



THE IMPORTANCE OF LEGAL TRANSLATION IN INTERNATIONAL LAW

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Annotatsiya. Ushbu maqolada yuridik tarjima va uning xalqaro huquq hujjatlarini sharhlashdagi roli ham nazariy, ham amaliy nuqtai nazardan ko'rib chiqilgan. Nazariy jihatlariga kelsak, fuqarolik huquqi va umumiy huquq tizimlari nuqtai nazaridan huquqiy tarjima, xalqaro huquqda yuridik tarjimaning holati, sodda til tamoyillari, yuridik so'zlarning ekvivalentligi haqida so'z boradi. Shunga ko'ra, huquqiy tarjima va xalqaro huquq hujjatlarini sharhlash o'rtasidagi o'zaro bog'liqlik ko'rib chiqilgan.

Kalit so'zlar: Xalqaro huquq, yuridik tarjima, huquqiy atamalar, texnik atamalar, xalqaro shartnomalar, konseptual asos va maxsus terminologiya.

Аннотация. В данной статье рассматривается юридический перевод и его роль в толковании международно-правовых документов как с теоретической, так и с практической точки зрения. Что касается теоретических аспектов, обсуждаются юридический перевод с точки зрения систем гражданского и общего права, статус юридического перевода в международном праве, принципы простого языка и эквивалентность юридических слов. Соответственно рассматривается взаимосвязь юридического перевода и толкования международно-правовых документов.

Ключевые слова: международное право, юридический перевод, юридические термины, технические термины, международные соглашения, концептуальная основа и специальная терминология.

Annotation. This article examines legal translation and its role in the interpretation of international legal documents from both theoretical and practical perspectives. Regarding the theoretical aspects, legal translation from the point of view of civil law and common law systems, the status of legal translation in international law, the principles of plain language, and the equivalence of legal words are discussed. Accordingly, the interrelationship between legal translation and interpretation of international legal documents is considered.

Key words: International law, legal translation, legal terms, technical terms, international agreements, conceptual framework and special terminology.

Legal translation is a very important topic in the era of globalization; it aims to make national legal systems more connected to the international standard through a comparative study of legal terms in different languages. Therefore, legal

translation may play a vital role in globalizing local laws by encouraging the use of standard legal and technical terms. The translation of legal texts of any kind, from statute laws to contracts to courtroom testimony, is a practice that stands at the crossroads of legal theory, language theory and translation theory. It has been advocated that the demand for legal translation is on the increase around the world owing to globalization and the increased contact and exchange between peoples and states. The public sector of international law is very different from the private sector where multinational corporations are the primary actors. In the public sphere, the primary actors are states themselves; but a number of important international organizations also exist. The United Nations obviously remains the most notable, but it is certainly not the only one. The World Trade Organization, the International Monetary Fund, and various international lobbying groups and non-governmental organizations could also benefit from the use of lawyer-linguists. The United Nations is one of the most well-known users of translators and interpreters in the legal world. Definitions and concepts associated with human rights, opinions and understandings vary significantly from continent to continent and even among seemingly similar countries. Consider, for example, the definition of a terrorist, which can vary drastically depending on the region. Opinions in the United States differ markedly from those in the Middle East and parts of Asia. Lawyer-linguists could help to close this gap and to achieve mutual understanding that could facilitate a stronger international legal regime in the future.

Terminological problems in this context epitomize the dilemmas of articulating international or supranational legal structures for the co-ordination and harmonization of national policies and legislation. Translators must follow institutional terminology established to designate univocal shared concepts in all the official languages, including all kinds of bodies, procedures and technicalities (e.g., translations of "extended continental shelf" in the law of the sea or "tariff escalation" in international trade law). Such terms are regarded as the sacrosanct backbone of the common framework and, as a general rule, they are also considered authoritative by specialized users outside the organization.

The conceptual framework and specific terminology of each shared system are reproduced in all its instruments, while other discursive conventions vary by text typology. For example, negotiated legislative texts are more likely to include vague language in order to facilitate consensus, with a high degree of hybridity as a result of multiple input sources in the drafting process. In contrast, style is generally more coherent in documents drafted by adjudicative bodies, than those submitted by litigating parties; and references to national legal realities are much more commonplace in texts of adjudication and monitoring procedures than in legislative provisions.

