# TRANSLATION PROCEDURES AND GUIDELINES TO FOLLOW TO CREATE ADEQUATE GEORGIAN LEGAL TRANSLATIONS IN GENERAL AND WITHIN THE EU CONTEXT

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**Abstract** - The article entitled translation procedures and guidelines to follow to create adequate Georgian legal translations in general and within the EU context aims to present procedures Georgian legal translators need to go through and guidelines to follow, as well as methods to be applied to avoid common errors. This article covers all essential theoretical and grammatical points which are mandatory for legal translators to know in order to produce quality translations in general and within the EU context. In writing this article, a case study research methodology has been applied. The aim is to provide Georgian legal translators with a useful guideline to follow and specific results through thorough discussion of translation procedures and stages, analysis of issues faced by translators as well as examples of errors by them, suggesting correct versions and ways to avoid further mistakes.

**Keywords** - EU, issues, legal translation, results

## I. INTRODUCTION

Harmonization of EU and Georgian legislation and development of legal translation field After conclusion of the Association Agreement between the European Union and Georgia on June 27, 2014, the harmonization and approximation of the legislation of Georgia with that of the EU became of utmost significance. This could have become feasible only through provision of professional translators capable of producing quality legal translations. For this purposes, required steps were taken and a translation Center stuffed with adequately trained translators produced within the special programme by the Legislative Herald of Georgia and the British Council Georgia was created, since previously produced Georgian legal translations were flawed and had no legal force. This proved to be a tremendous step forward for harmonization of EU and Georgian legislation as well as the field of law. However, legal translation has still remained a challenging aspect of translation, and being one of the specially trained Georgian legal translator, the author of this article hopes that this attempt to make it less challenging for Georgian legal translators will prove successful.

This article starts with presenting the necessary preconditions for producing adequate Georgian legal translations within the EU context, then focuses on the issues faced by Georgian legal translators in general and within the EU context, illustrates translation procedures which legal translators must go through, most common errors made by Georgian legal translators and suggests their causes as well as solutions through a comparative analysis of the flawed and successful translations of the Law of Georgia of Independent National Regulatory Bodies.

## II.

Being described as an "ultimate linguistic challenge" [4], legal translation requires genuine professionalism and profound knowledge of both linguistics and law as a necessary prerequisite for producing adequately translated legal documents. The task of comprehending legal terms and concepts and making appropriate linguistic choices proves to be absolutely challenging when source language (hereafter 'SL') and target language legal systems (hereafter 'TL') are completely different. According to Harvey, this requires "the inventiveness of literary translation with the terminological precision of technical translation [5]." With Georgian legal system being a part of the civil law family and English legal system of the common law family, producing a translation that makes both legal and linguistic sense requires a profound understanding of the SL and the TL legal systems, as well as legal terms or concepts. For example, the term "section," which is applied in common law system countries, in a civil law system state, such as Georgia, is transferred as "article," "act" from civil law system is translated as "law", or "case pending," which means „to admit the case," in civil law system is translated as "the case has been admitted and is awaiting a decision." These examples clearly testify to the fact that a legal term or concept is impossible to be indiscriminately transposed from one country to another. Similarly, a legal translator, like any other translator, needs to know which term fits in a specific context, since, a term which has one particular meaning in one legal system can be polysemous in another; for example, simple "lawyer" in Georgian has two equivalents "lawyer (იურისტი) and "prosecutor (ადვოკატი)" and an "asset" has five equivalents in Georgian: "property (ქონება)", "capital

(კაპიტალი)", "fund (ფონდი)", "financial means (სახსრები)", and "assets (აქტივები).

Thus, the first and the most important necessary prerequisite for producing successful translations of EU legislative acts and avoiding awkward term related errors is to have an insight in SL and TL legal systems in order to apply appropriate basic terms.

The second and absolutely essential precondition serving the same purpose, i.e., creating precise translations of SL when translating for the European Union is familiarity with The English Style Guide of the European Commission's Directorate-General for Translation, in which style refers to a set of accepted linguistic conventions. It is an axiom that legislation depends heavily on linguistic conventions, such as titles and headings, numbering and lettering, capitalization and punctuation, etc. Therefore, familiarity with the Guide is of paramount importance for the purposes of producing successful translations. The Guide comprises two parts, with the first part dealing with linguistic conventions and the European Union treaties, legislation, institutions, publications, etc. The best way for legal translators to become familiar with it is to apply it regularly.

As regards the third and fourth preconditions which apply working on legal documents in general as well as within the EU context, the former implies the compulsoriness of knowing the key features of Legal English in order to be aware of what problems they may cause for Georgian translators and how to tackle them, while the latter implies the necessity of observing translation ethics.

