LEGALESE TERM BASE

Attila IMRE[1], **Blanka BARABÁS**[2]

Abstract

The advent of computers resulted in a certain revolution of technology affecting our lives both directly and indirectly. In the present article we argue that globalization (internationalization) is one of the direct consequences of this revolution, leading to a revolution in the translation industry as well. At present, quality translation of specialized languages presupposes the use of computer-assisted tools, including term bases and translation memories. Legalese translation is one of the most demanding type of translation and we think that the larger the legal database, the better quality may be reached. However, certain drawbacks and impediments are worth discussing on creating a legalese term base.

Keywords: **legalese, CAT-tools, term base, English, Romanian.**

Introduction

Globalization, *evolution*, *technology*, *computers* and the *internet* are highly circulated words, similarly to *innovation*[3], which was among the top ten popular words in 2014. The world of today was already characterized as a McWorld of fast music, fast computers and fast food (Snell-Hornby, 2006, p. 128), having in common technology, ecology, communication and commerce. Thus 21st century success is probably guaranteed only if we are experts in technology, communication and commerce, and we learn extremely fast, irrespective of our job.

The advances of technology at the end of the 20thcentury reshaped many things, leading directly to globalization (internationalization). The revolution of technology also had its effects upon translation (Imre, 2013, pp. 155–174), such as *machine translation* and *computer assisted translation*. As a consequence, what translators have to know in the 21st century is a delicate matter, ranging from 'almost nothing' (the idea that 'machine translation does the job for you') to 'almost everything' in order to remain competitive on the translation market. This means that various text types should be handled, often involving specialized translation (technical, legal, medical, financial, commercial, etc.), audiovisual translation (subtitling, dubbing, surtitling, scanlation) or localization of – predominantly – computer software, as well as web page translations (Imre, 2013, pp. 180–206).

It is natural for translators to specialize in particular fields, among which legalese may be considered the most serious one, with far-reaching effects. Be it agreements, laws, contracts, conventions or treaties, their effect may extend to over a human lifetime, so their misinterpretation or erroneous translation may cause devastating effects. A minor example for the importance of legalese may be the final clause in the *General Terms and*

[1] Associate prof. PhD, Sapientia University of Târgu-Mureş.
[2] Student, Sapientia University of Târgu-Mureş.
[3]http://www.merriam-webster.com/top-ten-lists/2014-word-of-the-year/innovation.html, 14. 01. 2015.

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Conditions for the text publication of a world-famous publishing house (LAP Lambert Academic Publishing House):

Sofern es bei mehrsprachigen Varianten der vorstehenden AGB-Regelungen zu Auslegungsschwierigkeiten aufgrund sprachlicher Unterschiede/Übersetzungen kommen sollte, gilt stets der deutsche Text als maßgebend.	Insofar as difficulties of interpretation may arise due to language differences/ translations in the case of multi-lingual versions of the present General Terms and Conditions, the German text shall have precedence.

Table 1. Final clause of a bilingual document

The clause above explicitly states that German is the more authoritative text, as the initial terms and conditions were drafted in this language, reminding us Thomas Hobbes: "It is not wisdom but Authority that makes a law."

Much more complicated cases are when the cultural background of the source and target language countries are rather different, leading us to the next section.

Problems with legalese

Although definitions of *legalese* may differ (cf. dictionary definitions), the basic idea is to leave no room for ambiguity in the wording, thus causing difficulty for average speakers to understand. Some may even think that understanding legalese is a hopeless endeavor, as the majority of laws, rules, etc. may be "interpreted", as Jeremy Bentham (1748-1832) observed: "The power of the lawyer is in the uncertainty of the law." However, Clarence Darrow, a U.S. lawyer (1857-1938) went even further, stating that "The trouble with law is lawyers." (Voorhees, 2001, p. 1).

These two quotations show us that legalese may even need intralingual translation (Jakobson, 2000, p. 114) involving *rewording*, and if this is the case, interlingual translation is much more problematic. However, realizing the importance of a quality database for legal terms, we have tried to collect all the available published dictionaries in Romania, involving English and Romanian legal terms in order to investigate the possibility to create a term base for CAT-tools (Project ID: POSDRU/159/1.5/S/133652, Romania).

