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Linguistic aspects of translating Russian legal terminology into Croatian language

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Abstract. The purpose of this paper is a contrastive analysis based and limited on the text of the Limited Liability Company Act and the aim is to show comparison of translations of key terms, structure of the text in both legal Acts and languages, Russian and Croatian. The scope of this research is to present similarities and differences between two languages and two legal systems through the interpretation of Limited Liability Company Acts. Paper is based on comparative analysis of two legal Acts and semantic analysis of legal terms in those Acts (such as *izjava*/the Statement; in Russian language *устав*/the Statute). The specificity of this analysis is that for the first time is comparing Russian and Croatian legal systems on the example of the legal act and legal language with a conclusion that the key role in the translation process belongs to the translator.

Keywords. Legal terminology, translation, Croatian language, Russian language.

1. Introduction

A foothold for this paper is in the Roman Jakobson's Linguistic Aspects of Translation (1959). According to his semiotic approach to the study of language, he states that meaning of a word is a linguistic phenomenon, and translation can happen in three ways: *intralingual*, *interlingual* and *intersemiotic* (Jakobson 1959: 233). In this paper author has focused on interlingual translation, which represents the traditional concept of translation of the source text (ST) to the target text (TT). Equivalence in translation is not considered only as a transfer of text from one language to another, but as a function of ST in the TT, i.e. in the target language.

The language of the legal profession is a language for special purposes (LSP) and requires not only knowledge of the standard language (administrative and business style of standard language), but also knowledge of the law. Legal translation is an interdisciplinary activity because it includes knowledge of the language and of the law. A Translator is a bridge between two legal systems and languages. He/she has to adopt different competencies, knowledge of the legal translation and different legal concepts of different systems (Croatian and Russian, in this case) and the method for establishing equivalents on the legal and linguistic level. A Translator has to be aware when translate similar terms or „false friends“. Translator must know the strategies and concepts of translating legal texts, compose their own handy “glossaries” and learn to deal with existing terminology resources. Mediators between legal text, language and society or different cultures are translators and translation. His/her work makes easier the knowledge and translation experience that greatly reduces the time of translation.

2. A comparative analysis of legal systems and terminology

Both legal systems, Croatian and Russian, belong to the Civil (Continental) law/Гражданское право/ Граданско pravo, based on the late Roman law. The similarities are that the legal terminology systematized in the 19th century based the most on the German and Austrian tradition. After the collapse of both political systems in 1990th, every state follows its own path of political development, and Republic of Croatia is now a parliamentary democracy and the Russian Federation is Federal semi-presidential republic. Similarities are that Croatia and Russian have brought The Constitution in 1990s. Differences are that Russia has the latest changes in 2008. of Constitution from 1993. Croatia has made the latest changes in June of 2010,

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regarding entering Croatia in EU. Not only Constitution was changed. Due to the liberalization of market relations and international communications, in both countries changed the most the commercial law and in this segment legal terminology.

In Croatian language, there is usage of several words, which describes similar legal concepts. Term *trgovačko društvo* (Company) is used to denote specific types of organization, such as *d.o.o.* (*dioničko društvo s ograničenom odgovornošću*/ Private Limited Liability Company or Limited Liability Company) and *d.d.* (*dioničko društvo*/ Public Limited Liability Company or Joint Stock Company) and term *tvrtka* (firm) is an organization involved in the trade of goods, services, or both to consumers and has wider semantic field than *d.o.o.* or *d.d.*, which are complete, precise and specified terms. The Croatian Companies Act (*Zakon o trgovačkim društvima*), with the latest changes in 2013th (NN 68/2013 from 28.05.2013. with the effective date of the law 15th of June 2013.) in general terms gives meaning and explanation of terms: retailers, trading companies, individual trader. It distinguishes between “personal companies” with individuals closely associated with the business (*društva osoba*) and “capital companies” (*društva kapitala*) based on associating capital rather than persons, both types being legal entities. „Personal companies” include both general (unlimited) partnerships (*javno trgovačko društvo – j.t.d.*) and limited partnerships (*komanditno društvo – k.d.*). „Capital companies” are joint-stock companies (*dioničko društvo – d.d.*), limited liability companies (*društvo s ograničenom odgovornošću - d.o.o.*), and the economic interest association, or EIA (*gospodarsko-interesno udruženje - GIU*).

