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The Byzantine legal standard transposition strategies into the Romanian regulatory texts of the 17th century

ABSTRACT

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Unlike the Canon law texts available in the Romanian principalities – Moldavia and Wallachia – falling under the Slavic influence, the first legal acts which are subscribed to the secular law and which appear in 1646 [*Carte Românească de Învățătură* (en. Romanian Book of Learning) or *Pravila lui Vasile Lupu* (en. Vasile Lupu's Code of Laws)] and in 1652 [*Îndreptarea legii* (en. The Law's Rectification) or *Pravila lui Matei Basarab* (en. Matei Basarab's Code of Laws)] fall under the Greek-Byzantine influence. The present article aims to provide some information regarding the translation mechanisms applied by the Moldavian and Wallachian scholars of the 17th century who aimed at transposing the Byzantine Legal Standard to the everyday life of the two above mentioned Romanian principalities by means of fundamental procedures, such as "analysis (with the underlying meaning determination), transfer, restructuring, and testing" (Nida, 2004: 85) of the source message. The most precious information related to the translation process of those times is provided by the cases of untranslatability generated by the legal and terminological gap between the Receiver and the Transmitter. The identification and classification of these cases, but also the highlighting of the solutions the translator found to solve them, represent important steps in understanding the equivalenting process of two unequal legal systems that took place centuries ago in Eastern Europe, as illustrated by the case of the two Romanian principalities and the Greek-Byzantine one.

Keywords: translation strategies, legal translation, functional equivalence, compensation

As a phenomenon and process, *translation* implies the layout of two linguistic systems belonging to different cultures, a balance of forces, within which the source language enjoys a dominant position with relation to the target language.

This balance of forces, dictated by the one-way cultural transfer, but also by reaching the legal translation's supreme goal – obtaining both semantic and functional equivalence – is an overwhelming process and it generates a series of "imbalances", registered mainly at the lexical level, especially when the source language is the expression of a superior culture in terms of prestige and seniority, as it was the case of the Greek-Byzantine legal system[1] in comparison to the one of the 17th century's Moldavia and Wallachia. The orientation of the Romanian rulers, Vasile Lupu (Moldavia 1634–1653) and Matei Basarab (Wallachia 1632–1654) as initiators of the normative acts [*Carte românească de învățătură*[2] 1646 (en. "Romanian Book of Learning") – CRÎ, *Îndreptarea legii*[3] 1652 (en. The Law's Rectification) – ÎL] towards the legal Greek-Byzantine system was justified by the affiliation of the Danubian countries to that medieval commonwealth, which developed around Constantinople and favoured the geographical proximity to this metropolis, but also to the religious identity (Obolensky 2002: 11).

The main objective of this article is represented – as it was expressed in the dichotomy *translatability vs. untranslatability* – by the identification and the analysis of those cases which, either do not require particular linguistic skills of the translator (due to the previous experience of the canon law texts), or on the contrary, they impose, due to the cultural and linguistic imbalances (generated by the inequality of the two legal systems between which occurred the transfer of concepts), the adoption of some innovative linguistic strategies by the translator, such as the *integration* of some lexical loans or the *compensation* of those cases with no immediate correspondent in the indigenous reality. In order to identify these cases, we have analysed the texts of the two codes of law mentioned above in parallel with their Greek-Byzantine sources[4], as they were determined and

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1| The Greek-Byzantine legal system, unlike the indigenous one, was based on the sole and long-time Roman legal experience to which, throughout the centuries had been added elements of Ancient Greek law, mainly of stoic nature, but also Christian principles, once with the adoption of the Christian religion as sole religion of the Empire and the association of the Patriarch in the state's running.

2| Full title *Carte românească de învățătură de la pravilele împărătești și de la alte giudețe, cu dzisa și cu toată cheltuiala lui Vasilie voivodul Țării Moldovei din limba ilenească pre limba românească.* [en. Romanian Book of Learning extracted from the Imperial laws and from other court cases, with the saying and all the expense of Vasile Voivode of Moldavia, translated from Greek into Romanian language].

