

HOW TO TEACH LEGAL FRENCH TO LITHUANIAN SPEAKERS?

ARNAUD PARENT

*Department of Translation and Interpreting Studies
Faculty of Philology
Vilnius University, Lithuania
Arnaud_par@yahoo.fr*

Legal language has its own technical terms that a translator has to know. This article considers some specificities of French and Lithuanian legal terms as well as specific turns of the sentence and the ways to train students to recognize and use them.

INTRODUCTION

Since its accession to the European Union in 2004, Lithuania has multiplied its links with the other member states, making more political and economical ties with them.

Among these states is France. As Lithuania's exports destination France is ranking the 4th place¹. Equally significant for Lithuania is France's political role in the Union, first of all, because a significant part of the EU legislation is primarily drafted in French. Moreover, Lithuania will assume the presidency of the Union in the second half of 2013 and will have to be even more acquainted with its major languages. That is to say it is relevant in Lithuania to learn French for business and political purposes, especially legal French.

Writing a legal document is a serious task. The consequences of a rule of law are of utmost significance because they are mandatory to everyone. It is the same for the law of obligations, the parties being tied by the contract they have made, *pacta sunt servanda* as the Latin saying goes². A characteristic feature of

¹ Lithuanian Development Agency in its business review *Advantage Lithuania* 2007 indicates (p. 12) that France ranked the 4th place in 2005 among Lithuania's top ten exports for an amount of 665m Euro (7% of the total).

² The significance of the private contract is also underlined by the motto of the French notaries: *Lex est quod notamus*, "What we write is law".

a legal text is its compulsory nature. No other branch of the language possesses this characteristic.

Legal language is a complicated and technical one. It requires years to learn for the student who reads the law. Most often the translator, who does not have any qualification in this domain, has to know the legal terms of his or her native language and those of the foreign language he works with. In other words, the legal translator has to deal with comparative law.

This task is all the more difficult because legal vocabulary as a whole in a national language is estimated to amount from 10 000 to 20 000 terms. That is to say that the legal translator has to deal with a corpus varying from 20 000 to 40 000 words³.

In order to familiarize future translators with legal French the Department of Translation and Interpreting Studies of Vilnius University set up a course on legal French. This course is destined to students in the second year of Master in Translation Studies.

The whole course lasts one academic year. It consists of three teaching foci, realised during two academic hours a week. The foci are:

- French civil proceedings (the first term only)
- French general legal terminology
- two practical courses of legal translation (French to Lithuanian and Lithuanian to French, taught with the assistance of a Lithuanian native speaker).

The duration of the courses being quite short, their content has to be clearly defined. The gauntlet to be run is to teach law terms without presenting a classical law course. The question is: How to teach legal French to non-native French speakers? How to teach it to students who usually have little idea about the law of their own country?

Thus the purpose of this article is to indicate the most generic problems that a legal translator may face and to discuss the way how to train the students to solve them while putting emphasis on the particularities of French and Lithuanian.

³ Figures given by Aurel David, researcher in the Centre national de la recherche scientifique (C.N.R.S.), a French state institution, during a speech delivered at the Faculty of Law in Montréal on 21 October 1979. Quoted by Jean-Claude Gemar in *La traduction juridique et son enseignement: aspects théoriques et pratiques*, revue *Meta* XXIV, 1, p. 42.

We have chosen to focus our study on four main difficulties that are, in our opinion, especially relevant in law translation and will become the framework of the analysis to follow.

We will consider:

- I. Legal vocabulary
- II. Counterparts in the target language
- III. Vagueness
- IV. Style of the text

I. LEGAL VOCABULARY

We will here consider the particularities of the legal vocabulary (A) and consider thereafter the pedagogical exercises that will help the students to deal with the problems that may occur from it (B).

A. Peculiarities of legal vocabulary

First of all it has to be noticed that the Lithuanian legal system is close to that of France, and the Lithuanian Civil Code⁴ (Civilinis kodeksas) has been strongly influenced by the French Civil Code, so the concepts in the two States are common, which makes the comparison between the two systems easier.

