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INTEGRATING THE NEEDS OF THE LOCAL MARKET IN TEACHING LEGAL TRANSLATION

The discussion presented in the paper is an attempt to set out the market-oriented ground for teaching legal translation in the court setting. The postulate is that information about the prevalent types of civil cases involving translation and the patterns as regards dominating textual genres in various categories of court cases can make the didactic process in the said domain more effective, market-oriented and finally enhance the rhetorical and pragmatic expertise of students and translators operating in the said field. In order to collect the necessary data the author conducted a search of court files, compiled a corpus of the relevant texts and performed statistical analysis. The relevant material was selected on the basis of being qualified as involving a *foreign element*, which – in most general terms – implies the linguistic processing of the documents in translation². The data were analysed statistically with the intention to determine the patterns related to the directionality of translation, institutional distribution of the translation process, and the genre scheme.

The local dimension as regards the framework of the research approach which underlies the study is based on the assumptions of the GENTT research group on multilingual management and translation of court documents³.

Keywords: directionality of translation, text genre, court document, institutional setting, special L1/L2 translation

1. INTRODUCTION

Due to the present-day demands of the local market, legal translation needs to deal with issues of cross-disciplinary nature. It follows that during the process of mastering the translation of legal documents as part of university studies, linguistic structures need to be attended to. Mastering specific terminology and grammatical structures typical of this genre necessitates goal-oriented instruction accounting for the institutionally set needs. The didactic process yielded by a well-designed, market-oriented course may as well provide for effective work and quality translation. The prerequisite for this is the curriculum designed on the basis of authentic materials that are well-anchored in reality, embedded in an authentic story and thus appealing to students.

The genre mentioned above is a specific type of sworn translations¹, i.e. the translation of court documents which is claimed to be characterised by specific distinctive features,

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² J. Gołaczyński (ed.), *Jurysdykcja, uznawanie orzeczeń sądowych oraz ich wykonywanie w sprawach cywilnych i handlowych. Rozporządzenie Parlamentu Europejskiego i Rady (UE) nr 1215/2012. Komentarz*. Warszawa 2015, C.H. Beck.

³ A. Borja Albi, *A genre analysis approach to the study of the translation of court documents*, [In:] *L. Biel, J. Engberg (eds.) Linguistica Antverpiensia. New Series - Themes in Translation Studies* No. 12 (2013), pp. 33-53.

for example, strongly institutional terminology⁴. The author poses the thesis that there exist specific trends as regards the translation process of court documents. The present research covers the following factors: directionality of translation, distribution of workload with regard to courts of different hierarchical levels and sworn translators, the category of cases, and the dominant textual genres of texts in translation.

The present research is a pilot study that proposes some tentative conclusions and the findings are intended to be verified against more extensive data as regards the territorial and institutional factors. However, the data are believed to be revealing as regards the main tendencies in the domain of the management of the English-Polish and Polish-English translation process.

2. THE RESEARCH METHODOLOGY

The research was conducted at the District Court/*Sąd Okręgowy* and Regional Court/*Sąd Rejonowy*, at the Civil Division, in the Podkarpackie province. The search was limited to cases pending in 2015. The corpus is compiled of texts referred to as *texts in translation* (source texts and their translations, i.e. Polish-English and/or English-Polish translation) that were found on the court files.

The starting point for the research project was adopting the notion of a *court case with a foreign element*⁵ as the search criterion to compile a corpus of the court translations. The notion of foreign element in this context refers to any court proceedings, where at least one party has a seat abroad, there is a need to examine the evidence abroad or the object of the dispute is foreign. Such cases are on the increase these days because of significant migration and the development of electronic foreign trade. In a legal doctrine, the concept of a court case with a foreign element is most widely discussed in reference to the relevant EU regulations on jurisdiction, recognition and enforcement of judgements and the relevant domestic regulations in the EU Member States, that is *Regulation (EU) No 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgements in civil and commercial matters*.

The research consisted of two stages. Firstly, the court files were searched so that the cases with a foreign element could be identified, presuming that these would concern mainly recognition and enforcement of judgements issued by foreign courts. Then the relevant court files were analysed quantitatively as regards the type of documents on file to identify the genres of the texts in translation. The second stage involved statistical analysis of the data aimed at identifying the dominating patterns. The quantitative analysis was conducted with the use of the *Statistical Package for the Social Sciences* programme⁶.

