SHEDDING LIGHT ON THE GREY AREA OF ASSESSMENT IN LEGAL TRANSLATION: A CASE STUDY BASED ON A HOLISTIC METHOD / ARROJANDO LUZ EN EL INCIERTO CAMPO DE LA EVALUACIÓN EN LA TRADUCCIÓN JURÍDICA: UN ESTUDIO DE CASO BASADO EN UN MÉTODO HOLÍSTICO

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Abstract: Assessment is a very controversial topic in Translation Studies as it is entrenched with subjectivity. In an attempt to verify the validity and reliability of holistic assessment as far as legal translation is concerned, the following case study was designed. A legal text was translated by a Master's student and this translation was assessed holistically by 10 evaluators, who had to complete a questionnaire after grading the translation. Results show once more great disparity in the evaluators' value judgment and highlight the subjective nature of this kind of assessment. However, results did not differ much from those obtained when the same translation was assessed following an apparently more objective error-based method, which confirms the usefulness of holistic assessment as a supplementary tool, especially for translator training purposes.

Keywords: Legal Translation; Assessment; Holistic Method; Subjectivity.

Resumen: En la Traductología, la evaluación constituye uno de los campos de mayor controversia debido a su inherente subjetividad. En aras de comprobar la validez y fiabilidad de la evaluación holística en el ámbito de la traducción jurídica, se diseñó el estudio de caso que se presenta en este artículo. Se procedió a la traducción de un texto jurídico por parte de una estudiante de Máster y esta traducción fue evaluada, siguiendo un método holístico, por 10 evaluadores, que rellenaron un cuestionario después de calificar la traducción. Los resultados de este estudio vuelven a revelar una notable disparidad en la valoración de la traducción por parte de los evaluadores y a subrayar el carácter subjetivo de este tipo de evaluación. Sin embargo, estos resultados no resultaron muy diferentes de los obtenidos al evaluarse la misma traducción siguiendo un método analítico, en principio más objetivo, lo que confirma la utilidad de la evaluación holística como una herramienta complementaria, especialmente en el ámbito de la formación de traductores.

Palabras clave: Traducción Jurídica; Evaluación; Método Holístico; Subjetividad.

1. Introduction

Despite discrepancies in the academia as to whether legal translation and legal interpreting are subsumed under Public Service Translation and Interpreting or they should be regarded as disciplines on their own, the most prominent literature highlights the legal field as one of the main professional fields for public service translators and interpreters (Corsellis, 2008; Valero-Garcés, 2014).

As stated by Prieto (2014: 261), legal translation has, nevertheless, become one of the most thriving fields in our discipline in the last three decades. Attention, however, has not been uniformly paid to all subfields within this vast area, with a greater number of studies and researchers focusing on the translation of texts (mostly, of a legislative nature) in international organizations and a generally smaller interest in the translation of the so-called "private legal texts" (Cao, 2007). As to legal interpreting, court interpreting has probably been the most researched area in Interpreting Studies after Conference Interpreting and, due to its formal setting and the far-reaching consequences associated with it, has always received special consideration in comparison with other branches of expertise of the interpreters working for the public services.

At a European level, legislative initiatives such as the renowned 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 and the Directive 2012/13/EU of the European Parliament and of the Council of 22 May 2012 on the right to information in criminal proceedings have put legal translation and interpreting in the spotlight. Accordingly, many research projects have been conducted to address this interest, both from an academic standpoint but also with a clearly professional orientation. Without claiming exhaustiveness and only by way of example, see the following ones: SOS-VICS[1], on interpreting in gender violence settings; Qualitas[2], on the testing and certification of legal interpreters; AVIDICUS, on video-mediated interpreting[3]; CO-MINOR-IN/QUEST[4], on interpreter-mediated questioning of minors; and Qualetra[5], on the quality of translation in criminal proceedings; and PSIT[6], on the quality of court interpreting in Spanish criminal courts.

However, as highlighted by Bancroft *et. al.* (2013), legal interpreting has been underresearched in what they call the "gray zone", to wit, legal settings outside the courtroom like immigration services, custody mediation, refugee resettlement services and legal aid offices, to name nut a few. Parallelly, many studies are still needed "to stimulate good practices and further research on existing problems and emerging needs" within legal translation (Prieto, 2014: 272). Subsequently, *FITISPos International Journal*'s Volume 4, which focuses on translation and interpreting in legal settings within the public sector, was conceived with the aim of shedding light on any of the following *gray zones* (that is, on underresearched areas within legal translation and interpreting):

- Legal translation in the public services (most frequent text typologies, specific problems, resources, strategies, etc.).

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[1] http://sosvicsweb.webs.uvigo.es.

[2] http://www.qualitas-project.eu.

[3] http://wp.videoconference-interpreting.net.

[4] https://www.arts.kuleuven.be/english/rg_interpreting_studies/research-projects/co_minor_in_quest.

[5] http://www.eulita.eu/qualetra.

[6] http://pagines.uab.cat/tipp/en.

