse (2008: 145). Ian Mason (2003) and María Calzada (2001, 2007) detect similar trends by analyzing transitivity shifts in translations in institutional contexts. Rather than being agents of change and transformation, legal translators tend to work as active actors in the assertion of the hegemonic institutional identity (Koskinen 2008: 142). Indeed, as Koskinen argues, institutions do not just translate, but translate themselves in the process: "since they are textually produced and reproduced in their everyday text flow, the translating institutions are largely produced and reproduced in and by translations" (Koskinen 2008: 6). In other words, institutions performatively (re)shape their identity daily in and by their texts, including legal translations. Against this backdrop, if promoting intercultural dialogue is recently being embraced as an ideal by many institutions[vii], it seems important to ponder over the risks inherent to frequent calls for standardization (enlarged by increased automation) and to invest efforts in developing strategies to resist the effects of what Bakhtin termed "monologism", the temptation to stick to a recurrent self-referential and self-contained discourse with universal vocation combined with a scarce interest for discovering the uniqueness of the terms of the Other.

Just as institutional translation practices may result in involuntarily identity affirmation, it may also be true that, conversely, legal and institutional translation can inadvertently be a tool for or an instance of denial of identities. The sequel to the European Constitutional Treaty presented by Spanish authorities proves that, when an identity feels irritated, threatened, challenged or endangered by another identity reasserting its identity, translation (or even non-translation) can also be used as a delegitimizing mechanism. After the announcement that a separate Valencian rendition of the text would be submitted, Catalan authorities awaited and finally assumed as their own the texts prepared by the Valencian government. Although, formally, two separate versions were presented, the texts only differed in the identification of the language they were allegedly drafted in. The memorandum submitted by Spain included an explanatory introduction and a proposal for a reform of the 1958 European regulation establishing the EU language regime (López 2007: 87) in which the co-official languages in Spain were vaguely listed as "Basque, Galician and the language known as Catalan in the Autonomous Community of Catalonia and in the Balearic Islands and known as Valencian in the Valencian Community". This example shows that, in order to become consolidated, an identity requires external recognition and agreement for its specificity to be acknowledged as legitimate. Alternatively, specificity may be neutralized, co-opted or, ultimately, negated. For the development of a socially salient identity frequently involves the occupation or vacation of symbolic spaces for new differentiations to be expressed.

In this regard, comparing institutional policies of different plural and plurilingual societies is enlightening. Whereas the Spanish Ministry of Justice[viii] welcomes visitors in co-official languages in their autochthonous spelling (Castellano, Català, Euskara, Galego, Valencià) and in ubiquitous English, in the Government of Gibraltar site[ix] there is no trace of the Spanish language, despite the fact that Gibraltar is a bilingual community. Non-translation policies in hybrid and polylingual societies are as telling as translation themselves.

Most importantly, identity denial might be a result, not of an explicit, deliberate policy, but merely of applying the dominant norm in (legal and institutional) translation. Karpinski perceives the force of "unitary, centripetal tendencies" and the importance of translation in processes of "linguistic homogenization" in contexts like the EU, where, in her opinion, translation "plays a double and dubious role of facilitating quick communication and levelling difference". For this author, "the multilingualism of the EU may increasingly conform to the model identified by Yaseem Noorani as 'soft' multilingualism that resembles monolingualism". In this model that fosters "similar communicative templates", "what disappears are the 'hard' edges of difference, exteriorities, and cultural and linguistic incommensurability" (Karpinski 2014: 31). According to several authors, "monolingual, monolithic language ideologies" are also clearly at work in public service interpreting and courtroom interpreting (Eades 2010: 251-256; Määttä 2014:59). Exemplifying this monoglot, monocultural inclination, the site of a regional government in Spain[x] offered information in English for obtaining a "burning permit" ("permiso de quema") which instructed the user to contact the "Service Chief of the Planning and Management of Woodlands of the Regional Ministry of Rural Environment and Fisheries". If the goal of translation in multilingual societies is increased accessibility, it is doubtful whether the translation strategy adopted helps English-speaking citizens to find their way through the labyrinth of public institutions to the "Jefe de Servicio de planificación y gestión de montes de Consejería de Medio Rural y Pesca". Given that in today's hybrid, multicultural societies legal and institutional translation needs to cater for the identitarian and communicative needs of individuals with prototypical diglossic or polylingual identities living in constant translanguaging, new questions and challenges emerge for legal translation from these situations. Authors like Vidal (2013: 188) argue for legal translation practices attuned to a "global society [which] has gone beyond monolingualism". As against the translation practices exemplified above informed by linguistic purism, the information provided by the British Embassy in Madrid for those interested in obtaining a "Town Hall Registration Certificate", "Certificado de Empadronamiento" or "Padrón certificate" in a site where visitors are also instructed what to do "if you have not been 'empadronado' (registered at an address with the local Spanish town hall)"[xi] seem to embody the value of "hospitality" which Vidal (2013: 193), inspired by Derrida and Ricoeur, urges legal and institutional translators to encompass in global, cross-cultural societies.

What is more, extrapolating Derrida's distinction between "hospitality" and "hostipitality" (cf. Vidal 2014) to the legal and institutional domain, it could be argued that legal translation shows how subtle the dividing line is between both concepts. Although initiated with the goal of enhancing representation, legal translation may turn out to be an alienating factor for cultural identities. The broader language policies in which translated texts are enmeshed certainly have a crucial impact on the users' perception of the translators' activity and even of the translated products. Karpinski (2014: 22) reminds us that "[i]n multilingual contexts, languages are deployed not just horizontally, that is, in synchronic contiguity, or next to each other, but also vertically, one above another, reflecting stratified hierarchies of agency and symbolic power". Authors like Christina Schäffner (2007:136) insist on the relevance of incorporating the socio-political contexts and environments where (legal) translation is embedded in order to get deeper insights into (legal) translations as political facts. The asymmetrical legal translation flows between different languages in international organizations clearly reveal the "unequal vectors of cultural and economic exchange" that, for Karpinski (2014), operate in any language transaction. When analyzed within the uneven geopolitical dynamics of languages, translation can be viewed as having the paradoxical effect of fostering feelings of domination and subjugation.

Obviously, a larger focus on geopolitical issues should not make us forget the importance of textual products as such in relation to identity recognition or assertion. Indeed, specific translation strategies may also be a factor causing identity alienation. Focusing on Finnish in the EU, Koskinen (2000b: 86) perceived that, whereas original Finnish legal texts, in line with a legal culture close to the citizen, privileges readability and clarity, EU Finnish texts are perceived as pompously solemn, abstract and distant by their intended recipients. This fact partly derives from the usual application of lineal translation strategies when rendering texts drafted according to the conventions of a different legal culture in which Law is considered to be above citizens, even in its wording. Different authors suggest that if Law should aim at achieving citizens' support to the social contract established in them, literalist translation might be not an aid but a barrier in cases of cross-cultural disparity, heightening citizens' sense of disaffection and estrangement. In this regard, new effective and affective forms of communication attuned to participatory models of governance are recently being advocated (see Koskinen 2010). In the context of the EU, aware of the existence of "conflicting norms and working routines that can obstruct the desired communicative outcomes", Strandvik (2015) also argues for translation practices making extra efforts to the end of producing clear texts, understandable both to legal operators and to citizens.

