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# The Dubious Quality of Legal Dictionaries

GERARD-RENÉ DE GROOT AND CONRAD J.P. VAN LAER\*

## 1. Introductory remarks

As a consequence of the still increasing transnational commercial and scholarly cooperation and exchange, more and more often legal information has to be translated. Sometimes the content of legal documents (contracts, statutory provisions, books and articles on legal topics and so on) has to be translated into another language. But even more frequently, information on rules from one legal system has to be provided in the legal language of another legal system. In both cases the translator or the lawyer involved is confronted with difficulties of legal translation. In both cases bilingual legal dictionaries could play an important role in the translating process by providing translation suggestions and information on the linguistic context of terms in the target language, such as specific noun-verb combinations, or typical collocations.

It is, therefore, not really surprising that publishing houses are offering numerous bilingual legal dictionaries to translators and lawyers. To translate between the different languages of the Member States of the European Union (EU) about one hundred seventy bilingual legal dictionaries are available. Regrettably, the quality of most of these dictionaries is poor to extremely bad. Only a few dictionaries are of good quality.

It seems to us that many authors or compilers of bilingual legal dictionaries do not understand how legal translations should be made. They simply make a list of legal terms in the source language and give for each term one or more words from the target language as "translation" without any further information on the legal context. Because of the system-specificity of legal terminology, this kind of dictionaries is practically useless.

In this article, the quality of the different bilingual legal dictionaries between the languages of the Member States of the European Union will be assessed. In order to do so, some general remarks will be made first about

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problems with translating legal terminology. Based on those remarks, criteria for reliable bilingual dictionaries will be formulated in the next section. Finally, these criteria will be applied on the available bilingual dictionaries containing the legal language used by one or more EU Member States. In addition, statistics are presented in order to give an impression between which legal languages of the Member States of the EU bilingual legal dictionaries are available.

## 2. The problems of the translation of legal terminology

The specific problems of translating legal terminology are caused by the system-specificity inherent in legal language. This system-specificity means that within a single language there is not only one legal language, as, for instance, there is a single chemical, economic or medical language within a certain language. Any given language can have as many legal languages as there are systems using that language as a legal language.<sup>84</sup>

As a consequence, it is of primary importance to establish that one legal language must be translated into another *legal* language. One should not translate from a legal language into the ordinary words of the target language, but into the legal terminology of the target language. If the target language is used in several legal systems as the language of the law, a conscious choice must be made for the terminology of one of the possible target legal languages. One target language legal system must be chosen, that is, a single legal system which uses the target language as its legal language. The choice of a particular target language legal system should depend on the potential users of the translation.<sup>85</sup> Subsequently, the information contained in the terminology of the source language legal system must be represented by the terminology of the target language legal system.

Once one has opted, where necessary, for a particular target language legal system, he or she can get to work. The meaning in the source language legal system of the terms to be translated must be studied, after which a term with the same content must be sought in the target language legal system. Translators of legal terminology are obliged to practise comparative law.<sup>86</sup>

### ***EQUIVALENTS***

Through comparative law, the translator of legal terminology needs to find an *equivalent* in the target language legal system for the term of the source language legal system. Because of the system-specificity of legal terms,

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<sup>84</sup> De Groot 1999, 12-14; Sandrini 1994, 12; Wiesmann 2004, 19, 20.

<sup>85</sup> De Groot 1996, 11-13; de Groot 1999, 17-19; Sandrini 1994, 12, 13.

<sup>86</sup> Van Laer 1999, based on Van Laer 1997.

logically, full equivalence only occurs where the source language and the target language relate to the same legal system. In principle, this is only the case when translating within a bilingual or multilingual legal system, such as that of Belgium, Finland, Switzerland and -to some degree- Canada.<sup>87</sup>

Where the source and target language relate to different legal systems, equivalence is rare.<sup>88</sup> Apart from the diverse embedding of a term in a legal system as a whole, near full equivalence occurs if

a) there is a partial unification of legal areas, relevant to the translation, of the legal systems related to the source language and the target language;<sup>89</sup>

b) in the past, a concept of the one legal system has been adopted by the other and still functions in that system in the same way, not influenced by the remainder of that legal system.<sup>90</sup>

Numerous examples can be found among legal systems in which the one is a reception – whether imposed or not – of the other. In private law examples are Indonesia/the Netherlands; Turkey/Switzerland; Japan/Germany; Taiwan/Germany.<sup>91</sup>

Where the source language and the target language relate to different legal systems and the above exceptions are not at issue, virtual full equivalence, however, proves to be a problem. Nevertheless, certain terms relating to different legal systems will readily be seen by translators as equivalents. Kisch<sup>92</sup> demonstrates this with the terms marriage/ marriage/ Ehe/ matrimonio/ huwelijk. Kisch concludes for translatability if the terms correspond in essence ("*quant à la substance*"). But when do they? "*C'est une question d'ordre pragmatique*," (This is a question of pragmatic order) Kisch writes. What purpose needs to be taken into account when making such a pragmatic decision?