- Legal interpreting in the public services (including not only court interpreting but interpreting undertaken in many other contexts, such as immigration services, family mediation, domestic violence services, asylum offices, etc.)
- Professionalization and status of legal translators and interpreters.
- Training, assessment and accreditation of legal translators and interpreters.

In an attempt, thus, to shed light on the gray area of assessment in legal translation, we start this volume with this article, which describes a small-scale study in which the translation of a legal text was assessed following a holistic method. After reviewing the most relevant literature on holistic assessment, we present our project and its most outstanding results, eventually pointing at some final remarks as food for thought and starting ground for further research.

2. Holistic assessment

The holistic method, also known as global, intuitive or impressionistic method, is commonly used in both education and in the professional world (Eyckmans *et al.*, 2012). This approach involves reading through a translation, noting any mistakes due to difficulty decoding the source text or encoding the target text, commenting on the quality of the writing in the target language, ranking the translations from most to least successful, and finally allocating a grade to each translation. Very often, the purpose is not only grading but also providing feedback to enable students to see how they can improve. In short, the translation is not analysed in detail and the evaluator's value judgment is based on an overall impression and a rating (e.g., from 1 to 10) or a evaluative letter (A = excellent, B = good...).

Given the subjectivity it entails, holistic assessment is open to criticism because it does not provide a clear, objective justification for the grade arrived at, as noted by Conde (2008) or Eyckmans *et al.*(2012), among others, especially when compared to other assessment methods, like error-analysis, which provide an apparently clear justification of the result (Waddington, 2001). However, as pointed out by Williams (2009: 4-7), holistic assessment is shares the same problems as any other translation quality assessment model, including but not limited to the evaluator's profile, the level of target language rigour, the seriousness of errors (of transfer), sampling versus full-text analysis, the quantification of quality, the levels of seriousness of errors and the purpose or function of the assessment.

Having said this, research shows that academics frequently take a holistic approach to translation assessment, probably because of the reductionist, time-consuming nature of other assessment methods (Beeby, 2000). In fact, Garant (2009: 5) suggests that a paradigm shift in Translation Studies has occurred in the last decades as exemplified by the generally accepted grading methods. According to his research, points-based error-focused grading, which was the norm in the 1990s, has been replaced by holistic methods. He also observes that current translation instructors tend to be reluctant to apply points-based grading systems, while holistic grading tends to be seen to be more related to training future translators or real world tasks, as it approaches the assessment of translations at the discourse level and not at the sentence or word level (Garant, 2009: 12).

Holistic analysis can also be systematic and based on a variety of aspects such as:

1. The communicative function or functions the target text must serve.
2. The recipients of the target text.

3. Temporary and local conditions provided for receiving the text goal.
4. The reason why the text occurs.

In fact, there have been some attempts of systematization as explained as follows. McAleester (2000: 230-231) uses four criteria for translation evaluation: reliability, validity, subjectivity and practicality. This study indicates that besides these four criteria, comprehensiveness and systematicity are essentially needed to evaluate translations so that it could cover all of the factors involved in translation systematically. He also points out that in order to realize these criteria different strategies should be applied in different stages of the translation education process, which implies that the linguistic and translation competence of the students, on the one hand, and the predetermined purpose of the translation education, on the other hand, need to be considered in order to justify (and adjust) the frame of the translation evaluation method with regards to these factors.

Mobaraki and Aminzadeh (2012: 66) also support a holistic approach to translation assessment, upon the assumption that evaluation is somehow a qualitative act. This is due to the fact that translation is a multifaceted process that involves other problems than language-bound ones (which per se are relatively concrete and probable), including terms in context, readership, topics, etc., which are more extended and not at the disposal of the translators (and the evaluators as well). As a result, translation examination is an utterly challenging task. Thus, evaluators have to use their intuition (however subjective this concept may be) and generalize about the quality of those *abstruse* aspects.

Therefore, these authors propose a model based on what they call "modern strategies" as opposed to "traditional strategies". Whereas the traditional strategy, i.e. comparing TT with ST, focuses on structural, lexical, and orthographic aspects, modern strategies do not only take account of linguistic aspects, but are more concerned with paralinguistic ones, including elements related to pragmatics, discourse, socio cultural context, power relations, and so on. In other words, *traditional* evaluation is preliminary of structural linguistics and of textual equivalence, while modern methods include a variety of items ranging from text typology and functionalism to translational action. They also call the attention to situational circumstances in the "eclectic method" of translation evaluation, as they call it, and insist on the fact that:

> Evaluators should bear in mind that each tool and model is suitable for a special situation. On the other hand, not all tools and models can be used with each other. For example, by relying on his personal intuition, an evaluator cannot determine how much and to what extent the function of ST is transferred to TT. But he could do it via corpus-based approach and text typology model. Therefore, the co-working of tools and models, and their suitability for predetermined purpose of translation evaluation is to be respected; otherwise the evaluation lacks enough validity (Mobaraki and Aminzadeh, 2012: 66).

