

LEGAL TRANSLATION TRAINING IN POLAND: THE PROFESSION'S STATUS, EXPECTATIONS, REALITY AND PROGRESS TOWARDS (PROSPECTIVE) EXPERTISE?

Ewa KOŚCIAŁKOWSKA-OKOŃSKA, PhD

Department of English, Nicolaus Copernicus University
ul. W.Bojarskiego 1, 87-100 Toruń
ewako@umk.pl

Abstract: The paper addresses the field of translating legal texts (from Polish into English and from English into Polish) from the point of view of translation teaching and skill development. Due to the changing perspective of the translator's profession, the necessity has emerged to have a closer look at the way translation skills and competence are developed and how the objective of such training is perceived by users (trainees). The results of a survey (conducted among trainees prior to the course and as a follow-up) are presented; the survey was aimed at juxtaposing expectations expressed by trainees with their follow-up achievements. It was assumed that trainees' awareness of potential competence-related problem areas (i.e. to underline the significance of such extralinguistic concepts as, e.g., background knowledge or cognitive factors) should be increased, combined with the responsibility for tasks performed as active participants of translation interactions. The complexity of competence, problems with defining the nature of expertise and its applicability to the research context as well as the significance of the didactic process still remain worthy objectives of further research. Trainees should be also made aware of changing market requirements and expectations as to skills and qualifications they should have to be highly appreciated and competitive employees.

Keywords: legal translation, translation teaching, translator's profession

DYDAKTYKA PRZEKŁADU PRAWNICZEGO W POLSCE: STATUS ZAWODU, OCZEKIWANIA, RZECZYWISTOŚĆ, A KSZTAŁCENIE (PRZYSZŁEGO) EKSPERTA?

Abstrakt: Artykuł dotyczy przekładu tekstów prawniczych (z języka angielskiego na język polski i z języka polskiego na język angielski) z perspektywy dydaktyki i kształtowania umiejętności. Z racji zmienności statusu zawodu tłumacza kwestią istotną staje się analiza sposobu rozwijania umiejętności i kompetencji tłumaczeniowych, a także postrzegania metod kształcenia w tym zakresie przez studentów. W artykule zaprezentowane zostaną wyniki ankiet studenckich (przeprowadzonych przed rozpoczęciem kursu przekładu prawniczego oraz jako follow-up), w których porównano początkowe oczekiwania studentów z późniejszą oceną ich dokonań w kontekście kształcenia. W badaniu założono, że należy zwiększyć świadomość problemów wynikających z potencjalnych deficytów kompetencji tłumacza u studentów, również w celu podkreślenia znaczenia takich pojęć pozajęzykowych jak np. wiedza ogólna lub czynniki poznawcze. Proces taki powinien także oznaczać zwiększające się poczucie odpowiedzialności za przekładany tekst, ponieważ studenci są czynnymi uczestnikami sytuacji tłumaczeniowej. Należy także nadmienić, że warto kontynuować badania nad złożonością zjawiska kompetencji, problemami z określeniem charakteru wiedzy eksperckiej i możliwościami jej zastosowania w kontekście badawczym jak również znaczeniem procesu dydaktycznego. Studenci powinni zdawać sobie również sprawę z dynamiki zmian na rynku, zmieniających się oczekiwań dotyczących umiejętności i kwalifikacji, które powinni posiadać, aby móc sprostać konkurencji.

Słowa kluczowe: przekład prawniczy, nauczanie przekładu, zawód tłumacza

Introduction

The translator's profession has been changing dynamically for the last decades and the recent years have brought the need to define it both in terms of a service rendered and a profession performed. Translators have always faced challenges, yet at present those challenges, with the world being a global place and translators doing their work for translational firms, seem to be bigger and obviously more demanding. Engaging in those ventures entails constant broadening of knowledge, learning how to use new technologies and how to apply new translation tools and techniques or learning how to find necessary data and mine reliable information.

As the demand for translation services is on the increase and the number of translation assignments seems to have no limits, the need emerges first to educate prospective translators, make them aware of the above factors and help them become experts in the future. This paper addresses the profession's status, specialist translation (translation of legal text in particular), with the focus on expectations and problems related with (legal) translator education, today's reality of system requirements and development possibilities. In the paper results of a study carried out on prospective legal translators shall be presented.

