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CONTEMPORARY LEGAL TRANSLATION AT THE EU COURT OF JUSTICE: EUROPEAN FRAMEWORK FROM A UKRAINIAN PERSPECTIVE

Summary. The article examines current trends and approaches to legal translation at the Court of Justice of the EU in light of the prospects for Ukraine's accession to the European Union. The consideration of the issue becomes particularly relevant in the context of the implementation the Association Agreement between of Ukraine and the European Union and its Member States, in particular its parts devoted to the harmonization of Ukrainian legislation with European Union law. The topic is relevant from the point of view of Ukraine's membership in the European Federation of National Language Institutions (EFNIL), which will provide it with the opportunity to form a strategy for the legislative protection of the Ukrainian language as a future language of the EU.

The author shares her own practical experience of internship at this major European institution. The Court of Justice of the EU is the highest judicial authority of the European Union, which also acts as a law-making body and plays a significant role in the development of integration processes in general. The principle of multilingualism is present in every verbalized domain of EU law. At the same time, the approaches of the Court of Justice and the EU institutions and bodies to the problem of language use do not coincide. ECJ is a multilingual institution and plays a huge role in shaping the legal discourse of the EU. The increase in the number of official languages to 24 complicates the implementation of this principle and makes it impossible to directly translate all documents. The scale of translation work affects the efficiency of the Court of Justice of the EU and the demand for quality legal translation services has never been greater. At the same time, the paper emphasizes that the policy of the ECJ on legal translation is capable of responding to these challenges of today. The publications of domestic researchers mainly present the legal dimension of the functioning of the ECJ and do not sufficiently cover the issue of linguistic aspects of the translation process in this European institution.

The study analyzes the ways of implementing the EU language policy in legal aspects, identifies positive and problematic issues in the development of European languages, and summarizes approaches to interpretation and the organization of the work of one of the main translation departments of the Court of Justice of the EU – the Directorate for Interpretation (*Direction de l'Interprétation*).

Key words: European law, the Court of Justice of the European Union, the Directorate for Interpretation of the ECJ, legal translation, legal interpretation, court translation/interpretation.

Introduction. The role of language in international relations is crucial and undeniable, it is not only a carrier of traditions

and intentions of states, but also plays a dominant role in shaping their legal rights and obligations on a supranational level [1, p. 76]. The legal domain is an epitome of interconnectivity and globalization in the most acute sense [2]. Given that language underlies international legal system, translation can contribute significally to the development of international law. In the highly specialized scope of international law, legal translation necessitates an interdisciplinary approach from the translator that considers the characteristics of legal language *(legalese)* as well as the specialized sciences.

Law is a field that rapidly transcends national frontiers and international legal system particularly evolves through language. Granting Ukraine the status of a candidate for accession to the European Union on June 23, 2022 [3] legally cemented the European integration choice of the Ukrainian people at the pan-European level. The development of Ukrainian legal system has been significantly influenced by the declared European integration of the country. Ukraine is currently in the process of adapting its legislation to European norms and standards with a goal to acquire full membership to the European Union [4; 5]. Integration of Ukraine into the European Union, in particular harmonization of its legislature require proper command of legal translation skills. In this regard, a deeper understanding of official data about the European Union, its structure, legal institutions, and especially language policy is *relevant* for Ukrainian society and education.

The linguistic perspectives of international legislation and adjudication in the European context is a relatively new field of research. The EU is characterised by its cultural and linguistic diversity, and the languages spoken in EU countries are an essential part of its cultural heritage. Multilingualism is a fundamental aspect and key competence of contemporary European society. Therefore, the EU supports multilingualism in its action programmes and in the work of its legal institutions. There is a growing awareness in Europe that English monolingualism is not a promising direction and multilingualism is crucial to overcoming the hegemony and monotony established by the English language. However, within the framework of ongoing harmonization of the legal systems of the EU member states, plain European legal English i.e. legal Euro-English, as a lingua franca is already developing. European legal English tends to be legalese-free and user-friendly, trying to avoid pedantic and archaic forms, the use of Latinism and complex prepositions or constructs and includes terms that are neologisms with respect to the Anglo-American legal language [6; 7, p. 59-65].