Secară (2005: 42) also mentions the holistic approach to translation assessment followed at Leeds University Centre for Translation Studies and points at their instrument, the so-called "Translation Assignment Feedback Sheet". This sheet accompanies all assessed translations and is meant to support, with objective criteria, the decisions taken by the evaluator. Five parameters are listed –namely, comprehension and accuracy of rendering ST meaning; command of subject matter and specialized terminology; production of appropriate piece of discourse in the TL; accuracy of the TL grammar, spelling and punctuation; appropriate and accurate presentation of text; and a category of general assessment.

This author, as may others, criticizes the holistic method:

Usually, those academic institutions that offer translation programs produce a set of criteria, usually holistic, against which the validity of a translation task will be evaluated. More often than not, such lists give rise to subjective interpretation, mostly due to the fact that they represent only correcting scale and not a grading scale (Secară, 2005: 46).

Another holistic approach is that by Waddington (2001), who developed a holistic method of assessment at the Universidad Pontificia de Comillas in Madrid, focusing on translation content, which "allows the corrector freedom to award the higher mark to the candidate who fully meets the requirements of a particular level and the lower mark to the candidate who falls between two levels but is closer to the upper one" (2001: 321).

He proposes a model that includes both a correcting and a grading scale:

Level	Accuracy of transfer of ST content	Quality of expression in TL	Degree of task completion	Mark
Level 5	Complete transfer of ST information; only minor revision needed to reach professional standard.	Almost all the translation reads like a piece originally written in English. There may be minor lexical, grammatical or spelling errors.	Successful	9, 10
Level 4	Almost complete transfer; there may be one or two insignificant inaccuracies; requires certain amount of revision to reach professional standard.	Large sections read like a piece originally written in English. There are a number of lexical, grammatical or spelling errors.	Almost completely successful	7, 8
Level 3	Transfer of the general idea(s) but with a number of lapses in accuracy; needs considerable revision to reach professional standard.	Certain parts read like a piece originally written in English, but others read like a translation. There are a considerable number of lexical, grammatical or spelling errors.	Adequate	5, 6
Level 2	Transfer undermined by serious inaccuracies; thorough revision required to reach professional standard.	Almost the entire text reads like a translation; there are continual lexical, grammatical or spelling errors.	Inadequate	3, 4
Level 1	Totally inadequate transfer of ST content; the translation is not worth revising.	The candidate reveals a total lack of ability to express himself adequately in English.	Totally inadequate	1, 2

Figure 1. Waddington's holistic assessment model

As can be seen, he included three mains aspects: the accuracy of transfer of source text content to the target text, the quality of expression in the target language and the degree of task completion, in an attempt "to help correctors to judge the translations more consistently by giving them more complete and differentiated descriptors" (Waddington, 2001: 22). In his experiment, Waddington compared the results obtained by evaluators assessing the same translations following four different methods: error-analysis method A, error-analysis method B, holistic method C and one method (D), which combines both method B and method C in a proportion of 70/30. The results of this experiment point at two very interesting conclusions: a) when properly instructed and coordinated, there is a high level of inter-rater consistency; b) even if results indicate a superiority of error-analysis methods over the holistic system, the benefits of combining both analytical and holistic approaches.

Finally, a holistic assessment method can also be developed according to the basic principles of functionalism (Nord: 1996 and 2005), which include:

1. The translation purpose determines the choice of translation method and strategy (principle of functionality).

2. The acceptability of translation purposes is limited by the translator's responsibility with regard to their partners in the cooperative activity of translation (principle of loyalty).

3. The translation purpose is defined by the translation brief, which (implicitly or explicitly) describes the situation for which the target text is needed.

4. The most important factor of this target situation defined by the translation brief is the function (or hierarchy of functions) expected to be achieved by the target text.

5. Function or functionality is not a quality of a text in itself, but one that is attributed to the text by the receiver in the moment of reception. Thus, it is the receiver who decides whether (and how) a text *functions* (for them, in that specific situation).

6. A text producer (and therefore the translator as a text producer) aims at producing a text in such a way that the receivers recognize the function for which it is intended, accepting it as functional precisely for this function. In order to achieve this aim, the translator uses linguistic and extralinguistic function markers, which can be interpreted correctly by the receiver if they are familiar with them.

7. The function (or hierarchy of functions) intended for, and/or achieved by, the target text may be different from that or those intended for, and/or achieved by, the source text, as long as it is not contradictory to, or incompatible with, the source-text author's communicative intention(s).

From these principles, assessment can be based on the analysis and solutions given to three aspects – or levels – listed from most important to least important:

1. *Pragmatic translation problems.* In any process of translation two communicative situations are faced: one in which the source text is used as a sign basis for communication between a sender and the receiver of the source culture, and another in which the target text will be used for communication between the author of the source text and the recipient of the target culture. According to situational factors, the translator has to solve these problems and made presupposed information (e.g. differences between legal systems) explicit.