The features of legal language are as follows:

a. it comprises words of Latin and French origin, such as prima facie, inter alia, de facto, pro forma, ultra vires, pro rata, per annum, per se, force majeure, bailiff, acquis, mortgage, parole, etc.;
b. archaic adverbs and prepositional phrases, such as hereinafter, thereunder, hereby, whereby, thereunto, pursuant to, without prejudice to, subject to, notwithstanding, in accordance with, etc.;
c. redundancy, when two or three near synonyms are combined, such as each and every, null and void, fit and proper, fair and equitable, etc.;
d. long and winding sentences;
e. frequent use of passive;
f. frequent conditionals; some of the indicators of condition or hypothesis are: should, unless, provided that, in the event of, etc.

The issue which translators face due to existence of Latin and French terms in law is whether to translate these terms or leave them as they are in the original. Considering the fact that "at the international level, Latin was still the language of inter-State relations at the beginning of modern times and … Latin is the main common denominator of almost all European legal languages" [6], it would seem a perfectly reasonable choice to include these terms in translations, however, retaining all Latin terms may create ambiguity for those readers of legal documents, who are not experts in the field; consequently, for the purposes of more clarity, it will be more sensible to find proper Georgian terms for them, such as already determined terms for "inter alia," "ultra vires," "bailiff," "mortgage," etc., which are translated as „მათ შორის, "for "უფლებამოსილების გადამეტება,"სასამართლოს მანდატური,"„იპოთეკა" respectively.

As regards redundancy, the dilemma which arises for translators in this case is whether or not there is a genuine distinction between the two combined terms or they are just a mere duplication. Ideally, it is desired to produce a precise translation, however, excessive fidelity to the original at the level of words can result into an awkward and unnatural sounding translation for SL readers. For example, if "each and every," which constitutes more a mere duplication of the word "every" is translated word-for-word as „თითოეული და ყველა," this will be a rather odd word combination for Georgian readers, however, "fair and equitable" can easily be transferred as "სამართლიანი და თანასწორუფლებიანი, "since there is a distinction between the two words, and Georgian has equivalents for both of them. So the bottom line is that it is true that a translator must strive to preserve the features of legal English in Georgian translations, but when this results in production of unnatural translations, it is better to sacrifice some relatively insignificant features such as redundancy even in legal translation, which requires a genuinely high degree of exactitude.

As regards Ethics for Translators, according to American Translators Association Code of Ethics and Professional Practice, translators must endeavor to:

1. convey meaning between people and cultures faithfully, accurately, and impartially;
2. hold in confidence any privileged and/or confidential information entrusted to them in the course of their work;
3. represent qualifications, capabilities and responsibilities honestly and to work always within them;
4. enhance those capabilities at every opportunity by continuing education in language, subject field, and professional practice;
5. act collegially by sharing knowledge and experience;
6. define in advance by mutual agreement, and to abide by, the terms of all business transactions among themselves and with others;

7. ask for and offer due recognition of our work, and compensation commensurate with their abilities;
8. endeavor in good faith to resolve among themselves any dispute that arises from their professional interactions;

Abiding by the aforementioned conditions are compulsory for any translator, since failure to do so may harm translators themselves, their fellow translators and those they serve [1].

## III. TRANSLATION PROCEDURES

Translation procedures in general are very accurately described by the developer of the dynamic-equivalence Bible-translation theory, Eugene A. Nida, according to who they are as follows:

## IV. TECHNICAL PROCEDURES:

a. Analysis of the source and target languages;
b. Through study of the source language text before making attempts translate it;
c. Making judgments of the semantic and syntactic approximations.

## V. ORGANIZATIONAL PROCEDURES

constant reevaluation of the attempt made; contrasting it with the existing available translations of the same text done by other translators, and checking the text's communicative effectiveness by asking the target language readers to evaluate its accuracy and effectiveness and studying their reactions [7].

Tecnical and organizational procedures in legal translation
are almost identical with those mentioned above with one exception; instead of “checking the text's communicative effectiveness by asking the target language readers to evaluate its accuracy and effectiveness and studying their reactions,” translated legal texts are subject to the revision process by somebody else other than translators themselves. According to the Revision Manual of the Spanish Department of the European Commission’s Directorate-General for Translation, the reviser shall read a segment of the translated text and compare it with its equivalent in the original [8].

However, as in legal translation terms are of critical importance, before revision, terms drawn up or translated by translators pass through the hands of a terminologist. It is true that translators also act as terminologists but the terms translated or formulated by them need further examination by a terminologist.

Thus, legal translations, for the purposes of being trustworthy and high quality, in particular, legal texts produced by translators working within the EU context, pass through the following stages:

1. the source and target texts are thoroughly analyzed by translators;
2. before attempting to translate, the source language text is carefully studied by translators;
3. judgments of the semantic and syntactic approximations are made;
4. terms are collected, translated and sent to a terminologist;
5. after terms are returned, they are examined by translators and included in the translated version;
6. in the event that translations of the same text by other translators exist, the translated version is contrasted by a translator with them and finally sent to the reviser.
7. The reviser improves the quality of the translation and serves as a quality control instrument.
8. Translations which are subjected to all the seven stages are commonly credible and high quality.