It is obvious from the outset that the combination of interlingual translation (e.g. differences between US and UK English) with different cultural backgrounds of legal systems (common law with precedents and reason by analogy, the unique Scottish civil law system or the Continental Europe's civil law system) may result in unsurmountable obstacles for translators. Yet, certain measurements are taken, such as certain abbreviations (CL – common law, Eq. – Equity) or explanations (even if sometimes lengthy for a dictionary).

Cultural competence is a requirement for professional translators (Imre, 2014b), and McKay explains: "In-country experience is a big asset for a translator, since translation work involves knowing not just the structure of the language to be translated,

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but the cultural framework that surrounds it." (McKay, 2006, p. 14). In the age of globalization merging into the source or target language culture may take various forms, among which living in the source language country is only one option. As a translator, delving into a specialized field may offer the solution, in our case cross-examining more legal dictionaries to select the proper terms to be included in a unified term base, detailed in the next section.

Creating a Romanian-English legalese term base

Although many people are reticent to accept, machine translation and computer assisted translation are here to stay. The question is not whether to use them or not, but how to turn them to our benefit. After the infamous ALPAC report (Hutchins, 2003) from the 1960s and the spreading of the various CAT-tools in the 21st century, we should not consider them as "enemies" of human translators, but assisting them (Gouadec, 2007) to create better quality translations over a shorter period of time. Similarly, term bases (TB) are not to replace printed dictionaries (overlooking the emerging importance of online dictionaries), but to improve them, if possible, offering certain advantages listed below:

- adding new entries anytime;
- modifying entries (completing, specifying previous ones);
- deleting incorrect/improper entries;
- offering matches all through the database for string of characters. This is invaluable when looking for an expression containing multiple words, e.g. *form yields readily to substance*, which may appear under *form, yield* and *substance*. In fact, in a printed dictionary appears under *form* (Hanga&Calciu, 2009, p. 285), and we cannot find it under *yield*, whereas *substance* does not appear as an entry.
- once the bilingual database is created with a particular source and target language, the swap may be instant, and even extended further into a multilingual database;
- there are no layout issues;
- there are no publishing costs and printing issues.

Although the above benefits seem to be idealistic, there are certain drawbacks. Due to the constraints of space, we only list the major ones, offering very few examples.

The first most important issue is how trustworthy a database is. If it is our own "creation", we presume we can trust it, but there are further things to consider. One of them is whether the source of the database is reliable or not (quality of the dictionary the entries come from) and another problem may stem from compatibility. If a term base is imported from an external source, we should be able to integrate it into our own, let alone the case when more than one TB-handling software is used (e.g. *SDL Trados, OmegaT*or *memoQ*). If all these are solved, we should take into consideration the specificity of TBs. For instance, grammatical categories are not specified (adjective, verb, noun), unless separate notes are attached to terms (time-consuming), and match results for verbs (cf.

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conjugated forms, different tenses, Indo-European versus non Indo-European lanuages, etc.) are rather low. In spite of all these, we favor TBs over printed or online dictionaries.

Printed dictionaries may contain mistakes of all types: content-related (mistranslations, terms not belonging to legalese), typographical errors (typos), or layout-related ones.While creating a legal term base we came to realize that the number and variety of errors found in dictionaries are many and need human intervention. We started to work on one of the most popular Romanian-English, English-Romanian Legal Dictionary (Hanga&Calciu, 2009), reaching the 5th revised and enlarged edition. An in-depth analysis of letter *A* in the Romanian-English part shows that *amonte*'up river' is included, although it is hardly a legal term. Typographical errors may be various (Imre, 2014a), such as missing letter (**appel*instead of *appeal*), extra letter (**referee* instead of *referee*), fat finger syndrome (**sauă*instead of *sau*'or', **înmstrăinări*instead of *înstrăinări*'alienation'). The layout of the dictionary is non-standard, as source language entries are all capitalized and in italics, while the translations are in bold, some of them unjustifiably with capital first letter. Abbreviations are also problematic: *SUA, S.U.A.* for USA, or there are abbreviations not included on the list of abbreviations, such as*ex.* referring to an example.

Although Lister &Verth's dictionary seems to be the most reliable dictionary on the market(Lister &Veth, 2010), it contains many entries belonging to the business/financial world, or typos (**ascedent*instead of *ascendent*).