The present article will particularly focus on language policy of the EU and methods of its implementation in legal domain, in particular, aspects of legal translation at such institution as The Court of Justice of the European Union (CJEU), informally known as the European Court of Justice (ECJ), the supreme court of European Union in matters of European Union Law. "ECJ plays a remarkable role the in the EU legal system" [8]. Multilingualism characterises the activities of the ECJ, however, the approaches of the ECJ and the EU institutions and bodies to the issue of language use do not coincide. Thus, the Court of Justice of the EU uses only one working language to conduct the deliberations (langue de délibéré) and that is French. As Nial Fennelly puts it "however, all Community languages are equally authentic, George Orwell might have thought that one was more equal than the others" [9, p. 661]. French remains the dominant language within the institution. This means that all acts, decisions and rulings adopted in the Court are necessarily translated into French. Furthermore, the ECJ is left free to determine for itself the procedural languages that may be used in cases before it.

The EU Court of Justice plays a pivotal role in shaping legal discourse and practices for contemporary legal translation. In essence, a legal translation is a translation that relates to the law. "Legal translation is known for being one of the most challenging and demanding types of translation since it requires both language and legal expertise as well as extreme attention to detail" [10]. It has been advocated [2; 10; 11] that the significance of legal translation has never been greater in the EU and around the world due to globalization and the shift towards overall inclusivity. Legal translation is a key factor in the interpretation of international legal systems and international norms by creating common interpretations of international legal instruments. Finally, it is worth noting that in every area of law, including international law, translation and interpretation are inseparable and interconnected.

In this context, current trends in the field of legal translation highlight the growing importance of this specialized practice and its implications for translation professionals, legal and public institutions and deserve thorough investigation.

Literature review. The issues of the legal status of the Court of Justice of the EU and its competence are addressed in the works of such scholars as V. Muraviov, T. Anakina, O. Andriychuk, M. Bernat, P. Craig, R. Cross, D. Valentine, F. Jacobs, K. Mcauliffe, N. Fennelly, K. Lenaerts & J. Gutiérrez-Fons, R. David, C. Robert, S. Weatheril, J. Weiler, A. Dashwood et al. The linguistic aspects of the work of the Court are discussed by O. Łachacz & M. Rafał [1], M. Cohen [12; 13], K. McAuliffe [8]. In the works of Ukrainian researchers we find mainly the legal dimension of the activities of the Court of Justice of the EU, these are publications on international law and EU law (O. Shpakovych [14], I. Yavorska [15], M. Yatsymirska [16]). Despite the general research on the subject matter of the legal status and competence of the EU Court in national publications, it can be argued that there is almost no coverage of the linguistic aspect of the work of this European institution with regard to the process of legal translation and legal interpretation. With this paper we would like to cover this gap by analysing the relationship between law, language and translation in the jurisprudence of the ECJ.

The purpose of the article is to investigate the peculiarities of application of EU legal translation practice by examining the processes behind the production of the multilingual jurisprudence of the Court of Justice of the European Union. This article *aims to* share the update information on the work of the the Court's Interpretation Directorate, which is part of the Directorate-General for Multilingualism, based on the author's personal experience gained from the internship at the Court in January 2024.

The paper is of particular *scientific relevance* due to the insufficient coverage of the subject matter in national publications. It is of particular relevance in the context of European integration processes of our state, considering the recommendations on the harmonization of Ukrainian legislation to EU law. *Practical value* of the paper is that its findings can be used in compiling translation courses, in theory and practice of translation, especially for training future legal translators and interpreters. The *theoretical value* is in the current theoretical outlook on language policy of the EU and methods of its implementation in legal domain, particularly in relation to legal translation at the European Court of Justice.

Results and discussion. "As a democratic organisation, the EU has to communicate with its citizens in their own language" [17, p. 3]. The European institutions started with four languages in 1958 and now work in 24 official and working languages¹ plus, in some cases, a number of regional languages from different Member States, and other languages (Russian, Arabic, Chinese, Japanese, etc.) [Ibid.].

