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Common Errors Committed in Translating (Not Only) Legal Documents

Abstract
The paper is an attempt at identifying certain problem areas in which potential translation errors can be predicted. By being aware of the risk the translator could reduce errors to a minimum. Errors can be tolerated to some extent, but certain priorities named in the paper should be borne in mind when evaluating the seriousness of a particular error. The same type of error may be negligible in one situation but completely unacceptable in another. In legal translation an error leading to a different interpretation of the meaning might have serious consequences.

Key words
Translator's priorities; appropriateness; adequacies; faux amis; dummies

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Translation is not an easy task, especially when translating special pieces of text containing features not commonly found in English texts. A good example is legal English, which this article concentrates on. The legal register contains certain linguistic peculiarities that a translator may not recognize as special problem areas, often being at risk of overlooking some important signals which could facilitate understanding the meaning of the text.

Nobody is perfect – to quote a famous sentence from a famous movie – and neither is the legal translator. We all make mistakes and that will hardly change in the future. What we can do, however, is eliminate mistakes which are relatively easy to predict and detect with some linguistic background and skills. This article is aimed at pointing out the possibilities of reducing the number of mistakes in legal translations by identifying the problem areas in which they potentially occur.

Translators of (not only) legal documents are expected to comply with certain priorities and they also expect some tolerance on the part of the user of their prod-

uct. The addressee is ready to pass by some mistakes but not others. In principle mistakes can be ignored if they do not impair the comprehension of the text and do not mislead the addressee. Thus a wrong preposition may be tolerable if it appears in the context that clearly shows which meaning has been intended. If, however, the wrong preposition changes the meaning completely, the translation, good as it may be from other points of view, is unacceptable. For example,

(1) *Any person who shall maliciously and willfully discharge a firearm* ***at*** *an inhabited house, occupied building, ... is guilty of a felony, and upon conviction shall be punished by imprisonment for seven years.*
Kto vedome a v zlom úmysle vystrelí zo strelnej zbrane ***na*** *obývaný dom, budovu, v ktorej sú ľudia, ... sa dopustí zločinu a v prípade odsúdenia mu bude uložený trest sedem rokov odňatia slobody.*

The above English sentence was used in tests verifying the legal translators' skills and several examinees (who have been translators for more than three years) wrongly assumed that *discharge a weapon* ***at*** *a place* meant using the weapon while being in or inside that particular place. The English sentence, however, means that the weapon was aimed at the place mentioned as its target.

Obviously the translator must take into account several factors – lexical, grammatical, stylistic, idiomatic, etc., and therefore needs a wide linguistic background. Translation is a complex activity in which a number of factors need to be taken into consideration. This paper tries to link up to the treatment of a number of such factors exposed, e.g., in Knittlová (2003). Though allowing for certain flexibility, there is a more-or-less hierarchical set of priorities (arranged in a descending order of importance here) which the translator should take into account. The following is an attempt at identifying such priorities. Their ordering, however, is subject to change depending on factors such as the contents, objectives, addressee, time of communication, situation, context, attitude, etc.

For instance, in grammar a zero ending in the third person singular may represent the subjunctive mood in legal English. In other registers the same form may be viewed as ungrammatical. Similarly the verb *shall* is not appropriate in many non-legal uses. Or, in proceedings before the court, e.g. interrogation of witnesses, alternative questions (*did you or did not kill...?*) are common where otherwise yes/no questions are asked. Except for occasional uses, alternative questions are unsuitable in many other uses of English. On the lexical level, e.g. the expression *stratokumulové oblaky* used in the translation of a description of a painting is not as suitable as in a text dealing with meteorology.

(a) **Appropriateness** – this priority is actually a complex of several priorities. The point is that the translated text should have the same informational content as the source text, i.e. the potential reader should get the same information not necessarily rendered by the same type of linguistic means. Apart from that such translated information should be usable for the same purpose as the original.

For example, in translating a judgement the English present tense in *The court rules as follows...* is adequately translated by the Slovak past tense, i.e. *Súd rozhodol takto: ...* In other contexts, however, a similar change in tense might be inappropriate.

Phrasal verbs, which are very common in many registers of English, are avoided in legal English, e.g. in statutory provisions.