Indeed, in an era of diversity and asymmetry, it might be doubtful whether the prevailing "ethics of sameness" might be the appropriate vehicle of transdiscursivity as defined by Robyns, the free flow of

cultural discourses among identities interacting on an equal footing. Many are the scholars in the legal field who have recently alerted to the danger that literalness might be acting as an instrument at the service of (neo)colonial forces –for instance, those suffocating long-standing patterns and core elements of minoritarian legal traditions under the influence of English as the lingua franca at international organizations (Baumgarten, House & Provost 2004). In any event, as authors including Šarčević (2015) have noted, acculturation and standardization processes potentially conflicting with traditional conventions do not merely affect minority languages, but also the decultured, non-native variety of English used as the main drafting language in the legislative process of many institutions. For Felici (2015), English as a lingua franca is both an advantage and a disadvantage for EU legal translation which, at least at the level of terminology, needs to progress from a "bilateral" to a "circular" logic (Pozzo 2015: 85). The "universality" of translated legal texts showing surface-level concordance and consistency has also been questioned recently. Marianne Garre (1999) for example has analyzed the allegedly global discourse of Human Rights and has perceived that, despite terminological uniformity, local interpretation of core concepts is diverse and contradictory. For instance, albeit the expression "right to a free trial" has equivalents in all language versions of the Convention, its meanings in contexts as varied as the USA, Spain or China might differ drastically. Moreover, as Mirza (2013) suggests in the field of disability, the worldwide promotion of a uniform language by international organizations – in fact articulating mainstream discourses in the North – in conjunction with funding campaigns by foreign donors, might be marginalizing and excluding many and diverse cultural experiences of disability and preventing other views from being heard in their own terms. Moreover, the reification of those institutionalized discourses as "expert knowledge" seems to reinforce Western superiority and assumptions about the incompetence and inability of non-hegemonic cultures to participate in the decision-making process (Mirza 2013: 13-15).

It could also be the case that, when operating among distant cultures, literal or minimalist translation practices refusing to cross the cultural divide of disparate mentalities might fuel strangeness, astonishment or even intercultural suspicion and reinforce stereotypical and ideologised images of the other. For instance, when translating texts such as the Pakistani certificates of single status provided by Mayoral (1995), cross-cultural asymmetries in the definition of the legal genre(s), blatant anisomorphism in the conventional codification of these official documents or in the legal concepts prototypically used in these texts in the cultures involved are factors potentially causing cultural misunderstandings if faithfulness is reductively understood as literalness. Alkhalifa (1999: 237) also analyzes the particular problems faced by professionals translating official documents in Arabic, the drafting of which reflects a mentality and worldview which may cause surprise or cross-cultural misunderstandings in other cultures, for instance due to the differing standards as to the data and details that might be considered to be relevant or even culturally acceptable as to be included in official documents (such as references to living parents or to virgin sisters of individuals in birth certificates or military service cards). Legal (and institutional) translation, often conceptualized as an intercultural activity bridging cultural gaps, may instead boost intolerance by projecting prejudiced images of the other culture as radically different or as reduced to a biased cliché. In this regard, the impact of pre-existing stereotypical images of the Other affecting the reconstruction of alien identities through translated texts should not be underestimated in the legal and institutional realm. Emma Wagner reflects on the reactions in the target English-speaking audience of an institutional information campaign sponsored by Électricité de France (EDF) in prestigious media including *The Financial Times, The Economist* and *Wall Street Journal* after the liberalization of the electricity market in France. The translated text, which implemented lineal and literalist strategies, quickly prompted the usual stereotypical association of the French culture with chauvinism, as is obvious in this comment quoted by the author: "EDF sound BIG, to be sure [...] But also arrogant, and anything but international. The text suggests that if you do contact them, you're likely to talk to French speakers with rudimentary English" (in Chesterman and Wagner 2002: 39). This example shows that literalness, far from guaranteeing the accurate and unmistakeable conveyance of the original message, in some cases results in "foreignising" or "exotic" wordings potentially fuelling wariness and mistrust, and thus endangering intercultural tolerance and the peaceful coexistence of identities.

As the examples examined suggest, incorporating the notion of identity in the analysis of translations in the legal and institutional field reveals new challenges for translation practices in these realms which need to conciliate the tensions between "the hegemony of English on the one hand, and the revival of ethno-linguistic particularity on the other" (Karpinski 2015: 21). In turn, the conceptualization of identity adopted in this article may also serve as a basis on which to ground alternative strategies attuned to the respect for diversity widely promoted today at institutional level.

4. NEW AVENUES FOR LEGAL TRANSLATION THROUGH THE PRISM OF IDENTITIES: CHALLENGES AND POTENTIALITIES

In new contexts transformed by the phenomena of globalization and migration and rich both in differences and in asymmetries and disadvantages, multilingualism takes on new forms. Karpinski (2015: 29) emphasizes that "it is probably more accurate to speak of multilingualisms in the plural, of different kinds of multilingualism that are produced at intersections of such historical, political, and economic forces as nationalism, colonialism, capitalism, migration, globalization, and postmodernity". The complexity of our times calls for parallel complex and diversified solutions, which may cater for the specific demands of divergent contexts.

The concept of identity adopted in this article reveals new challenges for legal and institutional translation practices that, in different settings, need to strike a difficult balance between unity and diversity, to search common meanings while respecting the conventions of different languages, cultures and traditions. In line with an understanding of identities as fluid, changing, and forced to coexist with other identities in multicultural societies, legal translation would not necessarily need to limit its scope to the essentialist preservation of the dominant crystallized identity of a given community, but act out of the conviction that identities move forward and develop, also in and through translations. Indeed, as Biel (2014) has proved studying the Polish case by comparing EU pre-accession and post-accession national legislation, renderings causing alienation feelings may ultimately foster a productive hybridization in the national legal systems. Despite initial rejection, legal translation can be a powerful mechanism for cultural and identitarian transformation. A "strategic" and "positional" understanding of identities (Hall 1996; Vidal 2010: 84) of the cultures involved and also of translators themselves, might be a good point of departure for a conscious translation practice that is wary of the implications of translation decisions in relation to larger dynamics of identity construction. In this regard, being cognizant about the fact that legal translations are sites for recognition, self-legitimation, and empowerment, but can also be, perhaps involuntarily, conflictual *loci* for the disavowal, exclusion, and delegitimation of others may spur a professional praxis finding the way to conciliate fidelity to the source text and to the expectations and/or identity claims of the receivers.

In the last few decades, a considerable amount of research within the field of legal, institutional, and public service interpreting and translation has advocated for new theorizations and practices in which legal translation might be recognized as intercultural mediation. When faced with diversity and cross-cultural unintelligibilities, legal translators may decide to act as *pontifex,* as bridge-builders, and to straddle over the cultural gaps in order to link and interconnect the differing backgrounds and expectations of distant cultural identities. In addition to reproducing the original message, guided by this conciliatory professional identity, legal translators may also be careful when uncovering the nuances and differences in seeming equivalents, paying attention to differing acceptability standards and anticipating the potential reception of the message by a different readership so as to prevent confusion or negative responses.