Despite the proclaimed equality of the official languages of the EU, they are not always used proportionally. Most often, communication is carried out using two languages (English and French), three (English, German, French) or five languages (English, Spanish, Italian, German, French). Therefore, the division of all languages in the Court of Justice of the EU indicates the establishment of a certain hierarchy between them. Multilingualism within one legal system is understood as "the use of multiple equally authentic languages within one legal system – creates new challenges for legal practices, especially legislation and adjudication" [1, p.75].

The Court of Justice of the European Union (French: *Cour de justice de l'Union européenne* or *CJUE*; Latin: *CURIA*) is one of the EU's seven institutions. Located in Luxembourg, the ECJ oversees the correct application and implementation of EU law i.e. it interprets EU law to make sure it is applied in the same way in all EU countries, and settles legal disputes between national governments and EU institutions. It is actually composed of two separate courts – the Court of Justice and the General Court. From 2004 to 2016 there was a third court, the Civil Service Tribunal, but its work is now done by the General Court.

There is an extensive literature on the ECJ. Nevertheless, the role of language and legal translation in the production of the Court's jurisprudence is indeed of primary importance in investigating.

In January 2024, we had the chance to tour the Court of Justice of the European Union as part of our internship programme and to learn about the activities of the Interpretation Directorate by attending three seminars. Thus, most data discussed in this chapter is based on an anthropological investigation drawing on personal

- Portuguese, Spanish: 1986
- Finnish, Swedish: 1995

¹ Official EU languages:

Dutch, French, German, Italian: 1958 Danish, English: 1973

Greek: 1981

Czech, Estonian, Hungarian, Latvian, Lithuanian, Maltese, Polish, Slovak, Slovene: 2004 Bulgarian, Irish, Romanian: 2007 Croatian: 2013

experience and on *CURIA* [18], the official multilingual website of the European Court of Justice. This is the current overview of the work of Interpretation Directorate of the ECJ.

The ECJ is seen as a multilingual, supranational court. The EU Court of Justice plays a huge role in shaping legal discourse. According to the official website of the Court "the Court needs a common language in which to conduct deliberations. That language is, by custom, French". French is the internal working language of the Court, and the interpreters are not present at deliberations, since the rules of procedure state that the Court shall deliberate in closed session [19]. This internal linguistic practice gains certain critisisim [1; 20] and goes in contrast with the generally adopted principle of multilingualism at the Court. Mathilde Cohen [13] refers to this disproportionate influence of the inner practice of the Court as the "*French capture*."

Initially, the Luxembourg court heard cases in the four languages of its founding member states: German, French, Italian, and Dutch. Now, in connection with the expansion of the EU and, accordingly, the increase in the number of official languages, the situation has become more complicated. Since the end of the 1950s the EU's ancestor, the European Coal and Steel Community (ECSC), had six member states and four languages, 12 language combinations were used to ensure the translation of all documents. In connection with the accession of new members, in 1973 the number of combinations became 30, in 1981 – 42, in 1986 – 72, in 1995 – 110, in 2004 – 380. In 2007, with the accession of Romania and Bulgaria and the recognition of 22 official languages plus Irish, translation into 23 languages implied 506 combinations. When Croatia joined the EU in July 2013, it became 24 languages, and the number of possible language combinations to ensure the work of the Court increased to 552.

In order to meet this immense linguistic challenge the ECJ has set up highly efficient interpreting, translation and legal text verification services. Thus, the Court of Justice is half a legal institution, half a giant translation and interpretation center. The Directorate-General for Multilingualism is the organization's largest language service, which reflects the significance of the language issue to the Court. The Directorate-General comprises the *Directorate for Interpretation* and *Directorates A and B for Legal Translation*. The activities of the Directorate for Interpretation and the contemporary use of legal interpretation are the main topics of this paper.

