

# Terminological Incongruency: Translating EU Directives

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Recently, the language of the European Union institutions has become a popular topic and has been covered in the media throughout Europe. Treatment of the phenomenon, however, has stayed away from a profound and comprehensive analysis of law and language in the EU. The issue of translation has been mostly considered from an economic point of view, focusing on the cost and logistic problems associated with the process of translation. There have been little or no substantive studies of the important linguistic elements in EU law and their implications for the understanding and application of the law; language and communication issues have not been informed by scholarly discussion (cf. Tosi 2005:388, McAuliffe 2006).

Contrastive studies of statutory legislation are very scarce world-wide. Research in legal language has mainly concentrated on adjectival law leading to linguistic insights as to: powerful versus powerless speech, fragmented versus narrative testimony, the effect on jurors of simultaneous and overlapping speech, the use of leading, suggestive or improper questions in the courtroom, etc. Language of the substantive law has so far received considerably less attention from linguists, although there is a general tendency in academic endeavours towards interdisciplinary studies. Linguistic analyses of substantive law have elucidated issues such as how to make existing or future statutes clearer, without loss of content (i.e. document design) or how law students can be taught to process legislation. Anyhow, these studies are rarely bilingual. Some of the few examples of contrastive studies have been carried out in Sweden (Gunnarsson ) and Hong Kong (Bhatia ).

The presentation summarises the results of an analysis of 120 pages of European Directives in English and their translation in Bulgarian. One motivation for analyzing EU directives is the role these instruments play in the process of approximation of legislation and the purpose they fulfill. Directives occupy a special place among statutory texts since they are binding in regard to the results to be achieved, but not to the exact methods of achieving these results, which is left to the discretion of each Member State.

The analysis is based on the following theoretical premises:

1. It follows the tenets of applied discourse analysis - the rationale underlying genre types and the regularities in their structuring.

2. The concept of genre as defined by Bhatia (1993:101) as depending on its communicative purpose, the context in which it is used, the communicative events it is associated with. Thus, the genre of legislative provisions is analysed.
3. Jacobs's (1995) thematic roles underlying definitions of legal terms.
4. The tertium comparationis is the legal term as a semantic and functional unit and the surface textual realisation of this unit by isomorphic or allomorphic means.
5. The analysis adopts a subject-specific approach since the connection between law and language is an immensely close one, and words and syntax of legalese cannot be separated from its concepts and discourse.

The idiosyncratic communicative situation within which EU legal texts are created is shown to have an immediate bearing on the texts produced. Within this context, the concepts of text type, original text, translation, text producer, text recipient, etc., acquire new meaning and merit new interpretation.

Much of the debate in translation theory and practice has centered on translational equivalence or the *carte blanche* that the translator has when conceptualizing the meaning of the source text in the target text. This is especially true for legal texts where literal translation is considered the touchstone. A componential analysis is shown to be indispensable in the choice of translation procedure. The term and its concept have to be identified, delineated in the source language in order to find the appropriate term in the target language.

The study presents and accounts for differences that have surfaced by grouping the inconsistencies encountered into several categories. Although it was expected that most problematic would be the lack of equivalent terms in the target language, the most common types of translation errors in the corpus are due to differences in conceptualization (43%) and differences in semantic relationships between concepts (39%) or the diverse way English and Bulgarian package concepts.

On the basis of the analysis a list of proposals is offered as guidelines for further translations of European Directives.

#### **References:**

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- McAuliffe, Karen 2006.** *Translation at the Court of Justice of the European Communities.* Paper presented at the Language and Law Conference, Düsseldorf, May 2006.
- Tosi, Arturo 2005.** *EU Translation Problems and the Danger of Linguistic Devaluation.* *International Journal of Applied Linguistics.* Vol 15/3: 384-388.