In the Croatian legislation, the inseparable part of the Companies Act is the establishment of a Limited Liability Company. In Russian legislation, this law is located in a separate Federal law “About Limited Liability Companies” (LLC) / Федеральный закон «Об ООО» (from 9.12.2012 N 282-ФЗ (FZ) and entered into force on 2nd January 2013.). Besides the law of the LLC, there is a separate law on Joint Stock Companies (Федеральный закон «Об акционерных обществах» (ОАО) since 26.12.1995 N 208-FZ (entered into force in 24.11.1995.). According to this law, companies in accordance with the Russian law, can be divided to Closed joint stock company/ *Zatvoreno dioničko društvo/Закрытое акционерное общество (ZAO)* and Open Joint Stock Company/*Otvoreno dioničko društvo/Открытое акционерное общество (ОАО)*. The main distinguishing features of open and closed joint stock companies are the conditions and procedure for placement of shares and the rights of shareholders at their disposal and pre-emption. The joint-stock companies whose founders are the Russian Federation, a subject of the Russian Federation or the municipality may only be open joint-stock companies (JSC).

3. A contrastive analysis of legal terms in Limited Liability Company Acts

3.1. Similarities and differences in abbreviation of *d.o.o.* and *ООО* (Limited Liability Company)

The differences are in the abbreviation of the company and writing punctuation. In the Russian language, as opposed to the Croatian language, is not written point behind the (ordinal) numbers (ie years) and in this case period behind *ООО*. Abbreviation is written with a capital letters, which is one of the characteristics of the Russian language. The Croatian language abbreviation *d.o.o.* is always written with a small letters and after each letter is written a period. Translation is fully preserved form and has the same number of words with the proposal *s/c* (with) between the word company (*društvo/ общество*) and a limited liability (*ograničenom odgovornošću/ ограниченной ответственностью*):

d.o.o. – *društvo s ograničenom odgovornošću* and *ООО* – *Общество с ограниченной ответственностью (Obshchestvo s ogranichennoy otvetstvennostyu)*. Considering that fact, these two languages are both Slavic languages. Croatian language belongs to the South Slavic group and Russian language to the East Slavic group and it is not surprising that there are similarities in grammatical relations.

3.2. The legal definition of the d.o.o./OOO in Croatian and Russian languages

In Croatia, a private limited liability company is termed *društvo s ograničenom odgovornošću* (“company with limited liability”), Croatian abbreviation is d.o.o., and this is the most frequent type of company in Croatia. Definition is taken from “Zakon o trgovačkim društvima”, article 385.¹ and English translation is from Croatian Chamber of Economy:

„Društvo s ograničenom odgovornošću je trgovačko društvo u koje jedna ili više pravnih ili fizičkih osoba ulazu temeljne uloge s kojima sudjeluju u unaprijed dogovorenom temeljnom kapitalu. Temeljni ulozi ne moraju biti jednaki. Nijedan osnivač ne može kod osnivanja društva preuzeti više temeljnih uloga. Poslovni udjeli se ne mogu izraziti u vrijednosnim papirima.“

[A private limited company is one in which one or more legal entities or natural persons invest in initial authorized stakes, with which they participate in the total authorized capital as contractually set beforehand. Authorized stakes are not necessarily of the same amount. In the process of company formation, no founder may acquire multiple authorized stakes. The stakes may not take the form of securities.]²

In Russian language definition is:

«Общество с ограниченной ответственностью (общепринятое сокращение — ООО) — учрежденное одним или несколькими юридическими и/или физическими лицами хозяйственное общество, уставный капитал которого разделён на доли; участники общества не отвечают по его обязательствам и несут риск убытков, связанных с деятельностью общества, в пределах стоимости принадлежащих им долей в уставном капитале общества.»³