2. *Cultural translation problems.* In each process of translation or interpretation there are two systems involved with their respective cultural conventions of behaviour. These will not be different in all cases, but where they are different, there may be communication problems. Then, the translator has to decide whether or not to adapt or explain the SC conventions in the TC.(e.g. miles and inches while the target culture uses the metric system, the translator opts for one or another system of measures under the provisions of the translation).

3. *Language translation problems.* In each process of translation, the two linguistic systems in contact may have differences in their lexical, syntactic or prosodic structures. The translator will have to decide, before translating, what type and form of translation is required by the commission.

3. Case-study

In order for the holistic method to be assessed in the realm of legal translation in criminal proceedings and, particularly, for interrater reliability to be calculated, the team of the University of Alcalá (one of the partners of the Qualetra[7] consortium), with the support of other partners and the supervision of their worskream's coordinators, conducted the study explained below.

Firstly, one of the documents pertaining to the corpus of essential documents identified and compiled by other Qualetra researchers (namely, a judgment issued by the Court of Appeals of England and Wales following an appeal after a conviction for fraud) was chosen (Annex 1). As the length of this document (more than 800 words) was deemed too long for a habitual (2-hour) translation exam, the text was edited, the resulting document (Annex 2) having just over 500 words. Then this text was translated into Spanish by one of the students enrolled in the Master's Degree in Intercultural Communication, Public Service Translation and Interpreting at the University of Alcalá, a member of the European Commission's European Master's in Translation network, as if this was an exam leading to the candidate's accreditation as a legal translator for criminal proceedings. As to the exam conditions, the student had to complete her translation in two hours and had no restriction whatsoever in terms of resources, with not only traditional materials (in the fashion of dictionaries or encyclopedias) but also new technologies (computer and Internet-access) being available to her. It must be noted, of course, that the only limitation was that she had to perform the task individually with no external use (hence, messaging, emailing and social networking software was not allowed).

Next, the translated text (Annex 3), which consisted of slightly below 700 words, was sent along with the source text to ten evaluators, all of them academics teaching legal translation at undergraduate or postgraduate level. These evaluators were asked to grade the translated text from 0 (lowest) to 10 (highest), which is the usual grading system used in Spain, with 5 being the pass mark) on the basis of their general impressions and without having to systematically explain the reasons for the grade they had arrived at (in due course, many were puzzled that they did not have to refer to criteria and some of them even found it difficult to assess a translation without justifying why they had given a certain grade). They were also told to consider that this text was the result of an exercise carried out by a candidate in an accreditation system for legal translators.

In addition, in an attempt to deepen our understanding of the process undertaken by the evaluators, a short questionnaire was designed and distributed. This questionnaire (Annex 4) contained a first set of questions to map the evaluators' socio-professional profile (i.e., gender, age, teaching experience and area of specialization within Translation). Next, in order to probe into the (probably) underlying criteria used by the evaluators to judge the relevance of errors present in the translated text, respondents had to answer a closed question in which they had to rank the three different types of errors as identified by Nord (1996 and 2006) according to a functionalist approach to translation. Thus, evaluators were asked to rank the relevance of pragmatic errors (those which breach the principle of functionality), cultural errors (those related to the target culture conventions – in this case, including errors concerning terminology, phraseology and legal genre conventions) and linguistic errors (grammar, spelling, punctuation, etc.).

Finally, in order to collect qualitative data on the impression caused by the translated text in the evaluators, open-ended questions were included so that evaluators could freely point out the strengths and weaknesses they had identified, but also express any general feeling or perception during the assessment process.

3.1. Results

Whereas 10 evaluators did grade the translation, the questionnaire was completed by 8.

Evaluator 1	2,5
Evaluator 2	4
Evaluator 3	4
Evaluator 4	4,5
Evaluator 5	4,5
Evaluator 6	6
Evaluator 7	7
Evaluator 8	3
Evaluator 9	7
Evaluator 10	7
Mean	4,95

*Table 1. Grades given by evaluators (if leading to accreditation)*

As can be seen in Table 1, results show again a high degree of disparity among the grades given by the evaluators, ranging from 7 (highest) to 2.5 (lowest), with a mean of 4.95. Accordingly, whereas 6 evaluators thought the translation did not deserve a pass, 4 evaluators believed that the candidate's output was good enough to get accredited as a legal translator.

Two evaluators, however, stated that they would have given the translation a higher grade if this had not been an accreditation exam but a regular exam in a university course on legal translation. As displayed in Table 2, this would mean that 6 evaluators would have given a pass, with 4 evaluators giving the translation a fail and a new mean of 5.25.

|	
Evaluator 1	2,5
Evaluator 2	5
Evaluator 3	6
Evaluator 4	4,5
Evaluator 5	4,5
Evaluator 6	6
Evaluator 7	7
Evaluator 8	3
Evaluator 9	7
Evaluator 10	7
Mean	5,25

