

Standardization of the Macedonian and French Legal Terminology as a Pre-Condition for a Successful Implementation of Euro-Atlantic Integrations

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Abstract

One of the very important aspects and obligations that the Republic of Macedonia should fulfill on its way of Euro-Atlantic integrations is the translation of a vast corpus of texts, whose content concerns mainly the field of law. Of course, the bulk of these texts are written in English, but a considerable part is also written or should be translated into French. In order to have a successful translation it is essential to standardize the terms used in Macedonian and French legal language, and at the same time to standardize the equivalents of the source language to the target language. This paper aims to represent the characteristics of the terminology standardization in France and to compare it to the terminology standardization in the Republic of Macedonia, in order to point out the flaws and the possibilities of their overcoming.

Key words: *standardization, legal terminology, French language, Macedonian language.*

The Legal Language and the Standardization

The general language can be used in different fields in order to express different knowledge or to give different type of information. Used in different fields of knowledge the general language gains some characteristics. One of the most important characteristics is the accuracy, which is the reason why in the professional communication, there is no place for the synonymy, polysemy and homonymy. The terminology standardization stops the proliferation of terms and its essential principle is that a designation should refer to only one concept, and vice versa, a concept should be labeled with only one term. Thus, one form is determined to be a standard or a norm.

This principle of monosemy is of major importance in the legal language because in this field the language and the texts are object of analysis and an instrument to work with.

The Concept of Standardization

The standardization is defined by ISO the International Organization for Standardization as an *"activity of establishing, with regard to actual or potential*

problems, provisions for common and repeated use, aimed at the achievement of the optimum degree of order in a given context"¹. There are three types of standardization: international, national and institutional. The beginnings of the terminology standardization on international level are linked with the EC (International Electro-technical Commission) and the Organization in charge of the terminology standardization ISO (the International Organization for Standardization) founded in 1946. The technical committee TC37 is a committee within the ISO that prepares standards and other documents concerning methodology and principles for terminology, and language resources. Certain institutions, very often some governmental bodies, implement the second type, the national standardization. The third one is the standardization implemented in a certain institution or organization.

The process of standardization comprises two phases. The first one is the establishment of the *de iure* standards, which means that the standards are produced by some official body. The other phase is essential, because in this phase the standards are established in the scientific milieu i.e. the term gains ground in practice and should be used by the scientific community.

Terminology Standardization on a National Level

In some countries, language policy provides and manages the creation and the use of neologisms, while in other countries the policies are more lenient and only recommend the use of certain terms. The reasons for these differences are mainly due to the level of industrial development of different countries. In this sense, the industrialized countries can afford not to pay too much attention to the way language evolves, as creativity (especially in the field of science and technology) provides the continuity of the language. In this group of languages are, of course, English but also French, German, Spanish and Japanese languages.

On the other hand, the developing countries that continually import science and technology and that adopt knowledge created in other languages control the direct acceptance of terms or the acceptance of adapted terms so that foreign models do not burden their own language. In languages that are part of the Romanian group, the models are commonly taken from the French language, while the languages of the German language group take the models from the English and German language. The languages that do not belong to any of these groups define their own language policy and they can opt between the traditional models or international solutions.

French Terminology Standardization

The French terminology standardization is carried out within the borders of the French Republic, but also outside these borders given that French is the official language in some European and non European countries. Therefore, in this chapter

¹ ISO/IEC 1996.

we will try to elaborate the standardization process in France, but we will also briefly explain this process in Canada because of the intense activity in this field.

In France, the terminology committees are established by decision of the appropriate ministers. There are about fifteen committees, and their work is coordinated by the General Delegation for the French language and the languages of France² whose primary task is to designate or to translate the new referent in French. The General Delegation is composed of professionals in the field, French language professionals and the members of the French Academy. The proposed terms are analyzed in details before their publication in the Official Gazette. The French Academy has the last word about the acceptance of certain terms.