Legal language is highly technical and often appears difficult to understand to the non-lawyer. Its vocabulary may be divided into two categories: technical terms (1) and collocations (2).

1. Technical terms

a) Technical terms that exclusively belong to the legal domain

They have a meaning only in the context of law. Usually these words are the most amazing to the non-lawyer and do not appear in the everyday language. We can quote: *exécuteur testamentaire* (Eng: *executor*; Lit: *testamento vykdytojas*), *pleine propriété* (Eng: *freehold*; Lit: *besąlygiška nuosavybės teisė*), etc.

b) Double membership terms

These words may have one meaning or more in everyday language and another in the field of law. It emphasizes the narrow ties between the vocabulary of law and that of ordinary language.

⁴ Adopted on July 18, 2000.

The French word *meuble* (Eng: *furniture*; Lit: *baldas*) for instance has only one sense in the common vocabulary. The term points out tables, chairs, etc. But the meaning of *meuble* differs in the legal context. Here a *meuble* distinguishes everything that is not an *immeuble* (Eng: *real estate*; Lit: *nekilnojamos turtas*). That is to say this term encloses a table or a chair, but also an animal or standing crop destined to be cut and sold.⁵

The differences between the sense that a word can have in a legal context and the one it has in everyday language may be more or less significant.

The difference of sense is partial when the legal meaning appears as the extension of the common meaning. That is the case, for instance, for the French term *aliments* which in its usual sense means food (Lit: *maistas*) but in its legal sense means “everything that is necessary for life: food, clothing, housing, health and so on.”⁶

In some situations the difference of meaning may be absolute. It is the case for the French word *minute*.⁷ As in English it designates one thing in the common language and another in the sphere of law: “an original act drawn up by a public officer” or a “court decision kept at the Clerk’s Office” (which in Lithuanian may be translated as *protokolas*). We could also quote *saisir* (Eng: *to catch*; Lit: *griebti, čiupti / imti*) meaning also *to submit* or *to refer a matter to a court* (Lit: *kreiptis į teismą*).

It has to be noted that some legal terms have entered the everyday language, like *force majeure* in French. Legal Lithuanian also uses *force majeure* or uses the expression: *įvykus nepaprastoms aplinkybėms, kurių negalima nei numatyti, nei išvengti* (“Unusual events it is impossible to foresee and avoid”). Also *force majeure aplinkybė* (*case of force majeure*) is occasionally used. Nevertheless in Lithuanian these terms have not entered the common speech.

It has to be noticed that double-membership words are not to be confused with false friends. The false friend is a word that exists in two languages but with different meanings. To the contrary of what happens very often between French and English there is no such problem between French and Lithuanian.

⁵ Example given by Frédéric Houbert, *Guide pratique de la traduction*, Maison du dictionnaire, 2005, p. 23, quoting Christine Schmidt, *La langue juridique: maux et remèdes*, in *Dictionnaire des difficultés de l’anglais des contrats*, Frédéric Houbert, La Maison du Dictionnaire, 2000, p.121.

⁶ Frédéric Houbert, *op. cit.* p. 23.

⁷ See *Lexique Dalloz*, 12e édition, p. 240.

These languages being too different one from the other, there is almost no risk of confusion with this regard, even if some words have been borrowed, such as *asortimentas* (*assortment*), *atašė* (*attaché*) or *diplomatinių demaršas* (*diplomatic démarche*). We can anyway quote the case of the false friend *filialas* (Eng: *branch*) meaning *succursale* in French, while the French *filiale* (Eng: *subsidiary*) means *dukterinė / kontroliuojama įmonė* in Lithuanian.

2. Support words

Beside the technical terms, it has to be noticed that there exist words, usually verbs, that do not have a purely technical meaning by themselves but nevertheless are necessary to assist the technical words. They are used to frame technical terms but their own sense may be less or void. Some technical terms can only be used with a support verb. The support words are usually easier to understand than the technical ones.