In the context of international organizations, calls for renderings going beyond uniformity and uniformisation have intensified recently. Along these lines, for example, Koskinen (2010) requests "localized translations" and translation methods in tune with communications patterns in society 2.0 closer to the citizenry. A similar logic makes Strandvik (2002: 460) emphasize, in the context of the EU, that "for most purposes, there is no such thing as a European Public" and argue for functional, target-oriented translations. A "TT reorientation" is underway in legal translation according to Biel (2010:6), with naturalness as a goal being highlighted and called for, be it by oblique translation methods fostering rhetorical conciliation (Alcaraz and Hughes 2002), by capitalising on the results on corpus-based translation studies applied to legal translation (Biel 2010) or by harnessing "creativity" (cf. Šarčević 1997), either at the level of terminology – for instance when dealing with new legal concepts (as advocated by Simonnæs 2013:154) – or at textual and discourse level. The "creative" forms of equivalence resulting from co-drafting methods in Canada, boldly challenging the expectation of visual and formal correspondence, are inspiring inasmuch as they evidence and underscore that legal translation may push its traditional boundaries and go beyond time-honored literalness in the search for symbolic equality:

(6) Within one hundred and twenty days after the rules have been submitted, the Minister shall decide whether to approve them and shall notify the operator of the decision in writing and, if the Minister approves the rules (a) the Minister may make the approval subject to any conditions the Minister considers appropriate; (b) the operator shall notify the persons who were consulted that the rules have been approved; and (c) the operator shall carry out the rules and any conditions of their approval until the approval is revoked. […]	(6) Le ministre fait connaître sa décision par écrit dans les cent vingt jours. En cas d'approbation, il peut assortir les règles de sûreté des conditions, qu'il juge utiles et l'exploitant est tenu, d'une part, d'aviser les personnes consultées de leur approbation et, d'autre part, de mettre en œuvre les règles de sûreté et leurs conditions jusqu'à révocation, de l'approbation. […]
(9) The Minister may revoke the approval of security rules, either at the request of the operator or otherwise.	(9) L'approbation est révocable. (cited in Šarčević 2010:28)

The call for legal translation to adopt mediation and bridge-building roles is even more intense in the field of public services, where asymmetries, cultural gulfs and misapprehension among participants in the communication event are common currency and where cultural conflict looms as a recognizable risk. In these contexts, many authors encourage legal translators to adopt a wider and more visible role enabling effective and empowering communication: in addition to conveying information and messages, legal translation is considered to play a decisive role in processes of social integration (Valero 2005). The strategies used by proactive professionals accommodating the expectations of various identities in their translations include "thick", explanatory translation strategies (cf. Hermans 2007), which may be employed with goals as varied as bringing out culturally-implicit information, mirroring variation and plurality, or conciliating cross-cultural differences. What is more important, these strategies might adopt some of the new (and at first sight non-standard) communicative practices which, according to Karpinski (2014: 28), are emerging in super-diverse environments characterized by language "impurity". This author refers to a taxonomy by Bloomaert including "languaging", "polylanguaging", "crossing" techniques, "metrolingualism" and "transidiomatic practices". The equivalence found in the Spanish page of the City Clerk of New York[xii], translating "Certificate of Non-Impediment" as "Certificado de Soltería (o de No-impedimento") – a rendering which flexibly blends language conventions and which reverses the concepts of "the foreign" and "the familiar" in accordance with the logic of a transnational space – may serve as an illustration of hybrid translation strategies favouring broader identity-related goals and communicative efficiency between coexisting cultural identities over linguistic normativity.

In any event, it must be emphasized that for legal translators who adopt criticality as an attitude and understand that identities negotiate their ways, as said before, strategically and positionally the range of potential strategies needs not to be limited to mediation and reconciliation. Indeed, in certain contexts, resistance to hegemonic imposition and affirmation of local patterns might be convenient both in communicative and identitarian terms. By the same token, whereas in certain contexts expressing difference might emerge as a priority goal in identity-informed legal translations, in other contexts the standardizing of diversity in the interest of a common language might prove to be the best option.

What is clear from the above is that, when identity is brought to the forefront, legal translation emerges as a complex, multilayered decision-making activity with implications far exceeding the linguistic and even the legal level. Legal translation emerges as a highly political and politicized activity with a strong ethical component and thus as an unavoidably "interventionist" task. Translating legal texts in our era implies giving voice and granting recognition or denying visibility; it entails projecting or reshaping images of social identities. Far from the long-held view that translating legal texts requires finding the right equivalents, today's legal translators negotiate potentially comparable terms between distinct individuals, cultures, societies or identities at particular space-time and socio-political coordinates. In this regard, it is important to bear in mind that, in every translation decision, they shape their own culture's identity vis-à-vis other (legal) culture(s). It should be remembered that neither identities nor legal cultures are static: they change over time, and they do so in dialogue with other cultures and identities. The notion of identity contributes to a dynamic understanding of cultural exchanges in legal and

institutional settings and offers interesting insights into the role of translation in the shaping of images of legal cultures. It also emphasizes the heavy responsibility that translators have in these never-ending and fascinating processes of identity (re)construction and uncovers a number of unprecedented challenges for translators who consciously embrace their role as identity-builders when operating in increasingly diverse scenarios.

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[ii] These strategies include the consistent shift of capitalized institutions into acculturated renditions in small letters ("Ministerio de Gracia y Justicia"→ "departments of justice"), the use of ideologized lexical selections ("Ministro de Ultramar" → "minister of the colonies") and the strategic use of the passive voice disempowering the identity occupying the subject position ("El Gobierno de la Isla se compondrá de un Parlamento Insular" → "The island shall be governed by an insular parliament") (cf. Álvarez Nieves 2013: 379-411).

[iii] As Álvarez explains (2013:430), this Spanish term is said to be a translation itself inspired by the "Free State of Ireland" and in turn serving as inspiration for the "Compact of Free Association" signed by the Federated States of Micronesia, Palau and the Marshall Islands with the USA in 1986.

[iv] For instance, the use of the active voice highlighting the agency of Puerto Rico is significant in this fragment quoted in Álvarez (2013: 424):

> Whereas the Congress of the United States by a series of enactments has progressively recognized the right of self-government of the people of Puerto Rico (Public Law 600, 1 L.P.R.A. [EN]: 130)
>
> Por cuanto, bajo los términos de esta legislación congresional, Puerto Rico ha ido obteniendo una cantidad cada vez mayor de autogobierno... (Ley Pública 600, 1 L.P.R.A [ES]: 139).

[v] For instance, the possessives in "We consider as determining factors in *our* life *our* citizenship of the United States of America and our aspiration continually to enrich our democratic heritage in the individual and collective enjoyment of its rights and privileges […]" are unsystematically rendered in Spanish: "Que consideramos factores determinantes en *nuestras* vidas *la* ciudadanía de los Estados Unidos de América y *la* aspiración a continuamente enriquecer nuestro acervo democrático en el disfrute individual y colectivo de sus derechos y prerrogativas […]" (fragments quoted in Álvarez 2013: 440).

[vi] The whole fragment (quoted in Álvarez 2013: 434) reads as follows:

> Nothing can surpass in political dignity the principle of mutual consent and of compacts freely agreed upon. The spirit of the people of Puerto Rico is free for great undertakings now and in the future. Having full political dignity the *Commonwealth of Puerto Rico* may develop into other ways by modifications of the Compact through mutual consent. (1 L.P.R.A. [EN]: 136]; Álvarez' emphasis)
>
> Nada puede sobrepasar en dignidad política los principios de mutuo consentimiento y de convenio libremente acordado. El espíritu del pueblo de Puerto Rico ha de sentirse libre para sus grandes empresas del presente y del futuro. Sobre su plena dignidad política pueden desarrollarse otras modalidades del *Estado Puertorriqueño* al variarse el Convenio por mutuo acuerdo. (1 L.P.R.A. [ES]: 145; Álvarez' emphasis)

[vii] Cf., for instance, the EU links http://ec.europa.eu/culture/policy/strategic-framework/intercultural-dialogue_en.htm or http://www.intercultural-europe.org/site/ (consulted 01.02.2015).

[viii] http://www.mjusticia.gob.es/cs/Satellite/es/1200666550194/DetalleInicio.html; consulted 01.02.2015.

[ix] https://www.gibraltar.gov.gi/law-a-justice; consulted 01.02. 2015.

[x] www.asturias.es; consulted 01.02.2010.