A contrastive analysis of two main definitions of the LLC leads to the conclusion, that there are no big differences between them in the basic meaning. At the legal level, they are also similar structurally designed and translation would be equivalent. In syntactic overview, there is a big difference. Definition of the LLC in Croatian law is formulated in four sentences, but in Russian law is only one sentence for the same meaning. Inappropriately long sentences are one of the characteristics of the law language and very common in legal documents, but make legal documents incomprehensible.

3.3. Parts of the Statement on establishment

LLC is established on the articles of the Statement, which must be signed by all founders in the form of a notarized document. If the company is established by just one person, the founding document is a statement on establishment submitted by the company founder in the form of a notarized document. The totality of each individual owner’s rights and obligations constitutes his/her stake in the company. The size of a stake is proportional to the size of authorized capital paid up. (HGK, ZTD, FZ OOO)

The following are the main parts of the Statement:

- information about the founder (name and surname or company name, founder’s residence or registered office, and, if the founder is a natural person, Personal Identification Number: *Osobni identifikacijski broj* (OIB) in Croatia and *основной государственный регистрационный номер* (ОГРН)/Primary State Registration Number and *идентификационный номер налогоплательщика* (ИНН)/ Taxpayer Identification Number in Russian Federation)
- company name and registered office
- business activity of the company
- total amount of authorized capital (share capital)

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- amount of each investor's individual ownership stake (if investment has been made in tangibles and intangibles, their detailed description and valuation is required)
- indication whether or not the company is established as a going concern
- the rights and obligations that the owners have with respect to the company, in addition to the obligation to pay for the ownership stake, as well as the rights and obligations of the company with respect its founders.

Croatian establishing act of *d.o.o.* consists of *Izjava o osnivanju* (The Statement of establishing), which must contain the following articles:

1. *Tvrtka društva* (Company name)
2. *Osnivač društva* (The founder of the company)
3. *Sjedište društva* (Company headquarters)
4. *Predmet poslovanja društva* (Business activity)
5. *Uprava društva* (The Management Board)
6. *Temeljni kapital* (Authorized share capital)
7. *Trajanje društva* (The duration of the company)
8. *Zaključne odredbe* (Final regulations)

In the Russian establishing act of OOO i.e. *Устав* (The Statute) is located in the second Division, Subsection 12 (Глава II. Учреждение общества, Статья 12. Устав общества) of the Federal law "About Limited Liability Companies" (Федеральный закон «Об ООО»). The Federal law has the following parts:

Глава I. Общие положения

Глава II. Учреждение общества

Глава III. Уставный капитал общества. Имущество общества

Глава III. Ведение списка участников общества

Глава IV. Управление в обществе

Глава V. Реорганизация и ликвидация общества

Глава VI. Заключительные положения

Устав or the Statute has the following parts:

1. шие положения
2. Цели и предмет деятельности Общества
3. Правовой статус Общества
4. Уставный капитал Общества
5. Права и обязанности участников Общества
6. Продажа, отчуждение либо переход доли или части доли в уставном капитале Общества к другому лицу, выход из Общества. Ведение списка участников Общества
7. Управление Обществом. Общее собрание участников Общества
8. Генеральный директор
9. Крупные сделки и сделки, в совершении которых имеется заинтересованность
10. Имущество, учет и отчетность