Of fundamental importance is the context and purpose of the translation: these are the factors that determine whether the differences between source term and target term are of such relevance that the possible target term may not be used as a translation of the source term.<sup>93</sup> It is possible that in a particular context certain words are acceptable equivalents where they are not in a different context. Relevant also is whether a translation needs to be prepared to give persons who do not master the source language a summary impression

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<sup>87</sup> Gémar 1988; de Groot 1996, 13, 14; de Groot 1999a, 20; Herbots 1987.

<sup>88</sup> Sandrini 1994, 109-112.

<sup>89</sup> De Groot 1996, 14; de Groot 1999a, 21.

<sup>90</sup> De Groot 1996, 14; de Groot 1999a, 21.

<sup>91</sup> See for Indonesia: Temorshuizen-Arts 2003, 30, 31; compare for Japan: Kitamura 1986.

<sup>92</sup> Kisch 1973.

<sup>93</sup> Compare de Groot 1996, 15, 16; de Groot 1999a, 22, 23; Kielar 1986; Sandrini 1994, 16; Sarcevic 1997, 236; Temorshuizen-Arts 2003, 38, 39.

of the contents of the text, or whether the translation will receive the status of authentic text in addition to the source text.<sup>94</sup> In the latter case, it is important that the terms in the target text are not narrower or broader than those in the source text. Looking from this angle, we may already establish that the conclusion that terms are acceptable equivalents is not absolute. Acceptable equivalence depends on the above factors. Furthermore, one has to realise, that different types of partial equivalents may exist. For instance, in one legal system there may be a distinction which does not exist in another.<sup>95</sup>

It is frequently stated that a source language term should be expressed by a "functional" equivalent of the target language. Weston<sup>96</sup> states, for instance: "The first method is that of functional equivalence: using a term or expression in the target language (TL) which embodies the nearest situationally equivalent concept."<sup>97</sup>

Serious doubts about this statement are justified.<sup>98</sup> For a target language term to be identified as an equivalent to a source language term, not only must there be functional equivalence, but also a similar systematic and structural embedding: some cases which under French law are resolved with the institute of "*erreur*" (error, mistake, involuntary misrepresentation), are resolved under German law through the theory of "*Wegfall der Geschäftsgrundlage*," which is based on "*Treu und Glauben*." In no context, however, should one translate "*erreur*" by "*Wegfall der Geschäftsgrundlage*." The systematic and structural embedding of the two concepts is too diverse.

### SUBSIDIARY SOLUTIONS

If no acceptable equivalents in the target language legal system can be uncovered, subsidiary solutions must be sought. Basically, three subsidiary solutions may be distinguished:<sup>99</sup>

1. **Preserving the source term:** there will be *no translation* and the source term or its transcribed version is used. If needed, the term may be explained by adding information in parentheses or in a footnote in the form of a literal translation or a remark such as "comparable to...." Generally spoken, one should not too often preserve source language terms in the translation. The primary purpose of a translation is to make the source text

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<sup>94</sup> Compare also the 'skopoi'-theory of Vlachopoulos 1998.

<sup>95</sup> De Groot 1996, 16, 17; de Groot 1999a, 22-24.

<sup>96</sup> Weston 1990, 21.

<sup>97</sup> Compare Pigeon, in: Gémar 1982, 271-281; Sarcevic 1988, 970-975; Sarcevic 1997, 236; Temorshuizen-Arts 2003, 32-34.

<sup>98</sup> De Groot 1999a, 24, 25.

<sup>99</sup> Compare Sarcevic 1997, 250-264; Wiesmann, 79-82.

(more) accessible to persons who do not master the language of the source text. This purpose is frequently neglected if certain terms are not translated.<sup>100</sup>

If many untranslated source language terms are introduced into the target language, there is also the danger of making the translation into a collection of foreign-language words glued together by prepositions, adverbs and verbs from the target language. Furthermore, if the reader has no or little affinity with the morphology of the source language, he or she is faced with a combination of letters which is incomprehensible, difficult to pronounce, or hard to retain. As a result, one can conclude that using an untranslated term from the source language in the target language must be avoided, particularly where there is little or no etymological correspondence between the two languages. After all, the purpose of every translation is the transfer of the information contained in the term and this does not happen if terms are left untranslated, unless the translator knows that the source language expression is somewhat transparent to the reader of the target text<sup>101</sup>. Furthermore, expectations about transparency should not be set too high.

There are additional disadvantages which plead against preserving the source language term in the target language, particularly when the source language has a different alphabet or employs characters based on pictograms. For the average reader of the target text employing the original term in unfamiliar characters is devoid of meaning. In such a case, transcription will be necessary, although even the transcription, if not accompanied by an explanation, will probably not provide information to the readers of the target text.