The legal terminology is firstly analyzed by the Committee for terminology and neology established within the Ministry of justice. Afterwards the proposed terms are analyzed by the French Academy before their publication in the Official Gazette. After the publication, the use of these terms in the public administration is compulsory. In the period between the 1997 and 2011 the General Delegation has analyzed and recommended many neologisms as equivalents for the existing English terms. Among them, there are only two legal terms published in the Official Gazette. The first term *alerte professionnelle* is offered as a synonym for the existing term *dénonciation*. The reason why a new term is proposed to be officialized and used is due to the fact that the term *dénonciation* can designate denouncing of people or of data, whereas the term *alerte professionnelle* designates denouncing of irregularities that harm/ could harm the person that reveals them, the enterprise or a third person. This term is offered as an equivalent for the American term - *whistleblowing*³. It can be noticed that some elements are added i.e. that the original English model is widened.

In this case the Committee rejected the term *alarme* (considered to be too strong) and accepted the term *alerte*, that is already a part of the vocabulary of the commercial law.

The second neologism is *action de groupe* proposed as an equivalent for the English term *class action*⁴. It's obvious that in the second case the French neologism follows the English form, when it comes to the constitutive elements of the term, thus creating a new term with elements that are part of the French vocabulary.

The task of the Committee for terminology and neology within the French Ministry of justice is to review the legal language in general. This means that the analyzed neologisms should not only fulfill the existing gaps in the legal vocabulary, but should also modify the legal language so that it becomes more accessible and more comprehensive for everybody, without losing its accuracy. In order to achieve this goal certain syntagmas that are old or not clear enough are

² For more information see the official web-site of the General Delegation for the French language and the languages of France <http://www.dglf.culture.gouv.fr/>

³ *Journal Officiel*, 7 septembre 2007.

⁴ *Journal Officiel*, 13 mai 2006.

replaced by new ones. We can quote some examples : the use of the term *dépenses* (*spending*) is preferred to that of the term *impenses*, *olographe-manuscrit* (*handwritten*); *commodat - prêt à usage* (*loan for use*) etc.

While in France the process of standardization is mainly oriented toward the unification of French terms in Canada because of the official bilingualism, the standardization of terms concerns the French and English equivalents. The *Quebec Board of the French Language* (Office québécois de la langue française (OQLF)⁵) is in charge of the terminology management. This institution establishes Committees within different ministries whose task is to prepare terminology lists, to spot terminology gabs and to propose terminology solutions. It is interesting to mention that the Canadian and French legal systems are different because the French system is based on the Continental law and Canadian on the Anglo-Saxon law. This means that the designations for some procedures, institutions, documents, etc. do not exist in French and they should be invented. That is why the terminology resources published in Canada⁶ are full of explanations about the proper use of certain legal terms, about avoiding translation mistakes even when they are dedicated exclusively to French terminology.

Terminology Standardization in the Republic of Macedonia

The use of the Macedonian language as official language in Macedonia is regulated by the Law on the Macedonian language from 1998, amended on the 18.07.2008. This law emphasizes that: *The protection, promotion and enrichment of the Macedonian language include: avoiding the use of foreign phrases and borrowed terms and if possible replacing them with appropriate terms of the Macedonian vocabulary.*⁷

Despite the array of measures foreseen by this law, in Macedonia there is only one Committee whose scope of work is the development of terminology: it is the Terminology Committee of the Macedonian Academy of Sciences and Arts (MANU) that engages experts from various fields, mostly university professors. After being formed, the lists are checked and then published in the terminology bulletins.

⁵ <http://www.oqlf.gouv.qc.ca/>

⁶ PICOTTE, Jacques: *Juridictionnaire*, Université de Moncton, 2008.

⁷ *Закон за употребата на македонскиот јазик*, Службен весник на РМ бр. 5/98 од 30 јануари 1998.

Заштитата, унапредувањето и збогатувањето на македонскиот јазик опфаќаат особено:

- избегнување употреба на странски изрази и заемки, односно, по можност, нивно заменување со соодветни поими од македонската лексика. It should be pointed out that even there are some mistakes even in the Law on Macedonian language: because the term *поими* is wrongly used. This term, equivalent of the English term *concept/notion* does not designate a part of the vocabulary. Therefore, the term *поими*, should be replaced with other terms such as *називи, термини, зборови*.

