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LANGUAGE AND TRANSLATION IN THE EU LEGAL AND INSTITUTIONAL FRAMEWORK

Ukraine is steadily and persistently moving towards EU membership application. Among numerous tasks to be accomplished are those dealing with

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language and translation. The prospect of closer integration with the EU highlights the growing demand for lawyer-linguists competent enough to meet the standards of multilingual community. Therefore, the issues discussed in the article are burning, especially in the context of the reforms being carried out in higher legal education.

Preserving linguistic diversity has been among the objectives of the EU since the Treaty of Lisbon. At present in the EU there are 24 official languages, and they all enjoy equal status. This presupposes that EU citizens in the 28 member countries can use any of these languages to communicate with the European institutions. Multilingualism serves to ensure the sustainability of the legal order where EU legislation may directly affect individuals and must therefore be available in their official languages. Moreover, multilingualism reflects the principle of subsidiarity: «a sharing of competences between the EU and its Member States confirming that the EU will not intervene in areas which fall under the Member States' competences or which they are best placed to regulate» [1, p. 6]. At the same time the EU strives to have a smoothly functioning internal market, and it is obvious that the latter objective may in certain cases contradict the former. On the one hand, strengthening integration on the internal market means the increasing need for translation (interconnecting national authorities, provision of information in other EU languages on national legislation, labelling requirements). On the other hand, removing language barriers to trade may pose a threat to linguistic diversity (limited language regimes in the case of trademarks, standards and the future unitary patent) as well as weaken the protection of individual freedoms. To strike a delicate balance between these equally important objectives is a challenge the EU has to cope with.

To meet the increasing need for translation all EU institutions and bodies have their own translation departments, whose work is coordinated by a translation centre in Luxembourg. The only documents translated into all 24 official languages are pieces of legislation and policy documents of major public importance. This work is done at the Directorate-General for Translation (DG Translation), the in-house translation service of the European Commission. It also translates other documents (e.g. correspondence with national authorities and individual citizens, reports, internal papers) but only into the languages needed in each case. In 2015 output was 1.9 million pages (a page is 1 500 typed characters not including spaces). According to certain very rough estimates, the cost of all language services in all EU institutions amounts

to less than 1% of the annual general budget of the EU. Divided by the population of the EU, this comes to around €2 per person per year.

As a graduate employer, DG Translation maintains extensive links with universities and higher education institutions across the EU. They run a number of programmes and outreach activities aimed at promoting translation as a profession and encouraging language learning. One of them is European Master's in Translation (EMT) [2, p. 15], a partnership project between the European Commission and higher-education institutions, offering master's level translation programmes. The main goal of EMT is to improve the quality of translator training and to get highly skilled people to work as translators in the EU. The translator competence profile, drawn up by European experts, details the competences translators need to work successfully in today's market. More and more universities use it as a model for designing their programmes. Another form of cooperation with universities is the visiting translator scheme. Every year, DG Translation sends out some staff translators to work for a week or two in a university or college teaching translation and advising on EU career opportunities for linguists. With an eye to future recruitment, the Commission also cultivates links with universities in countries that will or may join the EU.

As the EU has been continuously expanding DG Translation has to prepare for new languages. Before it joins the EU, each new member country that will bring in a new official language sets up a Translation and Coordination Unit (TCU) under one of its ministries, to translate almost 160,000 pages of EU law into its national language. In the run-up to joining, DG Translation helps the new country integrate by providing technical assistance, training, professional advice and support for the TCU, setting up a local office in the country and liaising with it, exploring and developing the freelance market in the country, encouraging and advising universities on the content of training courses for translators, and liaising with local translators' associations and organisations. Every year, they also host a number of trainees from recently admitted countries.

Both from legal and linguistic points of view among all the documents the EU deals with international treaties deserve special attention. Under the Lisbon Treaty, the EU has become a subject of international law and is entitled to conclude international treaties on its own behalf with one or more third countries or international organisations (bilateral or multilateral treaties). In the legal hierarchy international agreements are located somewhere between