A short step beyond "simple" transcription is what Sarcevic qualifies as "naturalization:" the linguistic adaptation of a source language term to the rules of the target language.<sup>102</sup> In such cases, Pasternak refers to "*bedeutungsverlustlose phonetische Einverleibung fremdsprachiger Termini*" (phonetic annexation of foreign language terms without loss of their meaning) in the target language.<sup>103</sup> However, it is preferable to qualify such a linguistically adapted term as a neologism.<sup>104</sup>

Earlier, we mentioned the possibility of clarifying the original term by adding a "literal" translation in parentheses. By such a literal translation we meant a translation of elements, focusing on the ordinary usage of the source and target language, which form the building blocks of the source language

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<sup>100</sup> Weston 1990, 19.

<sup>101</sup> Temorshuizen-Arts 2003, 35.

<sup>102</sup> Sarcevic 1988, 971.

<sup>103</sup> Pasternak 1993, 293.

<sup>104</sup> De Groot 1996, 21; de Groot 1999a, 29.

legal term to be translated. Some authors list such a "literal" or "word-for-word" translation as a separate alternative in the event of the absence of an equivalent concept.<sup>105</sup> This is not very useful. Such a word-for-word translation may be sensible in making the untranslated source language term a little more accessible. Independent of the original term, such a literal translation only makes sense if it yields an equivalent, a paraphrase which is comprehensible to lawyers from the target language legal system, or forms a useful neologism.<sup>106</sup>

It is also possible to place in parentheses or in a footnote remarks to the effect of "comparable with..." after the source term preserved in the target language text. Such a remark approximates a paraphrase (see the subsequent paragraph) without setting out the similarities and differences.

2. **Paraphrasing:** a *paraphrase* is used to describe the source language term. If the paraphrase in the target language is a virtually perfect definition of the source language concept, such a paraphrase approximates an equivalent consisting of several words. Sarcevic qualifies this as a descriptive equivalent.<sup>107</sup> The legal entity thus described does not exist as such in the target language legal system, but the combination of its elements makes the term accessible to a lawyer trained in that system. Where the circumlocution is defective, this subsidiary solution resembles a neologism. The desirability and the usefulness of paraphrasing as a subsidiary solution are contingent on the length and complexity of the paraphrase, and the purpose of the translation.
3. **Neologism:** a term is used in the target language that does not form part of the terminology of the target language legal system, if necessary in combination with an explanatory footnote.

It must be emphasized, however, that the term "neologism" is used here in a very broad sense. In the context of legal translation, each term not belonging to the target language legal system has to be considered a neologism. Often the expression "neologism" is used in a more narrow sense, meaning each term that does not exist in the target language. The broader definition of "neologism," however, is a logical result of the premise discussed earlier that legal information must not be translated from source language into target language but from the terminology of the source language legal system into the terminology of the target language legal system selected by the translator. From this it follows that all terms that do not belong to the target language legal system opted for must be qualified as neologisms.

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<sup>105</sup> Sarcevic 1997, 259-261.

<sup>106</sup> Compare Temorshuizen-Arts 2003, 35.

<sup>107</sup> Sarcevic 1988, 973; compare Sarcevic 1997, 250-254; Sandrini 1994, 113.

An essential question is that of the norms according to which a neologism should be chosen.<sup>108</sup> This must not happen in an arbitrary way. No one will find it acceptable if, after not finding an acceptable French equivalent as a translation for a term in a German statute, this term is rendered in French by the neologism "*blubs*." Such a decision would be absurd. The neologism must be chosen in such a way that the content of the source term is shown to some extent, without using a term which is already used in the target language legal system.

From the latter, it can be concluded first that the translator must make sure that the target term does not exist in the target language legal system. All terms even remotely connected with that legal system must be counted out. For instance, the use of the French "*droit commun*" as a translation for the term "common law" must be rejected, because the former is already in use in a sense very different from that of "common law".

A neologism must be chosen in such a way that a lawyer from the target language legal system can get an idea of its meaning: the term must possess some transparency. Very useful for this purpose are terms which used to have an equivalent meaning. If, for instance, the German term "*Sicherungseigentum*" must be represented by the terminology of the legal system of the Netherlands, it is wise to use as a translation "*fiduciaire eigendom*" or "*eigendom tot zekerheid*" by way of a neologism. Since 1992 these concepts no longer form part of the legal system of the Netherlands. However, because of the recent legal history, such a translation does offer unambiguous information to a lawyer familiar with the legal system of the Netherlands.

Often, Roman law terms are attractive as neologisms, if one can assume that lawyers from the target language legal system (still) have some knowledge of Roman law. A fine example of the use of Roman law terms as neologisms, for want of acceptable equivalents in the target language legal system, is the English text of Article 22 (1) of the European Regulation on Jurisdiction and the Enforcement of Judgments in Civil and Commercial Matters:

"The following courts shall have exclusive jurisdiction, regardless of domicile: 1. in proceedings which have as their object rights *in rem*, or tenancies of, immovable property, the courts of the Contracting State in which the property is situated...."