(b) **Conceptual adequacy** – the terminology used should cover the same semantic areas – this is sometimes difficult because the systems of law are not mirror images of each other (in one country, for example, the terms *infant, toddler, baby, child, teenager, underage, minor, juvenile, adolescent,* etc., refer to age groups which do not necessarily overlap with particular age groups referred to in another language; cf. Böhmerová (2005b: 86). To solve this problem we can, for example, provide such context which makes the meaning of the concept clear, or add an explanation or footnote (e.g., *minor, i.e. less than 15 years old...*). Even common concepts such as the period covered by a particular section of a day and not unknown to learners of English are sometimes translated inappropriately. In a TV series translated from English a suspect 'má alibi, lebo bol s kuchárkou *celé ráno',* where the English original must have been something like 'he has an alibi as he stayed with the cook *all morning'*. It can be assumed that the translator, in spite of knowing the difference in the time-scope between *ráno* and *morning,* lacks enough skills to notice the problem in the context. The legal terms *felony* and *misdemeanour* refer to a more and less serious crime respectively, but are not exact equivalents of *zločin* and *prečin* in Slovak legal terminology. Unless the division is important in a given text, it may be suitable to use a hyperonym such as *crime, trestný čin*, thus avoiding the problem of different scopes of the terms.

(c) **Grammatical correctness** – we can hardly keep, for example, the word order unchanged when translating to/from English. Bad grammar may cause the necessity to "guess" at what the structure should have been, each structure being associated with a certain meaning. A wrong guess may lead to a wrong interpretation of the message. A frequent error is translating the past tenses resulting from the application of the "rules of the sequence of tenses" by the Slovak past tense in many cases where the present tense would be appropriate. In teaching English we tend to emphasize that where the sequence of tenses operates in English, the Slovak present tense often corresponds to the shifted past tense in the English translation; we fail to stress that the opposite process takes place when producing an English-Slovak translation. The translation

(2) *He soon realized that his ambitions <u>were</u> contrary to the academy's taste*
Čoskoro si uvedomil, že jeho ambície <u>boli</u> v rozpore s názormi akadémie.

though grammatically correct, definitely places the time expressed by *boli* into the past, while the source text subordinate clause expresses the 'present-in-the-past', normally represented in Slovak by the present tense.

The Slovak expressions *daný, uvedený, citovaný*, etc. do not necessarily require translation. It is often sufficient to detect their meaning from respective English determiners.

The omission of determiners before nouns denoting defined entities (e.g. parties to a contract) is also a grammatical feature not utilized in registers other than the legal register.

(d) **Stylistic adequacy**. When translating a legal text, the translator should bear in mind some stylistic features associated with legal register. For example, repetition of the same noun (not replaced by a pronoun) is very common in legal English. A Slovak translator (drawing from experience in using his/her native tongue) tends to use synonyms, hyperonyms, hyponyms, pronouns, etc., where the repetition of the same noun would contribute to avoiding possible ambiguity.

(3) *Navrhovateľka vyzvala odporcu, aby sa vyjadril k jej návrhu.*
Petitioner asked Respondent that Respondent express himself on Petitioner's proposal.

Pro-forms such as *herein, thereof*, *whereby*, etc. are adequately used in a legal document, but would be considered as inadequate in most other contexts (e.g. a private letter).

(e) **Correct spelling** – We sometimes rely on the spell-check function of our PC without realizing that the PC tolerates every spelling that exists regardless of its appropriateness in the situation. Thus, e.g., the participle of the verb *bear* is spelled *born* or *borne*, or there is a difference between *insure* and *ensure*.

Also cross-linguistic differences in spelling (and related pronunciation) can lead to mistakes. This includes the cases which Böhmerová refers to as "non-parallel internationalisms", e.g. Slovak "delikvent" vs. English "delinquent" or "komplic" vs. "accomplice" (2005a: 61).

(f) **Graphical quality** – The text should have a visual appearance corresponding to the normal appearance of texts of a similar type. E.g. a letter should have the lay-out that letters normally have, etc. Punctuation marks are not necessarily used in the same way in two languges. Štulajterová (2004) provides a complex treatment of the uses of the dash in English and Slovak.

All of the above "priorities" contribute to the targeted equivalence, which is defined in Hrehovčík (2006: 32) as "the relationship between the source text and the target text that allows the target text to be considered as a translation of the text in the first place."

The following are some of the areas which can give rise to errors.

Polysemantic words

Many words have a number of meanings, either related to each other in the event of polysemy, or looking alike simply by coincidence (homonyms). A translator may fail to notice that a word which seems familiar has a meaning different from that which it has in other typical contexts or simply be unable to choose the best meaning from those listed in a dictionary.

