SPANISH TRANSLATIONS OF LEGAL TEXTS:
ADAPTATION, EQUIVALENCE AND EXPLANATION

Miguel Ángel Campos Pardillos
University of Alicante

The translation of legal texts gives rise to a number of problems related to the courts and proceedings that are described therein. When faced with such difficulties, a translator may attempt to find the equivalent term in the target language (Spanish, in this case), in order to illustrate the manner involved, but such replacement may lead to some confusion as to where the facts took place and also cause wide inaccuracy; a different option could be to preserve the original reference (or provide an ad hoc translation), which is more precise, but hinders the understanding of the text for the lay person. We shall analyse here some of the possible solutions to the problem, with examples drawn from European Courts sentences, and discuss the advantages and disadvantages each strategy entails.

Introduction
Both Viray and Darbelot and Vázquez Ayora, describing what is commonly known as “oblique translation”, list a number of strategies that allow translators to produce a text which, while keeping a certain faithfulness to the original version, meets also the requirements of grammatically and acceptability in the target language.

Linguistics, as a useful tool for the translator’s activity, teaches us that the speakers of a language possess a set of shared information and values, which may not explicitly appear in an utterance, but are a must for those utterances to be decoded: this information is what we call pragmatic presupposition (Alcaraz 1999; 168). It may be worth quoting the well-known example from the Spanish classic Lazarillo de Tormes, in which one of the characters, an impoverished nobleman, asks the protagonist “¿Esta ese pan amasado de manos limpias?” (“Has this bread been baked by clean hands?”), which can hardly be understood and appreciated if we are not familiar with the ideology of the time and the Spanish obsession during the Renaissance with having old Christian and non-Jewish ascendency.

Translation offers three specific solutions to the problem of how to convey those elements into the target language: preserving the original reference (with or without additional explanations), adaptation or equivalence. Equivalence implies the replacement of the unit in the source language by a form that plays exactly the function of the original, while adaptation involves changing or reformulating the target text to make it more easily understandable. Preserving the original reference is the most direct way of ensuring that the source text is still recognizable, but it can be problematic in certain cases, as it may lead to confusion or misinterpretation.
same role in the same situation in the target language, thanks to a complete similarity of the context, as could be illustrated by the translation of Jesúis! by Bless you! if somebody has sneezed; contrary to this, adaptation is bolder in that it leads to a replacement of the referent in the source language by another that plays more or less the same role in the target language situation, the social and cultural context being different. Vázquez Ayora quotes a hypothetical "He kissed his daughter on the mouth", which in a literal Spanish translation might cause some misunderstanding, and suggests a rendering as "Abranzó tiernamente a su hija".

Adaptation, which gives rise to perfectly acceptable texts in the target language, may nevertheless entail a certain risk. Firstly, it eliminates what has been termed as "local flavor"; in other words, a translation of a text that consists of resorting to adapting all referents into the target language situation might be so smooth that it would not be recognizable as a translation, but it would show us very little about the society of the source language.

On the other hand, this is in itself an inaccurate strategy, it forces us to change the referent; for instance, in a certified translation from English into Spanish of an academic transcript of records, we might translate "A Level Studies as Curso de Orientación Universitaria (or as Bachillerato, under the new Spanish system); nevertheless, in our opinion it would not be an acceptable translation for a number of reasons. Firstly, we are not referring to the same studies: Spanish COU has a duration of one year (or two, in the case of Bachillerato), whereas "A Levels may be studied in one or two years, depending on the options chosen; secondly, the number of subjects (seven or eight in Spain, three or four in Britain) cause the British student to possess a higher degree of specialization, which largely determines the kind of degree that may be studied in the future.

But most significantly, this translation is not acceptable because, strictly speaking, it cannot be said that the holder of this academic certificate has studied Curso de Orientación Universitaria; he or she has not done such things, and may even have never been to Spain or entered a Spanish school; therefore, in issuing a certified translation, which has the same validity in Spain as in the original, we are committing an offence under Spanish law, that of issuing a false public document (false in documento público). We may even harm our client's interests, for "A Level exams, due to being organized and corrected by external examiners, make it unnecessary to go through any further university entrance examination, which is a must in Spain.