For instance, we may mention *faire* in *faire appel d'une décision* (Eng: *to appeal against the judge's decision*; Lit: *apskųsti teisėjo sprendimą*), *casser* in *casser une décision* (Eng: *to quash a court decision*; Lit: *panaikinti / anuliuoti / kasuoti teismo sprendimą*).

B. Pedagogical exercises

As a significant part of the French legal terms comes from civil proceedings, a course is specially devoted to this subject. The course is as simplified as possible, of course, stressing on the key words. The principles of the civil proceedings are explained to the extent it is necessary to explain the terms that have to be learned.

Some chosen legal cases will be given to the students to make them familiar with technical words and support words as well. A good way to memorize these terms is to fill in the gaps of missing words in a legal case.

As for the general French legal terminology, the set of lectures starts with a basic expose of the French legal organization so that students become acquainted with the French legal system. The content of this course is more likely to vary from year to year as the needs of the students have to be considered. Basically the aspects taken into account are:

- Business law
- Law of obligations
- Competition law

- Intellectual property law
- International law
- European law

These lectures are presented along with various readings of legal texts: laws, regulations, cases, different types of contracts, law reviews, scholars' works, etc.

In order to memorize and implement this knowledge the following exercises are proposed:

- Comments on the current legal subjects in the press
- Learning the ways how to use the French Civil Code
- Comparison of diverse laws
- Summing up of a legal case
- Gap filling exercises, etc.

II. COUNTERPARTS IN THE TARGET LANGUAGE

In this section we will consider the difficulties that may rise translating the name of an institution, a profession, a procedure, a concept, proper to a legal system (A) and the pedagogical exercises that may be proposed about this issue (B).

A. Issue

Since each system has its own history and its own particularities, a translator faces considerable difficulties when a term does not have a direct equivalent in the target language. With this regard legal terms may be divided into three groups⁸:

1. Semantic counterparts

These terms have a real counterpart in the target language. For instance *Ordre public* finds easily its match word with *Public order* (Lit: *viešoji tvarka*). In this case there is no major difficulty for translation.

2. Terms that only have a functional counterpart

Here there is not a strict equivalence between the two languages, but a partial equivalence does exist in the two of them. It is often the case for the institutions and titles. For instance, the French legal profession *notaire* does not have a real equivalent either in the United Kingdom or in the United States.⁹ We could also quote the case of the Lithuanian company *Uždaroji akcinė bendrovė* which

⁸ F. Houbert, op. cit. p. 37.

⁹ Though it is usually translated *Solicitor* (in the U.K.) and *Notary Public* (in the U.S.).

is close to the *British Limited Partnership* or the French *Société à responsabilité limitée*. These denominations represent a category of companies common to different countries. Nevertheless, because each of the above-mentioned companies is proper to a specific national legal system, its counterpart in a foreign language may only be functional.

3. Untranslatable terms

These terms designate a reality which does not exist in a legal culture, whence the difficulties to translate. Many of them appear in the documents of civil proceedings. A good example is *Common law*, thus this term is usually directly used in French.

Interesting is the case of *citoyenneté* (citizenship) and *nationalité* (nationality). Usually *citoyenneté* is linked to *pilietybė* and *nationalité* is linked to *tautybė*. According to their etymologies those are equivalent terms, nevertheless a closer look at the definitions reveals different legal realities in each country.

In France citizenship is the status of the citizen, a citizen being a person who enjoys, on the territory of the state to which he belongs, its civil and political rights. Nationality is the legal link between a person and a sovereign State.¹⁰ For the French administration, in principle, French citizens are persons who have the French nationality and enjoy their civil and political rights.¹¹ It appears that citizenship is an extension of the concept of nationality, even if sometimes in the everyday and law languages the two terms may be used synonymously. Some scholars even use the words interchangeably in their works.¹²

¹⁰ Citoyen: individu jouissant, sur le territoire de l'Etat dont il relève, des droits civils et politiques. Nationalité: Lien juridique et politique qui rattache un individu à un Etat souverain. *Lexique des termes juridiques*, Dalloz, 1993.