3| Original title *Îndreptarea legii cu Dumnezeu carea are toată judecata arhierească și împărătească de toate vinile preoțești și mirenești.* (en. „With God the Law's Rectification which contains all the canonic and imperial case-law on all priestly and laity faults").

4| *Agrarian Laws*, the Greek version of *Praxis et theoricae criminalis* (Prospero Farinacci), *Hexabiblos* (Constantine Harmenopoulos) for the first code of law, namely the parts taken over from *Carte românească de învățătură*, the Justinian's *Corpus Juris civilis*, the *Syntagma Canonum* (Matthew Vlastares), *The Nomocanon* (Manuil Malaxos), *Commentaries*

attached at the end of the critical editions issued by Andrei Rădulescu in 1961 and 1962.

In order to understand the leading mechanisms to the selection of some of the translation strategies mentioned above, a series of aspects related to the training of the translators as well as issuers of the two codes of law must be taken into account. Irrespective of whether we speak of Bogdan Eustratie the Logothete in Moldavia (helped by the Greek scholar and theologian Meletios Syrigos with his Greek translations from Latin) or of scholars Daniil Andrean Panoneanul, Paisios Ligaridis and Ignatie Petritsis in Wallachia, we ascertain from the information remaining from those times, but also regarding the result of their work, that although they were facing not only the poverty of the Romanian legal terminology, equal to the Greek-Byzantine one, but also the scarcity of terminological instruments (dictionaries[5]), they all, like the lawyer-linguists nowadays, had solid legal and linguistic knowledge. We do not know if they had "any knowledge of using a stylistic register" (Chivu 2001: 21), or of the nowadays translation mechanisms, but their lexical choices reflect the interest and attention to what the today linguists assign to the term: *monosemantism*, *monoreferentiality* and *univocity*.

As in other cases, the elements of the dichotomy *translatability* vs. *untranslatability* are not mutually exclusive, but they are meant to emphasize each other, to provide information about each other and about the translation process. The legal speech is, in its essence, permanently oscillating among a series of dichotomies, such as *letter* vs. *spirit*, *word* vs. *meaning*.

1 Greek-Byzantine legislation as prototype for the Romanian normative acts

The first element of the dichotomy in discussion (*translatability)* seems to represent an aspiration, which is easy to reach when the translators of the two normative acts chose factors decisive in their work strategy, while considering the structure of the source text, the organization of the criminal matters, the legislator's scope, as well as the nature of the legal discourse, all the way up to maintain of the Greek-Byzantine syntactical structures.

(Alexios Aristinos), *Answers* of Saint Anastasios of Antioch, the teachings of Saint Basil the Great, the answers of Pope Timothy of Alexandria, Nicetas of Heraclea, Anastasius of Antioch, for the second code of law.

5| The first legal dictionary appeared in 1815 (Iassy) under the title *Scară a cuvintelor celor streine și a celor făcute din firea limbii, care cuvinte au cerut neapărat trebuința a să metahirisi în alcătuirea pravililor* [en. Lexicon of the foreign and naturaly formed words urged to be used in drafting the laws], supposedly having Christian Flechtenmacher (1785–1843) and Anania Kouzanos (first half of the 18th century – begining of the 19th century) as authors.

1.1 Structure of the Target Text

Just like the Greek-Byzantine texts which have been deemed as a source, both regulatory texts–CRÎ and ÎL– are structured according to the matters laid down in the law, in two comprehensive and distinctive parts (called *pricini* [en. cases] in the first part and *glave* [en. chapters] in the second part of CRÎ, but also in the first part of ÎL, and paragraphs (referred to as *începături* [en. origins] in CRÎ and *zaceale* (en. paragraphs] in ÎL). Both texts provide *Predoslovii* [en. Prefaces] signed by Bogdan Eustratie the Logothete (CRÎ) and Daniil Andrean Panoneanul and the Metroplitan Bishop (ÎL), the latter being inspired by Matei Vlastare *Prefața*, who praised the issuer of the regulatory text (CRÎ), the pursued purpose and the work method (CRÎ), the sources of the text (CRÎ, ÎL), the travail of those involved (CRÎ, ÎL).