⁴ A. Jopek-Bosiacka, *Przekład prawny i sądowy*, Warszawa 2016, Wydawnictwo Naukowe PWN; Dahlmanns K., A. D. Kubacki, *Jak sporządzać tłumaczenia poświadczonych dokumentów? Przekłady tekstów z wyboru polskich i niemieckich dokumentów do ćwiczeń translacyjnych z komentarzem. Wie fertigt man beglaubigte Übersetzungen von Urkunden an? Kommentierte Übersetzungen zu den Texten aus der Auswahl Polnischer und Deutscher Dokumente für Translationsübungen*, Chrzanów 2014, Wydawnictwo Biuro Tłumaczeń KUBART, pp. 276-323.

⁵ J. Gołaczyński, *op. cit.*

⁶ S. Bedyńska S., A. Brzezicka, 2007. *Statystyczny drogowskaz*. Warszawa 2007, p. 181; Nawojczyk M., *Przewodnik po statystyce dla socjologów*, Kraków 2002, p. 223.

I pose the thesis that in view of the discussion conducted in the legal literature on cases with a foreign element, the cases on the recognition and enforcement of foreign judgementsⁱⁱ will constitute the majority of cases involving Polish-English and English-Polish translation.

3. QUANTITATIVE DATA ON COURT TRANSLATION

The analysis of the texts making up the corpus allows us to draw conclusion as regards the number of cases with a foreign element examined at the two courts where the search was conducted. The findings point to unequal distribution as regards the said data (Figure 1). In 2015, more than 72% of cases (21 cases out of 29) in point were adjudicated at the District Court. Here we may draw some tentative conclusions accounting for the distribution of the workload. Namely, Regional Courts are the first instance courts for the category of cases where transnational communication takes place; thus, the need arises for sworn translations of the documents on file to be submitted.

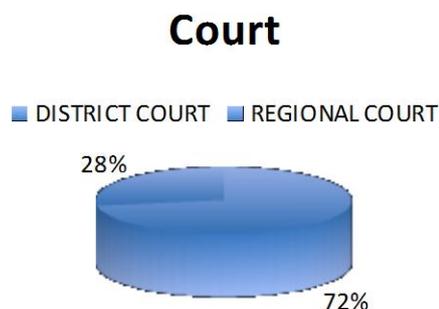


Figure 1. Cases with a foreign element with reference to the category of the court.

Another factor analysed in the research is the directionality of translation of the court documents. In the literature on the subject, it is claimed that the term *directionality* refers to the direction of the process of translation with the source and target language as the starting or finishing points⁷. It is common to refer to the translation from the second language into the first as L1 translation and translation from the first language into the second language as L2 translation⁸. Researchers comparing L1 and L2 translation processes in the educational context point to a few factors that are to be taken into account. In general, it is claimed that there is a certain level of similarity between these two directions of translations. In L1 and L2 translations, translators encounter comparable problems. However, some scholars say that the quality of the final products depends significantly on whether a specific text is translated into the translator's mother tongue or

⁷ A. Beeby Lonsdale, *Direction of translation (directionality)*, [In:] Mona Baker (ed.) *Routledge Encyclopedia of Translation Studies*. London and New York 1998, Routledge, p. 63.

⁸ T. Pavlović, *Exploring directionality in translation studies*, [In:] *Explorations in English Language and Linguistics*. 1.2 (2013), pp. 149.

vice versa. The findings show that the quality of L1 translations show them to be better than the quality of L2 translations⁹. We may assign the results to a number of factors, like the educational background of the translator, their experience conditioned by the market demand locally, the translator's individual competences, etc. Presumably, more detailed study with the introduction of some variables, like text types for example, might offer the possibility for some more extensive conclusions.

As regards the data in point emerging from the corpus search (Figure 2) the distribution of the data is quite equal. Translations into L2 account for 55.2 %, while the percentage of the translations into L1 (i.e. into Polish) is 44.8 %. This shows that the educational process, as regards courses in court translation, should take into consideration both perspectives.

Directionality of translation



Figure 2. Directionality of translation.