The expression "right *in rem*" was chosen to render the continental-European terms: "*droit réel*," "*diritto reale*," "*derecho reale*," "*dingliches Recht*", "*zakelijk recht*" in English.

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<sup>108</sup> De Groot 1996, 22-26; de Groot 1999a, 30-35.



Often terms can be used which, although they do not function in the target language legal system as legal terms, do function in another legal system which uses the same language as its legal language. This proposition deserves further explanation.

Earlier we stated that the translation process is from the legal language of a specific legal system into the legal language of a particular other legal system. If the target language serves as a legal language in several legal systems, a choice must be made for one particular national legal terminology. Translators should not use the terminology of system A at one point and the terminology of system B at another. Once a fundamental choice has been made for the terminology of system A, but some acceptable equivalents are lacking, it is allowed to employ as neologisms acceptable equivalents from another legal system. In that case, it is necessary to mark such terms as neologisms, for instance by expressly referring to the legal system from which the neologisms in question were borrowed. But also when using this "escape", it is important to keep in mind that the main purpose of the translation is to convey the meaning of source terms. If the translator suspects that the substance of the legal system, from which he or she wishes to borrow a term to serve as a neologism, and consequently also its legal terminology, are not known to the users of the target text, a reassessment is in order or an explanatory footnote must be added to the neologism. The following example may illustrate this: suppose it is thought that the Spanish term "hipoteca" cannot be translated as the English term "mortgage" and consequently a term from the English terminology used in Quebec is chosen, namely "hypothec." Would this term not look very odd to an English reader of the target text if no explanation were provided? Conceivably, this is the case, so an explanation would be in order.

In respect of choosing neologisms, one should briefly note the "status" of neologisms already chosen by others for certain terms from the source language legal system in need of translation. If one can assume that some users of the target text already encountered at some point or another these neologisms chosen by others in publications to express the terms in question from the source language legal system, one should seriously consider adopting the choice of earlier translators. One should be aware that choosing one's own neologisms could lead to confusion. Naturally, the likelihood of confusion is dependent on the notoriety of the earlier publication, in which a particular neologism was introduced.

#### ***CONSEQUENCES FOR BILINGUAL LEGAL DICTIONARIES***

It is obvious that the previously described approach of legal translation should have consequences for tools of translating legal terminology, particularly for bilingual legal dictionaries. The following desiderata for

reliable legal dictionaries can be formulated based on the previous considerations.<sup>109</sup>

1. Bilingual legal dictionaries should be restricted to offering suggestions for translations based on legal areas, tying both source language terms and target language terms to a particular legal system. If this is not adhered to, the make-up of the dictionary becomes unclear and precludes easy and reliable consultation.
2. The relation of the entries and their proposed translations to their respective legal system must be made explicit by offering references to relevant legal sources, linguistic context, and sometimes encyclopaedic and bibliographic references, thus ensuring verifiability.
3. Compilers of bilingual dictionaries should not present their proposed translations as “standard” equivalents. Alternatives should be identified according to area of law, system and use.
4. The dictionary should indicate the degree of equivalence: whether the translation suggestion is a full equivalent, the closest approximate equivalent (acceptable equivalent) or a partial equivalent.
5. The absence of an equivalent term in the legal system(s) related to the target language should be mentioned expressly. In that case, subsidiary solutions should be offered.
6. Neologisms must be identified as such, so as to avoid these being used by those consulting the dictionary as terms belonging to the legal system related to the target language. Ideally, the suggestion for a particular neologism should be reasoned.
7. The proposed translations must be reconsidered in the event of changes in either the legal system related to the source language or that related to the target language. In other words: legal dictionaries must be frequently reassessed and updated.

The compilation of a bilingual legal dictionary that makes a serious effort to comply with these *desiderata* is a great accomplishment, which deserves the qualification of academic work. Regrettably, very few legal dictionaries published so far have attempted to meet these requirements. A list of examples of good legal dictionaries is given below in Paragraph 5. The majority of the other dictionaries fails to offer much more than glossaries containing unsubstantiated translations. They only contain non-motivated lists with translation suggestions and frequently do not distinguish between the different meanings within the source language and the target language respectively. These dictionaries have exclusively some use as a starting point

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<sup>109</sup> De Groot/Rayar 1995; de Groot 1996, 45-47; de Groot 1999b. Compare Duintjer Tebbens 1982; de Groot 1990; de Groot/van Laer 2000; Hesseling 1975; Reynolds 1986; Sarcevic 1988; Sarcevic 1989.

of one's own investigations in order to discover an equivalent term in the target legal system vocabulary, an appropriate description of the source term in the target system terminology or an informative neologism.