The status of the profession

In Poland the status of the profession may be perceived as an abstract concept, which – rather subjectively – refers to individually recognised and appreciated values such as authority or prestige of the profession. The only 'type' of translation that has been regulated by the law is the sworn/authorised/court translation (the term may vary), and the approximate number of all court/sworn translators in Poland is ca. 8,000 (to avoid any ambiguity in the paper, these translators shall be referred to as 'court translators' who have appropriate and legally stipulated qualifications to perform their tasks commissioned by state institutions, the police, the prosecutor's office, courts, etc.) Other translators working on the market do not 'enjoy' any specific legal provisions pertaining to their profession.

Court translators are the only group of translators who have to pass examinations before the State Examination Commission working at the Ministry of Justice. This obligation was introduced with the new law in 2004 (this law amended the previous legal regulation that allowed to become a court translator without the necessity of passing the required examinations). As for non-court translators, no certification system is in operation that could possibly verify the qualifications and competences of thousands of persons eager to enjoy the legally-regulated status of professional translators. In this situation, we may claim common sense to be the only qualification validation mechanism, yet for obvious reasons this is not an objective criterion of professional competences, expert skills and knowledge. Due to the absence of any validation mechanisms, there is no capability to put some restrictions implemented in the form of skill validation on the number of those persons who claim that they offer professional translation services. The need for certification is even much more prominent, especially if we take into account the wording of the Directive 2010/64/EU of the European Parliament and of the Council of 20 October 2010 on the right to interpretation

and translation in criminal proceedings “In order to promote the adequacy of interpretation and translation and efficient access thereto, Member States shall endeavour to establish a register or registers of independent translators and interpreters who are appropriately qualified”. This Directive, however, does not address the concept of ‘appropriate qualifications’, and thus leaves some space for ambiguity, theorisation and confusion. With the EU law being superior to the national law, and with so unspecific expressions, it is not surprising that the Polish legislative authorities are not even trying to address this question.

Therefore, there is a still growing necessity for the certification of translators, for the certification of translation training programmes so that they could be more consolidated, consistent and more up-to-date with the EU free and open market requirements. We cannot remain indifferent to the fact that quality, although itself being an elusive concept, of translation is on the decrease, despite the proliferation of CAT tools and increasingly larger numbers of persons willing to pursue translation on their professional career paths. This is manifested in everlasting and endless problems with official translations of EU instruments into Polish. Instead of – currently proposed by the Polish government – liberalisation of translation services and introduction of deregulatory provisions, including the final mainstay of certification, i.e., sworn translators, we would rather think of making the market more compact, controllable and trustworthy for the sake of translation recipients and for the sake of translation, the main aim of which is high quality, competent and adequate transfer of the message.

This need for competent translation and professional translators is nicely reflected in *The status of the translation profession in the European Union* in which we may find the following statement: ‘Status is understood as the presumed value of expert skills, rather than the skills themselves. An individual or group with high status is ideally attributed trustworthiness, prestige, authority, higher pay and a degree of professional exclusivity. However, when the signals of status are weak or confusing, those values are low, market disorder results, and good translators may leave the market. The process of professionalisation can then be seen as the production of efficient signals of status that good translators stay in the market’ (Final Report, 24 July 2012, 3). The question vital in our context is how to shape, educate and ‘create’ a good translator with skills, knowledge and competences progressing on the way to expertise so that his or her ‘stay’ on the market is the result of these skills, knowledge and competences possessed and accrued throughout the duration of his/her professional career, with the final objective of being an expert. Another document created within the frameworks of the European Master’s in Translation Programme (which is a partnership project between the European Commission and higher education institutions) aims at, inter alia, improving the quality of translator training, thus preparing grounds for educating professional translators. In ‘Competences for professional translators, experts in multilingual and multimedia communication’

(http://ec.europa.eu/dgs/translation/programmes/emt/key_documents/emt_competences_translators_en.pdf) six areas of competence to be possessed by professional translators are stipulated, namely, translation service provision competence, language competence, intercultural competence, information mining competence, thematic competence and technological competence. All these areas are – to a substantial extent – overlapping with

manifestations of competence as reflected in the research (see e.g. research results of the PACTE group, 2005).