¹¹ « *En principe, sont citoyens français les personnes ayant la nationalité française et jouissant de leurs droits civils et politiques (ex : droit de vote)* ». It also adds that: “*citizenship is not only a legal concept*” (“*la citoyenneté n’est pas qu’un concept de droit*”). La Documentation française is a French public administration publishing general documentation about administrative matters. These extracts are taken from the thema : *Tous les habitants de la France sont-ils des citoyens français ?*, vie-publique.fr, website of the Documentation française.

¹² See Patrick Weil’s work: *L’accès à la citoyenneté : une comparaison de vingt-cinq lois sur la nationalité* (published in *Travaux du centre d’études et de prévision du Ministère de l’Intérieur : Nationalité et citoyenneté, nouvelle donne d’un espace européen*, mai 2002, n°5, pp. 9–28). The author draws the attention in the second footnote that in the article he will interchangeably use “nationality” and “citizenship” to express the membership of a state. (“*Tout au long de cet article nous emploierons indistinctement les mots de nationalité et de citoyenneté pour signifier l’appartenance juridique à l’Etat*”).

In Lithuania, *pilietybė* is the membership of a person to a State and the legal situation that results of it. *Tautybė* is the membership to a people/nation.¹³ In consequence, a Lithuanian citizen may have Lithuanian, or Russian, or Polish nationality, for instance. Such a situation is not possible in French Law. This dichotomy has not to be mistaken for the double nationality, which does not exist in Lithuania. Hence in Lithuania citizenship and nationality are clearly two different concepts.

As a result, the Lithuanian terms do not match precisely their French and English counterparts. Thus the English version of *Pilietybės įstatymas* is translated by *Law on Citizenship*¹⁴ because this Lithuanian law, of course, has only domestic purposes. But on the current Lithuanian ID cards *pilietybė* is translated by *nationality*, because this document may be used in other EU member states, and because this term is closer to the term of *nationality* of the countries that do not differentiate between *citizenship* and *nationality* in the way Lithuania does.

B. Pedagogical exercises

Usually there are two possibilities offered to the translator if a direct counterpart does not exist:

- To translate directly if a literal translation already exists and provide an explanation of the term in a footnote if necessary.
- To translate by using an equivalent term, giving similarly an explanation in a footnote.

The importance of the explanation given varies according to the targeted readership: a lawyer, a businessman, a layman.

For instance, it is problematic to translate the Lithuanian *apygardos teismas*¹⁵ for it does not have a real counterpart in France, thus it would be wise to keep the term as it is and add a footnote.

It appears that the students have to know if a counterpart exists or not. The more they will read the French legal press, the better they will know about the French legal system. Understandably, they have to broaden their knowledge about the legal system of their own country as well. The readings will help them

¹³ Pilietybė: asmens priklausymas valstybei ir su tuo susijusi jo teisinė padėtis. Tautybė: priklausymas kuriai tautai. *Mokomas lietuvių kalbos žodynas*, Baltos lankos.

¹⁴ Adopted on September 17, 2002.

¹⁵ *Apygardos teismas* points out one of the types of local jurisdictions in the Republic of Lithuania

to draw up their own list of institutions. The various texts studied in class as well as the translations will help the students to achieve this goal.

III. VAGUENESS

Vagueness is the ambiguity that may be found in a text. It has a very particular significance in legal texts. Usually in other domains ambiguities are fortuitous. In the legal field this vagueness may be deliberate. Indeed, the framer of a legal document may wish to let open various interpretations of it. We will consider the main characteristics of vagueness (A) and then its specificities in French and Lithuanian (B).

A. *Characteristics of vagueness*

We may distinguish three types of vagueness¹⁶:

- 1) Vagueness of the lexicon
- 2) Vagueness of the syntax
- 3) Vagueness of the context

1. Vagueness of the lexicon

Vagueness of the lexicon may be claimed each time the context does not give any clue about the meaning of a word which has more than one sense. For instance, the French link word *aussi* means *also* or *then*. *Défendre* means *to defend* but it also means *to forbid*. *Louer*, like in English (*to rent*) and Lithuanian (*nuomoti*) is a verb that may apply either to the renter who rents an object or premises from an owner or an owner that rents an object or premises to a renter.

