1. Conceptualisation of English legal language

On the outset, legal language can be equated to specific morpho-syntactic, semantic and pragmatic features. Baker (1992: 63) globally labels legal language as “frozen patterns of language which allow little or no variation in form”. Yet, legal language should be closely scrutinised as language for special purposes on a par with technical language. As specialised language, legal language is not to be understood as the privilege of professionals, having pervaded the social arena and shaping, to a large extent, the ordinary language of the lay population, using legal terms in real life communication situations. Several authors (notably, Schauer 1987 and Morrison 1989) see legal language as a parasitic of ordinary language. Such a stand is strongly opposed by the vast majority of researchers into the legal language. Accordingly, Hart (1954, 1961/1994) considers legal language sui generis due to the very existence of a legal system and of particular rules of law. Jackson (1985: 47) admits that legal language historically derives from ordinary language and still appears to be intelligible to the lay person, yet, managing to shape its own identity: “It is lack of knowledge of the system rather than lack of knowledge of individual lexical items, which produces this effect”.

With respect to morpho-syntactic features of the legal language, sentences can be said to be lengthy and complex, with high incidence of embedded clauses of various types: Nominal Clauses, Relative Clauses and Adverbial Clauses). In this respect, Danet and Bogoch’s (1994) word count of complex structures amounts to 70-100 words, while Salmi-Tolonen (2004) claims that the sentences in legal texts are longer than in other texts. At the sentence level, a special mention concerns the noun phrase, which is richly modified, legal language showing a nominal character, according to Crystal and Davy (1969). Generalizations concerning the verbal phrase envisage the frequent use of the Indicative Mood, Present Tense, 3rd person singular, passive voice, impersonal constructions, alongside the prevailing modal verb shall.

Semantically, the lexicon contains many archaic words used in highly stereotypical situations (ritualistic usage). It is equally endemic to legal language to use strings of two or more synonyms in one and the same phrase. Examples include: bind and obligate; final and conclusive; full and complete; over and above; full force and effect; have and hold; null and void; power and authority; assign, transfer and set over; give, devise and bequeath; documents, instruments and writings; changes, variations and modifications; business, enterprise or undertaking.
It is not rare occurrence that common words are used with uncommon meanings. Gibbons and Prakasam (2004) discuss the technicality of the English legal vocabulary and classify items into:

- primarily legal terms: items that occur only in legal texts - *estoppel, magistrate, plaint, tortfeasor*, etc.;
- secondarily legal terms: items that acquire a new meaning in legal texts - *determination* (= *conclusion*), *written statement*, etc.;
- tertiary legal terms: items historically coming to be used in legal texts: *unmeaning* (= *meaningless*), *criminate* (= *charge a crime*), etc.

At the pragmatic level, Doucet (1980: 457-461) highlights that legal language does not only play an informative role, having also a performative nature, such texts being legally binding (they perform legal actions and impose obligations). The author closely follows Searle’s (1977) division of performatives:

- representatives (they present a state of affairs in which the utterance can occur): testifying, swearing, asserting, claiming, stating;
- directives (they direct the hearer towards doing something): legislation imposing obligations;
- commissives (the speaker commits himself to doing something): contracts, marriage ceremonies, wills;
- expressives (a certain mental and emotional state is expressed): apologizing, excusing, condemning, deploring, forgiving, blaming;
- declaratives (they bring about a change in the world): marriage ceremonies, bills of sale, receipts, appointments, nominations, pleas of guilty/not guilty, verdicts, etc.
- directives as future-oriented speech acts, meant to change the world – they are encountered in the legislation imposing obligations.

2. Legal texts typology

Maley (1994:13) draws our attention to the heterogenous nature of legal language, which he best sums up in the formula: “a set of related legal discourses”.