The first issue of the Bulletin was published in 1971. Its introduction stresses the need of establishing scientific and technical terminology in various areas in order to enable an effective scientific communication, to transfer knowledge in the pedagogical process and to contribute to the development of the national culture. This need arises because of the terminology expansion, imposing the use of certain terms. But usually these terms are used rather haphazardly, i.e. a person borrows the original foreign term without any adaptation to the system of the target language, or the adaptation can be inadequate so that the form of the new term can suggest some meanings that are not comprised in the original term. Sometimes there are even doublets. The task of this project is to systematize the various initiatives, which previously existed, and to publish successively the processed material from certain areas.

The first issue of the Bulletin also establishes the guidelines of the work on the Macedonian terminology. In it, we can find an explanation of the importance of the terminology work, its stages, the way of presentation of data and finally the criteria that the terms should meet. According to the terminology standards, the terms must be unambiguous and accurate, so that the meaning of the designation corresponds to the concept. The shortness of the term is imposed for practical reasons and it should be suitable for derivation of new terms. If the terms are being built systematically, the system will reflect the relations between the relevant concepts. Finally, terms must be contemporary.

Two Bulletins are dedicated to the legal terminology and to the terminology of the political sciences.

The first one is dedicated to the sub domain of criminal law. This issue (n.64) is prepared by the professor Djordje Marjanovic and published in 1989⁸. In this bulletin, the terms are arranged in alphabetical order, accompanied by definitions, and the equivalents in seven languages: Latin, Serbian, English, French, German, Russian and Slovenian. Some Latin terms are taken directly without any adjustment for example: *алиби* (*alibi*), *амнестија* (*amnesty / amnistie*), etc. However, most often a small adjustment is done: *abolitio* - *аболуција* (*abolition*), *iurisdiction* - *јурисдикција* (*jurisdiction / jurisdiction*).

Some terms are part of the international terminology such as *апелационен суд* (*appeal court / cour d'appel*) or *геноцид* (*genocide / génocide*).

Most of the terms having Slavic etymology are actually of Russian origin: *дејствие* (*action*), *божју суд* (*Divine judgment / jugement de Dieu*), etc., and some of them entered the Macedonian language through the Serbian language. A small numbers of them are calques of some Serbian terms such as *велепредавство* – *велеиздаја* (*high treason / haute trahison*). There are some terms whose designations seem to be unique and that can be regarded as an exclusivity of the Macedonian legal terminology. Some of them are often used in the general language: *злостор* (*crime*), *измама* (*fraud / fraude*), *закана* (*menace*).

⁸ МАРЈАНОВИЌ, Ѓорѓе: „Право и политички науки, Кривично право,“ *Билтен на Одборот за македонска научна и стручна терминологија*, МАНУ, Скопје, 1989.

The other bulletin analyzes the terminology of the family and inheritance law, and was prepared by the university professor Mile Hadzi-Vasilev. It is a double issue (99 and 100) published in 1998⁹, covering terms not only of the judicial practice, but also those concerning the relationships between entities in the marriage and family. Therefore, the terms concern the birth, the marriage, the end of life, the conveying of the property, of the rights and obligations of the successors. For the Macedonian terms are offered equivalents in Latin, Serbian, Russian, English, French and German. The analysis of this corpus lead to several conclusions. First of all, there are many terms borrowed directly from Latin. That is the case, for example, with the term *агнат* (*agnate / agnat*) taken from the Latin - *agnatus*. Some more complex Latin expressions are translated and then borrowed into Macedonian. For example, the expression *matrimonium nullum absolutum* is translated in Macedonian as *ансолутна ништовност на бракот*.