As far as the notion of ‘expert’ or ‘non-expert’ is concerned, the empirical research data (see e.g. Englund Dimitrowa 2005, Risku 1998, Moser-Mercer 2000, Shreve 2002, Bereiter and Scardamalia 1993, also Jääskeläinen 2010 and Siren and Hakkarainen 2002) show that the central difference between experts (professional and experienced translators) and non-experts (usually student-translators or novices with no experience, also called semi-professionals in the research; see Englund Dimitrowa 2005, Jakobsen 2002, Kussmaul 1995, Tirkkonen-Condit 1996, Jääskeläinen 1993, Risku 1998, Moser-Mercer 2000, Shreve 2002, Siren and Hakkarainen 2002, Bereiter and Scardamalia 1993; for the discussion on professionals vs experts see Jääskeläinen 2010, also Siren and Hakkarainen 2002) seems to appear on the level of both procedural and declarative knowledge but also on the level of strategies (Siren and Hakkarainen 2002 refer to them as heuristic rules applied in the process of problem solving).

Another pivotal difference are varying processing characteristics; the above result from experience accrued, itself being a fundamental domain in the processes of problem solving and decision making and therefore affecting overall effective performance. Experience is a feature manifested by experts, in contrast to non-experts, yet it may not always be a predictor of high quality performance (see Ericsson 2006). The expert/non-expert categorisation allows us to perceive the former as a person with a higher level of (skilled) performance in a given domain which results from years of experience, thus the expert enjoys high reputation in his/her environment and, what follows, high professional status (see Ericsson 2006; also the concept of procedural skills, Chi et al. 1982, Chi 2006). In experts knowledge is better, thus more efficiently, organised, therefore they are capable of applying context-related knowledge and of inferring context-related meaning. In contrast, non-experts (novices or semi-professionals) obviously do not possess a body of experience, may have a tendency to generate context-irrelevant utterances; their information processing proceeds on microcontextual chunks (on the word- or sentence-level).

The question remains how to help prospective translators to develop an awareness of the importance of progressing towards expertise in their educational and subsequent professional development. Obviously, we should first aim at the specification of our objectives, i.e.:

- (i) to make them realise the following factors: complexity of the translation process, importance of reflective (and self-reflective) skills which result in developing individual translation strategies, creativity, ability to face and deal with unexpected problems (this partly overlaps with Kiraly’s [2000] term of ‘translator competence’);
- (ii) to teach them how to effectively apply translation aids (including CAT tools) and how to find useful information in all types of available sources;
- (iii) to introduce (selected) issues of the theory of translation as a foundation on which they can build their knowledge of translation mechanisms and operations, of specialist terminology and information-mining tools;
- (iv) in case of training legal translation and interpreting: to introduce and elaborate on legal concepts and terms so as to expand their knowledge not only on the legal domain but also on the functions of the language in this domain and on the way the language may be used to mediate information;

(v) to show them the operation of market mechanisms and the challenges posed by market demands.

These objectives go far into the future but their implementation will allow us not only to improve linguistic and extralinguistic skills of our students – prospective translators – but, most of all, to teach them somewhat more holistically, or in other words, to educate them so that they will be able to develop attitudes that would motivate them to expand their knowledge, to be willing to learn, to be aware of the responsibility for the text generated and the significance of intercultural communication, mediation of meaning (in the context on legal translation that would also be the mediation of two different legal systems), terminological consistency (which is one of pivotal requirements of legal translation) or the accuracy of expression. Thus, we will be capable of developing not only general translation competence but individual translator competence, the ability of critical self-reflection and self-assessment, development of cognitive skills and, last but certainly not least, the capacity to recognise problems and (potential) deficits.

This overall development can be realised through providing contacts with professionals (active translators and interpreters) or translation agencies (e.g. internships, on-line coordinated cooperation with external feedback provided, etc.), using authentic texts for translation, developing social skills and teaching students how to cooperate successfully and smoothly not only with other translators but also terminologists, project managers or clients.