11. Распределение прибыли
12. Реорганизация и ликвидация Общества

4. Semantic analysis of legal terms

In both languages there is a basic document of the company establishment, but with different terms. The Croatian language has in document name *Izjava*/The Statement, in Russian language is *Устав*/The Statute/Statut. The Statement has to be translated into Russian language with *Заявление* and Russian word *Устав* with the Croatian *Statut*. In Croatian language, *statut*/the Statute means also an Act of local and territorial (regional) governments. The statute (Pravni leksikon, 2006) regulate self-scope units, its features, public recognition, organization, powers and operation of the body, way of doing business, forms of consulting citizens. Also, a referendum on matters within the scope of, local authority, organization and operation of public services, the forms of cooperation between local and territorial (regional) governments, and other issues of importance to the realization of rights and obligations. Special importance Statute has in international private law, which means the same relevant legal system for a specific category of bonding (e.g. personal statute is legally relevant to personal relationships, inheritance statute is the applicable law relating to inheritance law, the contractual statute is a law applicable to contractual relations, etc.). Term *Ustav* in Croatian language means The Constitution and is “the fundamental act of a State which establishes political and legal order” or in Russian language *Конституция* (Konstitutsiya) with definition of “the highest legal act of the Russian Federation”. In contrast to the Croatian word *Ustav*, the Russian word *Устав* means something else:

«Устав как учредительный документ юридического лица» от

«Уста́в — свод правил, регулирующих организацию и порядок деятельности в какой-либо определённой сфере отношений или какого-либо государственного органа, предприятия, учреждения.»

Устав as “the founding document of the legal entity” or “a set of rules governing the organization and procedure of activity in a particular area or a public relations agency, businesses and institutions.”

Polysemy (Collins, 2003: “the existence of several meanings in a single word”), synonymy (Collins, 2003: “a word that means the same or nearly the same as another word”), homonymy (Oxford Dictionary: “each of two or more words having the same spelling or pronunciation but different meanings and origins”) or homophony (Oxford Dictionary: having the same pronunciation as another word or others but different meaning, origin, or spelling). Neither of them is desirable in the legal language because it can lead to an incorrect translation, as in these cases above. Term for this is a “false friend”. One of the definitions of “false friends” has given Hayward and Moulin (1984: 190): “Confusion arises because word A (which belongs to the foreign language being learned or used) looks or sounds exactly or nearly like word B, which belongs to the learner’s mother tongue. The user then establishes an unwarranted inter-lingual equivalence on the basis of this total or partial similarity.” *False friends* translator must avoid, the good example is *Ustav*/the Constitution - as the highest legal document of the State, or in Russian language as a founding document for the legal entity, while in Russian language there is another word for the Constitution – similar to the English word *Konstitutsiya*.

5. Croatian and Russian language policy and modality words

Due to the Croatian accession to the EU, Croatia intensively is changing laws and harmonizing them with the *acquis communautaire* and this are resulted with a change in the Companies Act. For this reason, Croatia changed its law on the 7th of June 2013. Changed was Subsection 20. Paragraph 1. as follows:

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(1) Naznaka imena tvrtke trgovačkog društva mora biti na hrvatskom jeziku i latiničnom pismu ili na službenom jeziku države članice Europske unije i latiničnom pismu, a mogu se koristiti i arapski brojevi. Ostali sastojci tvrtke moraju biti na hrvatskom jeziku i latiničnom pismu.

[(1) The name of the company must be in the Croatian language and Latin script or in the official language of the European Union and Latin script, and can be used Arabic numerals. Other company's parts need to be in the Croatian language and Latin script.]

This is a direct change related to Croatian accession to the EU. Language policy has been so far that all company names must be in the Croatian language or dead languages (Latin or Greek) with the required translation and explanation in the Croatian language. Croatian language is a puristic language, dislikes loanwords and terms are translated, where it is possible, into Croatian language. However, the question is, will Croatian language policy now allow to continue the care for the language, if we'll be allowed the use of words in other languages (by the law in "foreign words"). However, for the Company registration at the Court a copy of the dictionary page for an explanation and translation of the term is requested. Russian Federation follows her own linguistic path and the path of the Law, and do not need to adjust its laws to The Community acquis, because it doesn't represent strategic importance or interest of the State. The latest modification of the Federal Law "About Limited Liability Companies" was also in 2013., changes was 27th of July (N 210-ФЗ). For the same question on the Language policy in Russian Federal Law "About Limited Liability Company Act" there is written as follows in the Division I Subsection 4 (Глава I. Общие положения Статья 4.)