Due to the nature of the legal branch to which these terms belong, they are often part of the common language where they entered from the Russian through the Serbian or directly from the Serbian language. Directly from the Serbian language are taken the terms *чедо* (*child / enfant*), *хранител* (*foster parent / parent adoptif*), *ититеник* (*protégé*) while from the Russian are taken the terms *семејство* (*family / famille*), *зет* (*son-in-law / beau-fils*) and *потомок* (*descendant*). The terms are taken from the Latin, Serbian and Russian but sometimes they have their own specific form. Such terms are *завареник* (*stepson / beau-fils*), *завареница* (*stepdaughter / belle-fille*) defined as „затечен син/керка“ from the previous marriage.

In this issue of the Bulletin are mentioned several terms that are not part of the standard language but are found in dialects. We can quote the terms: *армас*, *армасник*, *армасница* meaning *свршувачка* (*engagement/fiançailles*), *свршеник* (*fiancé*), *свршеница* (*fiancée*).

In the bulletin sometimes are offered synonymous variants for certain terms. The synonyms are usually due to the fact that some Latin terms are adapted to the Macedonian language system or some long terms containing more than one word are replaced with short, one word terms. Thus, the term *бигамија* (*bigamy / bigamie*), a term with Latin origin is replaced with the term *двобрачност* or *двоженство*. The synonym of the term *адоптант* (*adoptive parent / parent adoptif*) is the term *посвоител*. The term *посвоен син* (*adopted son / fils adopté*) may be used along with shorter synonyms as *посиненик* or *посвоеник*.

Finally, after having analyzed these bulletins devoted to the legal terminology we can conclude that the terms are presented systematically, with the equivalents in six foreign languages. For some borrowed terms are given Macedonian synonyms, and even some dialectal variants. The terms are determined through definitions. However, the definition is not always sufficient to determine some terms, so these definitions should probably be enriched with contexts in which the terms are used, especially with the synonymous variants. We also noticed that some gaps in the legal terminology are filled by borrowing Latin,

⁹ ХАЦИ-ВАСИЛЕВ, Миле: „Право и политички науки, Семејно право“, *Билтен на Одборот за македонска научна и стручна терминологија*, МАНУ, Скопје, 1998.

Russian and Serbian terms or by imitating some international models. In that sense, the true neologisms are very rare in this scientific field.

Standardization of the Translation Equivalents

While the project of the Macedonian Academy concerns mainly the unification of the Macedonian terms, the process of Euro-Atlantic integrations imposed the need to standardize the terminology equivalents in order to harmonize the Macedonian legislation with the European. This need is already foreseen in the National Strategy for European Integration of the Republic of Macedonia¹⁰ that stresses the need of the translation of the *acquis communautaire* that will be afterwards incorporated in the Macedonian legislation. In the process of its translation participate linguists, legal experts, IT experts and also experts of all fields comprised in the legal acts of the EU. The basic principles of the translation process of the European legal acts are the followings: systematic approach-unified terminology, linguistic and terminology accuracy and legal viability. The texts are firstly translated from English to Macedonian and afterwards they succumb to a verification performed by language and legal experts. The result of this process are the two issues of the Manual for translating legal acts of the European Union¹¹ published in December 2010. The first issue is dedicated to translation of terms, syntagmas and legal forms from Macedonian into English. The second issue presents the English terms or syntagmas and their equivalents in French, German and Macedonian. The reason why the terms are presented in different languages is due to the fact that sometimes English texts can be not clear enough and there is a need of consulting texts written in other languages. The importance of the French language or of its understanding becomes obvious when reading the title of the document *acquis communautaire* borrowed from the French language.

This manual is very important for several reasons. First, it provides the equivalents for terms or syntagmas that usually designate an institution or an official document. Many presented terms can be encountered in the legal language in general, so they can be useful for any translator while translating legal texts. There are recommendations on a level of terminology, syntax, morphology and text. The source language is English and then the equivalents are offered in French, German and Macedonian. There are even some recommendations that concern the use of specific terms such as abbreviation and acronyms on one hand, and Latin terms on another. The acronyms are divided in several groups. The first group comprises the acronyms of the organizations that are translated and whose acronyms are embedded in the language such as *OSCE - Organisation for Security and Cooperation in Europe / ОБСЕ Организација за безбедност и соработка во Европа; CFSP – Common Foreign and Security Policy / ЗНБП - Заедничка надворешна и безбедносна политика*. There are some cases when acronyms are

¹⁰ *National Strategy for European integration of the Republic of Macedonia*, Government of the Republic of Macedonia, Skopje, 2004.