The reality: system requirements

Is there a discrepancy between our assumed goals and the goals externally imposed by institutions responsible for the educational policy of the state? When we analyse the learning outcomes, being an obligatory part to be accomplished in the teaching and training process on the university level, initially we can see an entire array of objectives that our students – prospective translators – can, or even should, expect to be fulfilled within their course of studies. These expectations can be transposed into a list of skills that a student is to achieve (for the sake of clarity, the applicable learning outcomes shall be presented with symbols corresponding to references in the relevant documents, with K_W standing for knowledge, K_U standing for skills and K_K – for competences). Thus, the student who plans to be a translator is said to have obtained the following skills and competences:

- K_W01: acquired and broadened knowledge on a foreign language, its origination and development,
- K_W02: knows advanced grammar and lexis of the language/languages,
- K_W03: knows translation principles in a wider context,
- K_W04: has extended knowledge on specialist languages,
- K_U01: can seek, analyse, assess, select and use information from various sources and formulate criticism if necessary,
- K_U02: can understand a complex text in a foreign language of a given culture,
- K_U03 and K_U04: can translate complex texts from and into a foreign language,

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- K_U06: can integrate knowledge from a variety of domains (within the humanities) and use it in different situations,
- K_U16: can translate and interpret nonliterary, literary and specialist texts from the source into the target language using translation tools,
- K_U17: has developed translation and interpreting skills,
- K_U18: can use various registers and varieties of a foreign language,
- K_K01: recognises the depth of his/her knowledge and skills, understands the need for constant learning and development, can inspire and organise the learning process of other individuals,
- K_K02: can work in a team, assuming various roles,
- K_K03: can specify priorities of the task,
- K_K04: identifies and solves professionrelated dilemmas,
- K_K07: knows and can use ethical and professional standards towards the text, author, client and the receiver,
- K_W08: has broad knowledge on relations existing between language and culture studies with related fields of the humanities,
- K_W13: has broad knowledge on selected linguistic aspects in the comparative, contrastive and intercultural context,
- K_U10: can critically analyse and interpret various types of texts using specific terminology and explaining selected methodology.

It may be safely inferred from the above outcomes that the student has to fulfil a plethora of requirements, but a question comes to our mind: how can this be done? Is it possible to achieve so many objectives without running the risk of bordering on superficiality, or the ‘lack of depth’ (to put it mildly) in the didactic process?

For our considerations, it would be vital to know the view of those who are the target group in this process: our students. In order to consolidate and coordinate the teaching process with learning outcomes, a preliminary and a follow-up survey were carried out. 45 participants took part in the survey, all of them being students of post-graduate studies in translation, with special focus on translation of legal texts – these students want to become court translators in the future and decided to take a legal translation course to improve their skills and competences so as to be able to pass the state examination.

Legal language in translation and training

Prior to discussing the survey results and its implications, it would be worth to briefly elucidate the concept of legal language and related difficulties that are encountered while teaching legal translation.

Legal language is primarily a specialist language, thus it demonstrates certain characteristic features. Šarčević (2000) perceives it even as a sublanguage with specific syntactic, pragmatic or semantic properties. Specialist terminology is used to accurately describe the reality in which legal texts operate. Terms that we may encounter in legal texts and those that pertain to a given legal system quite frequently cannot ‘enjoy’ their relevant correspondents in other legal systems due to the absence of an activity, item or institution in a given system (Šarčević 1997). These are defined (Šarčević 1988) as

system-bound terms due to their contextualisation in a specific legal system as they are quite often untranslatable or their translation is descriptive. In general terms, one can observe a certain degree of conceptual incongruity in terminology (Šarčević 2000) which may be due to the historical evolution of legal systems that resulted in the development of a conceptual and terminological apparatus pertaining to social, historical, economic or cultural issues vital for a given country. Legal English is characterised by specific features which were presented by Tiersma (1999), namely:

- (i) precision,
- (ii) vagueness (fuzzy concepts),
- (iii) conservatism (Latin terms or archaic grammatical or syntactic structures),
- (iv) specialisation (using appropriate terminology),
- (v) complexity on the level of the word (nominalisation), sentence (passive voice) and text (specific use of punctuation).