## VI.

As regards the errors Georgian legal translators commonly make, they are caused by the issues they face, which are as follows:

1. to what extent to preserve fidelity to the source text, since excessive fidelity makes the translated version of the document unnatural from the linguistic point of view; however, uncontrolled deviation makes it inadequate;
2. choosing right terms, since substantial differences between the two legal systems result in stark differences is terms;
3. maintaining consistency;
4. grammatical issues related to: a) articles, b) modality,
c) tenses; d) capitalization and e) punctuation.

Obviously, the aforementioned issues, in their turn, prove to be sources of errors which Georgian legal translators commonly make and out of which the most serious errors are related to:

a. factual mistakes resulting in mistranslation;
b. wrong terms;
c. inconsistency.

Less serious errors in legal texts are connected to:

d. articles;
e. modality;
f. capitalization
g. punctuation

The examples of some of the aforementioned mistakes and the correct versions will be illustrated below through a comparative analysis of the source text and the flawed and successful translations of The Law of

Georgia of Independent National Regulatory Bodies, with the former being translated by Georgian National Communications Commission and the latter by LEPL Legislative Herald of Georgia.

The analysis of the flawed translation of the aforementioned law revealed some examples of mistranslation caused by: a. factual mistakes; b. use of improper collocations; and c. excessive fidelity to the original (word-for-word translation);

a. Examples of factual mistakes resulting in mistranslation. Through a thorough analysis of the source and two translated texts out of which the first proves to be a flawed translation of The Law of Georgia of Independent National Regulatory Bodies published at Georgian National Communications Commission website (hereinafter called translation 1) and the successful translation (hereinafter called translation 2) published by Legislative Herald of Georgia, the factual mistakes leading to mistranslation were detected in:

1. The first paragraph of article 1, which reads: "the purpose of this Law is to create a reliable legal framework and perfect institutional environment for stable functioning of the independent national regulatory Authorities…" In this particular case, "a reliable legal framework" is a classic example of an inaccurate translation caused by inadequately conveyed propositional meaning of the word "მყარი" in the source text, which should be translated as "solid" as it is in translated version 2.

2. The second paragraph of article 1, which reads: "This Law establishes:… the authority to effect perfect regulation of any specific field;" This example can be considered an example of mistranslation caused by grammatical mistake, in particular, use of the noun "effect" instead of the verb "affect" and improper conveyance of collocational presupposed meaning of the collocation in Georgian text "რეგულირების განხორციელება,"which can be properly conveyed by the suggested version in translation 2, "perform regulatory functions, "since "perform functions" is a collocation, while "effect regulation" obviously is not.

3. Paragraph 3(a) of article 4, which reads: The main principles determining independence are:

(a) Prohibition of any kind of control over an independent regulatory Authority;" Like the first example, use of prohibition instead of inadmissibility, which precisely conveys the propositional meaning of the word in the original "დაუშვებლობა" is a typical example of inaccurate translation due to oversight on part of the translator.

4. The fourth paragraph of article $15^1$ : „The salaries of the Public Defender and his/her assistants shall be determined under the terms and conditions of the contest to select the Public Defender and his/her assistants."In this example, "the contest to select the Public Defender" is an example of failure in translation due to a word-for-word translation or excessive fidelity to the original. The proper translation would be: "the competition for the position of Public Defender," without translating the word "select," which is clearly unnecessary since the meaning is clearly conveyed without it. A number of instances related to inconsistency can also be detected in translation 1 of the aforementioned law. In general, one of the most serious causes of inconsistency is use of different synonymous words, terms or expressions for one and same word, term or expression in the source text. Precisely this error can be detected in subparagraph (d) of article 3 of translation 1 and more precisely in "demanding accounts of such activities," with the term "account" being translated as "report" in the paragraph 3(a) of article 4. This obviously causes confusion in the readers and cannot be a characteristic of professional translations.

The aforementioned translation also has issues related to modality, which in general proves to be an issue for Georgian legal translators. In general, in legal English for declarative terms present simple is used; shall also can be used instead of present simple, but the meaning will be changed. By using "shall" instead of declaring something to be so, the translator is ordaining or ruling that something is to be so. From this it follows that where there is no idea of futurity or contingency present simple is used [2]. As it was aforementioned, there instances of improper use of shall can be detected in translated 1 of the given law, with some of them being presented below:

a. the first paragraph of Article 2, which states: "This Law shall apply to all those authorities…"
b. the first paragraph of Article 7: "The expenses of an independent regulatory Authority shall be financed…;"
c. the sixth paragraph of Article 4: "only a court of law shall have a right…;"
d. the first paragraph of article 8: "An independent regulatory Authority shall …. draw up its Budget," etc.