1.2 Word order in the Target Text

The word order is in most cases a Greek one: *Muerii căriia-i va muri bărbatul* [en. To the woman whose man shall die] (ÎL case 261) < *Τῆς γυναικὸς ὁποῦ ἀπε-θάνη ὁ ἄνδρας αὐτῆς* (MN[6], chapter 201).

According to the Greek pattern, a series of inversions non-specific for the Romanian linguistic system can be noticed: pre-positioning of the adjective: *dumnezăieştile pravile* [en. Divine Laws] (ÎL case 318) < *τῶν θείων κανόνων* (MN, Canon 43 of the Synod from Cartagena); *supţiri tocmiri* [en. weak contracts] (ÎL case 174) < *ψιλὰ σύμφωνα* (MN, chapter 146); adverbial of manner + predicate: *cu sila şi fără de voia lui să-l facă* [en. forcefully and unwillingly to make him] (CRÎ chapter 67 paragraph 5); subject + predicate in the passive form: *şi acolo duhovnic nu se va afla* [en. and there shall be no confessor] (ÎL case 318) < *καὶ πνευματικὸς ἐκεῖ δὲν εὑρίσκεται* (MN, Canon 43); predicate, subjunctive mood + subject: *să stea oprită moara* [en. the mill to be standing still] (CRÎ chapter 11 paragrapgh 93) < *ἀργείτω ὁ μύλος* (Law for ploughmen, Code of Justinian, Title X, paragraph 8); pre-positioning of the cardinal number: *iară la vară-sa premare, ani 10, […] la a doua vară, ani 9, […] la fină-sa, […], ani 20.* [en. and to his older cousin, years 10, […] to his second cousin, years 9, […] to his god daughter, […], years 20] (ÎL case 330) < *ἐξαδέλφην πρώτην, χρόνους δέκα, […] εἰς δευτέραν ἐξαδέλφην, χρόνους ἐννέα, […] εἰς τὴν ἀναδεχθικήν του […], χρόνους εἴκοσι.* (MN, chapter 251); pronoun + verb at the reflexive form: *nime nu să giudecă* [en. no one shall be judged] (CRÎ chapter 1 paragraph 17) < *μηδείς ἀνακρινέσθω* (Law for ploughmen, Code of Justinian); predicative + copula verb: *sămn iaste* [en. circumstance exists] (CRÎ chapter 71 paragraph 1) < *σημάδι εἶναι* (Basilika, Chapter III, Farinaccius Qu. 129, P. III, no. 142, 143) etc.

One can notice at the text level the reoccurrence of the adverbial phrase *după voia giudețului/ judecătoriului* [en. at the judge's will] (88 occurrences in CRÎ and

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6| Malaxos' *Nomocanon*.

83 occurrences in ÎL), according to the Greek-Byzantine pattern *κατὰ θέλησιν τοῦ κριτοῦ* [en. at the judge's will], which as an expression first appeared in the legislation of the Emperor Justinian I the Great (527–565).