In case of the Polish legal language the characteristic features can be subsumed under the headings of communicative, stylistic and linguistic categories. Linguistic categories refer to directiveness and categoricity (Wojtak 2001, Jadacka 2002) as well as standardisation (Wojtak 2001) and terminologicalness (Hałas 1995). Communicative features include precision, i.e. consistent usage of legal terms (Wojtak 2001), adequacy with the item described (Jadacka 2002) and understandability (Wojtak 2001). Stylistic features pertain to impersonality or briefness that aim at obtaining maximum precision of the text (Wojtak 2001). Another essential feature is the presence of numerous borrowings from Latin, English, French and German (Jopek-Bosiacka 2006).

Thus, translation of legal texts is a real challenge and a post-graduate course in legal translation is aimed at acknowledging students with the specificity of legal English (perceived as the language of acts of law), with strategies and techniques to be applied in translating specialist (legal) texts, good translation practices (based, inter alia, on interpersonal and social skills), ability to find necessary information using available sources, broadening the knowledge on legal aspects of functioning in the modern world and free market economy. These components of the course are visibly compliant with the learning outcomes. During the course the students are acknowledged with the terminology and characteristic features of legal language; only authentic materials are in use to make in-class translation assignments resemble market reality and to sensitise students to issues essential for their prospective customers that they may encounter in their future career.

The survey

The question remains how these objectives of training and their implementation are perceived by the trainees and whether they are in accordance with prior expectations. The survey questions addressed skills that trainees want to develop, their expectations as to the significance of the course for their future career, potential problems they may have, prerequisites they think are absolutely vital to start the training process; finally, they were also asked whether the duration of the course is in accordance with their expectations or whether they would like to extend it.

The trainees were asked the same questions in the preliminary survey, carried out during their first class, and then another survey was performed as a follow-up at the

end of the course with the aim of finding whether there would be any statistically significant differences in the distribution of opinions. Two factors were taken into account in terms of the final resultant assessment, namely expectations with which the trainees started the course (and the focus was laid on the fact whether these expectations were fulfilled) and prerequisites, or, in other words, necessary skills and competences that trainees should have to start and complete the course.

As mentioned previously, the group surveyed consisted of 45 persons in two institutions offering post-graduate studies in translation (a state and a private university). Out of the 45 persons, 6 had previously studied law; the remaining 36 persons were graduates of English studies, and 3 persons were professionally involved with accounting.

The results of the surveys are demonstrated in the tables below, with figures representing the number of responses given and the calculated percentage ratio of the responses, respectively.

Table 1. Expectations as to needs expressed by trainees (before and after the course).

Essential aspects and features	Before the course	Follow-up
Knowledge of legal aspects	40 (88%)	45 (100%)
Knowledge of specialist legal language	45 (100%)	45 (100%)
Importance of native language competence	15 (33%)	39 (86%)
Cognitive skills	13 (28%)	43 (95%)

Table 2. Prerequisites necessary to start the course (as expressed before and after the course).

Essential aspects and features	Before the course	Follow-up
Introduction to the Polish and English law	32 (71%)	41 (91%)
Proficient knowledge of grammar	43 (95%)	45 (100%)
Proficient knowledge of native language	12 (26%)	37 (82%)
Knowledge of translation workshop and operating on the market	24 (53%)	42 (93%)
Cognitive skills	16 (35%)	40 (88%)

Discussion of results

The results demonstrate a tendency to increase in statistics in all the aspects mentioned, so the assumed a priori statistical difference is to be observed. This may result from a very simple premise: within the duration of the course the trainees had an entire array of opportunities to see that the above aspects are really significant for the translation process and for the competence of even a would-be translator to develop. It also shows the ability of critical self-reflection on the part of the survey participants: they are aware of the fact

that both linguistic and extralinguistic types of knowledge (including the knowledge of legal aspects) are essential.