The language of international treaties play an important role because they embody and communicate the substance of the agreement. It is not irrelevant whether a treaty is made in one or several languages, whether the language of the



treaty is a third party language for (most of) the contracting parties or whether it is in their official language. Even if the restriction of a linguistic regime might be justified for practical reasons, it might, at the same time, cause practical problems in the case of international treaties which might be applied directly by national courts and which might confer rights or impose obligations on individuals. Given the fact that only an authentic language version can be used for authoritative interpretation, the contracting parties which do not have one of the authentic languages as their national language or do not understand them might encounter difficulties in understanding and interpreting a legally binding text; Nevertheless, these treaties are often translated into the official languages of the contracting parties and published in the national newspaper of these states when the treaty concerned is being promulgated. These translations remain non-authentic texts, i.e. they will not be authoritative for interpretation and mainly serve to ensure the availability of these texts in the national language. However, their importance might be crucial because individuals and the national courts of the contracting party will most probably consult and use these versions when applying treaty provisions. While the language regime of multilateral treaties is – even if plurilingual – rather restricted, bilateral agreements are generally drafted in the official languages of the two contracting states and are authentic in both or in all of these languages. In some cases, a “neutral language” is added (usually English or French), which prevails in the event of diverging texts. Recently, some countries have begun to conclude tax treaties in English only, even where English is not the official language of any of the contracting states.

The multilateral and EU systems formalized over the past century did not emerge and do not develop from a tabula rasa. Since languages shape worldviews, and legal languages are bound to specific legal traditions, it is often argued that the conceptual network expressed in the predominant language of interstate communication can exert a considerable influence on international legal language. The principle of equal authenticity of the official languages of all Member States (as opposed to a limited number of languages in other organizations) and the direct applicability (and enforceability by national courts) of EU secondary legislation in all the Member States certainly entail a stronger relationship with the domestic legal systems integrated into the “confederal” structure. A shared layer of EU law on a wide range of areas of harmonization of the 28 Member States in 24 languages implies an ambitious commitment to accountability in multilingualism and a higher risk of linguistic discrepancies. This contrasts with the more fragmented domestic reception and enforceability mechanisms of the law generated through intergovernmental organizations, and their more “global” approach to language policy (six languages for 193 countries in the case of the U.N., and three languages for 159 WTO Members). From the point of view of the translator, we examine legal translation within three interrelated contexts of text production that come into play in the development of international and supranational law.

Another aspect of translation in international law relates to language rights. There is no agreement, either in state practice or in scholarly literature, on the objectives of protecting languages or persons speaking that language. There are nevertheless, three commonly recognized, and partly competing, purposes of the protection of language rights in international law. They can be summarized as the preservation of peace and security, the promotion of the fair treatment of individuals and the preservation of linguistic diversity.

To conclude, the above-mentioned purposes, language rights including the availability of language support in international criminal proceedings, are of great importance in international law. Both the right to personal freedom and the right to a fair trial are futile if the person affected cannot understand the charges raised. Austria, the European Court of Human Rights ruled that the right to the free assistance of an interpreter applies not only to oral statements made at the trial hearing but also to documentary material and pre-trial proceedings. Within the international war crimes sentencing framework, and for reasons highlighted above, the linguistic competences of internationally convicted persons need to play an elevated and more significant role in the enforcement of sentences. On the other hand, receiving states, in determining the actual prison in which an internationally convicted person will serve the sentence, have an obligation to competently assess not only comprehension but the overall linguistic abilities and corresponding linguistic needs of prisoners at the first point of detention.

Reference:

1. Alimov, V. V. (2005) Legal translation. Moscow: KomKniga.
2. Alwazna, R.Y. (2018). Translation and Legal Terminology.
3. Burukina, O. A. (2005). Translation of English legal documents. Moscow: Nauka.
4. Chiknaverova, K. G. (2019). Using semantization as a means of propedeutics of learners' lexical errors in the course of teaching legal English at university. *Yazyk i Kul'tura*, 47, 277–300.
5. Faber, P. & Reimerink, A. (2019). Framing terminology in legal translation. *International Journal of Legal Discourse*, 4(1), 15–46.
6. Farrokhi, M. (2019). The Role of Legal Translation in the Interpretation of International Law Documents. *Russian Law Journal*, 7(1), 55–86.
7. Fedotova, I. G. (2016). Legal concepts and categories in English. Moscow: Statut.
8. Giampieri, P. (2019). The Web as a legal language resource. *International Journal of Legal Discourse*, 4(1), 109–121.
9. Kharkova, E. V. (2014). Peculiarities of legal texts translation. New trends in the development of the humanities: a collection of scientific papers based on the results of the International Scientific and Practical Conference. Rostov-on-Don. <https://clck.ru/F7A9e>/(accessed: 03.05.2020).