Tiersma (1999: 139-141) provides us with the typology of legal texts, such as follows: operative documents, expository documents and persuasive documents. The 1st category relates to the establishment of the legal framework: legislation – acts, orders, statutes; pleadings and petitions; judgments and private documents (contracts, wills). The second type consists of texts that explain the law objectively: letters to clients, memoranda and learning material on law. The 3rd category is equated to submissions to convince a court. The author states that the last two types “tend not to be formulaic or legalistic, although they use fairly formal standard English”.

Gibbons (2003) identifies 2 major areas of legal language, which he terms *language of the law*: a codified and mostly written language of legislation and
other legal documents, and a more spoken variation, more interactive and dynamic
language of legal processes (falling into the language of the courtroom, police
investigations and legal advice).

Mattila (2006) divides legal language into the language of legal authors,
legislators, judges and administrators and of lawyers, adding that the language of
legal authors enjoys greater freedom, being characterized by scholarly vocabulary
of Latin origin; on the other hand, courtroom language displays formal style
features, archaic flavour and it is laconic. Yet, in the very Hallidayan tradition, the
legal jargon should be understood as a mode continuum, i.e. a wide spectrum
running from the frozen style, most planned and context reduced to a more laid-
back style, least planned and highly contextualized.

Cao (2007: 21ff) provides an all-encompassing definition of legal texts as
texts “produced and used for legal purposes in legal settings” while also dividing
legal texts into four main categories (in the written mode of communication):

– legislative texts, made up of domestic statutes and subordinate laws,
international treaties and multilingual laws, and other laws issued by lawmaking
authorities;
– judicial texts produced in the judicial process by judicial officers and other
legal authorities;
– legal scholarly texts produced by academic lawyers or legal scholars as
scientific works and commentaries whose legal status depends on the legal system
in question;
– private legal texts, comprising texts written by lawyers, e.g. contracts,
leases, wills and litigation documents, and also texts written by non-lawyers, e.g.
private agreements, witness statements and other documents produced by non-
lawyers and used for legal purposes.

3. Legal translation framework

Broadly speaking, translation falls into literary translation, general
translation (concerned with informative and vocative texts for general purposes)
and specialised/technical translation (dealing with texts for special purposes in
different fields of human activity) (see Vermeer 1986; Newmark 1988; Snell-
(1988: 51), we think that this prototypology is fuzzy at the edges, “it is a spectrum
that admits blends and overlapping, a question of quality and intensity, not one of
fundamental difference”, while Cao (2007: 20) states that legal translation shares
some features of general translation and of technical translation.

In an attempt “to contrast some misconceptions about technical translation
with the realities of what it means to be a technical translator”, Byrne (2006: 2ff)
distinguishes between specialised translation and technical translation, the former
encompassing the translation of legal, business, medical texts, etc, whereas the
latter strictly refers to technical texts. We shall adopt the distinction throughout the
paper, although literature circulates the term technical translation loosely.
Diachronically, the geography of legal languages goes back to Gaius Aelius Gallus – *De verborum quae ad jus pertinent significatione* (1st century BC) as a monolingual legal lexicon. The 1st bilingual lexicons were produced in Byzantium, compiling Latin and Greek terms at a time when Greek was beginning to replace Latin, the canonic language, into legal affairs.

The 1st legal text was translated from the Egyptians to the Hitties in 1271BC. *Corpus juris civilis* was first translated into Greek and, subsequently, into other languages. Legal translation was also performed during medieval times at the vertical level from a language of less prestige – a vernacular - into a language of more prestige – Latin. Legal translation had an empirical focus and, to our best knowledge, there are no records of any descriptive or prescriptive approaches to it.

Taking a leap in time, Sager (1993) strongly recommends that legal translation should achieve equivalence at the pragmatic level with respect to propositional content, intention of the originator and legal effects, i.e. in point of locutionary value, illocutionary force and perlocutionary effect (using Austin’s far-reaching theory of Speech Acts).