Table 2. Grades given by evaluators if class exam

As can be seen in Graph 1, all respondents have experience of more than 10 years in teaching translation (3 claimed to have been teaching translation for more than 20 years), which tags them as habitual assessors of translations.
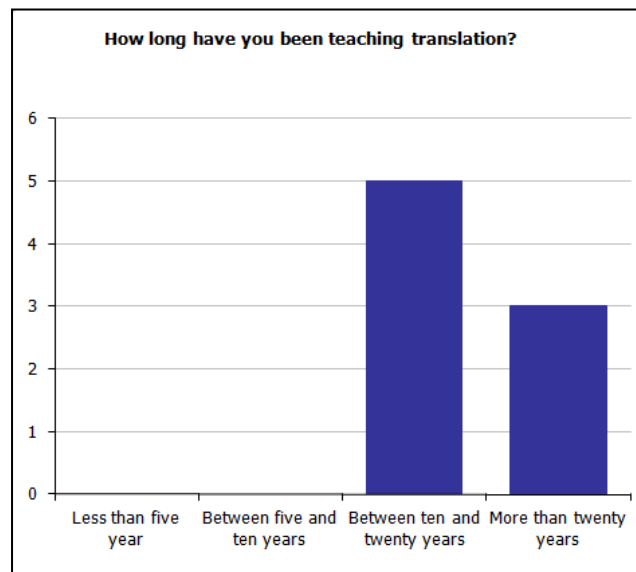
Graph 1. Evaluators' teaching experience

Besides, as shown in Graph 2, 7 out of the 8 respondents did choose legal translation as their areas of expertise, which confirms them as experts in the field. Of these 7, 5 also marked economic translation and one of them opted for the answer 'Others', specifying court interpreting as another specialism of theirs. Only 1 of the evaluators claimed to be specialist in audiovisual translation (and no other field), and none chose technical translation as their area of expertise.
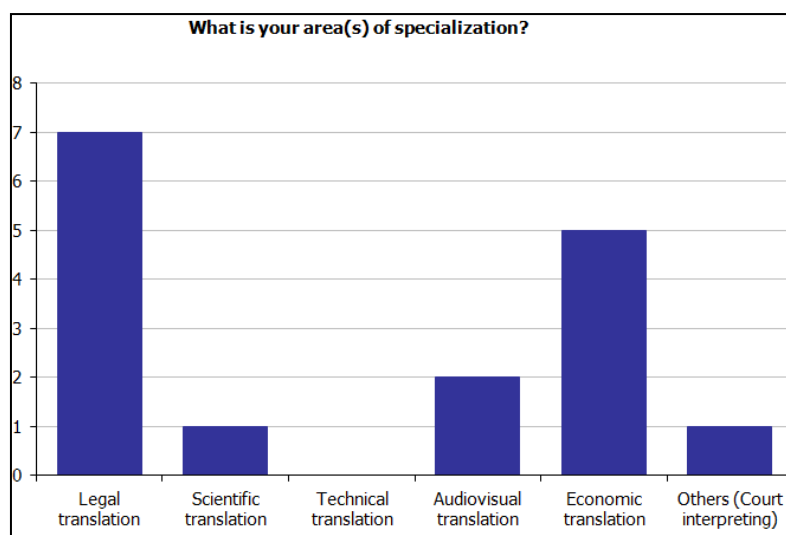
Graph 2. Evaluators' area of specialization

As far as relevance of errors is concerned, most respondents (5) considered that pragmatic errors had high relevance, with only 1 stating that cultural errors were highly relevant. This may show that fulfilling the purpose of the target text is perceived to be the most important objective in legal translation, and accordingly breaching any pragmatic instruction is severely penalized. Besides, also 5 respondents ranked linguistic errors with low relevance for assessment (1 respondent stated that orthographic and typographical errors, if not very serious, were the only ones not be considered as highly relevant for assessment and expressed that all errors have high relevance, especially if they impact on sense and accuracy; another respondent, even if asked to rank errors separately, ranked them all as highly relevant).

As expected, the open questions have yielded valuable quantitative data in connection to strong and weak points identified by the evaluators in the translated text. Some of the comments in respect to the strengths found by evaluators whose grade was above pass level include the following:

"There's a big part of the translation that is ok, with the translator following the translation brief, conveying the message of the source text and using appropriate specialized vocabulary".

"The message is appropriately conveyed. It fulfills its communicative function".

"It is linguistically and lexically correct"[8].

In turn, when asked about the strengths found in the text, those who arrived at a grade which would mean the candidate's failure stated:

"If it's not compared to the source text, it seems a good translation. It reads well".

"Few [strong aspects] if this is supposed to be a professional translation"[9].

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[8] Our translation of "Hay una gran parte de la traducción que está bien, donde se respeta el encargo de traducción, se transmite el mensaje del TO y se utiliza el vocabulario especializado adecuado", "El mensaje se trasmite bien. Cumple con la función comunicativa" and "La corrección lingüística y léxica".

[9] Our translation of "Si no se compara con el TO, parece una buena traducción, buena expresión" and "Pocas si se supone que es una traducción profesional".

In connection to the weaknesses, the assessment carried out by the evaluators of this research project included the following statements:

"There were inconsistencies regarding the translation of cultural references".

"Calques, terminological problems".