"Interpreters are at the front line of multilingualism, working to ensure that language is no barrier to understanding" [17, p. 4]. The history of official court interpreting as a whole is comparably short. Although it started with the war trials which took place in Nuremberg between November 1945 and October 1946 and in Tokyo between June and November 1948, the experience of these trials gave rise not to court interpreting as such, but to simultaneous interpreting, which is only one of the techniques that may be used in court under certain circumstances [21]. According to Muhammad Y. Gamal [21, p. 63], modern court interpreting has made limited progress in its brief history. The term 'court interpreting' is widely used to refer to any kind of legal interpreting, but the courtroom is in fact only one of several contexts in which legal interpreting may take place.

As is known, there are two main techniques in interpreting. The first is consecutive interpreting, where the interpreter uses a special form of note-taking while the speaker is speaking and then gives back the speech in another language as soon as the speaker has finished. The second, which accounts for over 90% of all conference interpreting, is simultaneous interpreting, where the interpreter listens to the speaker and interprets at the same time whilst keeping pace with the speaker. This form of interpreting requires meeting rooms specially equipped with soundproof booths for the interpreters and electronic equipment for sound amplification, transmission and often recording. The language arrangements for Interpretation at EU meetings into and out of 24 or more languages requires at least 72 interpreters.

Thus, at the EU institutions, conference interpreters work in various modes of interpreting:

- *Consecutive* - interpreting after the speaker has finished, with the help of a special form of note-taking;

 Simultaneous – interpreting in real time while the speaker is speaking, using conference interpretation equipment (i.e. soundproof booths, earphones and a microphone). This mode is the most widely used;

 Whispered or Chuchotage – the interpreter is seated or standing next to the client and interprets simultaneously directly into his/her ear;

- *Portable Interpretation Equipment (PIE)* - the interpreter interprets simultaneously without being in a booth, with the help of a handheld microphone and headphones [17].

The Court's Interpretation Directorate provides simultaneous interpreting during the public hearings before the Court of Justice and the General Court. Currently the Directorate accounts for approximately 70 permanent interpreters. When necessary, it also calls upon the services of experienced conference interpreters from the EU register of some 3000 accredited freelance interpreters (also known as *Auxiliary Conference Interpreters*) who take on about 40% of the workload.

Good interpreters must have a thorough knowledge of all their working languages, but other skills are equally important. Conference interpreting is not a word-for-word translation exercise, analytical skills and the ability to understand the speaker's point of view are essential to the quality of the interpreter's performance as well as familiarity with the subject matter. At the Court of Justice precision is essential, and prior study of the case-file is an integral part of an interpreter's work [22, p. 46-48]. Conference interpreters must respect certain professional principles, above all confidentiality. Interpreters are bound by the strictest secrecy with regard to all the information disclosed before and during hearings. The interpreter works as part of a team both during the preparation stage and in the courtroom.

In addition to having a perfect command of their working languages, the Court's interpreters must have a thorough knowledge of the subject-matter of the hearing. It is thus very important for them to study the documents and evidence in the case-file of the proceedings. Interpreters, bound by absolute confidentiality, have full access to the case-file, in order to familiarise themselves with the relevant legal issues and terminology.

Interpreters work from the soundproof booths in each courtroom. Today the main courtroom in the new Court in Luxembourg is equipped with twenty-four interpreting booths. Each seat in the courtroom, including all the seats for the attorneys, judges, legal secretaries (*reférendaires*), and the audience, is equipped with a small device that loops around one ear and is worn like a headphone. A box in each seat allows you to change the channel, and the channel for each language is listed electronically on the front of each interpretation booth. As previously stated, not every language is interpreted in every hearing. The interpreting team is tailored to the specific language requirements of the case being heard in the courtroom, which is determined by the "language of the case", i.e. a language chosen by the parties from among the official languages of the European Union (the language of the Member States intervening, the language needs of the Judges hearing the case, the language of any visiting groups attending the hearing).

The range of languages therefore varies from case to case. Basically, at hearing proceeds up to five or six different languages can be used. Only rarely does the Court require interpretation from all official languages into all official languages.

Interpretation goes in real time. The interpreters translate as quickly as the speakers speak and there really is zero delay. Each interpretation booth has anywhere from 2-4 interpreters, depending on the languages being used.

