

Legal Translation in Context

Professional Issues and Prospects

by Borja Albi, Anabel and Prieto Ramos, Fernando, editors

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This volume 4 of the series “New Trends in Translation Studies” attracted my attention when work on the EU-funded QUALETRA project (Quality in Legal Translation), JUST/2011/JPEN/AG/2975, began, where EULITA (European Legal Interpreters and Translators Association) is one of the consortium partners. While there is considerable literature on legal interpreting, legal translation is not covered so widely. However, as the editors themselves state, “...legal translation has consolidated itself as one of the most prominent and demanded specializations both in the translation market and in Translation Studies. ...”

This publication covers a wide range of settings for legal translation. The editors distinguish between legal translation in the private sector and legal translation for national public institutions, and they have also included a section on legal translation at international organizations. For each section, they have asked prominent representatives of the specific field to report about the respective state of art.

Jan Egberg, professor at Aarhus University, discusses “Comparative Law for Translation: The Key to Successful Mediation between Legal Systems” and highlights the similarities and differences in the interest of comparative lawyers, legal terminologists and legal translators. He states that legal language is culture-bound, which legal translators need to remember not only in connection with content but also when choosing the expressions they apply in legal texts.

Francisco Vigier, Perla Klein and Nancy Festinger give an overview of the certification schemes for legal translators in Europe and the Americas. They argue that human mobility throughout the world is boosting the need for translations, especially when these must serve as legally valid documents. They describe the specific features of the systems in place in the United Kingdom, Spain, Germany and Greece – as far as Europe is concerned – as well as Argentina and the United States for the Americas. Their conclusion does not come as a very big surprise, namely that there are major differences in the way in which official or certified translators are organized in each country. Directive 2010/64/EU on the right to interpretation and translation in criminal proceedings will not bring about any major changes in Europe; yet, the requirement for registers in its Article 5 (2) may gradually create more awareness on the part of public authorities for defining more coherent and generally applicable admission criteria as well as standards for managing such registers.

Anabel Borja Albi addresses a very specific aspect, namely freelance translation for multinational corporations and law firms. This chapter describes in detail the special benefits that companies and law firms will derive from working with a freelance translator, as compared to a large translation company. However, it also emphasizes the fact that

freelance translators must be true specialists in their field, pay close attention to the relationship with their clients and engage in continuous professional development throughout their professional life.

João Esteves-Ferreira also focuses on the freelance legal translator and discusses the challenges which they face. In addition to describing the need for lifelong learning and for complying with ethical standards, he also refers to the business practices applied by freelance legal translators and mentions the pressures to which they are exposed. Like so many others in the world of legal translation and interpreting, he deplors the absence of adequate professional recognition and certification which would help freelance translators – not only legal translators – to be duly commended for their achievements.

Part 2 is introduced by Juan Miguel Ortega Herráez, Cynthia Giambruno and Erik Hertog who have co-authored the chapter on “Translating for Domestic Courts in Multicultural Regions: Issues and New Developments in Europe and the United States of America”. In outlining the general legal framework for legal interpreting and translation in criminal proceedings in Europe and the United States, the authors stress the fact that language professionals working for domestic courts must generally be both – interpreters and translators, which holds true for Europe and the United States. This chapter deals at length with the emerging legislation in Europe – Directive 2010/64/EU on the right to interpretation and translation in criminal proceedings – and the developments leading up to this unique piece of legislation for the legal interpreting and translation world.

Leo Hickey is a legal interpreter and translator (Spanish, English) and also holds a law degree. On the basis of his vast professional experience and many years of research, he dedicates his contribution to a very specific subject, namely “Translating for the Police, Prosecutors and Courts: The Case of the English Letters of Request”. This case study covers many of the technical issues involved when producing legal translations and is one further plea for specialization, while recognizing at the same time the constraints on legal translators, who must be able to produce good-quality translations of many different types of documents.

With his background as a translator/reviser at the European Commission and the Spanish ministry, amongst others, Ramón Garrido Nombela, the next contributor, is optimally qualified to author a chapter on “Translating for Government Departments: The Case of the Spanish Ministry of Foreign Affairs and Co-Operation”. In addition to describing the working environment and text types, he also comments on the role of revision, before mentioning in his concluding remark the White Paper on Institutional Translation and Interpreting (RITAP 2011) which is intended as a stepping stone in the long process of making translation and interpretation a more visible and dignified activity in the public sector.

Jean-Claude Gémar draws on the specific language situation of Canada to discuss in his contribution the issue of “Translating vs Co-Drafting Law in Multilingual Countries: Beyond the Canadian Odyssey”. He describes the development through Canada’s history from translating legislation to co-drafting legislation in both English and French that has led to the emergence of jurilinguistics at the same time. What he calls “the search for the grail” is the old dilemma of whether one should do justice to the spirit or the letter of a text, which is particularly prominent when working on legislation. In the further course of his chapter, he also explores the potential for using co-drafting for EU law-making purposes.

Part 3 is dedicated to legal translation at international organizations and begins with a contribution by Susan Šarčević and Colin Robertson on “The Work of Lawyer-Linguists in the EU Institutions”. They describe the specific tasks that lawyer-linguists have to cope with when working for the different EU institutions (Court of Justice of the European Union, European Commission, Council and European Parliament, European Central Bank) but also their role in the pre-accession stage of a country (here, particularly Croatia). The recruitment and accreditation requirements for lawyer-linguists, as well as the training of future lawyer-linguists are also outlined. Their conclusion is that EU lawyer-linguists must have a rare blend of skills, since they must be capable lawyers but must also have outstanding abilities in several languages and an “innate flair” for discerning the intentions of a specific piece of legislation.