Harvey (2002) sees legal translation as a hybrid form, sharing the characteristics of technical (blanket term) and general translation. According to Sarcević (1997), the variability factor is ascribed to:

- the subject matter: domestic statutes, international treaties, private legal documents, legal scholarly works, case law;
- status of the original text: enforceable law (statutes) vs. non-enforceable law (legal scholarly work);
- functions of the legal texts in the Source Language: legal translation is primarily prescriptive in the case of laws, regulations, codes, contracts, treaties, conventions as regulatory instruments; prescriptive and also descriptive in the case of judicial decisions and legal instruments used to carry on judicial and administrative proceedings (actions, pleadings, briefs, appeals, requests, petitions, etc); purely descriptive in the case of scientific work.

The functional stance is also adopted by Harvey (2002: 177ff) and Cao (2007: 22ff), who operate a tripartite division of legal translation:

- legal translation for normative purpose: it is meant to produce equally authentic legal texts in bi/multilingual jurisdictions of domestic and international law (contracts fall into this category, too). Source language and Target Language are legally enforceable.
- legal translation for informative purpose, fulfilling a constative or descriptive function: it involves the translation of statutes, court decisions, scholarly works in monolingual jurisdictions, the Source Language being the sole legally enforceable language.
- legal translation for a general legal or judicial purpose, descriptive in nature, used in court proceedings as part of documentary evidence (statements of
claims, pleadings, contracts, business or personal correspondence, records and certificates, witness statements, expert reports and ordinary texts written by lay persons). This last category represents “the bread and butter activities” (Harvey, 2002: 178) of the translator’s job. Cao draws attention to the fact that this last type may include ordinary texts drafted by the laypersons; hence, we can rightly state that the main controlling factor in their translation will be skopos rather than text typology.

4. The legal translator’s competence

It is common knowledge that legal translation plays an ever increasing role in the contemporary society and that the European Parliament issues laws that become national laws in the Member States being translated and published in their official languages.

The development of legal translation competence goes beyond language-enhancement courses (terminology acquisition included). Actually, it is a misconception to regard translators as only in perfect command of the native language (L1 in current European terminology) and of the foreign language (L2). Qualified professionals also possess relevant knowledge of the cultural backgrounds involved, of the subject matter, alongside digital competence, awareness of the working practices and marketability skills as

... current vital interests for the translating profession. These include the difficulty of reconciling rates, productivity, deadlines, and quality, the complexities (and rewards) of having to work with innumerable partners, the necessity of strong professional ethics, the impact of standards and certification, and the endless battle for recognition. (Gouadec 2007: 16).

We plead for a constructive movement towards a shared ground in translator training and large-scale institutionalisation of a common flexible framework (there is no question of submission to a prevailing theory, the question of being in the canon or out of the canon), without claiming absolute comprehensiveness. Instead the common core should result from cross-fertilising ideas, from a multiplicity of perspectives that become mutually enhancing and enlightening, thus, allowing for a coherent and viable whole (holistically perceived). Admittedly, Simeoni (2003: 340, quoted in Gouadec 2007: 55) favours an ethics of location, understood as knowing when and how to apply general functioning principles to give them legitimacy. Chesterman (in Duarte et. al 2006: 30ff), focuses on the sociology of translation (translation as meaningful practice), listing the following main characteristics:

– it is a task-oriented enterprise (the author launches the phrase translation events);
– it is institutionalized, to a greater or lesser extent;
– it is carried out by professionals, ideologically loaded;
– it involves networking or fruitful cooperation;
networks consist of human and non-human actors (generically labelled resources);
there is division of labour or role assignment;
each role is identified to a particular status (in terms of power, prestige, etc.);
each task is completed under constraints (enforced deadlines coupled with task management criteria, quality norms, policies, other networks, etc).