However, it is seldom that we find universally applicable solutions in translation. Is there any context in which we might perform an adaptation and render "A Levels as COU? Let us propose the following example: in a literary description of a character, a male schoolteacher who immorally makes use of his position, one of his friends might criticize him as follows:

Don't you feel ashamed? It is as if a schoolteacher went out with his A level students!

¿Es que no te da vergüenza? ¿Es como si un profesor saliera con sus alumnos de COU?

In this case, we believe that the specific referent has little value, and it is the connotations that convey the main meaning, it is of no importance here how many and which subjects the student has to learn (although the method of assessment would be relevant), and what matters here is the age difference between the characters and the position of power held by one upon the others. In general, we might suggest that, in literary translation, adaptation is possible, even though it should never become an obligatory step. 3

Adaptation in legal translation

In the field of legal translation, the main difficulty we encounter is how to deal with specific references. Our working hypothesis, which we will try to support by means of published translations, is that the translator should not attempt to find equivalent terms where there are not any, should only endeavour to translate those terms for which there is already an established, approved version, and should in the rest of cases maintain the original term followed by some kind of explanation.

For many English-Spanish translators, the main reference for legal texts is professor Alcaraz Varó's study El inglés jurídico: textos y documentos, which offers a thorough introduction to English and Community Law from the Spanish point of view; for instance, this book reminds us that a careless rendering of Magistrados' Court is not only impossible, but might also lead us to the gross mistake of equating Magistrados, lay judges who do not belong to the legal profession, with the Spanish Magistrados, which is the name given to the justices of the Tribunal Supremo or Tribunal Constitucional, two of the Spanish high courts of law.

The book offers a rich variety of footnotes with suggested translations to the texts and documents included, in which different strategies are used. In some cases the author resorts to adaptation (p. 177):

...by providing the SEC [Securities Exchange Commission]... (otorgando a la CNMV [Comisión Nacional del Mercado de Valores] la facultad...)

According to what we said before, there could be a certain confusion here, for it has not been the Spanish Comisión Nacional del Mercado de Valores that has decided to intervene, but a different agency. However, it seems that the author has chosen to perform an explanatory adaptation, given the informative nature of the text (it is a translation from the American Law Journal), while making it clear that this is not the same agency. Thus, the introduction leaves no room for doubt, for the author explicitly quotes...
Encuentros en torno a la Traducción

"La recién creada Comisión de Valores y Bolsa (Securities and Exchange Commission, SEC)" (page 175) and, in a previous note in the same text, he has rendered Securities and Exchange Commission again as "Comisión de Valores y Bolsa", this term being an acceptable, non confusing translation. Alternatively, a possible translation might have been "Securities Exchange Commission (organismo de funciones similares a la CMV)"; this kind of explanation, which indeed has a number of opponents in literary translation (especially among the publishers) allows us to avoid any wrong identification, while preserving the informative purpose for the reader in the target language.

One of the best corpora for the analysis of legal translation is that offered by the law reports issued by the Courts of the European Communities, which are published in Luxembourg in all the official languages of the member countries, although they are not translated to as precedents, but purely have an informative value, which in our opinion is of great importance when considering the strategies adopted by the translators.

The first case we shall study will be one of the chapters in the long standing war between British publishers and the Restrictive Practices Court, concerning the agreements reached amongst the former to prevent the discounts on the price of books (Case C-360/02). We shall concentrate on the renderings of courts, procedures and other details which specifically refer to the United Kingdom and Northern Ireland.

Firstly, the case in question is not translated into Spanish. The agreements, concluded in 1957 under the title "Net Book Agreements" (hereinafter "the NBA"). lay down standard conditions...

...uniform standard conditions [...] which apply only if the publisher chooses to market a book as a "net book"... condições estándares uniformes [...] únicamente cuando el editor decide comercializar un libro como "net book".