### **An assessment of bilingual legal dictionaries.**

#### ***THE CORPUS***

The theory about legal translation has particular consequences for legal dictionaries since reliable dictionaries are useful tools to promote the correctness of translations. Having established important criteria that bilingual dictionaries have to satisfy, we will examine how many existing dictionaries meet these criteria in order to draw conclusions about their quality. This investigation will be directed to a corpus consisting of dictionaries containing the legal language used by one or more EU Member States. In addition, the distribution of these dictionaries will be analysed in order to give statistics about the different legal languages that are covered in the corpus.

The details of the corpus may be found in the critical bibliography, *Bilingual and multilingual legal dictionaries in the European Union*.<sup>110</sup> This

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<sup>110</sup> Gerard-René de Groot and Conrad J.P. van Laer, *Bilingual and multilingual legal dictionaries in the European Union*, Maastricht, 15 May 2005; on <http://arno.unimaas.nl/show.cgi?did=6364>. This bibliography, updated until May 2005, was compiled with the help of the following surveys or reviews:

- Bergenholtz, H.; Tarp, S. (eds.), *Manual of specialised lexicography*, Amsterdam/Philadelphia 1995
- The Committee on Foreign and Comparative Law, *Legal Dictionaries in English and One or More Other Languages. A Selective Bibliography*, Record of the association of the bar of the city of New York 2002, 489-509
- G.-R. de Groot, *Het vertalen van juridische informatie*, preadvies, Deventer 1996
- G.-R. de Groot, L. Rayar, *Dictionnaire juridique Navarre*, European Review of Private Law 1995, 523-533
- H. Knudsen, *Fachwörterbücher für den deutschsprachigen Juristen. Eine bibliographie*, Mitteilungen der Arbeitsgemeinschaft für juristisches Bibliotheks- und Dokumentationswesen 1987, 52-64
- C.J.P. van Laer, *De vertaling van buitenlandse rechtstermen. De misère van vraag en aanbod?*, De Juridische Bibliothecaris 1987, 4-5
- Nielsen, S., *The bilingual LSP dictionary. Principles and practice for legal language*, Tübingen 1994
- Th. Reynolds, *Comparative legal dictionaries*, American journal of comparative law 1986, 551-558
- A. Stepnikowska, *Stand, Probleme und Perspektiven der zweisprachigen juristischen Fachlexikographie*, Frankfurt am Main etc. 1998

bibliography refers to 171 legal dictionaries containing one or more EU-languages, or to put it more precisely: the legal language used by one or more EU Member States. Since twelve dictionaries did not make any distinction between the source language legal system and the target language legal system, we dropped these (mostly) multilingual, dictionaries from further analysis. This implies that 159 legal dictionaries were included in the corpus. These dictionaries have been published between 1976 to 2004. They are classified and annotated in the bibliography reference above, which is almost complete. Therefore, the corpus is truly representative of all recently published legal dictionaries containing one or more EU-languages.

### **QUALITY IN NUMBERS**

In order to produce relevant numbers about the quality of dictionaries, we have developed a typology for the purpose of classifying them. This typology is based on the idea that the higher degree of information delivered for every dictionary term is decisive for the higher degree of quality of the dictionary. The typology provides for the following three categories<sup>111</sup>; with each successive category shows a higher degree of quality:

- 1) Word lists (WORD) – Those bilingual or multilingual lists of terms offering unsubstantiated translations; equivalence is assumed; no explanation as to different meanings is offered. Solely useful for words not found in other dictionaries;
- 2) Explanatory Dictionaries (EXPL) – Those also containing exemplary sentences illustrating the relevant linguistic context;
- 3) Comparative Dictionaries (COMP) – These also refer to legal systems and/or legal sources, such as legislation or the literature, and to legal areas or comparative law. They distinguish between legal systems using the same language.

The typology was applied to the corpus of 159 legal dictionaries, with the following results:

109	WORD
22	WORD/EXPL
9	EXPL
8	EXPL/COMP
11	COMP

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• J.R. Torres, *A Comparative Review of Spanish-English Legal Dictionaries*, Law Library Journal 1994, 230-235.

<sup>111</sup> The division into three categories may be called a trichotomy. The idea of a trichotomy can already be found with Jacques Le Tellier, who has distinguished three ‘generations’ of dictionaries: the first one does not give explanations nor examples; the second ‘generation’ provides for contexts to find equivalents; the third one offers contexts and definitions. Jacques Le Tellier mentioned this division in a letter to the Asser Institute; see Hesseling 1975, 144.