Translation practice is governed by some notion of quality. Last but not least, the guidelines of contemporary translation quality standards, legal translation included are provided by EN 15038, published by European Committee for Standardization in August 2006 and by EMT (2009), a future-oriented collective project (identifying 6 areas of minimum professional competences):

4.1. Interpersonal dimension

We start from the assumption that the interpersonal dimension encompasses more than social survival skills. The translator profession is based on building and maintaining relationships with clients, monolingual experts in different fields of activity and peers. This dimension does not only enhance personal and professional growth, but it is also connected to quality assurance in translation as meeting both internal (the translator gains viable insights in the process of translation) and external requirements (mostly related to translation as product to be delivered on the market). Translator training programmes do not take place in a social vacuum; instead they are demand-oriented, they create opportunities as ways forward, releasing potential and optimising performance. The translator should be able to adopt hybrid positionings through proactive social and professional behaviour. Furthermore, there is need for the translator to be able to set realistic objectives and timelines as well as to be able to marshall resources with a view to achieving the established goals. The translator necessarily develops from instinct-driven action as a state of unfocused readiness to experience-driven action and, eventually, to routinisation or habitus.

The translator has to develop entrepreneurial skills since translation is a service to be provided to the others. Therefore, the translator, be him/her an in-house translator or a freelance one, should be an exploratory spirit and have a vision to communicate to the commissioners of translation in order to motivate them to help him/her accomplish this vision.

It is a question of the translator’s active engagement in raising the status of the profession. A professional translator will understand that the world and the business environment in which they operate are constantly changing. While they must focus on the end-game, translators should be versatile and adapt their strategies and offerings to meet changing market conditions.

Translator professionalisation is a lifelong process, implying awareness of newly-emerged professional needs and interests and commitment to high standards.
of quality. The translator should develop managerial skills with respect to project management, time frames, work under pressure, capitalisation of expertise, etc.

The translator observes the contractual framework, fulfilling his/her obligations as stipulated in the contract. Besides, there is constant interaction between the translator and the commissioner with respect to the support the client has agreed to provide. The collaborative effort of the translator also refers to the proofreading of the final version as securing an error-free translation.

4.2. Product dimension
Translation is both an activity/process (more accurately designated by the term "translating") and a product (the term "translation" can be restricted to the product). It seems that the product dimension has gained increased importance, being the most visible part of translation as design-oriented, precise and measurable (complying with specification).

Basically, translation is performed by taking into account the readership's/client's expectations (skopos) and the text type (stylistical conventions). Translation engenders a sequence: identification of text type and of end users' needs (experts or non-experts in the field), evaluation of the complexity of the material to be translated by a global reading, followed by a close reading of its parts, the translating of the document, the translator's checking of final version and proofreading. The text type and the clients' needs weigh heavily in the choice of the translation strategy (reader-oriented/communicative or author-centred/semantic translation).

The professional translator is not solely a practitioner adopting an empirical approach. S/he should master the methodological toolkit, conceptual frame and related terminology. S/he has also theoretical knowledge of the framework of translation, i.e. there are recurrent problems and a set of recontextualisable solutions of which the translator should be aware. Of course, there may be highly specific problems with a particular text, which the translator will be able to evaluate as different from the ones pertaining to the global framework. Yet, the solutions to these particular problems may derive by using recontextualisation strategies. The translator's choices are accountable in point of cost-effectiveness (efficiency) and effectiveness.

4.3. Intercultural communicative competence, further subdivided into
4.3.1. Language competence
The translator's competence in his/her mother tongue and in one or two foreign languages may be broadly defined starting from Chomsky's terms: internalisation of rules and creativity in applying these rules in different contexts, securing both fluency and accuracy. Therefore, the translator's language competence does no longer rest on the privilege of nativeness, as the translator is supposed to adequately function in a multilingual environment.

In our case, translators will master one specialism - legal language, which has an archaic flavour. Hence, they will become fully aware of language evolution
and specialisation of meaning from a contrastive perspective (different languages evolve at different paces and to different degrees).