[xi] http://ukinspain.fco.gov.uk/en/help-for-british-nationals/living-in-spain/births-deaths-marriages/marriage/certificates/town-hall; consulted 01.02.2010.

[xii] http://www.cityclerk.nyc.gov/sp/html/marriage/non-impedment.shtml; consulted 01.02.2015.

Ingrid Simonnæs together with Christian Langerfeld, Jan Roald, Beate Sandvei
NHH Norwegian School of Economics

**Teaching legal translation in Norway –
JurDist: an online course**

Abstract

In this paper we present the JurDist programme, its raison d'être, which is related to the particular situation of translation programmes in Norway, as well as its content and focus. The JurDist programme is unique in Norway and was launched only recently. It is a 15 ECTS-credit course, consisting of a two-step approach. In the first step, students are given an overview of some important parts of the Norwegian legal system and are then asked to compare the Norwegian system with the legal systems in France, Germany and Spain respectively. In the second step, the students use the insight acquired through this exercise in their translations of various legal texts, using Norwegian as source or target language. We argue that certain kinds of texts ought to be used for training such as this and we also argue for our particular didactic choice, i.e. our focus on culturally embedded legal realia. The latter is also the focus of the case study reported on.

1 INTRODUCTION

The aim of this article is to present the JurDist online legal translation training programme at NHH Norwegian School of Economics, the reason why it has been launched, its content and our didactic approach. One reason for establishing this programme is that the need for legal translation has increased steadily the last 10-20 years due to the ongoing internationalisation and globalisation process where translation of legal documents is one natural consequence. Another reason is, as will be shown below, the special situation in Norway with respect to translation training programmes in general.

Our didactic focus is to give the students of JurDist an overview of the Norwegian legal system and the systems of France, Germany and Spain as basis for their subsequent translation activities. The commonly held opinion is that legal translation differs from other translation for specific purposes (LSP translation) such as medical or technical translations (e.g. Weston 1990:681, 1991:2) because of *i.a.* its cultural embeddedness with its conceptual differences and ensuing translation problems (Weston 1983). The students are therefore taught some basic strategies in order to cope with inevitable translation problems and challenges. To this end the students need a certain amount of legal knowledge of the particular legal systems and of central legal genres. Such topics are therefore central for our teaching in the online course JurDist.

The paper is organized as follows. Section 2 gives an overview of the situation in Norway with respect to translation training programmes. Section 3 shortly describes our recent online course in legal translation, called JurDist, and its special focus on a content-based approach. Section 4 is dedicated to a case study on some recurrent translation problems faced by students in legal translational settings. Section 5 describes the assessment of the first version of the course. Finally, section 6 contains our concluding remarks and a brief outlook.

2 TRANSLATION TRAINING PROGRAMMES IN NORWAY

Norway has no translation training programmes comparable to those given in continental Europe and the U.K. There is, however, a Master programme in translation studies at the University of Oslo, which is primarily geared towards non-LSP texts. Furthermore, at the University of Agder, a Bachelor in English is offered with focus on translation and intercultural communication. The University of Bergen offers an undergraduate course in translation. Last, but not least, for a long period 1-2 day courses in LSP-translation have been offered at NHH annually in preparation for the National Translator Accreditation Exam (NTAE) (*autorisasjonsprøve i oversettelse*, previously *statsautorisert translatøreksamen*).

NHH has been in charge of this exam since the 70s.[i] About 80 candidates sit this exam each year with the bulk in the language combination Norwegian-English/French/German and Spanish.[ii] The candidates are typically mature with various types of professional and educational background. Many do not have any formal linguistic or translational training. Some of them do not even live in Norway. Not surprisingly, the failure rate is extremely high, about 80 % due to two main reasons: firstly, as already mentioned, there are no study programmes leading up to the exam and there is therefore very little course material geared

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towards translators working to and from Norwegian. Secondly, as is the case for most small languages, there is a lack of specialized bilingual dictionaries and/or legal encyclopaedias.[iii]

3 JURDIST – AN ONLINE LEGAL TRANSLATION TRAINING PROGRAMME

Since economic constraints did not allow us at NHH to continue with the annual 1-2 day courses, and our previous experience had shown that translating the legal text, one of the three LSP-texts at the NTAE, was considered to be the most difficult translation task, we decided to offer an online course in legal translation.[iv] This seemed in our view to be the most efficient and practical solution in order to cater for the needs of the heterogeneous group of candidates taking the NTAE. After thorough preparation on how to organise a course in legal translation, the online course JurDist was offered for the first time in 2013-2014 to students working between Norwegian and French, German or Spanish, with English to be added from autumn 2015.[v]

This course is a 15-credit module at MA level. It stretches over the academic year from August to December and from January to June, totalling 24 weeks, where a one-hour seminar is given to all students on a biweekly basis, independently of their target language. Four teachers share the responsibility for furnishing insights into the Norwegian legal system, sources of law, legislative procedure, judicial authorities and court system, and the relationship between national and international law as well as supranational law (EU-law). Since most of the students are at the same time in full-time jobs, the class is held in the afternoon. They may follow the teaching either synchronously or asynchronously as the lessons are recorded together with questions and comments from the students attending our presentation with mostly PowerPoints files. Most of them do follow the lessons synchronously. The remaining weeks are devoted to online interaction between the language-specific groups and their professors in French, German and Spanish respectively by way of discussions on the teaching platform. In these lectures we give feedback to the students on their homework on issues taught previously within a Norwegian legal setting, but now within their particular legal system setting and discuss problems and solutions.

In the second part of the academic year, the focus is on as many translation excercies as possible from Norwegian into the other target languages or vice-versa with the students working in language specific groups. A short introduction to the theory of translation studies is given with particular focus on legal translation and its specificity[vi] before we continue with different text genres, where we follow a comparable teaching approach, but now dealing with those parts of the Norwegian and the language specific legal systems that were dealt with in the first part. We decided to focus on legislative texts (acts and regulations), court decisions, other court documents such as summons, different kinds of contracts, general terms of contract and miscellaneous, each of them as authentic texts both in Norwegian and in the particular foreign language. This decision was based on our intention to expose the students to

- genres that help them understand the law
    - translation of legislative texts allows them to be updated with the dynamicity of the legal world, especially when the particular legal systems do differ in their development;
    - court decisions, which refer to particular legal provisions which again might ease their process of understanding of the topic at hand and consequently the process of translation;
- genres that are often translated in practice
    - court documents and agreements, which often need to be translated in our age of globalisation because the end user needs to know exactly all the details of the document in order to be aware of the legal implications;
    - contracts and general terms of contract, which are today omnipresent.

The biweekly legal translations are done as homework. We recommend the students to consult comparable texts looking for *i.a*. textual conventions and recurrent collocations which they then might use in their translation and of course to focus on the relevant terminology in the pertinent (sub)domain of law. Their solutions are discussed subsequently in the interaction sessions with focus on the particular legal setting of the translation, a possible translation brief and ensuing translation decisions.

As already indicated, the main aim of the course is to teach the students strategies of how to translate different legal texts. Still, teaching some theoretical framework, based on a functionalist approach (Nord 1997), was considered appropriate. We arranged also at the end of the course a one-day seminar on *Language and Law – Theoretical and practical approaches,* where invited speakers from each of the languages involved presented their view on this topic. Unfortunately only some of the students could attend this symposium because most of them were not staying in Bergen.[vii]

At the end of the course a summative assessment is carried out. The assessment is based on the students' translation portfolio. The students are free to choose between different texts from the same categories as in the teaching process, but the texts have earlier not been discussed or commented on. The assessment is graded as either "passed" or "failed".