Another result is the quantitative data related to the subjective aspect of the translation process in the court setting. The findings show that the court orders are performed locally, that is by sworn translators with a registered seat in the Podkarpackie province, enrolled on the register run by the Minister of Justice. The obvious conclusion here is that in the Podkarpackie province the demand does not exceed supply in the case of Polish-English and English-Polish translations; thus, there is no need to look for experts in other provinces, as is the case with less popular languages.

Moving on to statistics, Figure 3 with the letters standing for translator's initials shows that two translators performed the majority of the tasks commissioned by the courts where the search was conducted. The amount of workload calculated for ML amounts to 58.6 % (the pie chart presents the number rounded to one decimal point). The second place in this respect is occupied by the person coded as NM with a score of 24.1%. We may formulate some tentative conclusions at this point as regards such significant disproportions. These may be due either to the narrow specialisation of the translators that are high on the list here. The data obtained in the personal interviews with the court officers managing the translation process show that many sworn translators reject offers to perform the orders commissioned by the court. This may be caused by the high level of difficulty of the individual tasks, which often makes it necessary to invest, much time to preparing oneself

⁹ M. Grosman, *Non-mother tongue translation - An open challenge*, [In:] M. Grosman, M. Kadric, I. Kovacic and M. Snell-Hornby (eds.) *Translation into non-mother tongues. In professional practice and training*. Tübingen 2002, Stauffenburg Verlag, pp. 21-34; T. Pavlović, *op. cit.*, pp. 149-165).

in order to perform a short task, which is against the principles of time and work economy. Should this not be the reason, the significant disproportion in the workload distribution could be due to better availability of the translators in terms of the amount of work and tough deadlines.

Translator

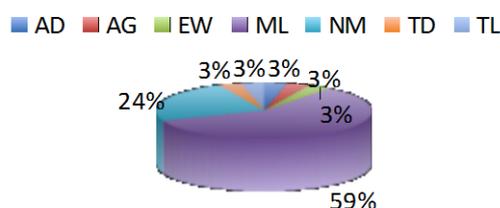


Figure 3. Distribution of the workload among the translators.

Figure 4 presents quantitative data on the category of cases involving a foreign element, in which translations are submitted to the court or commissioned by it. Nine categories of civil cases were identified in the corpus compiled. As emerges from the data presented visually in Figure 4, the top three cases as regards the frequency parameter involve i) divorce cases, scoring 27.6%; ii) recognition of rulings registered on the list, with 20.7%; and iii) determination of the existence or non-existence of a legal relationship, with a score of 17.2%. If we consider the cumulated percentage, we find that the four top-most categories, that is the three mentioned above plus the category of payment, amounting to 10.3%, constitute 75.9% of all the cases determined in the corpus analysis.

The determination of the catalogue of civil cases in which cross-linguistic communication is noted seems to be an important issue. It enables teachers to include in the teaching curricula specific topics and –bearing in mind the interdisciplinary character of jurilinguistic studies and the difficulty a linguist encounters attempting to specialise in all the legal domains – the opportunity to master, market-wise, the most demanded terminology.

The question regarding the type of a court document in translation was designed as a multiple choice question. The distribution of the text genres identified in the corpus analysis proves to be unequal. In more than half of the total cases identified in the corpus (i.e. 55.2%) we found instructions. The second place as regards frequency is occupied by certificates of service or non-service of documents with a score of 37.9%. The group of documents scoring from 3% up to 10% includes complaints, summons, notifications, divorce judgements, requests for service, Apostille, certificate of divorce, decision and affidavit of defendant. The list of the least frequent text genres (less than 10%) is opened by writ of payment and includes request, extract from land register and death certificate, and power of attorney *ex aequo* in last place.