The noun *interest* is a good example to show the risk: if a person *holds an interest in a company*, then s/he is one of its members, or a co-owner.

Title also has a number of meanings in English, but is hardly ever used to denote 'titul udelený vysokou školou' – for that purpose English uses the word *degree* (which is another polysemantic word).

Another interesting noun is *state*. Its meanings include 'state as a body politic'. In the legal system the state is represented in court proceedings by the state attorney and the word *state* on its own can also stand for the 'state attorney'. In such case *state* cannot be translated as *štát* but rather as *žalobca, štátny zástupca, prokurátor, prokuratúra*, etc. (In the United Kingdom the equivalent is the *Crown*).

In nautical terminology, the noun *port* is not only a synonym of *harbour* but its meanings include also the left side of a ship (as opposed to *starboard*). It was therefore a serious mistake when a newspaper reported that "ponorka Kursk uviazla na dne a je *naklonená k prístavu*", which evidently should have rendered the meaning of 'is listing to port'.

The mistake in this translation could have been easily detected because the product does not make sense.

The Slovak translation of *hawk* as *jastrab* in the sentence *Cheney v Bushovej vláde patril k najväčším jastrabom* is not necessarily understood as communicating the same idea 'a person favouring war', which is its meaning in the English original.

For a deeper analysis of the determining role of the context in delimiting the meaning of a polysemantic lexeme cf. Kudrnáčová (2008: 13–17).

Synonyms and collocations

Synonymous expressions cannot always replace each other in any context but tend to be distinguished by different lexias or enter in different collocations with other words.

A subversive activity may be *illegal*, but not *illegitimate* or *lawless*, a child may be *legitimate* or *illegitimate*, but not *illegal*, *illicit*, or *unlawful*. A husband will not refer to his wife as *legitimate*, or *legal*, but as *lawful*.

In English a person *gives an interview* but in Slovak the appropriate collocation is *poskytnúť* and not *dať rozhovor*. Or the verb *start* in the expressions *start a family/business – založiť si rodinu/podnik*, is not replaceable with, e.g., the verbs *found* or *establish*.

Faux amis

In addition to the difficulties arising from the fact that particular synonyms participate in collocations which other synonyms cannot enter, some may be false friends with similar words used in Slovak. *Illegal* in English means, first of all, 'not consistent with the law', whereas *ilegálny* in Slovak is understood as 'clandestine'.

Another example of different collocations with different synonyms is the group of synonyms referring to some official documents.

Some documents are traditionally called *deeds* (e.g., *deed poll* – 'declaration of name change', or *deed of title* – Land Registry document 'list vlastníctva'), others are traditionally called *certificates* (death certificate, school certificate). In certifying that a certain event took place (e.g. the fact that a person was employed) the term *confirmation* can be used. A document certifying that a person is authorized to perform a certain activity can also be a *permit* (e.g. *work permit*, *residence permit*) or a *licence* or *(a letter of) appointment.* In Slovak an alternative to *licencia* is the word *koncesia* ('trade license') which hardly ever corresponds to the English word *concession*. If a document certifies the truth, acceptance, or recognition of a fact (e.g. paternity), the suitable term is *acknowledgement*.

Some more examples can be adduced from similar registers. *Résumé* in English does not mean the same as *resumé (*"the summary of a paper"*)* in Slovak. *Résumé* is a kind of *Curriculum Vitae* concentrated on the career aspect of the person.

The term *legalization* rarely means 'making something legal' (i.e. 'legalizácia' or 'legalizovanie' in Slovak), but rather 'a higher type of notarization' of a document.

Petition is not translated as *petícia,* but rather as *návrh, žiadosť. Petitioner* is a term frequently used in the context of divorce proceedings as the opposite of *respondent*. In Slovak *respondent* means something completely different, i.e. 'a person who provides some data in a sociological or similar research'.

Ordinance, another term used in legal English, means a 'directive', binding instruction, etc., usually issued by the local government. *Ordinácia* in Slovak means a 'surgery', 'doctor's office', 'out-patients' department'.

The English term *regulation* and the Slovak *regulácia* are rarely equivalents of each other. *Regulation* means a 'rule' (*rules and regulations* often appears as one phrase). On the other hand, the Slovak *regulácia* can be used in the meaning of 'control', which in turn looks like *kontrola* but hardly ever serves as an equivalent to its Slovak look-alike.