A chapter on “Legal Translation at the United Nations” cannot be absent from as multi-faceted a publication on legal translation as the present one. Xingmin Zhao, a reviser at the United Nations in Geneva, and Deborah Cao, a UN interpreter and leading writer on legal translation (Chinese/English) outline the different UN entities that have the greatest demand for legal translation (Sixth Committee of the General Assembly, the International Law Commission, the United Nations Commission on International Trade Law, various international courts and tribunals) as well as the practicalities in distributing legal translation activities among the major UN duty stations. They also dwell on the recruitment and professional development of UN translators (recruitment requirements and on-the-job training) as well as on the major types of legal texts translated at the UN (treaties, resolutions, reports, summaries of judgments, etc.). One of their conclusions when discussing the special intricacies of translating ILC (International Law Commission) documents is that legal experts should devote more time to giving briefings and lectures to translators.

Alexandra Tomić and Ana Beltrán Montoliu report on the specific features of “Translation at the International Criminal Court”. They introduce their chapter by referring to the different types of languages with which they are confronted at the ICC – working languages (English, French), official languages (Arabic, Chinese, English, French, Russian and Spanish), communication (or judicial co-operation) languages (the languages chosen by the State parties and other states and entities to communicate with the ICC) and situation languages (languages used during the investigation phase, the pre-trial and trial phase, if suspects or witnesses have not sufficient knowledge of the ICC’s working languages). They go on to describe the requirements for prospective ICC translators and the text typologies, including the translation problems encountered and the strategies applied to solve them. One of their main conclusions is that the multilingual nature of the ICC and the hybrid nature of the judicial system adopted for the ICC and the subject matter of proceedings (i.e. war crimes) constitute the most demanding challenges for the highly qualified translators at this international court.

Legal translation at INTERPOL (International Criminal Police Organization) is discussed by Muriel Millet. The focus of INTERPOL’s work is on six priority areas of crime, namely corruption, drugs and organized crime, financial and high-tech crime, fugitives, public safety and terrorism, and trafficking in human beings. Sharing valuable police information is in the foreground of the documents that translators deal with on a day-to-day basis. As one can

readily understand, translating culture-bound terms is one of the major challenges at INTERPOL which is addressed by using one or several techniques (functional equivalence, formal equivalence, transcription and descriptive translation). Translators at INTERPOL have developed special equivalence tables of charges to accommodate the different legal systems, which is also a tool to identify some of the commonalities between them. The author especially deplores the growth in workload which can only be met by using modern translation tools.

Legal Translation at the World Trade Organization is covered by Fernando Prieto Ramos. One very specific feature of the work of translators at WTO is coping with the negotiating process of trade and other agreements when urgent translation jobs relate to texts that are the result of several layers of compromise-building between the negotiating parties. Again, the author complains about the “asymmetry” of legal concepts in different national systems which, combined with the often poor translations of these texts, often require thorough investigation and research on the part of the translator. One special feature of the work at WTO is translating for trade dispute settlement, which involves several stages, comprises different text types and creates specific problems. The author also points out that translators should preferably have previous translation experience at international organizations with systematic quality control when working for WTO, as this is more important than translation experience in other contexts. Translators must cope with consistency, accuracy and productivity requirements, while bearing the delicate responsibility of rendering translations which will become enforceable authentic texts, i.e. legal sources and case law in the area of international trade.

The volume ends with a chapter by Olivier Pasteur on the technology at the service of specialized translators at international organizations, focusing on the support provided to translators at WTO. He highlights the interface that must exist (at international organizations) between the language staff and the computer staff which comprise the CAT team, the support team (a hotline for translators in case of difficulties with applications) and the referencing team that provides background documentation. Of course, computer-aided translation, translation memories and terminology database management play an important role in the process of translating huge volumes of texts. The author describes a number of critical issues encountered in connection with the introduction of machine translation. His conclusion certainly reflects the reviewer’s opinion and is therefore given here as a quotation: “Analyzing today’s market trends in translation tools, one cannot help but note that the focus is speed and quantity, i.e. translate more and faster, but not better. Can ‘better’ really be rendered by translation tools? Is not ‘better’ the essence of what human translators do? Is this not THE added value that the professional translator provides that we simply cannot do without?”

The book ends with Notes on Contributors, who must certainly be thanked for their enormous efforts to give a detailed overview of the different types of services that legal translators provide in different settings.

Liese Katschinka

Legal Translations Accurate, confidential and fast legal translation services. Human specialist translators are therefore required in order to ensure that the context of material is thoroughly apparent in the resulting translated piece. Those who rely on computerised translation tools are not afforded the same benefits as using an expert translator who is able to recognise and acknowledge the in-context translation of all content. This means that when a word has multiple meanings, including nouns and verbs, the translator will honour the context and ensure that the resulting content is as understandable as the original. Translations of the phrase LEGAL CONTEXTS from english to spanish: First year: Psychological Intervention in Legal Contexts I. First year: Psychological Intervention in Legal Contexts I. Primer curso: Intervención psicológica en contextos jurídicos I. Many of these early projects already demonstrate that opaque legal contexts do not work in favor of Indigenous Peoples and local communities. Desde ya, muchos de esos primeros proyectos demuestran que los contextos legales inciertos no favorecen a pueblos indígenas y comunidades locales. As noted in paragraph 6(a) above, the products would include a compilation and analysis of legislative measures to facilitate the provision of legal advice and provide.