Case on

- divorce/rozwód
- recognition of ruling/uznanie orzeczenia
- determination of the existence or non-existence of a legal relationship/ustalenie
- payment/zapłatę
- granting right of way/ustanowienie drogi koniecznej
- declaration on waiver of inheritance/odebranie oświadczenia w przedmiocie odrzucenia spadku
- declaration on acquisition of inheritance/ to stwierdzenie nabycia spadku
- termination of joint ownership/zniesienie współwłasności
- removal of a person from parental authority/pozbawienie władzy rodzicielskiej

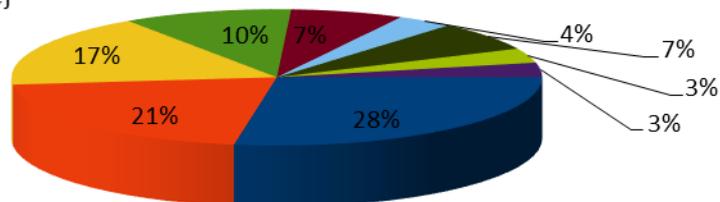


Figure 4. Overview of the case category involving court documents in translation.

4. CONCLUSIONS

Summing up the most important findings gathered in the analysis of the corpus compiled in the search of court files at the Regional and District Court at the Podkarpackie province, we may formulate some patterns in relation to the variables examined, and consequently propose some guidelines.

By analysis of the corpus we have established a framework of the translation services in the domain of court translation. The data which can prove significant for educational purposes relate to the statistics on the category of cases which involve processing the documents in Polish-English and/or English-Polish translation, with divorce cases topping the list. The analysis of the corpus also leads to the conclusion that there exists a limited number of genres as regards court documents in translation, which – in turn – encourages the providers of educational services to make it a leading factor in scheduling the teaching curricula. The leaders here making up the top of list in the genre system are texts involving instructions, certificates of service and non-service documents, complaints, and summons.

Further development of the project would best involve preparing a text genre taxonomy conducted in other court divisions and possibly abroad, and more detailed analysis of the genre system, which would help us to account for the existing inconsistencies on various levels of the texts structure, including mainly pragmatics, terminology, rhetoric, as well as to anticipate the problems that future translators face in their practice as sworn translators.

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POTRZEBY RYNKU LOKALNEGO JAKO CZYNNIK DETERMINUJĄCY PROFIL NAUCZANIA TŁUMACZEŃ PRAWNICZYCH

Niniejszy artykuł ma na celu ukierunkowanie nauczania tłumaczeń sądowych na potrzeby rynku. Autorka stawia postulat wskazujący na to, iż informacja o dominujących kategoriach spraw cywilnych, w których zalegają dokumenty tłumaczone oraz schemat przeważających gatunków tekstów w różnych kategoriach spraw sądowych może sprawić, iż proces dydaktyczny w omawianym obszarze będzie bardziej efektywny oraz zorientowany na potrzeby rynku, co ostatecznie poszerzy wiedzę studentów oraz praktyków w zakresie retoryki oraz pragmatyki. Celem zebrania niezbędnych danych autorka przeprowadziła kwerendę akt sądowych, w wyniku czego został skompilowany korpus odnośnych tekstów oraz przeprowadzona została analiza statystyczna. Odnośny materiał został wybrany na podstawie kwalifikacji do kategorii spraw z elementem zagranicznym, co – najogólniej ujmując – wiąże się z obecnością dokumentów tłumaczonych w aktach sądowych. Dane zostały zanalizowane pod kątem statystycznym z zamiarem określenia schematów w zakresie kierunkowości tłumaczenia, rozkładu zleceń w odniesieniu do kontekstu instytucjonalnego oraz schematu gatunków tekstów Lokalny wymiar schematu projektu badawczego, który został tutaj przyjęty nawiązuje do założeń sformułowanych przez grupę badawczą GENTT w projekcie dotyczącym zarządzania procesem tłumaczenia dokumentów sądowych.

Słowa kluczowe: kierunkowość tłumaczenia, gatunek tekstu, dokument sądowy, czynnik instytucjonalności, specjalistyczne tłumaczenie L1/L2¹⁰

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¹⁰ For more details on the specificity of sworn translations, also referred to as certified translations see, for example, A.D. Kubacki *Thumaczenie poświadczone. Status kształcenie, warsztat i odpowiedzialność tłumacza przysięgłego*. Warszawa 2012, Wolters Kluwer Polska Sp. z o.o., pp. 110-146. The term *judgement* here is used at this point as a quotation of the title of the legal acts referred (the terminological standards adopted in the EU institutional setting) but it has the same referent as the term *ruling* used conventionally in the official translations of the Polish legal acts and also employed by the author in this discussion. Both the terms are used as a generic term for any formal category of court communication