Opinion on the habilitation thesis

Comparative Terminology in Legal Translation

by PhDr. Slávka Janigová, PhD.

I would like to start with a modern situation in the ordinary life concerning communication and translation context.

Imagine you wear your translator in the pocket: during a journey to Japan and you would like to communicate with a local person. You take your smartphone, speaking Slovak in the microphone, and practically parallel your voice can be heard in Japanese from the loudspeaker. Your partner answers in Japanese, in his language, which is translated immediately by your phone. Yes, this is an imagination of a nice present type of communication. But the presented work goes back to the roots of the problems of communication and translation.

The purpose of this habilitation thesis is to describe and to testify the method of intercultural and interlanguage comparative terminological analysis for legal translation (choice of the appropriate translation strategy, focusing to the legal terminology). Its other purpose is to examine the concept of dynamic equivalence in legal translation.

The presented work is divided in three chapters, except the introduction and conclusions (*Theoretical Sources of Specialist Knowledge, Comparative Terminology at Service of Legal Translation*

(Research Methodology) and *Case Studies*. The Summary equals to Conclusions.

First of all the thesis focuses on the explanation of the concepts "legal language" and "legilinguistics." There are analysed various appearances of the legal language in the work – in legislative, in jurisprudence (as I would like to point out the concept – term? used in English). The empirical part is introduced and discussed, as said, in the third chapter.

The work starts (the line is from concepts to terms) with the first conceptual appearance of the words *concept* and *term*. The Oxford Dictionary of synonyms and antonyms (2014, 3rd edition) speaks about synonyms of the word *concept = idea, notion, conception, abstraction, theory, hypothesis*. In the case of the word *term = word, expression, phrase, name, title, designation, label*. The stance of general Theory of Terminology (p. 21), the most systemic one by Wüster, is summarized by Felber in 6 points. I agree with points 4, 5 and 6: linguists consider the word as an inseparable unit of words contents and word form; the concept is the meaning of the term; only the terms of concepts, i. e. the terminologies are of relevance to the terminologist and not the rules of inflections and the syntax; the rules of grammar are taken from common language. I find the related analysis of the author well-argued and well-done.

The essential part for me comes on page 63: According Sager one of the here tasks of terminology is "*to establish a link between concepts (and terms) which is traditionally done by definitions.*"

The interest in a philosophical or linguistic analysis on the side of legal philosophers is more or less rare. Two examples when philosophers try. The Conception (Begriff) and Idea of the State has to do with the nature and essential characteristics of actual States. The Conception of the State can only be discovered by history, the idea of the State is called up philosophical speculation (Johan Caspar Bluntschli). Another attempt is linked with Hegel: „*Nach der formellen, nicht philosophischen Wissenschaften wird zuerst die Definition ‚wenigstens um den äußern wissenschaftlichen Form wegen, gesucht und verlangt“*. The third example is more recent and also relevant. It is about concepts and definitions in legal science. The contribution of Herbert L. A. Hart in his *Definition and Theory in Jurisprudence* (Oxford, 1953) and later on his work *The Concept of Law* (2nd edition, Oxford 1994), Hart undertook the task of re-examining certain questions (basic questions with the knowledge of the linguistic works of J. L .Austin, Wittgenstein and others) which have always stood in the forefront of the interest of those jurisprudential scholars who usually are seen as “analytical jurists.” These questions should be characterized as “requests for definition” and they typical examples are: “*What is law*?” “*What is a right*?” “*What is possession*? “ “*What is a corporation*?” Professor Hart takes the view in his inauguration address that the mode of defining these terms which was common in analytical jurisprudence of the past must be considered inadequate and that it should be supplanted by a new method apt to yield more satisfactory results. I think this is compatible

with the approach of Horecký and his view – it is not the term but rather the concept that is being defined (also with other views). In discussion with Sarčevič´s opinion about legal definitions (p. 64) –the author added her statement that all of them usually combine intensions and extensions of concepts (see in this respect my essay *On Definitions in Legal Science* published in Lund 1997).

Some comments made on Part 3, on the topic of Case Studies. As the author mentions the fact (p. 83) that "*Slovak law and English law rank within the two different legal cultures of Continental Law and Common Law, respectively, triggers a series of translation problems.*" (Mrs. Janigová further explains the classifications of these groups of the problems). Concerning the offered case studies I can say that there are well-chosen examples (concept-triggered case – the HOMICIDE case, later the PROPERTY case, the MENS REA case- well used the example of recklessness (reckless = having or showing no regard for danger or consequence) in my opinion, then the TORT case satisfactory show the potential troubles with comparison and translation). She draws also the taxonomy tree for the term field share capital (in addition with the SHARE case study, the REKLAMOVAŤ case, when the Slovak term collocates with different range then the English CLAIM. Valency-triggered shifts are analysed in the final part the HEIR-INHERITOR case, the ASSIGNOR/ASSIGNEE case MORTGAGOR/ MORTGAGEE case, and the ACQUIT/CONVICT case as a pragmatically triggered case study.

I repeat my opinion again well chosen example and interpretation of the differences (including many useful Tables and Figures that help to better understanding).

Two remarks from my own experience. with the English legal language and with translation: After working 18 years in Strasbourg and listening to the translations in the field of national and regional languages, listening to national reports in English (each report shall be translated into both official languages) I am able to discuss not only the fulfilments but also the language level.

Secondly, .I would like to recommend my other work (I underline– this is a recommendation) written in English *A Jigsaw Puzzle for Rainy Days – How to Put Together the Pieces: Sources of Law, Forms of Law, Standards, Rules and Norms – to Get a Consistent Picture of Law?* (in: Studia Iuridica Lubliniensia 2020, p. 13-21) which is about legal terminology to Mrs. Janigová.

Finally, I would like to summarize that the submitted work of Mrs. Janigová is clear concise, it is based on an elaborated methodology and wise argumentation, very well understandable and with a feeling for the best choice and the best way of solution and understanding (more than 130 references). It undoubtedly meets the criteria required for a work of this type. It may contribute as a guide for the theory and practice of legal translation because it contents the tools, processes, and principles for a reasonable strategy of translation. For all of these reasons I suggest to accept the work and continue the habilitation procedure and, after a successful defense, to award the author the

pedagogic and scientific title "*docent*" (associate professor) in the field of philology - non-slavonic languages and literature.

prof. JUDr. Alexander Bröstl, CSc.

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