4.3.2. Sociolinguistic competence

Sociolinguistic competence presupposes accommodation to the context of situation as the natural consequence of the users’ needs to communicate more than factual knowledge. Both in monolingual and bi-/multilingual communication situations, participants have at their disposal a compartmentalised and fluid repertoire made up of linguistic variations (conventions pertaining to register (field), mode (oral vs. written communication) and style (level of formality)).

Linguistic variations are indexical of the speaker’s identity and intended meaning, in this respect, translators will acquire knowledge of the taxonomy of linguistic variations and strategies for their equivalence in translation.

Interaction patterns are closely linked to the notion of linguistic identity (speech community - monolingual communication) and professional identity (mono-, bi- or multilingual environment). Every speech community is profiled by a series of customs, beliefs, axiological values, taxonomies, cultural artifacts and some other realia that constitute the variability factor in translation. If there is a high degree of cultural asymmetry, there is potential opacity that blocks the insertion of the source culture into the target one.

Translators will be aware that language for specific purposes (in our case, for legal purposes) proves to be a mixture between ordinary language and specialised language. Markers are to be met especially at the lexical level, although there are also specific morphosyntactic structures. one further mention concerns the level of formality associated with specialised languages (fairly formal). Nevertheless, the skopos of translation allows for changes of register and style via a downgrading procedure (terminology is equated to ordinary language in most instances in the document) or an upgrading procedure (ordinary language terms are given specialised equivalents in translation). Legal language is an extremely interesting case as even the lay population tends to use specialised terms when dealing with legal matters.

4.3.3. Text dimension

The translator should possess discourse competence, understood as the ability to understand and produce a variety of text types in different formats. Translators are exposed to a wide variety of legal texts and they should be able to identify general and specific traits of such texts in SL and TL. The identification of a text-type can be done through either inductive reasoning (the text as an entity is compared to text theory specifications) or deductive reasoning (text theory is applied to empirical samples). There is also the question of internal textual coherence, i.e. accommodation to the readership’s expectations.

Translators will develop awareness of the differences between the legal systems in question so as to detect the cultural load underlying text production - shared assumptions, illocutionary force, presupposition triggers, etc. There is a set
of presuppositions that are activated alongside encyclopaedic knowledge and shared assumptions and translation becomes a question of appropriate usage - presuppositions are viewed as necessary conditions on the truth or falsity of statements. We should rather speak of common ground dynamics as it can be modified in the course of interaction – utterances are interpreted as context change potentials. Hence, translators should be aware that the target language text while largely preserving the informative content of the source language text, belongs to a different cultural context, fulfilling a different function.

Comprehension problems may be generated by linguistic and cultural asymmetries in text production and reception. To a large extent, texts are equated in translation by compensation strategies.

4.4. Information mining competence

Documentary competence or information literacy in translation is related to the ability to retrieve and evaluate information in a multiplicity of formats and for a multiplicity of purposes. Documentary competence becomes a vital component of the 21st century translational know-how - the translator using, processing and producing documents.

Translators are able to decide what kind of information they need to gather in order to create a context for the source language text (co-lateral reading) and to fully integrate the target language text into its situational context (ultimately reduced to the client’s requirements). They are also able to locate primary and secondary information sources by tracing available resources, previous reference materials, on-line help, etc. Information gathering becomes faster if there is collaborative effort (peer advice or advice provided by a documentary advisor). At the same time, it means that the translators can eliminate unnecessary or outdated sources.

There is a wide range of source types that translators should be aware of (dictionaries, glossaries, catalogues, indexes, workbenches, parallel texts, encyclopedias, etc). They should master top-down and bottom-up information processing strategies (action-oriented approach) according to particular needs and interests.

Critical thinking abilities will allow the translator to extract and manage relevant information, while evaluating its quality, i.e. the feasibility of bilingual specialised dictionaries, of terminological databases, of online dictionaries

Translators will become translation memory managers in the sense that they will be able to use translation memory software, storing translated texts as reference materials, creating databases with different task-related information sources, thus accelerating the translation process (long-term orientation) and fostering professional development.