Furthermore, the cultural choices of the editors may be also questionable when archaic forms or very specific terms are included: *exeat* ('he/she may leave') refers to a permission to leave Oxford or Cambridge University (for the week-end), but it may have (slightly) different meanings in Australia or New Zealand. If we have an English-Romanian dictionary in mind, the more meanings are listed the better, but usually only US English and UK English is differentiated. For instance, the US English *judgment* is used as the main entry (compared to the UK English *judgement*, mentioned in brackets, without any explanation) in Hanga and Calciu's dictionary (2009, p. 312), resulting in 32 possible translations into Romanian, whereas our TB contains 64 entries with both possible spellings.

In our view, a translator's essential competence is authenticity, which always manifests itself according to the specific features of the translated text. When it comes to specialized documents, exact terms need to be used in a strict order; only one version of a term can be used through the whole text, and no mistake is allowed, as each of them might jeopardize authenticity.

Dictionaries hardly ever contain "all" terms, so a properly selected term base will result in a quality dictionary.This is one of the reasons why there are so many specialized dictionaries, and – in our case – a bilingual dictionary of legal terms must also be adjusted to the common law and civil law system. As the days of "Paper and Rubber-Assisted Translation" are numbered (Gouadec, 2007, p. 109), translators should follow the market requirements of CAT-tools with translation memories and term bases. With the help of

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proper spell-checkers, TBs may contain fewer mistakes than printed dictionaries, which may be further improved by the possibility of modifying entries while using the TB.

The standard TB format may be CSV of MultiTerm XML file, which may be easily obtained from a standard Excel file (.xls or .xlsx extension), leaving compatibility issues behind. Importing and exporting TBs are very important as there are many CAT-tools available with different versions.

A good quality TB for CAT-tools contains all possible translations in all possible combinations in separate entry pairs; as a consequence, *financial/legal adviser/advisor* being translated as *consilier/consultant financiar/legal* (Lister &Veth, 2010, p. 18) will enter a TB with the following options:

EN	RO	3. Category	4. UK/US	5. Comments
financial adviser	*consilierfinanciar*			
financial advisor	*consilierfinanciar*			
financial adviser	*consultant financiar*			
financial advisor	*consultant financiar*			
legal adviser	*consilier legal*			
legal advisor	*consilier legal*			
legal adviser	*consultant legal*			
legal advisor	*consultant legal*			

Table 2. Combination of entries in a TB

Grammatical categories, such as *noun* (n.), *verb* (v.) are not usually included in a TB, but can be easily introduced (e.g. Column 3), similarly to differentiating UK English from US English in a separate column (4), or further comments added in Column 5 (when translation may be completed with an explanatory note/remark). Then the TB may be filtered, showing only the UK or US English versions, or entries with *A* or *F*, etc. One can easily observe that once we have the English-Romanian version, we can change the direction of translation, which is much more difficult with printed dictionaries. The search option offers the possibility to locate a certain string of characters in the entire TB as many times as it appears; for instance, *treason* appears six times in the Romanian-English part of (Lister &Veth, 2010), under *atentat, infracțiune, trădare*and *trădător* (*treasonable*), but this was easy to search for only in the TB.

Conclusions

During the project we have checked around 200,000 entries from more than ten Romanian-English and/or English-Romanian dictionaries printed in Romania between 1999 and 2014. As a result, we tend to believe that when looking for possible solutions to the problems presented above, we should highlight the fact that dictionaries were already revised, and by proofreading them once or twice before publishing may still require improvement. Turning them into a term base is a slow, but rewarding process, allowing us

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to detect all types of mistakes during the work, and eliminating questionable entries (e.g. numbers, country names, terms belonging to history, sports, etc.). After all, the requirements are high, and the possibility to cross-examine entries in printed, online monolingual, bilingual or even multilingual dictionaries sets a new standard for TBs, namely far better quality and quantity.

Similarly to legalese, a constantly changing specialized language, a constantly changing TBs is necessary, without the hope of a "complete" collection. Today we seem to have forgotten Sir Winston Churchill's words from 1943: "If you have/make ten thousand regulations you destroy all respect for the law." Legalese is expanding, and so should the translators' term bases.

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