Before commenting on these results, they should be related to the typology. In the first place, the numbers for the additional in-between categories WORD/EXPL and for EXPL/COMP show that the initial three categories proved insufficiently discriminatory. It is also important to note that the relatively high number for dictionaries qualified as WORD lists (109) could mean that the category WORD is not discriminatory enough; however, it is not yet clear how the category of WORD could be divided into more categories in order to provide an instrument for better analysis. While further study may be necessary, we believe our typology is useful as an analytical instrument. The typology proves that the quality of most dictionaries is not sufficient; probably 68.6% of the dictionaries are of dubious quality since they mainly offer unsubstantiated translations of terms.<sup>112</sup> Strictly speaking, only 6.9% have been qualified as dictionaries with sufficient quality (COMP). To date, few legal dictionaries offer advantages that render them useful to professional translators. We will come back to this worrying fact later, after having discussed the distribution of the dictionaries.

#### ***DISTRIBUTION IN NUMBERS***

There is prima facie evidence that English, French, German and Spanish are the main EU-languages.<sup>113</sup> Since many lawyers want to translate into a more frequently used language, one could imagine that the four languages mentioned are dominating as target languages (TL's) for other, less important, languages used by EU Member States. However, having analysed the corpus of 159 legal dictionaries, Spanish proves not to belong to the main EU-languages.

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<sup>112</sup> Of course, a word list can be more accurate and more well-written than a dictionary offering additional, but misleading, information. However, it was practically impossible to scrutinize all pages of all dictionaries in the corpus. To compensate for this, the bibliography contains many reviews of the dictionaries.

<sup>113</sup> According to the Eurobarometer 63.4 ('Europeans and languages', September 2005), p. 7 [[http://europa.eu.int/comm/public\\_opinion/archives/ebs/ebs\\_237.en.pdf](http://europa.eu.int/comm/public_opinion/archives/ebs/ebs_237.en.pdf)], the languages most commonly spoken in the EU, both as a mother tongue and as a foreign language, are: English 47%; German 30%, French 23%; Italian 15% and Spanish 14%. However, Italian does not belong to the main EU-languages if it comes to languages known besides the mother tongue: according to the Eurobarometer 63.4 ('Europeans and languages', September 2005), p. 4, English (34%) is the most spoken foreign language followed by German (12%), French (11%) and Spanish (5%).

<i>Table 1: Main EU-Languages Counted as TL's for Other Legal EU-Languages</i>	
English	17
German	14
French	10
Spanish	4

This table shows the weak position of Spanish as a target language: according to the corpus, Spanish is the target language for only four other legal EU-languages. This is a very small number related to the 25 languages that are used by the EU Member States. However, even English is not completely dominating since English does not reach the maximum of being the target language for 24 other legal languages. This implies that there is a lack of dictionaries for some minor EU-languages that have to be translated into English. Due to this shortage, English cannot always function as the source language after being used as the target language. Since dictionaries are missing for some minor EU-languages, English is not the relay language that is universally useful to translate into a third language<sup>114</sup>.

The corpus of 159 legal dictionaries reflects the important position of English, French and German as target languages. To analyse this position further, the respective dictionaries have been counted according to three intervals.<sup>115</sup>

<i>Table 2: Main Legal EU-Languages Counted as TL's in 3 Intervals</i>			
	1976-1993	1994-2000	2001-2004
English	11	25	12
French	20	10	13
German	11	18	26
All $\chi^2$ (2) > 6.0, $p < .05$			

<sup>114</sup> For example Slovak can first be translated into English as a so-called relay (or pivot) language and only then retranslated from English into e.g. Swedish; cf. Creech, p. 27. This method may cause delays and increase the probability of mistakes. The fact that culture-dependent terms are involved is another reason to conclude that English is not some kind of auxiliary language: see H. Bergenholtz and S. Tarp (eds.), *Manual of specialised lexicography*, Amsterdam/Philadelphia 1995, p. 58.

<sup>115</sup> The year of publication of the dictionaries has been allocated to one of three intervals. The intervals are taken as such for statistical, not for historical reasons. All differences shown are significant.

This table reveals that German as the TL shows significant growth over the entire period encompassing the three intervals. This may be caused by the unification of Germany in 1990. More importantly, it may be due to the fact that after the accession of the ten new Member States, German has equalled French as the second most spoken foreign language in the EU.<sup>116</sup> It is remarkable that the growth of English as the TL takes place only in the second interval, although the first interval is immediately after the accession of the UK in 1973. The third interval does not reflect the growing importance of English. The number of dictionaries with French as the TL is diminishing after the first interval. This may correlate with the general tendency over the last ten years or so of the decline in importance of legal French.

<i>Table 3: Availability of the Main EU-Languages</i>		
	SL	TL
English	54	48
French	28	43
German	53	55
(N=159)		

Each number in Table 3 reveals how many dictionaries (out of the total number of 159) the language concerned has been counted as source language (SL) or target language (TL). It also illustrates that English and German are the most important EU-languages, as far as the availability of legal dictionaries is concerned. Table 3 also demonstrates that French is more often a target language than a source language. Interestingly, this observation proves to be statistically significant.<sup>117</sup> All this supports the assumption that French lawyers or translators are more reluctant to translate into foreign languages than either their English or German colleagues.