the founding treaties (primary law) and the law adopted by the EU institutions (secondary law). No instrument of the secondary law can be contrary to an international treaty. International treaties are the main written legal source of international law. The language in which they are binding, that is in which they are authentic, is crucial. At international level, it is preferable for states to have their official language(s) as the authentic language of treaties they conclude. However, in cases when the number of contracting states is high, or treaties are concluded under the auspices of international organizations, restricted multilingualism is accepted as a general rule. Hence, the role of translation is significant both in an official and non-official context. From a linguistic point of view, international agreements concluded by the EU have a special role as the text of a given treaty has to be translated into and published in all official language versions (Irish being usually an exception), even if these versions – not being always at the same time authentic versions of the treaty – will not be legally binding. At the level of the key players, the translation of international treaties is approximately the same process as that of any ordinary EU documents that will finally be adopted by the Council: the Commission is responsible for submitting the translations and the Council is in charge of the legal and linguistic revision of the text. However, there may be some distinctions depending on the number of the authentic languages. If all EU languages are at the same time authentic languages of an international treaty, all language versions must be prepared for the signature of the treaty in question since authentic language versions must be signed simultaneously. In cases where not all EU languages are at the same time authentic languages of the treaty, the text of translation into a non-authentic language is not binding and will only be published in the Official Journal. In the case of bilateral agreements, all official languages of the EU as well as the official language (or languages) of the other contracting party become, as a general rule, authentic languages of the international treaty. The treaty is negotiated in a lingua franca, which is in the majority of cases English. The text is agreed in this language and this text will serve as a basis for producing the authentic texts, then the authentic texts are produced by each party for its own languages. Thus, the EU prepares the EU language versions and the contracting party prepares its own language version.

One of the problems that might arise in connection with multilingual treaties being authentic in several languages is that uniform words do not create uniform results. There is no such thing as perfectly transparent

translation. With any two languages, the meaning of distinct expressions is seldom if ever exactly the same. Another difficulty is caused by inevitable linguistic discrepancies between the different language versions. Some of these divergences result from technical errors (typing errors, omissions), yet they are capable of altering the substance of the agreement. Others are classical mistranslations of legal terms, which at the level of implementation and interpretation, might lead to different perceptions. The difficulty of translating legal texts lies in the fact that the concepts of a legal system are closely linked to that system and therefore an «absolute equivalence of legal concepts belonging to different legal systems is never possible», and that such equivalence can only be approximate [3, p. 23]. The translator is confronted with legal terms which may have their origin in national law or EU law. Once a term is identified as an EU law term, its meaning is not always clear since European law is still developing and some EU law concepts may be in need of clarification. This complicates the use of the notion of equivalence or partial equivalence. It also puts the use of the comparative legal method to the test since it is not always clear «which legal system's concepts are relevant in the investigation and whether the comparative legal method has any place in the translation of EU law concepts which have autonomous meaning, independent from national legal systems» [4, p. 248].

The problem may even be more complicated because of the two-fold linguistic impact of international treaties on terminology of EU law: 1) new terms are created and 2) international agreements give strict definitions to terms which were either not defined in national or European legal instruments or which had different, often even diverging definitions. The creation of new terms could be the result of technological development, inventions or newly established methods, policies or principles, which are in the majority of cases already known by the technical language previously regulated at an international level. This scenario seldom occurs. By contrast, the second case is quite frequent. International treaties do very often contain a list of definitions of their core terms. The European and national legislators have to choose whether they adopt these definitions and reproduce them in their legal instruments or they maintain their own definition, thereby duplicating concepts. Admitting new terms has a clear linguistic impact, whereas aligning definitions to international agreements is more of a legal issue but not without linguistic implications: the meaning of a term changes.

To enhance the quality of multilingual international instruments multilingual terminology databases for certain type of agreements or for

specific agreements should be compiled. In the area of carriage of goods, for instance, the United Nations Economic Commission for Europe (UN/ECE) issued a glossary of the terms used in combined transport and related fields. The glossary is intended for the work of the three intergovernmental organisations, namely the European Community, the European Conference of Ministers of Transport (ECMT) and the UN/ECE. It is, however, specified that the definitions are not applicable in their strictest sense to the legal and statistical fields, whose relevant documents of reference exist already. In other words, the glossary will not and cannot overrule already existing legal definitions of EU law. The aim of the glossary was to determine the meaning of the terms currently in use and to make them easily understandable by the increasing number of people who use them. Even if the European legislator uses the sources like this as reference tools in its legislation, it still has to find or create the equivalents in all other EU languages not covered by such glossaries. For this very purpose interinstitutional terminology data base called Inter-Active Terminology for Europe (IATE) exists. It is available not only for the staff of the Commission and other EU Institutions, but also to the general public. IATE contains approximately 8.5 million terms and 500 000 abbreviations from all fields of activity of EU Institutions [2, p. 13].

In conclusion, the EU's commitment to multilingualism results in increasing need for translation and improvement of its quality through bringing translation closer to drafting, managing multilingual terminology databases, making the relevant case-law available in several languages, and cultivating links with universities not only in member countries but also in those that will or may join the EU.

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