"Errors regarding sense, coherence, punctuation..."[10]

Finally, when asked about their general perception or feeling during the assessment process, as already stated, two evaluators mentioned that they would give it a pass mark if it was a final-year undergraduate student ("If the candidate was a final year student, I would give it a 5, but a professional legal translator cannot afford the errors found in this translation, because legal consequences may be serious"[11]). Besides, the answer of the one of the evaluators who gave the translation a better grade (7) was really surprising: "When reading the text, it is obvious that it is a translation. There is a need for revision to ensure coherence and quality".

4. Conclusions

Despite the limited scope of our small-scale study, we have observed that holistic assessment does not seem to be the most reliable method to assess the quality of the translation of a legal text, as the low degree of inter-rater reliability shows, once more, that the grade given to a translation depends greatly on the evaluator's impression. Especially when not being instructed on parameters or standards upon which assessment criteria can be built, evaluators must base their decisions on totally personal (subjective) judgments. As we have explained above, decision-taking varies greatly from evaluator to evaluator, regardless of the apparently common profile of the pool of evaluators who took part in our study (long-experienced university trainers specialized in legal translation from English into Spanish), to such an extent that the overall grade given by the evaluators to the same translation may range from 2 to 7 (0 being the lowest grade, 10 the highest grade and 5 the pass grade).

The translated text was also assessed under an analytical, error-based method in a parallel research project carried out by another researcher who also took part in the Qualetra project[12]. Surprisingly, despite the fact that this assessment method is apparently self-explanatory, provides a detailed account of error categories and penalties, and, subsequently, should yield more objective results, there was, too, a lot of variation in the overall result given by the 5 evaluators who assessed the translation following this method, with 3 failing the translated text and 2 deciding that it was good enough to pass.

Therefore, taking into account the benefits of holistic assessment in terms of time and cost, the *big picture* it provides regarding the output delivered by a translator and the short-comings of (apparently) more sophisticated and objective translation assessment methods, we believe that, if clearly systematized and in conjunction with other methods, the benefits of

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10 Our translation of "Había inconsistencias en la forma de abordar la traducción de referentes culturales", "Calcos, problemas terminológicos" and "Errores de sentido, coherencia, puntuación...".

[11] Our translation of "Si se tratara de un alumno de último curso de carrera le pondría un 5, pero un profesional de la trad. jurídica no puede permitirse los errores que aparecen en esta traducción, porque los efectos jurídicos que se derivan son importantes" and "Al leer el texto es obvio que es un traducción. Falta revisión para garantizar coherencia y calidad."

[12] See more at http://www.eulita.eu/qualetra.

holistic assessment, not only in terms of efficiency and economy, but also because it allows for a general overview of the translated text, should not be overlooked, and hence could serve as a supplementary mechanism especially useful for assessment in legal translator training.

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Annex 1

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Regina v A
No: 2012/6688/A6
Court of Appeal Criminal Division
22 May 2013
[2013] EWCA Crim 976
2013 WL 2628765

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Before: Lord Justice Elias Mr Justice Openshaw The Recorder of Liverpool His Honour Judge Goldstone QC (Sitting as a Judge of the CACD)
Wednesday, 22 May 2013
Representation
Mr D Armstrong appeared on behalf of the Applicant.

Judgment
Mr Justice Openshaw:
1 On 30th October 2012 at the Central Criminal Court, following his conviction after a trial, the applicant was sentenced by His Honour Judge Wide QC as follows. On count 1, conspiracy to launder the proceeds of crime, to eight years imprisonment. On count 5 of the trial indictment, for fraud, to one year's imprisonment. On count 6 of the trial indictment, for money laundering contrary to section 327(1) of the Proceeds of Crime Act 2002 , to four years' imprisonment. These sentences were ordered to run concurrently, making eight years in all. He now renews his application for leave to appeal against sentence following refusal by the single judge. Various co-accused were convicted of other offences and received lesser sentences.

2 The applicant is aged 44. He lived sometimes in this country and sometimes in Spain. He paid no tax over the relevant period in either country. In all more than £500,000 passed through his two accounts at the Halifax which were the proceeds of crime. One account was used to buy three different properties which were nominally transferred on to others including co-defendants. Mortgage repayments for these properties were again funded by crime. Another account was from time to time credited with large bundles of cash for which there was no legitimate explanation. This conduct was charged as conspiracy to launder the proceeds of crime in count 1.

3 Count 5 was based upon one particular payment of £58,000 into one of the accounts in relation to one of the properties. Count 6 related to the purchase by the applicant of one property in his own name for nearly £300,000. He fraudulently obtained a mortgage of £150,000 giving false details of his employment and income. The balance of the money was paid by a deposit funded by payments from Spain which again could not properly be sourced and again were the proceeds of crime.