Another interesting observation that can be made is the role of cognitive skills (covered in the learning outcomes as e.g. K_K01, K_K04). These were deliberately not specified in the tables but were rather treated as an umbrella term covering such issues as good memory that translators must have, ability to concentrate, ability to self-discipline and constant development, motivation to learn, ability to apply effective decision making and problem solving strategies that were mentioned by the survey participants in their responses. What is also worth observing is a dynamic numerical increase in the responses pertaining to the knowledge of the mother tongue: initially, it is somewhat taken for granted as trainees – being native speakers of Polish – claim themselves to know the language sufficiently well to perform good and high quality translation, thus seeing the ‘ethnic’ element as the only prerequisite for translating into one’s native language. However, with time passing and the number of translation assignments accomplished, this attitude visibly changes into a more moderate one, thus allowing some degree of uncertainty to one’s presumed near-to-ideal native language competence. The mother tongue issue, however, seems to be ignored in the learning outcomes, as developing the knowledge of the language is not mentioned at all.

The trainees also recognised the need to expand their knowledge on how the translation market functions, what the translation workshop should look like and how they perceive their role, i.e., they should be more focused on the development of their skills.

When we look at expectations (Table 1) we can observe that the array of expectations they have as to the course was transformed into an array of needs, into the awareness of aspects vital for the translator. The trainees’ expectations have been confirmed, thus allowing them to consolidate the efforts on their path bringing them closer to the assumed objectives.

As far as the prerequisites are concerned (Table 2), there is again an explicit increase in the awareness of the significance of knowledge in general (both referring to the language and extralinguistic issues). One more time, a marked tendency may be observed in the growing importance of the knowledge of the mother tongue (which, on the other hand, shows a general trend consisting in disregarding learning and mastering one’s native language). Similar as in Table 1, both cognitive skills (understood broadly as a set of intellectual abilities and skills) combined with more pragmatic skills of market functioning are on the increase. The persons surveyed also differed in terms of the duration of the course: 34 persons (i.e., 75.5%) were of the opinion that one year is too short a period for such a course, whereas 11 persons (i.e. 24.5%) thought this time was sufficient for them.

Finally, what is worth emphasising is the fact that, despite certain deficiencies, learning outcomes seem to correlate with what the trainees expect to achieve when completing the course (it should be also added that out of the 45 persons surveyed, no one has decided to take the court translator examination so far). Aspects related with the knowledge of the language (in both linguistic and extralinguistic terms) as well as cognitive and social skills that were stressed as essential by the trainees are also encompassed in the skills and qualifications development guidelines.

Concluding remarks

Obviously, language is only one of the instruments in the effective use of strategies and techniques resulting in good quality translation. It is combined with specialist knowledge and extralinguistic knowledge: these three form the basis, to which the translator may refer and treat them as his or her cognitive baggage, which has been corroborated in the survey results. On the way to developing competence, skills, broadening knowledge and seeking necessary information in all available sources motivation and the willingness to learn are key factors.

In legal translation training, expectations that trainees have are extensive, but their accomplishment or turning their dreams into reality depends on the individual, and on his/her readiness to transgress the unknown areas, to be self-critical, and to be ready to cope with novel tasks with sometimes deficient skills. The reality of legal translation training is difficult also due to the existence of externally imposed administrative restrictions (in the form of learning outcomes) which coerce both the trainers and trainees into situations specified a priori, thus limiting the possibility of implementing new solutions, with not much place for creativity which is indispensable in translation. As the survey results suggest, the progress towards prospective expertise as manifested by our trainees is possible and achievable, provided they are motivated, by means of transforming classes into a forum for exchanging ideas, giving practical tips, adjusting to students' individual learning styles, specifying course objectives, discussing materials covered, preparing projects facilitating cooperation and contacts with professional translators outside the educational context, and enabling students to participate in real translation tasks.

The combination of teaching, self-conscious motivated learning and immersion in the text and translation can result in a situation that the trainees do not only have the ability of translating texts or that they know techniques and strategies to be applied but they will also be creative individuals, whose potential should be used in a modern society. As trainers, we also have to take into account the needs and expectations of the market and expectations of employers so that our trainees are not only well educated, with intellectual potential, linguistic skills, translation strategies and the knowledge of instruments necessary for seeking information, but – being equipped with the above – they could be competitive on the labour market and motivated to constant learning and developing their skills and knowledge on their way to reach the expert status. It is our task to show them how to develop and become an expert, starting from high expectations through hard work, motivation-driven development and education.

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