So far we have given a picture of the main EU-languages as they are present in the corpus of legal dictionaries. In addition, we want to concentrate on the availability of the minor languages, starting with a general comparison of the old and the new EU Member States.<sup>118</sup>

*Table 4: Old and New Member States*

<sup>116</sup> According to the Eurobarometer 63.4 ('Europeans and languages', September 2005), p. 5. Cf. Creech, p. 24: the relative positions of French and German may be altered due to the fact that German is more well known than French in the new Member States.

<sup>117</sup> According to paired samples statistics (N=159), only French proves to be significantly more often target language than source language ( $t(158) = 2.7, p < .05$ ).

<sup>118</sup> The ten new EU Member States are: Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia.

69 dictionaries contain languages of the 15 old Member States <sup>119</sup>
36 dictionaries contain languages of the 10 new Member States
$\chi^2 (1) = 23.3, p < .05$

The difference between the old and the new EU Member States in Table 4 is statistically significant: the new Member States have far fewer dictionaries. This may seem trivial given that the accession of the ten new Member States only took place in 2004, the last year covered by the corpus of dictionaries. However, publishers could have anticipated the well-publicized joining of the new Member States, while some of these national markets ought to have been attractive enough to compile legal dictionaries far before 2004.

Most seriously, there are five member states having legal languages unavailable in the 159 dictionaries. The languages of Cyprus<sup>120</sup>, Ireland<sup>121</sup>, Lithuania, Luxembourg<sup>122</sup>, and Malta<sup>123</sup> are neither present as source languages nor as target languages. As far as legal dictionaries are concerned, these five Member States do not have any links to the other Member States. On a more general level the situation is worrying too, given that there are 600 direct links possible between the 25 legal languages of the EU Member States: only 15% of these links have been found in the 159 dictionaries.<sup>124</sup> Considering that the main EU-languages cannot function as relay languages under all circumstances, one must conclude that at least some Member States are isolated in the EU in terms of translation tools in the form of legal dictionaries.

The general conclusion to be drawn is that, although the number of 159 dictionaries seems to be rather big, this quantity is insufficient for efficient legal communication within the EU since most dictionaries are of dubious quality and there are too many legal systems not being covered by them. Relay languages such as English or German cannot function as perfect translation tools to address this incomplete coverage. Obviously, commercial

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<sup>119</sup> Dictionaries containing languages both of the old and the new Member States have not been counted in this table.

<sup>120</sup> Greek is the official language of the EU Member State called 'Republic of Cyprus'; cf. Creech, p. 20.

<sup>121</sup> Irish is the first official language, English the second one: Creech p. 16 and footnote 24.

<sup>122</sup> Cf. Creech, p. 18: Luxembourg proclaims three legal languages, viz. Luxembourgish, French and German.

<sup>123</sup> See Creech, p. 21 and footnote 53: Maltese has co-official status alongside English, but Maltese has a superior position.

<sup>124</sup> See Creech, p. 27 footnote 93: 'To determine the number of language pairs for X number of languages, multiply X by (X-1).'



publishers keep selling dictionaries of inferior quality because there are no other translation tools for the language pair concerned, or because many buyers are not fully aware of the deficiencies of the dictionaries offered on the market. Since the market fails, especially when it comes to the less important legal languages, it is almost certain that EU-subsidies are needed to improve the lack of reliable legal dictionaries.<sup>125</sup> To remedy this bad situation, compilers of dictionaries must be financially supported since it is time-consuming and labour-intensive to produce a legal dictionary that meets scientifically established standards. These standards should be further developed to provide for discriminatory criteria to measure the quality of bilingual dictionaries as objectively as possible.<sup>126</sup> Finally, we recommend that dictionaries not satisfying these standards should not be purchased. Unfortunately, it is not difficult to make a list of really bad, even dangerous bilingual legal dictionaries.

### **Good and Bad Legal Dictionaries.**

Studying the structure and content of more than one hundred seventy legal dictionaries containing legal languages of Member States of the European Union, we were favourably impressed by the quality of just eleven dictionaries:<sup>127</sup>

Anderson, R.J.B.  
Anglo-Scandinavian Law Dictionary of Legal Terms Used in Professional and Commercial Practice  
Oslo 1977  
137 p  
ISBN 8200023656

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<sup>125</sup> The market for dictionaries only containing languages like those of Cyprus, Ireland, Lithuania, Luxembourg or Malta is relatively small compared to the market for dictionaries offering one main EU language or even two (say English and German). If the number of lawyers reflects the market for bilingual legal dictionaries, one could compare the number of lawyers of Cyprus (1.577), Ireland (7.500) Lithuania (1.382), Luxembourg (718) and Malta (-) on the one hand, to that number of the United Kingdom (123.500) and Germany (133.113). See 'Number of lawyers in CCBE Member Bars., Last update: 2005, Council of Bars and Law Societies of Europe [[http://www.ccbe.org/doc/En/table\\_number\\_lawyers\\_2005\\_en.pdf](http://www.ccbe.org/doc/En/table_number_lawyers_2005_en.pdf)].