4 The judge in the course of his sentencing remarks noted that he had a couple of convictions in the United Kingdom a long time ago, but surely correctly he regarded it as significant that he had a conviction in Spain for attempted murder for which, surprisingly, at least by our levels of sentencing, he received a suspended sentence. The judge also regarded it as an aggravating factor that he had drawn other innocent persons into his crimes. It should be remembered that the judge heard the trial and was therefore well placed to assess the applicant's criminality. But he was unable to find as a fact that the applicant was involved in drug trafficking. He did find that his extravagant lifestyle was fuelled by the commission of serious criminal offences with an international dimension. Indeed he described him as a professional criminal. Accordingly, he passed a sentence of eight years as we have said.

5 It is now argued on his behalf that even given the fact that he was laundering well over £500,000, the fact that his criminality could not be ascertained rendered the sentence of eight years manifestly excessive. Of course, professional criminals play for high stakes and when they are convicted and are shown to have lived extravagantly off the proceeds of crime, particularly when they involve others, there is a heavy price to pay. The particular problem facing the sentencing judge here was that there was no clear evidence to identify the crimes of which these funds were the proceeds. The absence of such evidence in the applicant's lifestyle might give rise to the suspicion that the money here laundered was the product of the worst type of serious crime, but in our judgment this verges upon speculation and we do not think he should have been sentenced on that basis. It is well established that sentences for money laundering ought not to be disproportionate to the crimes which generated the proceeds in the first place, but where those crimes cannot be identified even by type the sentencer faces a particular problem. Whilst we appreciate the need for heavy sentences in such cases, we think that a sentence of eight years was excessive and accordingly we shall grant leave and we reduce the sentence on count 1 to a sentence of six years' imprisonment. The other sentences of course will remain unchanged. To that extent the appeal succeeds.

6 MR ARMSTRONG: May I apply for a representation order?

7 MR JUSTICE OPENSHAW: Yes, you may have one.

Annex 2

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Regina v A
No: 2012/6688/A6
Court of Appeal Criminal Division
22 May 2013
[2013] EWCA Crim 976
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2 The applicant is aged 44. He lived sometimes in this country and sometimes in Spain. He paid no tax over the relevant period in either country. In all more than £500,000 passed through his two accounts at the Halifax which were the proceeds of crime. One account was used to buy three different properties which were nominally transferred on to others including co-defendants. Mortgage repayments for these properties were again funded by crime. Another account was from time to time credited with large bundles of cash for which there was no legitimate explanation. This conduct was charged as conspiracy to launder the proceeds of crime in count 1.

3 Count 5 was based upon one particular payment of £58,000 into one of the accounts in relation to one of the properties. Count 6 related to the purchase by the applicant of one property in his own name for nearly £300,000. He fraudulently obtained a mortgage of £150,000 giving false details of his employment and income. The balance of the money was paid by a deposit funded by payments from Spain which again could not properly be sourced and again were the proceeds of crime.

4 The judge in the course of his sentencing remarks noted that he had a couple of convictions in the United Kingdom a long time ago, but surely correctly he regarded it as significant that he had a conviction in Spain for attempted murder for which, surprisingly, at least by our levels of sentencing, he received a suspended sentence. The judge also regarded it as an aggravating factor that he had drawn other innocent persons into his crimes. It should be remembered that the judge heard the trial and was therefore well placed to assess the applicant's criminality. But he was unable to find as a fact that the applicant was involved in drug trafficking. He did find that his extravagant lifestyle was fuelled by the commission of serious criminal offences with an international dimension. Indeed he described him as a professional criminal. Accordingly, he passed a sentence of eight years as we have said.

Annex 3

SENTENCIA ENTRE REGINA v A
NÚMERO: 2012/6688/A6
*Court of Appeal Criminal Division (*Tribunal de Apelación, Sala de lo Penal)
22 de mayo de 2013
[2013] EWCA Crim 976
REFERENCIA OFICIAL: 2013 WL 2628765

Ante:

Los magistrados Elias, Openshaw y su señoría Goldstone (actuando en calidad de juez del Tribunal de Apelación, en la Sala de lo Penal).
Miércoles, 22 de mayo de 2013

Representación:
El señor D Armstrong se personó en representación del Solicitante.

Fallo:

