

Disputation: “A Frame-Based Approach to Legal Translation”

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Legal language and legal translation are far from being the most common phenomena in linguistics and translation studies. In fact, both research topics are often regarded as special cases in interdisciplinary discussions, which aim to distinguish them in many ways from other types of specialized language and translation. Research on this topic draws on the various difficulties and peculiarities that arise from the study of legal language and legal translation, calling into question the applicability of general findings from the fields of terminology and translation studies to this particular category. In the context of specialized language studies, the necessity of a separate approach to examining legal language becomes clear given the established research branch of legal linguistics, which has emerged as a sub-discipline of linguistics and law, known as *Rechtslinguistik* in the Germanist tradition and *jurilinguistique* in the French-speaking sphere. An extensive debate that has appeared in this field revolves around the classification of this category as a specialized language, revealing a tendency to see the language of law merely as a special form or subcategory of general language. This is mainly due to its ambivalent relationship with the latter, given that legal terminology, in contrast to the languages of many other disciplines, is mainly based on lexical items yet associated with entirely different semantic fields.

This controversial affinity to general language is not the only issue that arises from a nuanced analysis of legal semantics. Law represents an abstract metaphysical phenomenon that has been created entirely by humans and thus has no natural counterpart (Mattila 2006: 105), unlike most technical and scientific disciplines. This gives rise to a unique, interdependent linkage between language and law, since the latter is created, modified, and executed solely by linguistic signs and can only be created and interpreted when set forth in writing in the form of legal provisions. At the same time, abstraction also manifests in a necessary openness to interpretation with regard to legal semantics, which leads to a tension between a desired preciseness and a required vagueness of legal terms (Busse 2017: 34 f.) that allows concepts to remain applicable to a variety of concrete cases. While these special features alone have a considerable impact on the semantic interpretation of legal terminology, legal language is also inherently dynamic due to constant changes in legislation and judicial interpretation of statutes, both of which aim to adapt the law to social developments and thus present terminologists and translators with the challenging task of capturing the contents of legal concepts as snapshots in time (Glanert 2011: 136–139). Last but not least, the (semantic) normativity of law must be taken into account, which can be substantiated in terms of legal philosophy, by considering the legal system – defined as a “product of different institutions, history, culture, and sometimes socio-economic principles” (Šarčević 1997: 232) – as the intersubjective set of rules governing the culture and society of a state, and especially from the institutional perspective of legal language, allowing for a depiction of legal concepts as solidified knowledge segments with stable relations between their epistemic elements (Busse 2005: 31 f.).

The challenges that the language of law faces on a semantic level are further complicated in a contrastive setting, resulting in legal translation regularly being categorized as a special case of translation studies. An essential characteristic that is often invoked as a criterion for iso-

lating legal concepts from the terminology or nomenclature of exact sciences is the extremely system-dependent nature of legal language, which is manifest in the embedding of legal terms in referential legal systems, i. e. *Bezugsrechtsordnungen* (Wiesmann 2004: 20), that differ from state to state, leading to different varieties within a single language and thus to intralingual legal translation as a special object of study. The unique ties to legal reference systems that result mean that the concept of equivalence plays a special role in legal translation studies, given that the possibility of establishing equivalence between terms from different legal systems is denied by many researchers such as Pommer (2006: 65) and Sandrini (1996: 138). The semantic incongruity between system-bound legal languages even results in a very prominent, controversial debate on translatability in law (Glanert 2011), with some legal comparatists rejecting the possibility of translating legal texts into the languages of other legal systems.

In this context, interdisciplinary approaches have emerged with the aim of overcoming the challenges of translation across nations and thus of combating the assumption of untranslatability in law, which is refuted by many translation scholars such as Cao (2007: 35) and Engberg (2020: 268), who renounce the goal of establishing identical congruency as a criterion for possible translation. In order to ensure communication between experts from different legal systems, with divergent system-specific knowledge requirements, legal comparison is primarily presented as an indispensable tool, appearing as an essential step in established legal translation models (Pommer 2006: 140). In view of the autonomy of comparative law research and the need to adapt its findings to legal translation (Engberg 2017: 7), further challenges arise. At the conceptual level, these lead to a controversial debate on the common orientation towards the functionality of legal terms (Dullion 2015: 98), generally applied to determine a *tertium comparationis* and approximate equivalents (Husa 2015: 119). Taking into account established models regarding the skills (Prieto Ramos 2011) and steps (Bocquet 2008) necessary for inter-systemic legal translation, alternative translational procedures, such as creating formal equivalence or the use of neologisms, have been developed in research. These act as substitute solutions for the dangers of the systematic use of functional equivalents and thus allow for foreign legal concepts to be made accessible to the recipients of the translated text from different angles.

The arguments examined reveal numerous characteristics and obstacles concerning the language of law and legal translation that need to be taken into account in order to adequately capture and represent legal terminology for the purposes of translation. It becomes questionable whether traditional multilingual terminology work – which tends to merge designations from different languages, refer them to the same concept, and delimit terms by definitions and additional remarks – adequately addresses the extreme system-bound nature of legal terminologies and the resulting semantic divergence between concepts from different systems and thus constitutes an efficient tool for legal translation. Frame semantics, on the other hand, has already been successfully applied to legal translation by considering the latter as an instance of knowledge communication (Engberg 2018: 38), which reveals the need for a knowledge-based approach to conveying legal information. This theory was originally developed in relation to general language to challenge the structuralist classification and definition of lexical units and thus provide a tool for describing all knowledge relevant to an adequate understanding of an expression by examining structural constituents that represent the knowledge segment (frame) evoked by the use of linguistic signs along with complex interconnections (Busse 2012: 11).

The aim of this work is to adapt frame semantics as a perspective and methodological approach to the characteristics of legal language and the requirements for legal translation. It

is therefore proposed as a format of representation, based on Faber (2022) and Lönneker-Rodman and Ziem (2018), to allow for adequately depicting abstract, dynamic, semantically vague and normative concepts embedded in unique legal systems of reference and as an analytical tool that enables decisions regarding which linguistic signs, in accordance with the various legal translation strategies, should be chosen in the target language. As a first step, the thesis examines how frames and their structural constituents can be used as ontological building blocks pursuant to the perspective of ontoterminology (Roche 2007) to model the abstract referential system of legal terminology. On the basis of such frame-ontological construction, the legal translation process can be carried out by making context-dependent and prototypical decisions according to the knowledge that one wishes to convey and evoke in the target legal language.

To illustrate such frame-based approach to legal translation, court rulings issued by the French *Cour de cassation* and *cour d'appel de Paris* are used as source texts that could be translated in the context of German court proceedings in order to grant the judge, as the intended recipient of the translation, access to the content of the source text. Legal terms of various categories, i. e. pertaining to substantive and procedural law, as well as the designations of laws and courts, are extracted and their transfer into Germany's legal language is examined from a frame-semantic perspective. This approach is based on cognitive and epistemic acts, which takes into account the semantic incongruence between terminologies from different systems and thus counteracts the presumed untranslatability of law by enabling context-based communication of knowledge elements and relations of highly complex legal concepts according to their relevance for adequate comprehension.

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