To sum up: The *raison d'être* for JurDist is that (1) due to external causes there is a high demand for training in legal translation[viii], (2) there are no courses or university programmes offered in legal translation in Norway, and (3) there is a high failure rate at the NTAE where the legal translation is often considered to be the most difficult of the three LSP-texts to be translated. Our objective is thus primarily to enhance the students' competence in legal translation in preparation for taking the NTAE[ix]. We therefore focus on:

- A general introduction to the field of law based on conceptual systems and visualisation of the relationship between several legal concepts.[x] The main focus is on the Norwegian legal system. We rely on e.g. Knoph (2014), an introductory book on the Norwegian legal system used for instance at the Faculty of Law at the University of Bergen and a tailor-made overview of relevant basic issues of the Norwegian legal system. At the same time the students are invited to contrast and discuss this information with their respective legal system. To this end the students have to find appropriate resources in the suggested list of references available on the platform Its learning and/or on the Internet about the particular issue under discussion.
- A short introduction to different legal genres (e.g. legislative texts and various kinds of court documents) emphasizing their function and linguistic aspects related to structure, style, genre conventions etc. Our choice is based on feedback from representatives of the translation industry (Kumpch 2006; Ferguson 2011) as well as the above mentioned reasons. For contrastive use in the translation activities a selection of authentic texts in French, German and Spanish has been compiled. Where available we looked for similar texts previously given at the NTAE to be (re)used in the JurDist course.
- Extensive translation activities in the second part of the course with individual feedback to the students using the previously introduced legal genres.

4 CASE STUDY

Our common experiences and the input from representatives of the translation industry were used to pinpoint the text genres we considered to be the most relevant to translator training. Examples were taken both from authentic Norwegian and from French, German as well as Spanish texts.[xi]

Due to practical problems we did not get the permission to quote from the translations of our JurDist students; we rely instead on our empirically based insights of particular translation problems. Our experiences in dealing with and assessing various kinds of translation at the level of the NTAE exam span from a few years to more than 20 years.

In this section we draw on some recurrent general translation problems in legal translation. These or similar translation problems were of course discussed thoroughly with our students taking into account the following questions: (1) the final purpose of the translation of a legal text, (2) the possible difference if the translation is carried out for informative purposes only and (3) the intended (final) addressees. Since these questions cannot easily be kept apart, we consider the three aspects simultaneously when presenting our case study.

4.1. Interrelatedness of purpose, "legal effect" and addressee

In order to discuss the interrelatedness of purpose, "legal effect" and addressee we focus on the implicit translation brief, which we presume the (student) translator is aware of or is explicitly made aware of. When we confront our students with the task of translating a legislative text or, more realistically, parts thereof, we do so with a twofold purpose: The first might be to document to the receiver/addressee [xii] the content of the particular text and the second might be to inform the receiver about the legal consequences as stipulated in the source text. Contrary to the purpose of official bi- or multilingual translations, the translation is still to be considered as a "secondary" text to facilitate the understanding of the different linguistic expressions in the source text and their counterparts in the target text. At the same time the translator has to keep in mind that the receiver might need more information/text to fully comprehend the issue at hand in order to defend his or her rights In our view, this requires that designations of cultural embedded institutions from the source (legal) system should be recognizable as to their function and at the same time identifiable by their name. By way of example, we point to easily retrievable designations such as *Norges Høyesterett* referring to the'Norwegian Supreme Court' or 'The

Constitution of the Kingdom of Norway' referring to *Kongeriket Norges Grunnlov* (in short: *Grunnloven*). Sometimes Norwegian institutions have adopted at least an English translation which can easily be found on the Internet. The same applies to international institutions such as NATO, IMF, ECJ etc. that are frequently used in their different renderings, e.g. as *OTAN* (the French and Spanish equivalent of NATO), *Det internasjonale pengefondet /Internationaler Währungsfonds/IWF* or *Europäischer Gerichtshof/ EuGH/Domstolen i Den europeiske unionen*. The (student) translator is advised to use the particular designation in order to avoid misunderstandings on the part of the receiver.

An important issue in this context is to refer to existing commonly acknowledged approach to legal translation where legal translation historically mainly followed a source-oriented translation strategy, that is, a more literal translation, rather than a target-oriented translation strategy.

After the so-called "cultural turn" (Lefevere & Bassnett 1990: 1 ff.) in the 1980s, which takes into account factors other than purely linguistic ones, the translation strategy may shift according to the purpose (Vermeer's *skopos* – Vermeer 1996)[xiii] of the translation. Other scholars prefer to describe this approach as taking the particular communicative situation into account drawing on the Lasswell Formula (*Who says what in which channel to whom with what effect?*), which in turn takes us back to Hermagoras of Temnos (2nd century BC) and his rhetorical advice of *quis quid quando ubi cur quem ad modum quibus adminiculis* (who, what, when, where, why, in what way, by what means). However, as Šarčević (1997: 19) rightly argues, this approach cannot be applied to all translations because one type, i.e. legal texts, is subject to special rules that govern their use in the mechanism of the law. Šarčević advocates that legal translators must take into account the legal criteria (ibid.), which we would compare to Kisch's (1973: 411) "quant à la substance" (with respect to the essence), when they select the appropriate translation strategy. The target text should ensure that the legal effects of its source language/culture are transposed into the target language/culture. We agree with Šarčević's view and discuss below some problems and strategies on which we focus in the JurDist course, but first we start with discussing various kinds of legal translation.

4.2 Kinds of legal translation

For the eligible strategy for translating legal texts it is important to differentiate between the status of the translation functioning either as 'authorized' or 'authenticated', which is to be deduced from the translation brief. In the examples to follow we presumed that the translation should function as an authorized translation, which needs some explication.

In general two different kinds of legal translations are identified: The first is the authorized (certified or sworn) translation where the translation is not authoritative **without** an existing original – e.g. a court decision from country$_1$ to be used in legal proceedings in country$_2$ or a birth certificate and other types of personal certificates. The same applies to the translation of extracts from the legislation of country$_1$ into the language of country$_2$, for instance in legal proceedings. Šarčević (1997: 19) who uses a different designation for this categorization, talks about 'non-authoritative' translation, i.e. a translation being without the force of law and being non-binding in contrast to 'authoritative' translation. We use 'authorized' here in the sense of 'non-authoritative'. It is with such kind of legal translations we confront our candidates at the NTAE with, in recent years by also giving them an explicit translation brief. A similar procedure is followed at the JurDist course. One of the first questions when discussing the students' translation solutions is what impact the translation brief should have on their translation strategy.

In contrast, the other kind is the authenticated[xiv] translation where its purpose is "**to work as legislation**" (Strandvik 2012:28; emphasis added), i.e. in multilingual law making. These translations are no longer 'translations', but "equally authoritative texts" (= versions) in the sense of the Vienna Convention on the law of treaties of 1969, Article 33(1).[xv] At least theoretically speaking, it is presumed that all legally valid versions of a single instrument have the same meaning (VCLT, Article 33 (3)). However, this kind of translation falls beyond the scope of this paper.[xvi]

4.2.1 Documentary or instrumental - dichotomy or graded continuum?

When a legal document, e.g. a birth certificate or an earlier judgment from legal system$_1$ (source culture) is used as court evidence in legal system$_2$ (target culture), its translation is used as a means (Nord 1989) for giving information. This information is to be given as precise as possible to the judiciary authorities in the target culture and should take into account genre conventions of the target culture. At the same time however, the translation's purpose is also to document the content and form of the source text. As rightly observed by Šarčević (2012: 191), "sworn translators are required to **reproduce the words and form** of the original **as closely as possible**" since "the accuracy and reliability of translated court documents

are generally assessed by the degree to which the translation is a **mirror of the original text**" (emphasis added). Consequently, what is of utmost importance for legal translations is that the target text mirrors to the extent possible the message of the source text and thereby ensures that the legal effects of the source language/culture are transposed into the target language/culture. Hence, the translation brief and the legal force of a particular text strongly influence the translation strategy to be applied. Whenever the legal force of the source text supersedes that of the target text, as in authorized translations, the strategy of the translator should consequently be nearer the 'documentary' (Nord 1989) end of the continuum. Linguistic features particular to the source language and to the target language should be balanced according to the expectations of norms in the target culture.