One of the words commonly misunderstood by translators is *faculty*, especially in the context of diplomas being awarded, which often contain the phrase 'at the

recommendation of the *Faculty'*. Here the term *faculty* refers to the academic staff of the university, not to one of its schools. As a matter of fact, the meaning of 'school', 'college' is not non-existent among the meanings of *faculty,* but some universities do not use this term for their institutes and even if they do, the context usually makes it clear whether one or the other meaning has been intended.

Dummies

It is a well-known fact that redundancy is a feature found in every language. Legal English, too, contains structures which, redundant as they may be, are used due to some established conventions. Translators sometimes make a mistake translating information from a language in which it is obligatorily expressed by an analogical structure which is not obligatory in the target language. A common example is the use of possessive determiners in the Slovak translation where possessiveness is already indicated in the context (e.g. by using the verb *mať*), or translating the anticipatory *it*, etc.

Here we can speak of 'dummies', i.e. pure space fillers not contributing any bit of information. A typical 'dummy' in English legal texts is the word *person*. For example, *the offender fired several shots at the person of the policeman* could be reduced to *the offender fired several shots at the policeman* but the common practice is to use the construction with *person*. Though *person* is not completely devoid of meaning, in Slovak it is uncommon to say **páchateľ vystrelil niekoľkokrát na osobu policajta*, the usual translation being *páchateľ vystrelil niekoľkokrát na policajta*.

Apart from the anticipatory *it*, various other grammatical structures require words which need not be translated. For example *the fact that* need not be translated by (*ten*) *fakt, že* or *skutočnosť, že;* it is generally sufficient to use *to, že*, or simply *že*.

(4) ***The fact*** *that the offender surrendered himself to the prosecution authorities is qualified as a mitigating circumstance.*
To, že *páchateľ sa sám vydal polícii, je poľahčujúcou okolnosťou.*
Je poľahčujúcou okolnosťou, ***že*** *páchateľ sa sám vydal polícii.*

Binomials

Another situation in which the translation need not contain all the words of the source language is that of binomial structures, such as *terms and conditions*, *last will and testament*, *rules and regulations*, in which the two coordinated elements have practically the same meaning thus one of them being redundant. This feature is a stylistic means indicating the legal nature of the text, where in Slovak no such conventions exist. It is not necessary to translate both elements of a coordinated

structure (*rules and regulations – predpisy*). For a more detailed discussion of binomials cf., e.g. Klégr (1991) or Bázlik and Ambrus (2008).

Grammar influencing meaning and use

We sometimes fail to notice that a particular grammatical form may change the meaning, e.g. some nouns used in the plural acquire a meaning which the same nouns lack in the singular. So, e.g. if someone rents rooms, it does not necessarily mean the person hires *individual rooms* 'izby' but rather a *flat* 'byt'.

Proper names having the form looking like the plural are treated as plurals in Slovak. This may be manifested in, e.g., the subject-verb concord. It is not uncommon to see a translation into English from Slovak in which *Helsinki, Tessaloniki*, and similar proper nouns, due to their phonological make-up reminding us of the plural are treated as plurals. In English no associations with the plural exist. It is therefore a mistake to say, e.g. *Helsinki are the capital of Finland*. The same holds for domestic Slovak proper nouns in the plural (*Medzilaborce, Kúty* are syntactically treated as singulars in English).

Translating names of locations is also a problem. In a dubbed episode on Slovak television *Portobello Road* was translated as *Portobelská cesta*. If carried *ad absurdum*, the translator may soon run out of equivalents where English uses, e.g., *street, lane, alley, avenue, crescent, place, gardens*, etc. Moreover, the association of Portobello Road with the market of antiques is not conveyed by the Slovak translation. In some contexts this feature may even be more important than the name itself.

Different views of the same reality

The same reality can be viewed either from a positive or a negative perspective. Deadlines and other time limits are often formulated in legal English in the negative using, e.g., phrases such as *not later than, penalty of imprisonment of not more than six months,* etc., where in Slovak a positive adverbial is normally employed, e.g. *najneskoršie, trest odňatia slobody do šesť mesiacov*. In contracting marriage abroad, the country where the solemnization of the marriage takes place usually requires from the couple to be married the *certificate of no impediment,* meaning *a certificate of no impediment against contracting marriage*, whose common translation is *osvedčenie o právnej spôsobilosti uzavrieť manželstvo.*

Conclusion

Though errors occur in all types of translation, it is vital to eliminate them especially in areas such as law or medicine, where a wrong translation can change the

fate of a person, possibly for the worse. Knowing the problem areas and pointing them out can help translators eliminate the risk of misunderstanding.

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