«Общество должно иметь полное и вправе иметь сокращенное фирменное наименование на русском языке. Общество вправе иметь также полное и (или) сокращенное фирменное наименование на языках народов Российской Федерации и (или) иностранных языках.» (в ред. Федерального закона от 18.12.2006 N 231-ФЗ)⁴

[The Company must have the right to have a full and abbreviated name in Russian language. The Company has the right to have full and (or) the abbreviated name in the languages of the peoples (nations) of the Russian Federation and (or) foreign languages.]⁵

And further more:

«Фирменное наименование общества на русском языке и на языках народов Российской Федерации может содержать иноязычные заимствования в русской транскрипции или в транскрипциях языков народов Российской Федерации, за исключением терминов и аббревиатур, отражающих организационно-правовую форму общества.»⁴

[The Company name in Russian and the languages of the peoples of the Russian Federation may contain foreign-language loanwords in Russian transcription or transcription of languages of the Russian Federation, with the exception of terms and acronyms that reflect the organizational form of society.]⁵

In these Subsections modality words clearly come to the fore and even more potentiating the language policy, as those two: *должно* (morati/must) and *может* (moći/may, can). Word *должно* is modal word, in the Croatian language translates with the verb *morati*, as in the English with verbs *must* and *have to*, like in examples: *должно иметь/must*. The modal must expresses obligation or necessity, certainty (Palmer, 2001) in the sense *morati*, in the first fragment of Subsection and *может содержать/ may, can*, where the verb may expresses possibility in either an epistemic or deontic sense, that is, in terms of possible circumstance or permissibility. The

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modal verb can express possibility in a dynamic, deontic or epistemic sense, that is, in terms of innate ability, permissibility, or possible circumstance (Palmer, 2001) in sense *moći*, in the third fragment of Subsection. A modal verb serves as an auxiliary to another verb, which appears in infinitive form. The first syntagm refers to the *necessity* of the use of the Russian language, as the second phrase refers to the *possibility* to use also loan words from foreign languages, but in the Russian transcription. Using the Russian transcription of loanwords is another characteristic of the Russian language, therefore, words do not look like the original, but are adapted to the Cyrillic script and pronunciation of the Russian language. Differences between Russian and Croatian language policy about terms are significant. In Croatian language, as it doesn't like loanwords and rather use its own words, instead of foreign or loanwords, and considering that the name of Company has to be properly written in Croatian Standard Language or in other languages of EU but with preserving the original layout (looks) and in the Latin script.

6. Conclusion

Comparative analysis of law is study differences and similarities between the law of different countries and the importance of comparative law has increased enormously in the present age of internationalism, economic globalization and democratization.

In contrastive analysis of Russian and Croatian languages can be concluded, that they are both Slavic languages (one east and one south) and they have similarities in grammar and lexis. The differences are found in comparative analysis of two legal systems, although they belong to Civil (or Continental) law system. The law extensively changed after 1990s, especially in Croatia in the 21st century, which is supposed to harmonize its laws with the EU laws, and side by side with the amendments, changed the lexis and legal terminology.

Legal translator represents a link between language and legal systems. She/he must be in the course of intensive changes and constantly has to learn new terms, in order as would not have brought in a dilemma, which causes usage of a "false friend". Functioning of the term in the legal context has a great importance for the accuracy and adequacy of the translations, especially because legal translation has the legal power of his original document and legal translator has the key role in the translation process.

7. Notes

¹ URL: <http://narodne-novine.nn.hr/clanci/sluzbeni/260024.html>

² URL: http://www2.hgk.hr/en/How_To_Start_Up_an_Enterprise_in_Croatia.asp?izbor=01_companies

³ URL: <http://www.zakonrf.info/zakon-ob-ooo>

⁴ URL: http://www.consultant.ru/popular/ooo/48_1.html

⁵ Free translation by the Author.

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