In all these aforementioned examples, the statement are declared not obliged; hence, use of shall is an error since it changes the meaning of the original leading to factual mistakes. Translation 2 uses present simple in all these examples instead of shall:

a. the first paragraph of Article 2, which states: "This Law is applicable to all bodies …"
b. the first paragraph of Article 7: "The expenses of National Regulatory Bodies ar e financed ;"
c. the sixth paragraph of Article 4: "Only the court is entitled to reconsider decisions by National Regulatory Bodies…;"
d. the first paragraph of article 8: " National Regulatory Bodies formulate budgets, " etc.

As regards capitalization, the Guide says: "Titles of organisations, institutions, directorates, units, sections, office holders, committees, delegations, etc. Use initial capitals on all nouns and adjectives when writing out titles in full [3]. "

This rule is disregarded throughout the entire translation 1, in which "National Regulatory Authorities" is used with both lower and upper cases, in particular, in the following manner: "national regulatory Authority," which is obviously an error.

Some instances of misuse of articles can also be detected in translation 1; for example, in the first paragraph of article 1, the translator uses article "the" which is unnecessary, since the original uses the nouns in general sense rather than implying specific nouns: "…efficient price formation and supply in respect to the goods and services," while translation 2 reads as follows: "to ensure the implementation of effective price setting strategies fo r goods and services." The similar mistake can be detected in subparagraph 3(d) of article 4, which reads the following: "prohibition of transferring the public functions assigned under the applicable law,..."while translation 2 reads the following: "the impermissibility of transferring public functions assigned under the law…" Public functions here are used with zero article, since the original does not imply specific functions. Similar errors can be detected in other sections of the translation.

And finally, one stylistic error detected in article $15^1$ and article 20 of translation 1 is also noteworthy to avoid further similar errors in the future. For example, article $15^1$ reads as follows:

The Public Defender shall have the right:

(a) to protect the interests of consumers;
(b) to assess the impact of tariff and other regulatory changes on consumers;
(c) to appear before a regulatory Authority on behalf of consumers as a Party…;

And article 20 says:

1. Within 5 months from the publication of this Law, the Georgian National Energy Regulatory Commission and the Georgian National Communications Commission shall develop and adopt following regulatory rules:
(a) Concerning the professional performance and ethical conduct of the members of the
Commission and the members of the Administrative Staff, including the rules for ex parte notification and the rules of conduct of the former members of the Commission and the former members of the Administrative Staff in respect to the matters related to the Commission;
(b) Concerning the procedures for the relations with mass information media…;

In examining closely, it can be detected that the translator starts each subparagraph with one and the same word, either "to" or "concerning," with this making a translated version a bit lame. This can be avoided if the words "to" and "concerning" are written before the semi-colon as it is in translation 2:

1. The Public Defender is entitled to:a) defend consu mers' interests;
b) assess the impact of tariff and other regulatory cha nges on consumers;
c) present himself/herself as a party on behalf of cons umers;
d) become familiarized with all documents and materi als to which access are not limited by a National Reg ulatory Body;

or:

1. Within 5 months from the publication of this Law, the Georgian National Energy Regulatory Commission and the Georgian National Communications Commission shall draw up and adopt regulations on:
a) the professional performance and ethical conduct of members of a commission and administrative staff, including rules for ex parte notifications and
the rules of conduct of the former members of the commission and the former members of the administrative staff with regard to matters related to a commission;
b) the procedures for relations with mass media outlets;
c) the keeping and availability of decisions, and records and other documents of a commission, including confidential information and the information received during discussions;

## CONCLUSION

A comparative analysis of the source text and the flawed and successful translations of The Law of Georgia of Independent National Regulatory Bodies enables us to make some conclusions:

- despite legal translation requiring a very high degree of accuracy, word-for-word translation is unacceptable because it leads to an awkward transmission of a message from the source text to the target text;
- in legal translation, it is inadmissible to use synonymous terms for one and the same concept since this causes confusion in the reader and results in inconsistency;
- legal translators must be able to differentiate between declaring and ordaining(ruling) terms and use modality accordingly in transferring the message from the source to the target texts;
- regular use and familiarity with The English Style Guide of the European Commission's Directorate-General for Translation is paramount for legal translators, especially for those working

on EU documents to adhere to accepted linguistic conventions;

- oversight and carelessness on the part of a translator is inadmissible, especially in legal translation, which requires an extremely high degree of exactitude.

In conclusion, the author hopes that this article will make its moderate contribution to the advancement of the field of legal translation and assist Georgian legal translators, especially the less experienced, in expanding their knowledge in this field and avoiding further errors.

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