4.2.2 Problems and strategies: some examples

We now turn to some examples of problems and strategies we have been able to trace. Keeping in mind that our approach in teaching legal translation is content based,[xvii] we draw the students' attention *i.a*. to different relevant literature, i.e. short introductions to central issues in the particular foreign legal system written in the respective language. The students are also encouraged to learn to critically assess different translation solutions from various sources, including bilingual dictionaries and the differences of their findings of suggested translations with and without further context.

In line with Mattila (2006: 266), who states that "there is a need for systematic study and comparison of legal institutions and concepts and their designations, from the standpoint of many languages, in defined domains" we use once again cultural realia (legal institutions) in society for exemplification.[xviii] The language pairs concerned are Norwegian – French, German and Spanish, including even English, where we show to the following examples taken from different genres.[xix]

(1) French legislation

Our first example is provided by a French text pertaining to French labour legislation submitted at the NTAE exam[xx]: *Réforme: présentation de la rupture d'un commun accord du contrat de travail.* The text was taken from www.juritravail.com. This reform introduces a new way of terminating a labour contract, without having any conceptual counterpart in the Norwegian legal system, i.e. a conceptual void. The challenge here was to render the provisions in intelligible Norwegian. One candidate's suggested translation of *RUPTURE*[xxi] (*d'un commun accord du contrat de travail*) was '*brudd på arbeidsavtalen*' (violation/breach of the labour contract), which is totally misleading. A solution to render this French legal concept in Norwegian would be to verbalize it analytically with known Norwegian legal concepts pertaining to the same domain, such as: "heving av arbeidsavtalen i minnelighet"/ "etter minnelig avtale/overenskomst"/"heving av arbeidsavtalen uten oppsigelse". Such an approach is often recommended when the translator is faced with a legal void.

(2) Norwegian legislation

(2a) Another example of conceptual pitfalls is provided in a text on recent Norwegian legislation on parenthood which also had to be translated at the NTAE. The translation problem was the newly coined legal concept of *MEDMOR* ('co-mother') unknown in some legislations as of 2008 (date of enactment of the pertinent regulation). A literal translation e.g. in German as *Mitmutter* would not convey important legal implications and therefore prevent the understanding.[xxii] [xxiii]

(2b) *Arbeidstilsynet*

In the Working Environment Act, an "unofficial translation" [xxiv] by the Norwegian Ministry of Justice into English of *Arbeidsmiljøloven*, reference is made to *Arbeidstilsynet* by 'The Labour Inspection Authority'. Compared to example no. 5 no original designation is kept in this translation. We assume that the whole context (in a wide sense) is taken into account, i.e. that the reader of this document is aware that all information is about a particular Norwegian legal issue and hence that there is (felt) no need of giving the Norwegian designation as well.

(2c) *Lov om mekling og rettergang i sivile saker (tvisteloven)*

This particular act is rendered in German and English in Lipp & Fredriksen Haukeland (2011). The translations read as follows: *Gesetz über Schlichtung und Verfahren in zivilen Streitigkeiten* ***(tvisteloven)*** and *Act of 17 June 2005 no. 90 relating to mediation and procedure in civil disputes* ***(The Dispute Act)*** (emphasis added). With respect to the German translation the translator team Bessing/Schrader & Lipp in Lipp & Fredriksen Haukeland (2011) inform that the translation "was kept closely to the original wording of the Norwegian text". The English translation is once again an "unofficial translation" by the Norwegian Ministry of Justice (op.cit.: 135). What we can see here, is that the German translators add the Norwegian designation in brackets after their translation in line with their strategy to stay "closely to the original wording". In contrast the English translator(s) refer(s) to the Norwegian act identified by the date of promulgation "17 June 2005" and its number "no. 90" which is

the way in which Norwegian acts are published as there are no great codifications in Norway contrary to what is the case in France, Spain and Germany. At the same time the English translator(s) give(s) supplementary information about the content of the act "relating to mediation and procedure in civil disputes".

(3) Other legal documents

(3a) Proper names – Norwegian - German

Looking at some data from student translations of cultural realia from the legal domain, the data reveal basically three translation strategies which were used to render a government ministry's proper name from Norwegian as source language culture in German as target language.

The first strategy found in the data is a more or less literal translation of a legal term. The most straightforward way of translating the proper name of the Norwegian Ministry of Justice (*Justisdepartementet*) into German is for instance a literal translation of the compound which results in the German term *Justizministerium*. Although the legal concepts of the Norwegian 'Justisdepartementet' and the German 'Justizministerium'[xxv] differ somehow, the receiver of the translation gets the most basic information, i.e. reference to a government department in the source culture which deals with legal issues. In the data from the student translations, the context provided the information that the particular ministry was the Norwegian Ministry of Justice.

The same strategy (literal translation) was also applied to other government departments that have a counterpart in the German government administration: *Finansdepartementet* was translated with *Finanzministerium* and *Utenriksdepartementet* (the Foreign Ministry) with *Außenministerium*. Even though the official German designations for these ministries are respectively *Bundesministerium für Finanzen* and *Auswärtiges Amt*, the receiver will, through the simplified forms *Finanzministerium* and *Außenministerium,* be informed of their key activities, which are assumed to be the same in both countries. There is, at least theoretically, a possibility that such literal translations having a similar counterpart on the linguistic (and conceptual) level may lead to misunderstandings, for instance when the receiver is not aware of the fact that the text is a translation. On the other hand it would be even more difficult to keep apart the Norwegian and the German ministry in the translation if the proper name, e.g. *Auswärtiges Amt,* was chosen as a designation for the Norwegian ministry (*Utenriksdepartementet).*

The second strategy is an extension of the strategy described above. By adding the adjective 'Norwegian' to the word-for-word translation of the ministry (*das* ***norwegische*** *Justizministerium*), the translator signals that this government department is part of the Norwegian government administration. By doing so, the translator leaves no space for misunderstandings as to which country's ministry the text refers to.

The third strategy reflected in the data is also an extension of the first strategy. Again the ministry was rendered by a word-for-word translation, but in addition the German translation was followed by the Norwegian name of the ministry in brackets[xxvi]: *Finanzministerium* (*Finansdepartementet*). A translation like this makes clear which national government department a text refers to. The receiver will also be able to exactly identify the ministry in case of further questions and/or required contact. [xxvii]

In addition, a combination of strategies 2 and 3 was found: *Das norwegische Finanzministerium* (*Finansdepartementet*). In this variant the legal entities of Norwegian and German ministry are kept apart most clearly.

In changing now the language combination from Norwegian to Spanish the same translation strategies are identifiable.

(3b) Proper names – Norwegian - Spanish

Norsk Lovtidend

The Norwegian legal gazette *Norsk Lovtidend* is published by the Ministry of Justice and Public Security (*Justis- og beredskapsdepartementet*) and contains official promulgations of i.a. statutes, regulations, legal notifications, decrees, etc. In student translations of a particular Norwegian regulation where its source is informed to be the *Norsk Lovtidend* three different renderings of this proper name are found:

i. *Norsk Lovtidend*
ii. *Norsk Lovtidend,* publicación noruega sobre leyes
iii. Boletín Oficial de Leyes de Noruega (*Norsk Lovtidend*)

As we can see, all three strategies involve the use of the Norwegian proper name in the translation, thus making it possible for the addressee of the translated text to identify the original Norwegian designation.