Those who favour adaptation at all costs would tell us here that, as far as possible, everything should be translated and/or adapted to the target language situation. However, there is not a similar situation in Spanish; what the Net Book Agreement does is, literally, forbid any reduction in the retail price of books, although there are other restrictions in Spain (it is statutorily forbidden to give a discount over 5% on the price on any book, except on April 23rd, St. George's Day, where a 10% reduction is allowed). It would not be correct to replace this reference by the corresponding Spanish Act, for two reasons: firstly, the Spanish restriction is a legal one, whereas the British one is an agreement between publishers (i.e., the kind of move by the private sector that would be brought before a Restrictive Practices Court); secondly, the Spanish Real Decreto is not the situation that has been brought before the European Court. Therefore, we believe that it is preferable to proceed as the Luxembourg translators have done in this case, i.e., keeping the original term and allowing the context to explain the reference.

Another item worth noting is the appearance of article in the English version, in general, English statutes use the term section, whereas it is an established practice in English versions of Community Law and translations from other languages into English to use the term article, which violates the rule that no translation should appear as such, but avoids any confusion.

As a rule, it may be said that equivalent translations, i.e., with no change of referent, are feasible wherever the items described in a normal name given by the European Communities. For instance, in the case of the courts and their subdivisions, the translation relies on the joint official character of European languages, which allows the Spanish text to feature the official name of the courts (Tribunal de Justicia y Tribunal de Primera Instancia de las Comunidades Europeas) and the divisions (Chamber) is translated into Spanish as sala, which is also commonly used to render into Spanish the terms Division and Bench (as in Queen's Bench) of the English court system. However, the same goes for other components of European policy, such as the European Agricultural Guidance and Guarantee Fund (EAGGF), translated as Fondo Europeo de Orientación y de Garantía Agrícola (FOLOGA) in case C-499/94, or Directive 79/7/EEC, which appears as Directiva nº 79/7/EEC.

Nevertheless, when reference is made to items which have no official name in the target language, the translator may resort to an explanation of the original, while carefully avoiding any exact identification:

The Restrictive Practices Court (the competent body in the United Kingdom in competition matters), the Restrictive Practices Court (Tribunal de Defensa de la Competencia en el Reino Unido),...

The English and the Spanish version serve completely different purposes. In English, the text justifies the intervention of the court in this manner, for the reader is already aware of the role of such court; in Spanish, a certain degree of modulation is present, and a change in point of view leads to the use of the negation of the opposite term (no competencia es equivalente: no practicas restrictivas), together with an explanation, en el Reino Unido. The only objections that we may raise are, on the one hand, the usage of the Spanish preposition en to introduce post-noun modification in "Tribunal de Defensa de la Competencia en el Reino Unido", for it would be more correct to use del Reino Unido, and the unusual appearance of the feminine article a, which does not much agree with what is customary in Spanish on the use of foreign words, but which could be explained due to the
influence of the French language in European institutions.

A similar treatment of the name of institutions and agencies is given in case C-5/94, in which the Irish Ministry of Agriculture, Fisheries and Food is not translated into Spanish, neither by its equivalent in Spain (Ministerio de Agricultura y Pesca), nor by a version of the word ministry, which is traditionally rendered into Spanish as "Secretaría de Estado", neither can we find a rendering of the word "Secretary of State for Health" in case C-137/94, which could be equated to the Spanish "Ministra de Salud". However, in these and many other cases no explanation is made of the meaning of the original, which may be understandable in the case of a ministry (due to the similarity of the cognates in Spanish), but less clear in issues as the ones described in Case C-58/94, where "Country Landowners Association" is left without any explanation. A further consistent instance of this failure to render translate or explain is all the occurrences of British usual courts, such as the High Court of Justice (Queen's Bench division) and the Court of Appeal (Civil division), which are always left as such, even in cases where Civil division could easily have been rendered as "Sala de lo Civil"; so such an extent is the original respected without any criticism that "Queen's Bench Division" is transcribed into Spanish either between commas (C-440/93) or in brackets (C-137/94) depending on how it appeared in the English version.