<sup>126</sup> H. Jackson, *Lexicography. An introduction*, London/New York 2002, p. 173: 'One of the crucial issues for dictionary criticism is to establish a sound and rigorous basis on which to conduct the criticism, together with a set of applicable criteria.'

<sup>127</sup> These eleven dictionaries have been classified as COMP; this category has been clarified in Paragraph 4. Another bilingual dictionary of good quality is: Ab Massier and Marjanne Temorshuizen-Arts, *Indonesisch –Nederlands Woordenboek Privaatrecht*, Leiden 2000. This dictionary provides translation suggestions between the legal languages of Indonesia (Bahasa Indonesia) and the Netherlands (Dutch).

Franchis, F. de  
Dizionario giuridico  
Vol 1: Inglese-Italiano  
Milano 1984  
XI+1545 p  
ISBN 8814003165

Franchis, F. de  
Dizionario giuridico  
Vol 2: Italiano-Inglese  
Milano 1996  
1467 p  
ISBN 8814050015

Hesseling, G.  
Juridisch woordenboek (Nederlands-Frans, met woordenlijst  
Frans-Nederlands) privaatrecht<sup>128</sup>  
Antwerpen 1978  
XXII+513 p  
ISBN 9062150020

Internationales Institut für Rechts- und Verwaltungssprache  
\* Zivilprozeß  
Deutsch-Französisch  
Köln 1982  
108 p  
ISBN 3452192687

\* Strafprozeß  
Deutsch-Französisch  
Köln 1985  
150 p  
ISBN 3452203239

\* Verwaltungsrecht und Verwaltungsprozeßrecht  
Deutsch-Französisch  
Köln 1985  
107 p  
ISBN 3452206920

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<sup>128</sup> It has to be stressed, that the translation suggestions in this good dictionary are partly outdated, because of important changes of both the French and the Dutch civil (including procedural) law.

\* Das Recht des öffentlichen Dienstes  
Deutsch-Französisch  
Köln 1987  
209 p  
ISBN 345220782X

\* Ausländer- und Niederlassungsrecht  
Deutsch-Französisch  
Köln 1990  
159 p  
ISBN 3452215784

Kaufmann, O.  
Wörterbuch Arbeits- und Sozialrecht  
Französisch-Deutsch/Deutsch-Französisch  
München 2004  
VII+261 p  
ISBN 3406479189

Oosterveld-Egas Repáraz, M.C. et al.  
Juridisch woordenboek Nederlands-Spaans, met register  
Spaans-Nederlands  
Apeldoorn 1990  
XXXI+371 p  
ISBN 9062152716

Even these dictionaries could be improved and their authors could still learn from each other, but they are really outstanding, particularly when compared with the others. Their example should be followed by the compilers of other dictionaries and achieving their quality should be the aim of publishing houses.

From the foregoing it will be clear, that because complete equivalence between terms of the source and the target legal system is rare, source terms and their proposed translations are very often not suited to reverse use. Reversing the functions of source terms and their partial equivalents, descriptions or neologisms will create false translation suggestions. Nevertheless there are some bilingual and multilingual dictionaries where (at least a part of) the translation suggestions and source terms are reversed in order to create a list of translation suggestions for the original target language terms. This is a deadly sin for compilers of bilingual legal dictionaries. The result is that the new lists are very dangerous to use. It is almost funny to see that the new lists contain words which are not used at all as legal terms in the legal system involved. This is because they began in the dictionary as neologisms in the original target

language for terms of the original source language. Dictionaries in which we have discovered examples of this kind of ridiculous reversion include:

Cano Rico, J.R.  
Diccionario de derecho  
Español-Inglés-Francés  
Madrid 1994  
423 p  
ISBN 8430924167

Capelle, M.A.A. van & Punt, H.G.  
Velder internationale vaktermenlijst voor juristen, fiscalisten, accountants,  
bankwezen, handel en industrie  
2e bijgew. druk  
Amsterdam 1991  
607 p  
ISBN 9073867029

Lindbergh, E.  
International Law Dictionary  
Deventer 1993  
VIII+439 p  
ISBN 9065446974

Lindbergh, E.  
Internationales Rechtswörterbuch  
Neuwied 1993  
VIII+439 p  
ISBN 3472015551

Parsenow, G.  
Fachwörterbuch für Recht und Wirtschaft  
Schwedisch-Deutsch/Deutsch-Schwedisch  
2. neubearb. und erw. Auflage  
Köln 1985  
XVI+500 p  
ISBN 3452200531

For us, these titles are candidates to feature on a list of poor legal dictionaries.

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