¹¹ *Прирачник за преведување на правните акти на Република Македонија*, Секретаријат за европски прашања, Скопје, 2010.

transcribed but the name of the institution is translated into Macedonian: *OECD - Organisation for Economic Cooperation and Development /OEЦД -Организација за економска соработка и развој*. Then some acronyms are transcribed in accordance with their pronunciation: *PEACE - Initiative for peace and reconciliation in Northern Ireland / ПИС – Иницијатива за мир и помирување во Северна Ирска*. The long acronyms, which are easy to pronounce are usually adopted without translation *Бенелукс, Унеско, Унктад, Интерез*, and when the pronunciation is difficult they are just transcribed in a Cyrillic script. We can also add that the acronym *NATO* is not translated and we use the transcribed English acronym. The field of the acronyms is of those where the lack of standardization is strongly felt. In France the abbreviated forms and acronyms are standardized and there are no examples of this kind of disparity, so *NATO* in French is *OTAN-Organisation du traité de l'Atlantique Nord*.

It is also interesting that the manual treats the problem of Latin terms and their translation into Macedonian, with the recommendation that they should be translated with corresponding Macedonian equivalents except for some largely used terms such as *ad hoc* or *modus vivendi*.¹² For other Latin terms, except for the term *mutatis mutandis* are indicated Macedonian equivalents. In France, there are recommendations that the term *mutatis mutandis* should be replaced with the French expression *compte tenu des changements nécessaires* or *compte tenu des adaptations nécessaires*¹³. This can be also applied to Macedonian and this term can be replaced with the expressions: *земајќи ги предвид потребните измени* or *откако беа направени потребните измени*.

There are also some recommendations concerning the translation of certain grammar structures, such as the gerund. The translators are not limited to only one solution, but they are offered three possibilities: translation of these structures by a verbal noun *–ње*, then by a relative sentence introduced by the pronoun *кој/а* and a verbal form and finally with the preposition *за* and omitting some expressions that are not useful. For example (*Réglement*) *établissant des valeurs forfaitaires à l'importation* :

1. *Регулатива за утврдување на стандардните увозни вредности...*
2. *Регулатива со која се утврдуваат стандардните увозни вредности...*
3. *Регулатива за стандардните увозни вредности...*

The given possibility of use of different structures clearly shows that even the legal language that imposes strong criteria when it comes to the language precision allows a structure diversity in order to avoid stylistic monotony.

Finally, the Manual gives recommendations on translation of different text forms thus completing the elaboration on translation of the *acquis communautaire*.

¹² Maybe this term when used in Macedonian text should be accompanied with an explanation about its meaning (an agreement between those whose opinions differ, such that they agree to disagree) because it seems that this Latin phrase is not largely used with this legal meaning.

¹³ VITALE, G. SPARER, M. & LAROSE, R.: *Guide de la traduction appliquée*, Presses de l'Université de Québec, 1978. p.205.

Of course, the manual is elaborated well and it serves its purpose that is the translation of the *acquis communautaire*. In a way, it is also a significant contribution for the standardization of the legal terminology, and especially of its equivalents. Still it cannot be the final product of the process and it should be the first step toward an elaboration of a terminology base in which the terms and certain syntagmas will be elaborated separately, with definitions and justification for the equivalents. The standardization of the legal terminology based on this manual should take into consideration two things.

First, that some solutions are functional only when translating the *acquis communautaire*, and they cannot be applied to any legal text. For example : *meeting in the composition of the Heads of State or Government* is translated into French - *réuni au niveau des chefs d'Etat ou de gouvernement* and then in Macedonian *состанок на ниво на шефови на држави или на влади*. While the English term *meeting* and the Macedonian term *состанок* are equivalents, it is not the case of the French term *réuni*, because the French equivalent would be *réunion*. We suppose that the solution given in the manual corresponds to contexts where this term is used, but it cannot be applied in every legal document.