As a matter of fact, the first strategy is simply to use the Norwegian proper name without any translation or explication at all. This means that the Spanish speaking reader will know the name of the publication but will not know what kind of publication this is without any further research. This would be the case, especially when the broader context does not give more information. For the Norwegian addressee one could assume that he is or should be aware of the function of this publication.

The second strategy is to first mention the Norwegian proper name and then add an explication of what *Norsk Lovtidend* is, i.e. *publicación noruega sobre leyes* ('Norwegian publication about laws'), but this explication is imprecise and fails to transmit to the addressee that *Norsk Lovtidend* is the Norwegian official legal gazette and not just *any* Norwegian publication *about* laws and other legal instruments.

The third strategy is to first give a more general explication in Spanish of the Norwegian proper name, i.e. *Boletín Oficial de Leyes de Noruega*, and then add the Norwegian proper name in brackets. This Spanish translation is more accurate than the one we saw in the second strategy, because the student has used a functional equivalent by using a formulation very similar to the name of the Spanish official legal gazette, which is *Boletín Oficial del Estado* (BOE), thus explaining more adequately what kind of publication this is.

Folkeregistermyndigheita

Another culture bound referent found in the student translations of the same regulation is *folkeregistermyndigheita*, which is the authority responsible for the Norwegian National Registry. This Registry contains important information concerning everyone who either is or has been resident in Norway. This information is most relevant in the given context. This particular referent is mentioned four times in the source text, including the third time when it is mentioned in its short form, so-called fore-clipping, i.e. *myndigheita*.

In the renderings two strategies are observed:

i. El registro civil / el registro civil / la autoridad / el registro civil
ii. La autoridad del Registro Civil / la autoridad del Registro Civil / la autoridad / la autoridad del Registro Civil

The first translation strategy has been to translate *folkeregistermyndigheita* with *el registro civil*, which is the Spanish name for public registry: *registro público dependiente del Ministerio de Justicia* (Comares 2013)[xxviii], i.e. the Spanish registry corresponds to the Norwegian National Registry, even though, according to Fernández de Buján (2009), '*registro civil'* refers both to *a collection of books* and *a public office* (conjunto de libros y oficina pública). However there is one difference, but which in this particular context does not matter: In Spain the public registry authority falls under the Spanish Ministry of Justice while in Norway this authority falls under the Ministry of Finance.

The second strategy was a quite literal translation *folkeregistermyndigheita*, i.e. *la autoridad del registro civil*, which is a very transparent term in Spanish.

As we can see, in both translations a literal translation of the Norwegian designation *myndigheita* was chosen in the third mention of the referent, i.e. *la autoridad*. This strategy functions very well in case (ii), but not as well in case (i), because at first glance it is not clear that *el registro civil* and *la autoridad* are coreferents in this text.

(4) Scholarly work and legal dictionaries

We encourage our candidates both at JurDist and NTAE to widen their research competence, a vital sub-competence of translation competence.[xxix] In this respect, scholarly works might be a fruitful resource to look into whereas the use of legal bilingual dictionaries, if available, presupposes that the candidate is aware of possible pitfalls if no further investigation is done. In order to look for what translation strategy can be identified in scholarly works and legal dictionaries our next examples are taken from these sources.

A scholarly work written in English about the German Criminal Law, i.e. a descriptive text type (level of description in the sense of Kjær 1990: 35), Dannecker & Roberts (2005) use as a general rule the English designation first, followed by the original (German) designation in round brackets. This applies to legal institutions as well as to legal procedures. 'The Federal Constitutional Court' is used to refer to the *Bundesverfassungsgericht* (op. cit.: 422), the 'District Court' shows to the *Landgericht* (p. 425), the 'Federal Table of Lawyers'Fee' is used to refer to *Rechtsanwaltsvergütungsgesetz* (p. 422) and 'appeal on

questions of fact and law' is their English circumlocution of the German *Berufung* (p. 446) in legal proceedings, to give but a few examples. In Dietl et al.'s well-known bilingual German-English/English-German legal dictionary[xxx] the same translations are found for these examples with the exception of *Rechtsanwaltsvergütungsgesetz* [xxxi] which is listed as *Bundesgebührenordnung für Rechtsanwälte (BRAGO)* and its English counterpart 'Federal Code of Lawyers' Fees'.

5) Web site, a communicative situation from expert to lay-person

Arbeidstilsynet
Our last example is taken from a communicative situation where the sender is a legal expert and the receiver a non-expert. Although this example does not belong to the two most used kinds of texts (level of regulation and level of action in the sense of Kjær 1990: 35) in the curriculum for JurDist, it shows a recurrent challenge for the translator independently of the genre. On its homepage, this particular authority with special relevance for migrant workers coming to or already staying in Norway uses the English designation 'The Norwegian Labour Inspection Authority'. Its homepage offers no rendering or any information in French, German or Spanish in contrast to languages such as Polish, Estonian and Lithuanian. The reason for this is obviously that a significant number of migrant workers from the Baltic region (Poland, Estonia, Lithuania), come to Norway and hence the Norwegian authority has recognized the need for web-information in their languages. So here the student has to try to find out if there is a comparable authority in his/her particular legal system and decide whether (s)he should use a calque or another strategy, e.g. by paraphrasing and giving the original designation as explication in brackets.

To sum up, most examples show that the translations are source language oriented tending to be literal translations, but at the same time they give (supplementary) functional information. The sources may differ with respect to the order in which the original designation and its translation are rendered. The students are made aware of this at the same time as we point towards the necessity of being consistent throughout the document.

5 ASSESSMENT OF THE FIRST VERSION OF THE COURSE

Our intention was to teach legal translation in an online environment to students who felt they needed more experience in legal translation, either in preparation for the NTAE or as life-long learning approach to enhance their knowledge on this kind of translation activities. Since our teaching is oriented towards practical and not towards academic goals, the main focus has been on teaching strategies to cope with translation problems. The focus on translation theories was therefore reduced to a minimum. Instead our focus was geared towards the importance of the translation brief and the possible different approaches according to the legal genres. At the same time we considered it as a *conditio sine qua non* to teach basic insights into the Norwegian legal system since this is a prerequisite in the understanding process, which always is the first step in a translation process. We expected the students to acquire parallel knowledge about their particular legal system in order to be able to compare similarities and differences between the systems involved. This knowledge is needed in the (re)production phase of translation.

The students' feedback shows that the course content and electronic mode of teaching to a great extent did meet their expectations. Since the students are mostly in full-time jobs and some of them live in other countries than Norway as well, e.g. Australia, and the lessons are recorded, they can watch the presentation whenever and wherever they like. At the same time the work load, especially with respect to the homework to be done within deadlines, has been reported sometimes to be heavy.

With respect to the work load for the teachers, the preparatory work was heavy and time-consuming. Much research on what has been written about legal translation and what could be useful for our students in the light of the practical focus of the course had to be done. To this end, we collected some central research articles. In addition we wrote a tailor-made overview of the Norwegian legal system and a short introduction to translation theories. We discussed thoroughly what legal genres we would focus on (see section 3) and had to find relevant texts. Since one aim of the course is to prepare candidates for the NTAE exam, it was only natural that we tried to reuse earlier texts from that exam where possible.

During the course the work load for the teachers was also heavy since we expected the students to deliver each week a piece of homework of some pages, which had to be commented on with respect to both language use (if necessary) and the content and references made.