2. Vagueness of the syntax

Typically one of the biggest ambiguities may rise from an excessive use of the pronouns. In so doing the ambiguity becomes at the same time syntactic and contextual. It is obvious in the following example:

« Le détaillant s'engage à fournir un produit équivalent à l'acheteur en cas de dysfonctionnement constaté sur un appareil vendu par le détaillant, l'appareil devant être présenté dans le délai d'une semaine ». It could be translated this way into English: "The retailer will furnish a similar product to the buyer in case of

¹⁶ About this topic, see Frédéric Houbert, *Guide pratique de la traduction anglais-français*, La maison du Dictionnaire, 2005, p. 32 and following.

malfunction of the product sold by the retailer in this case it shall be presented within one week”.

In this sentence we may wonder who (the retailer or the buyer) is supposed to present the product within one week.

Equally punctuation matters very much in a legal text. The location of a comma in a text may even lead to litigation. The Court of Appeals of Dijon rendered a sentence about such a problem¹⁷, the litigious clause was:

« Le fournisseur garantit la maintenance du système, et la mise à niveau technologique gratuitement pendant une durée de cinq ans... ». It could be translated this way into English: “The furnisher assures the maintenance of the system, and the technologic updating for free for duration of five years”. Anyway a closer reading shows that the gratuity only applies to sole updating and not to the maintenance.¹⁸

3. Vagueness of the context

It mostly happens when an element is contradicted by another one in the same text or is inaccurate. We could quote for instance the case of “Chambre internationale de Paris”, which does not exist, as the competent institution in an arbitration agreement, oftentimes mentioned instead of “Chambre de Commerce internationale à Paris (*International Chamber of Commerce in Paris*), which may lead to confusion.

B. Matters of vagueness between French and Lithuanian

A significant difference between French and Lithuanian is that French has the category of articles, determined and undetermined, whereas Lithuanian has not; the latter uses a complex system of declensions. As a consequence, it may happen that a Lithuanian term appears unclear to a French reader. It is the case, for instance, for *kitą kartą*, which without more precision may mean *another time* or *next time*.

With regard to ambiguity the French term *sans aucun doute* (Engl: *without any doubt*) which is easily translated into Lithuanian by *be jokios abejonės* may be quite astonishing to foreign speakers. In Lithuanian, as in English, the words *jokio* and *any* are just here to enhance the sense. But if the Lithuanian term *be abejonės* has the meaning of *without doubt* it does not match with the French *sans doute*. Actually it has to be noticed that *sans doute* has the meaning of *tikriausiai* (Eng: *likely*).

¹⁷ Judgement pronounced on 25 March 1988.

¹⁸ On February 24, 1959 the same court had to settle a litigation where 40m French francs were at stake, having to decide the meaning given to a comma in Article 9 of the Company Law of 24 March 1952.

It may be concluded that a literal translation of the Lithuanian term *be abejonės* may be correctly translated by the English term *without doubt*, but it is a serious mistake to translate it into French by *sans doute*. The French term *sans doute* is very tricky because only a French native speaker may know there is a difference between *sans doute* and *sans aucun doute*.

It has to be said that, of course, if the to be text translated does not have any ambiguity, the translator cannot create one. Nevertheless one should never correct the ambiguities that may appear in the language source for fear of deforming the thought of its author.

As for the pronouns, it is far better to repeat the nouns as they are mentioned rather than use pronouns that could lead to confusion. The role of the translator is not to clarify but to warn with notes on ambiguities and problems in the original text.

To train the students to deal with ambiguity matters they will be asked to:

- study the way a rule of law is framed
- study the wording of a contract
- get used to translating texts such as laws and contracts.

IV. THE STYLE OF THE TEXT

This section is dedicated to the most “literary” aspect of the legal translation: the style of the text. Administration and Justice govern the everyday life of the citizen and use a specific tone that they are the only ones to use. The innate authority they have is expressed in their texts that are solemn.¹⁹ Private Law, notably Law of Obligations with its contracts, also has its typical turns of sentences. French and Lithuanian languages have their own ways to express the tone of legal documents.