4.5. Thematic competence
The translator, besides possessing intercultural communicative competence, should master one specialism, i.e. acquire sufficient thematic knowledge for functional adequacy.

They should develop awareness of the fact that they will have to develop discovery skills and search for information related not only to the topic area of the document in question (using key words in the text), but also expand the search to detect the hierarchical structure of themes (in the form of thematic maps).

The next step is to acquire knowledge of the general terminology in the field and general stylistic features of the document type and apply such knowledge deductively and/or by association, and further detect specificities. As stated, the mastery of a specialised language should not be restricted to terminology, even if it is used for communicative purposes and legal terms make up a set of useful, practical communicative units, assessed according to criteria of economy, precision and suitability (Cabré 2003).

Thematic analysis underlies an exploratory spirit, mental alertness to the myriad of relations between different themes that make corpus consistent and intelligible.

4.6. Technological competence (mastery of tools)

Undoubtedly, translation is computer-assisted. Therefore the 21st translator must possess knowledge of how to operate or create specific software, of how to manage technological tools by using systems-oriented thinking when interacting with technology in real-life situations (to make a living). Furthermore the development of IT skills has growth-orientation in the translator's career management.

Translators should use Microsoft Office efficiently and effectively. They will also become familiar with working with databases such as EURODICATOM, IATE, LOGOS, WordLingo, Eurlex.

Furthermore, legal translators will be able to detect the limits and possibilities of MT with respect to legal texts translation (dictionary-based) - by using Systran. Trainees will get to grips with statistical-based MT principles in order to be able to create their own e-corpora (including SL and TL).

5. Conclusions

The question of the translatability of legal language engenders developing competence in legal translation. On the outset, successfully performing specialized translation means mastering the two languages in question as well as acquiring knowledge in the field, i.e. mastering one specialism (terminology). Yet, this would oversimplify things as the two legal systems involved in translation are never facsimiles of each other. Therefore, the cross-cultural understanding in law is of paramount importance and the translator is constantly in search of functional equivalences to secure referential accuracy. Besides, his/her responsibility towards the target readership seems to be greater due to the very nature of legal texts.
No theory of legal translation will be viable and valid if it does not pay equal attention to the Source Language and the Target Language factors, on a par with the cultural matrices involved, and, more specifically, the linguistic and cultural diversity within EU. Admittedly, “EU laws are unconceivable without translation” (Correia 2003: 40) and the demand for legal translation is on the increase in the age of globalisation.

NOTES

1 Research into the legal language is designated by forensic linguistics in the English-speaking countries (except Canada – circulating the term jurilinguistics, coined after the French jurilinguistique), Rechtslinguistik in Germany and linguistique juridique in the French-speaking world (again, except Canada).

2 Using inflated terms and a rather mocking tone, Goldstein and Lieberman (2002: 3) describe legal language as “flabby, prolix, obscure, opaque, ungrammatical, dull, boring, redundant, disorganised, gr[ei]ly, dense, unimaginative, impersonal, foggy, infirm, indistinct, stilled, arcane, confused, heavy-handed, jargon- and cliché-ridden, ponderous, weaselling, overblown, pseudo-intellectual, hyperbolic, misleading, uncivil, laboured, bloodless, vacuous, evasive, pretentious, convoluted, rambling, incoherent, choked, archaic, orotund, and fuzzy”.

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**WEBSITES**
ABSTRACT

The paper focuses on the development of legal translation competence, on the conceptualization of legal language and legal translation from a multisided perspective. The pragmatic-functional approach prevails when mapping the theoretical framework to the quality assurance standards imposed by policy makers and by the labour market. Hence, legal translation is multilayered, in compliance with EN 15038, published by the European Committee for Standardization, and with the EMT 2009 guidelines.

**Key words:** legal language, legal translation, legal translation competence