But, all in all, our decision to use an electronic platform to teach legal translation has proven to be viable given the economic and personal constraints. However, minor changes with respect to the work load will be implemented for the next version starting from autumn 2015.

6 CONCLUDING REMARKS AND OUTLOOK

From the particular situation in Norway, where no study programmes in general translation training are offered but only the National Translator Accreditation Exam, a need for training in LSP translation was more recently identified, especially for candidates for the NTAE. This in turn gave rise to the online course in legal translation JurDist. The content of this course was shortly described before our case study was presented. We pointed to one of the well-known challenges in legal translation, i.e. the translation of culturally embedded legal realia (legal institutions) as one particular didactic issue that is given much attention in the JurDist course. The challenge is identified as an expectation that the student should be aware of the differences between the pertinent legal systems. This presupposes that the student has a sufficient amount of legal knowledge of both of the legal systems and is able to take into account text type, genre and purpose of the translation (translation brief). As mentioned above, our approach has been to give the students an overview of important parts of the Norwegian legal system, which were then to be compared with the other legal system(s). The choice of what was considered important was based *i.a*. on feedback from representatives of the translation industry on recurrent text genres to be translated.

Our description of one aspect of the specificity of legal translation is in line with the findings of previous research work by renowned scholars, but now using Norwegian as source or target language, which is seldom the case in such studies.

In this paper all four legal systems belong to the code-law-based civil law system. Hence, the translation challenges are more easily comparable than would be the case when the Anglo-Saxon legal system (common-law-based case law system) is taken into account as well, especially when issues such as judicial system and legal procedures are included in a translation setting. From the autumn 2015, the Anglo-Saxon legal system and English legal language will be included in our teaching of JurDist. Case law and common law are totally different; hence we expect more complicated translation challenges.

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[i] For a glimpse on the history of this exam see e.g. Stejskal (2002) and Roald & Simonnæs (2005).
ii For more information see http://www.nhh.no/no/studietilbud/translatøreksamen/språktilbud.aspx
[iii] One exception being Gisle et al. (2010), a Norwegian legal encyclopaedia with English terms for each entry.
[iv] The idea for this course came from our colleague from the French Section, professor Sunniva Whittaker, as part of a possible more comprehensive programme in LSP-translation.
[v] For detailed information (in Norwegian only) see http://www.nhh.no/no/nhh-executive/andre-studier/jurdist.aspx
[vi] For a critical discussion of what is claimed to be so special about legal translation, see Harvey (2002).
[vii] The presentations are published in this issue of *Terminology Science and Research* and will be part of the reference literature for the next version of JurDist.
[viii] Although the following statement does not focus on the training of legal translation *per se*: "[...] the debate on legal translation has gained momentum since the approval of Directive 2010/64 EU on the right to interpretation and translation in criminal proceedings" (Prieto Ramos & Borja Albi (2013: 2), we see it as relevant to training purposes. In a Norwegian context it is sections 2-8 and 22-5 of the Prosecution Instructions (*Forskrift om ordningen av påtalemyndigheten /Påtaleinstruksen*) which regulate those cases, as Norway is neither a member of the EU, nor is criminal law part of the EEA-agreement.
[ix] Cf. Dullion (2015) who advocates a similar methodology in teaching legal translation.
Contrary to what we expected there were some candidates who were already state authorized translators but nevertheless felt the need for more input on the topic of legal translation.
[x] This approach is in line with approaches advocated earlier e.g. by Hjort-Pedersen & Faber (2005), Pommer (2006), Engberg (2013), Simonnæs (2014), to name but a few.
[xi] Cf. Kelly (2005: 119f.) cited in Biel (2011) who shows to the existing consensus [in translation studies] "that texts should, as far as possible, be authentic, unmanipulated and presented in their original form".
[xii] For convenience we use interchangeably 'receiver' and 'addressee'. For a more detailed discussion about 'receiver' see Simonnæs (2005) reprint in Simonnæs (2012).
[xiii] For a critical assessment of the *skopos* theory within the functional approaches in translation studies, see Chesterman (2010:209 ff.).
Cf. also Simonnæs (2012:67 ff.), discussing the similarities of "purpose" in legal studies and translation studies.
[xiv] Šarčević (2000) explains that authenticated translations, "vested with the force of law […] **enable the mechanism of the law to function** in more than one language" (emphasis added).
[xv] "When a treaty has been authenticated in two or more languages, the text is equally authoritative in each language, unless the treaty provides or the parties agree that, in case of divergence, a particular text shall prevail."
[xvi] For more in-depth discussion about the peculiar status of EU legal texts see e.g. Felici (2010) with further references there.
[xvii] This approach is in line with what other scholars claim, e.g. McLaren who recently states that "[…] one of the starting points for anyone wishing to specialize in legal translation is to have a good

understanding of the legal system in which they operate and a solid knowledge of the legal principles which apply" (McLaren 2015: 12).
Cf. also Kieffer (1997).

[xviii] Cf. also Harvey (2003; 2012.) in general and on the translation of culture-bound terms in laws in particular Šarčević (1985).

[xix] Due to place constraints we cannot discuss the issue about legal genres more in depth, but show to some slightly different categorization by e.g. Kjær (1990); Busse (2000: 670ff.); Cao (2010: 193); Šarčević (2012: 189) and Stolze (2013).

[xx] As indicated we did not get the permission to collect data from the students of JurDist. We use therefore, if not indicated otherwise, examples taken from translations performed at the NTAE. The discussion on the best applicable strategy is one important issue in the teaching activities of JurDist.

[xxi] Capitals are used for the designation of the concept and inverted commas [' '] for the linguistic expression.

[xxii] This insight is not new. Cf. in this respect Mincke (1991: 465; emphasis added) who states that "Das Verständnis kann die Übersetzung nicht gewährleisten, wenn dem Leser der im Text behandelte Gegenstand nicht bekannt ist. Das **Verständnis erfordert Erklärung**, nicht Übersetzung […]."

[xxiii] For more details on this translation challenge Norwegian-French see Roald & Whittaker (2011); for Norwegian-German see Simonnæs (2014).

[xxiv] 'unofficial' should be understood as for information purposes only because of the supplementary information "Should any doubt arise, the Norwegian text of the Act is valid and binding".

[xxv] The official name is *Bundesministerium der Justiz und für Verbraucherschutz* (Federal Ministry of Justice and Consumer Protection) in contrast to the *Justis- og beredsskapsdepartementet* in Norway (The Ministry of Justice and Public Security).

[xxvi] In this context we do not discuss further what kind of brackets (round or square) would be the best.

[xxvii] Cf. Vogel (1988: 52) who emphasizes the translator's task is always to take into account that the receiver of the translation, if needed, should be able to get in touch with the pertinent authority and that he therefore might need to have access to the court's or authority's original untranslated designation.
"Under alla omständigheter får en översättare av rättegångshandlingar och liknande aktstycken i förvaltningsförfaranden räkna med att översättningens mottagare måste kunna komma i kontakt ned vederbörande domstol eller myndighet och att han därför kan behöva ha tillgång till domstolens eller myndighetens ursprungliga, oöversatte beteckning [...]".

[xxviii] Cf. also Way (2012: 52 ff.).

[xxix] Cf. Schäffner 2004, Göpferich 2008, 2013 and PACTE 2009, to name but a few.

[xxx] We refer to the second edition of 1983.

[xxxi] In 2004, the BRAO was replaced by the "Gesetz über die Vergütung der Rechtsanwältinnen und Rechtsanwälte" or short "Rechtsanwaltsvergütungsgesetz" /"RVG". In English: "Law on the Remuneration of Attorneys" (http://www.gesetze-im-internet.de/englisch_rvg/index.html).