Finally, sometimes the Spanish translator clearly favours a version of the text which leaves out any information which he or she deems as uninteresting for a Spanish reader (Case C-137/94).

Article 3(1) of Directive 79/7/EEC must be interpreted to the effect that a scheme such as that set out in Regulation 6(1) of the National Health Service (Charges for Drugs and Appliances) Regulations 1989, Statutory Instrument No 419, which entitles various persons, including old people, to exemption from prescription charges, is covered by the directive.

In our opinion, this omission is unjustified for two reasons: firstly, it errs aside the legal foundation for the exemption from prescription charges, which could be perfectly understandable in Spain, where all pensioners in the Seguridad Social (National Health Service) have free prescriptions, and even the National Health Service disappears in the Spanish rendering; secondly, the use of the words "Reglamento".

---

3. In Spanish, the substitution of grammatical gender or foreign words and acronyms is usually done, not by rendering references to the correct translation, but as the closest equivalent. Thus, "Spanish police" is rendered as "la Policía" in Spain, whereas "English police" is rendered as "la Policia" in Spanish. Although the law of translation (in Spain) is established, which is questionable. In the case, cases are very similar to Spanish cases, but for the reader may be surprised by the use of la Corte because no Spanish country are rendered as "court", thus leaving unclear exactly whose court.
THE IMPORTANCE OF ACCURACY OF GRAMMAR
AND LEXICON IN A TECHNICAL TRANSLATION

Maria Jose Alvarez Piedra
University of Oviedo

When facing a technical translation for the first time, the student's first reaction is usually a sense of fear of the new and unknown vocabulary, which they think constitutes a handicap for them. That is a rather serious mistake, although it is true that, despite the fact that good technical dictionaries can, generally, solve the problem, we agree with the complaint that the difficulty lies in choosing the right meaning, not being an expert in the subject - which may lead to tremendous mistakes. But it is not less true to admit that the real handicap arises when it comes to connect words and sentences correctly, so that the translation can reflect the meaning of the original text in the language into which we are translating it, so that it can be read as if it had been originally written in the second language.

The role a good command of grammar and terminology plays in a translation is essential, therefore, this paper will study the main elements to take into account in the process of translating.

To start with, I would like to point out that a technical text should not only contain specific information, and avoid any redundant details. Besides, a good statistical support could be necessary, if relevant, all this accuracy and validity exposed. The more coherent and organized the text, the more information it will provide the translator with.

Agreement and coherence are two basic properties every text should have. Sentence coherence is achieved by means of co-ordination, which marks the semantic continuity in the text - in Spanish also reached by means of subordination. This question will be studied in more detail when dealing with the morphosyntactic aspect at sentence level.

1. Mechanisms of textual coherence

- Use of the relative pronoun as a connector in a subordinate clause.
- Use of the determiner, in Spanish, to avoid lexical redundancy.
- Use of is (meaning por consiguiente), the coordinative consecutive conjunction, to indicate the consequence or result derived from the main clause.
- Adverbs indicating mode, time, context, etc.
- -dé (meaning either mediación + noun or -mente).

When translating into Spanish, the position of the adverb, in most cases, is irrelevant, because the Spa-
ENCUENTROS EN TORNO
A LA TRADUCCION II:
UNA REALIDAD INTERDISCIPLINAR

Universidad de Alcalá de Henares
Servicio de Publicaciones
AGRADECIMIENTOS

Nuestro agradecimiento para todas aquellas personas e instituciones que han hecho posible la presente edición, en especial para la Universidad de Alcalá de Henares que a través de:

- Departamento de Filología Moderna
- Vicerrectorado de Extensión Universitaria
- Vicerrectorado de Investigación

ha colaborado en este proyecto.
# ÍNDICE

Agradecimientos ........................................................................................................................................... 6