The importance of simultaneous interpretation at the ECJ cannot be underestimated. By providing real-time translation, interpreters help ensure access to justice of all EU citizens and maintain courtroom efficiency. As is known [23], simultaneous interpretation at the Court requires a unique combination of linguistic knowledge, legal expertise, and complex cognitive skills. Although the challenges are significant, with the proper training and preparation, court interpreters can deliver accurate and impartial translations that uphold the integrity of legal proceedings and reflect evolving European legal norms and social values.

Conclusions. The position and significance of languages and legal translation in a globalized world are evidently indisputable and deserve thorough investigation. In the light of European integration processes and new prospects for Ukraine's accession to the European Union the issue becomes even more relevant. The linguistic diversity of the EU operates on the key concepts of equality and mutual enrichment of various cultures. The EU institutions, following the principle of multilingualim, ensure the harmonious coexistence of 28 member-states in 24 official languages. The Court of Justice of the European Union is half a legal institution, half a giant translation and interpretation center, which plays a huge role in shaping legal discourse of the EU. The scale of translation work is enormous and affects the efficiency of the Court. Nevertheless, the future of legal translation at the ECJ looks promising as it promptly provides new ways to tackle the emerging challenges.

Finally, it is worth noting that on March 21, 2022 at an extraordinary meeting of the General Assembly of the European Federation of National Language Institutions (EFNIL), a decision on Ukraine's membership in the EU language space was unanimously adopted. Such a decision will allow the formation of a strategy for the legislative protection of the Ukrainian language as the future official language of the EU. Thus, the materials presented in this article open up new viewpoints for the study. The *prospects for further research* may include looking at practical aspects in the field of legal translation and legal interpretation at the ECJ and the comparative analysis of European and Ukrainian legal discourse practises. We hope, the information of this article will serve as material for further theoretical conclusions and generalizations.

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Полєєва Ю. Сучасний юридичний переклад у суді ЄС: європейські рамки з української перспективи

Анотація. У статті досліджуються сучасні тенденції та підходи до юридичного перекладу у Суді ЄС у світлі перспектив вступу України до Європейського Союзу. Особливої актуальності розгляд проблематики набуває в контексті імплементування Угоди про асоціацію між Україною та Європейським Союзом і його державами-членами, зокрема її частин, що присвячені гармонізації українського законодавства з правом Європейського Союзу. Тема постає актуальною з точки зору членства України в Європейської федерації національних мовних інституцій (EFNIL), що надасть їй можливість формувати стратегію законодавчого захисту української мови як майбутньої мови ЄС.

Автор ділиться власним практичним досвідом стажування у цій поважній Європейській установі. Суд ЄС є вищою судовою інстанцією Євросоюзу, який також виступає правотворчим органом і відіграє значну роль у розвитку інтеграційних процесів в цілому. Принцип мультилінгвізму пронизує всі вербалізовані сфери права ЄС. Водночас, підходи Суду ЄС, інститутів та органів €С до проблеми використання мов не збігаються. Суд €С є мультилінгвальною установою і має велике значення у формуванні правового дискурсу ЄС. Збільшення кількості офіційних мов до 24-х ускладнює здійснення цього принципу та унеможливлює прямий переклад усіх документів. Масштаби перекладацької роботи впливають на ефективність Суду ЄС, а питання юридичного перекладу ще ніколи не поставало так гостро. Водночас, у статті наголошується на тому, що політика Європейського суду з юридичного перекладу здатна відповісти на ці виклики сьогодення. У роботах вітчизняних дослідників представлено переважно правовий вимір функціонування Суду ЄС і недостатньо висвітлено питання лінгвістичних аспектів процесу перекладу у цій європейській інституції.

У дослідженні проаналізовано способи реалізації мовної політики ЄС в правових аспектах, з'ясовано позитивні та проблемні питання розвитку європейських мов, узагальнено підходи до усного перекладу та організації роботи одного з головних перекладацьких департаментів Суду ЄС – Директорату з усного перекладу (Direction de l'Interprétation).

Ключові слова: європейське право, Суд Європейського Союзу, Директорат з усного перекладу Суду ЄС, мультилінгвізм, юридичний переклад, судовий переклад.