A. Specificities of the French language

1. The tone of the text

The terms used by the administration when it has something to communicate or ask are remarkable. For example, they may vary according to the persons addressed. Three categories may be distinguished²⁰:

¹⁹ See Jean Darbelnet, *Réflexions sur le discours juridique*, revue *Meta*, volume XXIV, n 1, 1979, p. 30 and 31.

²⁰ Jean Darbelnet, *op. cit.*, p. 31.

- 1) The superior
- 2) The equal
- 3) The inferior

Thus the verb *to inform* will be translated in case 1) by *rendre compte*, in case 2) by *informer* and in case 3) by *faire connaître*, this latter having a variant *faire savoir* which stresses on the distance between the superior and the inferior.

Another particularity of administration and justice is that they do not use the question mark. The administration does not condescend to ask a question.²¹ For instance, we shall not write *y a-t-il lieu de ...?* (English : *is it necessary to...?*; Lit: *ar reikia...?*) but *la question se pose de savoir si...* (Eng : *the matter is... ; Lit : klausimas yra...*) or *nous vous serions bien obligés de bien vouloir nous indiquer....* (Eng: *We should be greatly obliged if you would kindly...*; Lit: *Būtume labai dėkingi, jeigu galėtumėte nurodyti...*)

2) *On and il*

It has to be noticed that the pronoun *on* in French has the meaning of *we*, but is quite undefined and impersonal (a comparison may be made with the German *man*). For instance, the phrase *on veillera à ce que* (*it will be provided that*) is quite impersonal, nevertheless the pronoun *on* is to be avoided in some legal contexts because it may sound too familiar. The impersonal mode in French may also be conveyed by the pronoun *il* similar to the English *it*: *il est convenu que* (*it has been agreed*) more suitable than *on a convenu que*. These phrases may be translated into Lithuanian by a passive form (*sudaroma....*).

B. Specificities of the Lithuanian language

1. Common speech and legal speech

Some turns of sentence may be specific to law language, for instance, in Lithuanian it would be used: „Sutartis įsigalioja nuo jos pasirašymo momento ir galioja **iki** viena iš sutarties šalių raštu praneša kitai šaliai apie ketinimą ją nutraukti. (The contract takes force from the moment of the signature and ends when one of the parties declares to the other one its will to withdraw oneself from the contract). In common language writing **iki tol, kol** or **iki to momento, kol** would be more correct, but writing only **iki** in a legal context is relevant.

²¹ Jean Darbelnet, op. cit., p. 31.

2. Special gerund

It has to be noticed that Lithuanian has specific grammatical features that can effectively be used in a contract:

- a) *Esamojo laiko padalyvis* (a form close to the English gerund, derived from the present active participle) as in :

„Ši sutartis gali būti keičiama, *šalims pasirašant* atskirą susitarimą, pridedamą prie šios sutarties” (Eng : „The contract may be modified if the parties write a separate agreement joined to this contract“).

- b) *Būtojo laiko padalyvis* (a form close to the English gerund, derived from the past active participle):

„*Šalims susitarus* pirkėjas gali gražinti prekes pardavėjui”. (Eng: „If the parties have agreed so, the seller can send the goods back“).

B. Pedagogical exercises

The course will tend to familiarize students with the styles of national laws, European legislation, legal cases, each type of these documents having its specific style. Students will also be trained to express an idea in different ways. Translations made in common will be quite useful in this regard. The students will be asked to draw up their own contracts according to the models provided in class.

CONCLUSION

Knowing technical words is a prerequisite to legal translation, but definitely not sufficient enough: it is also necessary to know the styles and the turns of sentences of the different types of legal texts. Law is a domain that constantly evolves, requiring the students to keep their knowledge of the legal French up to date. The purpose of the course is to initiate them into legal French and to show them the way to deepen their knowledge of it. As we have shown in the article, for the purpose a variety of forms may be used.

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