La traducción como realidad interdisciplinar. Apuntes introductorios ...................................................... 13
  Carmen Valero García

La traducción como suplemento. Una visión hermenéutica ...................................................................... 21
  Leticia Hernando

Traducción: Un aseo de interpretación visualizado.................................................................................... 29
  Javier Ortiz García

El Libro de Estilo: Entre la teoría y la práctica ........................................................................................... 33
  Patrick Zabalbidea

An Introductory Course in Translation: Methodological and Pedagogical Issues ..................................... 45
  Sonia Colina García

Traducir religiosamente... El tratamiento de las citas en obras episcopales cardícas .................................. 53
  Joan M. Verdugo Cerezo

La intraducibilidad traducida: Shakespeare en el aula .............................................................................. 63
  María Barros Ochoa

Estrategias didácticas para la enseñanza de la traducción ....................................................................... 71
  Carmen Valdivia Campos

Translate? - Translate What?: Concepts From Cognitive Psychology Relevant In Translation Methodology .................................................. 77
  Marion Edwards Adams

La interpretación: Una visión desde la práctica .......................................................................................... 85
  Antonio J. Fernández Arias
La importancia de la lengua materna en la formación del traductor e intérprete ........................................... 93
Manuel Ramió, Ricardo Moro, Carmen Valero, y Antonio Bueno

La traducción bíblica en lengua inglesa ...................................................................................................... 111
Lidia Yarzede de Haya

La Biblia de Weish, primera traducción completa al inglés ........................................................................ 117
Isabel de la Cruz y Monserrat Martínez

Una aproximación discursiva al uso de la conjunción explícita e implícita en inglés y en español .......... 125
Isabel García Izquierdo y Josep Marco

Aproximación de segunda lengua: Traducción y transferencia positiva .................................................... 133
Rosy Alonso y Elsa González

Contrastive Linguistics and Translation Studies: A Fruitful Alliance ......................................................... 143
Carmen Valero García

Traducción y realidad cultural. La traducción de inglés a español de relatos breves de escritoras hisbes del siglo XX ................................................. 155
Verónica Pacheco y Cosúa

Didáctica de la traducción de textos postcoloniales ................................................................................ 159
Ovidio Carbonell Cortés

Asuntos: Un modelo de traducción literaria ............................................................................................ 167
Esther Hernández y Ana Lara

How to Decorate a Glorious Text: Andrew (Said) Translation of Zora Neale Hurston’s Their Eyes Were Watching God ........................................................... 173
María Peña

In Search of the American Dream: A Perfect World. A Study of Linguistic Rea and Translation .......... 181
María Inigo y Debra Westall

Traducción literaria: De la lingüística a la literatura comparada ............................................................... 189
Mª Antonia Álvarez

La traducción de textos poéticos: universo semántico y palabras clave ................................................... 207
Esther Montiel

La literatura juvenil y la traducción. Análisis contrastivo de Charlie and the Great Elevator de Roald Dahl ................................................................................. 213
Esther Lazo y Cristina Tejedor

To Laugh or Not to Laugh. The Translation of Shakespeare Punning under Analysis .......................... 223
Mercedes Díez y Guzmán Marcho

Dialects In Translation: The Rendering Of Cockney Into Spanish ........................................................ 233
Edurne Goñi Alsúa

A propósito de una traducción de In a German Pension de Katherine Mansfield ................................. 241
Irene Sierra Ayala

R&D=TD. An ABC for Translators ........................................................................................................ 249
Peñar Campos Pardillos

Spanish Translations of Legal Texts: Adaptation, Equivalence and Explanation .............................. 255
Miguel Ángel Campos Pardillos

The Importance of Accuracy of Grammar and Lexicon in a Technical Translation .......................... 265
María José Álvarez Falcó
ENCUENTROS EN TORNO A LA TRADUCCIÓN II

Una realidad interdisciplinar

Carmen Valero Garcés (Ed.)

ACTAS, MEMORIAS Y CURSOS