The second aspect are the synonyms. If a legal terminology base is to be elaborated, the synonyms should be also taken into consideration because they are reduced to minimum in the Manual whose scope of interest is only one legal document. Therefore, the legal terms should be clearly defined and the nuances of meaning precisely identified.

The EU terms accompanied with equivalents and definitions are presented in the Glossary of the EU terminology¹⁴ by the authors Karakamiseva and Efremova, published in September 2009. The source language is English and the equivalents are German and Macedonian terms. In this sense, there is a certain lack of Glossary in this field elaborated with French terms.

However, the standardization of legal equivalents should not only be viewed within the scope of the EU terminology. During the Euro-Atlantic integration, different legal documents will have to be translated (not only the *acquis communautaire*) so certain attention is to be paid to the translation of some national institutions. In fact, the translation of the name of French judicial institutions in Macedonian and vice versa is another example of insufficient standardization. The two judicial systems being different, some institutions have no real equivalents in France or in Macedonia. That is the case of the Macedonian court *Основен суд* that can be translated as *Tribunal de première instance* or *Tribunal de base*¹⁵.

¹⁴ КАРАКАМИШЕВА, Т. & ЕФРЕМОВА, В.: *Поимник на терминологијата на Европската Унија*, Скопје, 2009.

¹⁵ For more details about the translation of the names of the Macedonian courts in French and vice versa see: ЈАКИМОВСКА, С: *Терминолошки предизвици при преведувањето текстови со правна содржина: Преведување називи на судски институции од француски на македонски јазик и обратно* in „Правник“ n.222, 2010.

There are also some French courts that do not have real equivalents in Macedonia. This is the case of the: *tribunal d'instance* and *tribunal de grande instance* and of their abbreviations *TI* and *TGI*. For these terms as Macedonian equivalents can be used the terms *Основен суд* and *Висок основен суд*. A similar example is the French term *Tribunal correctionnel* that can have as an equivalent the Macedonian terms *казнено-поправен суд* or *поправен суд*.

When the process of Euro-Atlantic integration of Macedonia started the term *benchmark* was borrowed without any adjustment or without any effort to invent a new term. Therefore, we can find the term *бенчмарк* in the press as well as its plural form *бенчмаркови* that sounds very unnatural in Macedonian.

Conclusion

The comparison of the French and Macedonian terminology standardization systems can lead us to the conclusion that the French system is more developed and that it embraces various scientific fields through the terminology committees in the different ministries. Of course, France is larger country and the care for the language is due to many facts such as its long tradition, than the use of this language as an official language in different countries and the desire to keep its uniqueness and specificity in front of the predominance of the English language.

On the other hand, Macedonian language is also confronted with many challenges. Macedonian language does not have as many speakers as French, which means that additional attention is to be paid in order to preserve its specificity. When speaking about the standardization of legal terminology in Macedonia, there are two projects. The first one is that of the Macedonian Academy, which is very important because it is well organized and continuous. During the period of more than 40 years are published bulletins that present the terminology of different fields. Still, some scientific fields are being neglected, which can be illustrated by the legal terminology, because the terminologies of only two legal fields, that of criminal and family law, are represented so far.

The second project is that of the Secretariat for European Affairs, whose purpose is the unification of terms during the translation of the *acquis communautaire*. This project is well managed but it can also serve as a beginning point for developing more exhaustive legal terminology base.

Finally, a very important aspect is the embedment and the distribution of the terms in the communication. Many terms exist only on a theoretical level, but are not used in practice. In order to overcome these obstacles a more intense collaboration between the law professionals and language experts is needed. The scientists should indicate certain terminological gaps, and if possible, propose some solutions, that should be analyzed together with the language experts in order to find or create terms that will correspond to the system of the Macedonian language.

The awareness and of course the constant and devoted work on the terminology is of major importance during the Euro-Atlantic integration process because it implies a translation of a vast amount of legal texts. If the used

terminology is standardized, the translated texts will be of grater quality and the process that should be implemented in accordance with these texts will go faster.

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