El magistrado Openshaw:
1. El 30 de octubre de 2012, en *Central Criminal Court* , (el tribunal central británico responsable de delitos penales)*,* después de ser declarado culpable tras un juicio, su señoría el juez Wide condenó al solicitante de acuerdo con lo siguiente. Por el primer cargo, conspiración para el blanqueo de capitales, productos de un delito, se le condenó a ocho años de prisión. Por el cargo quinto del escrito de acusación, fraude, a un año de prisión. Por el cargo sexto del escrito de acusación, blanqueo de capitales en contra de lo establecido en el artículo 327, apartado 1, de la ley británica de Prevención del Blanqueo de Capitales, aprobada en 2002, (*section 327(1) of the Proceeds of Crime Act* 2002), a cuatro años de prisión. El juez ordenó que dichas penas fueran concurrentes, sumando un total de ocho años de prisión. El solicitante reanuda ahora su petición para solicitar una apelación contra dicha condena tras haber sido denegado por el juez. Varios de los otros acusados fueron condenados por otros delitos a penas más cortas.
2. El solicitante tiene 44 años de edad y alternaba su residencia entre este país (Gran Bretaña) y España. No pagó los impuestos correspondientes en ninguno de los dos países durante el período en cuestión. En total, ingresó más de 500 000 libras (cerca de 609 000 euros) en las dos cuentas bancarias que tenía en Halifax, dinero procedente de sus delitos. El dinero de una de las cuentas se empleó para la compra de tres propiedades diferentes, las cuales se transfirieron a nombre de otros, incluidos otros acusados. Los préstamos hipotecarios de dichas propiedades fueron, de nuevo, financiados con capital procedente de sus delitos. En otra cuenta bancaria se ingresaba, cada cierto tiempo**,** grandes dinerales sin una explicación válida. En el primer cargo, se tomó esta conducta como una conspiración para el blanqueo de capitales.
3. El quinto cargo se fundamentaba en un pago en concreto de 58 000 libras (cerca de 70 500 euros), realizado en una de sus cuentas bancarias en relación con una de sus propiedades. El sexto cargo guardaba relación con la compra realizada por el solicitante de una propiedad a su nombre, por una cantidad en torno a las 300 000 libras (cerca de 365 000 euros). El solicitante obtuvo, de forma fraudulenta, una hipoteca de 150 000 libras (cerca de 182 000 euros), al proporcionar datos falsos sobre su empleo e ingresos. Se saldó dicho deuda con un depósito financiado con pagos desde España, para los que no se pudo determinar un origen adecuado y, de nuevo, procedían de delitos.

4. El juez, en sus observaciones al dictar la condena, señaló que el solicitante había sido condenado en un par de ocasiones en el Reino Unido, hacía mucho tiempo; pero, seguramente de forma correcta, consideró como significativo el hecho de que tuviera una condena en España por intento de asesinato por el que, sorprendentemente, al menos para nuestros estándares de condenas, recibió una suspensión de la ejecución de la pena. El juez también consideró como un factor agravante que el solicitante hubiera involucrado a otras personas inocentes en sus delitos. Se debe tener en cuenta que el juez escuchó el juicio oral y, por lo tanto, estaba en condiciones de valorar las actuaciones criminales del solicitante. Sin embargo, el juez no pudo determinar que el solicitante estuviera implicado en tráfico de drogas. Sí pudo determinar que su estilo de vida extravagante estaba impulsado por la comisión de graves delitos penales con dimensión internacional. De hecho, el solicitante se describía a sí mismo como un delincuente profesional. De acuerdo con lo anteriormente expuesto, juez dictó sentencia de ocho años de prisión, como ha afirmado este tribunal.

Annex 4

ENCUESTA SOBRE EVALUACIÓN DE TRADUCCIONES JURÍDICAS

Abandonar-> | Continuaré más tarde

*1. Por favor, indique su año de nacimiento:

Elija una ▼

*2. Por favor, indique su formación.

- ☐ Licenciatura en Traducción e Interpretación
- ☐ Máster en Traducción e Interpretación
- ☐ Doctorado en Traducción e Interpretación
- ☐ Licenciatura en Filología Inglesa
- ☐ Máster en Filología Inglesa
- ☐ Doctorado en Filología Inglesa
- ☐ Licenciatura en Derecho
- ☐ Máster en Derecho
- ☐ Doctorado en Derecho
- ☐ Otro (Por favor especifique)

*3. Por favor, indique la duración de su experiencia como docente:

Elija una ▼

*4. Por favor, indique su(s) área(s) de especialización:

- ☐ Traducción jurídica
- ☐ Traducción científica
- ☐ Traducción técnica
- ☐ Traducción audiovisual
- ☐ Traducción económica
- ☐ Otro (Por favor especifique)

ENCUESTA SOBRE EVALUACIÓN DE TRADUCCIONES JURÍDICAS

Abandonar-> | Continuaré más tarde

Por favor, ordene de mayor a menor la relevancia de los siguientes errores a la hora de evaluar la traducción de un texto jurídico. Para ello, tenga en cuenta las siguientes categorías:
1) Errores pragmáticos: aquellos que perjudican la funcionalidad del texto meta al desobedecer las instrucciones pragmáticas contenidas en el encargo de traducción.
2) Errores culturales: aquellos relacionados con las convenciones específicas de la cultura meta (en el caso de la traducción jurídica, se incluyen en este apartado los errores relacionados con la terminología, fraseología y convenciones textuales jurídicas).
3) Errores lingüísticos: aquellos relacionados con la gramática, el léxico y la ortotipografía.

*6. ¿A qué categoría atribuiría una relevancia elevada?

*7. ¿A qué categoría atribuiría una relevancia intermedia?

*8. ¿A qué categoría atribuiría una relevancia baja?

*9. Por favor, indique las principales fortalezas que ha encontrado en la traducción (ejemplo: corrección lingüística).

*10. Por favor, indique las principales debilidades que ha encontrado en la traducción (ejemplo: errores ortográficos).

*11. Por favor, indique cualquier impresión o percepción que haya tenido durante el proceso de evaluación: