

## Dissertation Review

Title: **Developing Legal Translation Competence:  
A Step-by-step Approach**

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Date: 27 January 2021

### I. Introductory notes

The submitted thesis is a very good output of what I personally observed to be many years of Ondřej Klbal's studying, translating, teaching, researching and presenting, all of which are connected to his obtaining valuable experience in various fields of the language of law, both in English and Czech.

To my knowledge, the author of the thesis originally intended to focus on jurilinguistic specificities and their analysis in the context of legal translation. However, his final decision to concentrate on **teaching** legal translation has led him to write a work that is unique not only in the Czech Republic but useful also in the surrounding countries.

The main reason why the submitted thesis has no comparable predecessor in the Czech Republic may be that, unlike for example in Poland, there is no university degree in legal translation and no such programme is currently being prepared to get accredited although the need for quality legal translation is rather high and general translation programmes have had quite a long tradition and good reputation. As a result, there is no significant academic pressure to develop efficient (scholarly) methodologies of teaching legal translation that would be widely used, elaborated, analysed and researched; teaching legal translation has been thus reduced to individual short-term courses or subjects (one or two semesters) within general translation programmes or even within linguistic programmes (e.g. an English language and literature degree programme).

This is why Ondřej Klbal's thesis is extremely important not only for legal translation trainers (at universities and elsewhere), but also, and perhaps mainly, for the relevant part of academia in the Czech Republic maybe to serve as the "dawn" of the Czech "school" of legal translation and legal translation teaching, as was once established by Jiří Levý in literary translation.

### II. Discussion

The thesis is composed of seven chapters; the first two are more descriptive and theory oriented, while Chapters 3 to 7 analyse respective competences and skills and propose modes how to acquire them via selected exercises.

The **first chapter** delineates the latest developments in legal translation training by introducing twelve relevant areas which are then tackled (to a greater or lesser extent) in the following chapters. Authors listed in each area deal with various aspects of training legal translators, and consider them from different perspectives including the application of some approaches of corpus linguistics.

Legal translation competence (LTC) is a focus of the **second chapter**. The author compares a range of models developed during the last two decades; each model approaches the issue from a different perspective thus concentrating on and/or emphasising various skills that should be acquired, without which legal translation trainees would not be fully qualified. What I consider positive is the analytical approach to comparing different models aimed at identifying core skills to be developed in legal translators, which subsequently should be included in the syllabus of a respective course and adequately taught and practised. Whatever the LTC model may be, the knowledge of law and the respective legal context is always included (Cao's translational knowledge structures, Prieto Ramos's thematic and cultural competence, Piecychna's thematic sub-competence, Scarpa & Orlando's thematic competence, Kościalkowska-Okońska's cognitive-analytical competence, Soriano Barabino's subject area/thematic competence). As early as in 1997, Susan Šarčević in her seminal work emphasised legal knowledge as a prerequisite of adequate performance of a legal translator. It is obvious that the curriculum of a legal translation course should include classes in L1 that may be called "law for translators" to expose translation trainees to basic legal principles and ways of legal thinking which are crucial for relevant understanding and interpretation of legal texts.

**Chapter 3** deals with the language of law from a linguistic perspective, or more precisely, from the perspective of textology (in Hartmann's sense<sup>1</sup>). The author tries to identify the line between concepts represented by the terms *[legal] discourse – register – genre – text type*. He admits that those terms tend to be used indiscriminately (unfortunately not only by practitioners in legal translation). He attempts to identify legal genres suitable for teaching/training legal translators. The proposed classification of texts (p. 42) would definitely serve the purpose of a specialised (long-term) course in legal translation; however, the suggested practice that students in an introductory legal translation class should be exposed to texts from the domain of private law, such as contracts or corporate documents, may result in introducing primarily relevant terminological equivalents with the students being unaware of a respective legal context of such documents, which may decline their motivation to expand their knowledge further. In other words and having the content of Chapter 6 in mind, if students (and practitioners as well) are provided with ready-to-use sets of translational equivalents (in any subject area) instead of being compelled to identify them by themselves in comparable source law and target law texts, their awareness of potential substantive differences between source and target legal systems and source and target legal languages would be reduced, if conceived at all. But, on the other hand, in order to be able to identify potential equivalents in parallel texts one should have some background legal knowledge of, at least, the respective subject area (ideally of both source and target legal systems, although some knowledge of just one may help make informed decisions regarding equivalence).

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<sup>1</sup> Hartmann, R.R.K. (1985). Contrastive textology—Towards a dynamic paradigm for interlingual lexical studies? Elsevier: Language & Communication, 5(2), 107-110; Hartmann, R.R.K. (1981). Contrastive Textology, Applied Linguistics and Translation. Poetics Today, 2(4), 111-120.

The role of comparative conceptual analysis (CCA) is explained in **Chapter 4**. The application of CCA and the determination of a degree of terminological equivalence are interlinked areas. As cited, Jan Engberg (2015, 21) correctly notes conceptual elements need not be clear in the statutory definition or legislative context of the respective term. This applies usually to concepts long-established in a respective legal system (and language) with no recurring definitions in every piece of legislation they are used. Moreover, Czech statutes quite rarely contain a part entitled “Interpretation”, or the like, as in the English-speaking/common law countries; as a result, not many “traditional” (in the linguistic sense) definitions can be found in Czech laws and essential elements must be identified in the phrasing of provisions of a respective section. It is quite obvious that such “digging out” of conceptual elements of a term from a statutory text (along with identifying which elements are essential and which complementary) can hardly be pursued by a translator having no background knowledge of Czech law in the respective subject area.

**Chapter 5** – Developing Discourse Competence – reduces the analysis to one item/example, namely the modal *SHALL*. Explaining approaches of various authors – both lawyers and linguists – Ondřej Klbal provides results of his research with many interesting answers. My approach to using *shall* is probably provocative and truly “hard-core” in the sense of avoiding this modal absolutely in translations into English for one simple reason: why to cause misunderstanding and misinterpretation of my translation using (obscure) *shall* just to “prove” to someone my “knowledge” of legal English and to support “poor drafting habits” (Williams 2006, 247), as there are many unambiguous ways of expressing the modality of a phrase (as suggested for example in manuals of legislative writing in Australia, Canada and Britain). Unfortunately, with Brexit and subsequent weakening of English within the European Union<sup>2</sup> the position of *shall* in translational Europe may strengthen.

Developing Phraseological Competence is a focus of **Chapter 6**. As the author correctly notes raising awareness of the potential of parallel and comparable corpora for the practice of legal translators is interlinked with their awareness of the usefulness of research into legal language and translation. And the research need not be highly academic – any level of comparative conceptual analysis or looking for some translational solutions in corpora is research in the sense of a regular inquiry into the issue. On the other hand, academic research into the language of law based on the principles of corpus linguistics is a useful tool for identification of potential terminological equivalents and equivalent phraseological units for teaching purposes. Creating monolingual and comparable corpora in a chosen area is extremely useful for translations where Czech is the source language and English is the target language, as shown by O. Klbal in section 6.4. Such corpora may indicate what potential English equivalents of Czech terms generally exist and may help the translator decide which one should be eventually chosen (considering all aspects of his or her translation including the person of an ultimate recipient).

**Chapter 7** – Developing Understanding – deals with one of the most important aspects of legal translation. The practice of legal translation clearly shows that anyone can translate into the target language only what s/he understands in the source text and how s/he interprets it. It is not just about picking a wrong English equivalent for the Czech term

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<sup>2</sup> There will be no British lawyer-linguists caring for acceptable quality of English in English-written legislation, and Irish lawyer-linguists will probably not manage to cover everything.

“právo” not distinguishing between the system (*law*) and an individual claim (*right*), which is suggested by an immediate co-text and larger context of the term. It is also about identifying for example the tenor of the source legal text, the [legal] meaning of individual segments of the text, or even phrases. Interpretive skills are again dependent on the level of the translator’s background legal knowledge. Exercises provided in this Chapter can help develop understanding of a legal text, although I would suggest that original English texts (not translations into English as in Exercise 1) should be used for such analyses by trainees as translations may be linguistically and terminologically “affected” by the source text.

### **III. Conclusion**

The reviewed thesis is well-structured moving from the theoretical foundations to analytical methodology focusing on various aspects of training of translators in the legal domain. The resources used and analysed are supported or opposed with relevant arguments. Goals set by the author have been fully met.

As mentioned in the introduction, the thesis is a valuable contribution to teaching legal translation not only at universities as part of general translation studies, but also to training practitioners in order to raise the quality of legal translation.

After making substantial formatting revisions (e.g. improving the substandard graphic quality of charts and copied tables) and improving cohesion of the whole text, the thesis could be published as a handbook for legal translation classes taught within university programmes.

I recommend the thesis for defence.

#### Questions for the defence

1. Assuming you are asked to prepare the syllabus for an introductory legal translation course (2 semesters, just linguists without any legal background) what aspects of legal translation competence you would include (as a must) and why.
2. Some time ago there were degree programmes (four years) at some Irish universities combining law and a foreign language (e.g. law and Spanish, law and French, primarily aimed at preparing Irish lawyers to easily communicate within the EU). If the linguistic part of the degree included the basics of translation theory and practice would you consider such combined degree as a good fundament for a legal translator? Why or why not?