1.3 Stylistic elements

Despite the technical nature of the regulatory acts, both of them display stylistic elements and a series of figures of speech such as the metaphor, obtained through personification: *lucrure mutate sau nemutate* [en. moved or unmoved belongings, meaning tangible or intangible propery] (ÎL case 24, case 117) or *lucruri îmblătoare sau neîmblătoare* [en. walking or unwalking belongings, meaning the movable or immovable property] (ÎL case 16) < *πράγματα κινητὰ ἢ ἀκίνητα* (MN, chapter 16); *poruncesc dumnezăeștile pravile* [en. the Godly laws command] (ÎL case 92) < *οἱ θεῖοι νόμοι τὸ ὁρίζουν* (MN, Laws of the Great Church, chapter 82); *hotar bătrân* [en. old realm] (CRÎ chapter 1 paragraph 10) < *ὅρος ἀρχαῖος* (Code of Justinian – the Law for ploughmen, Title I paragraph 9); through ontological transfer: *lucrul pârei* [en. the object of denunciation] (ÎL g 29) < *ἡ ὑπόθεσις τῆς κατηγορίας αὐτοῦ* (MN, chapter 29), *spițele nuntei* [en. degrees of relationship by marriage] (ÎL chapter 189) < *οἱ βαθμοί τοῦ γάμου* (MN chapter 151).

We noticed the use, also according to the Greek pattern, of repetitive figures of speech, such as the anaphora in the titles summarizing the matter of a chapter: *pentru plugari* [en. about ploughmen] (CRÎ chapter 1 title) < *περὶ γεωργῶν* (Code of Justinian – the Law for ploughmen Title I), *pentru furtușaguri* [en. about petty thefts] (CRÎ chapter 2 title) < *περὶ κλοπῆς* (Code of Justinian, the Law for ploughmen, title II). The tmesis is also used: *să ia /pre leage\ bărbat* [en. to marry/ according to law \ a man] (ÎL chapter 175) < *νὰ ἐπάρῃ /κατὰ νόμους\ ἄνδρα* (MN, Patriarch's Answer chapter 147), also the epimone: *Cela ce va zidi, sau va răsădi pre pământ strein, sau va sămăna, sau va face fie ce lucru* […] [en. That shall build, or shall plant on foreign soil, or shall seed, or shall do whichever thing] (CRÎ chapter 10 paragraph 87) < *Ὁ ἐν ἀλλοτρίῳ ἐδάφει κτίζων ἢ φυτεύων ἢ σπείρων ἢ ἄλλο τι ἐργαζόμενος* […] (Code of Justinian, Title X About new construction, paragraph 2), and the paregmenon: *ce slujbă sluiaște* [en. who serves the service] (ÎL chapter 62) < *τὶ ἱερουργίαν ἱερουργεῖ* (MN, Of Hrisostom, chapter 57).

According to the same pattern one encounters also adjunctive figures of speech, such as the accumulation: *Cine va îndemna sau va învăța sau va svătui pre altul să facă vreun lucru* […] [en. Who shall urge or shall teach or shall advise another to do anything] (CRÎ chapter 70 paragraph 2) < *Ὅποιος παρακινᾷ, παροργίζει, ἀνάπτει, διδασκαλεύει καὶ ἑρμηνεύει κανένα νὰ κάμῃ τίποτες σφάλμα* (Imperial Laws Chapter II, Farinaccius Qu. 129, P. II, no. 26), or the tricolon: *Iară unde nu se-au dat nice logodnă, nice legătură cruciș, nice arvune, nice au fost sărutare,* […], *nice să pedepseaște ca cei preacurvari* [en. And where no engagement, no cross-wise oaths, no payment on account, no kissing were given, […],

shall not be punished as adulterers] (ÎL chapter 172) <Ὅπου δὲ οὔτε μνηστεία, οὔτε σταυρικοί δεσμοί, οὔτε ἀῤῥαβῶνες ἐδόσαν, οὐδὲ φίλημα ἐπικολούθησεν, […], οὐδὲ παιδεύεται ὥσπερ τοὺς μοιχούς. (MN, Balsamon chapter 144).

1.4 Morphosyntactic level

At the level of the entire regulatory text one can notice the use of some phrases derived from the verb's nomination, some caused by the translation of the Greek participles: *ceia ce vor fura* [en. those who shall steal] (CRÎ chapter 2 paragraph 36) < *οἱ κλέπτοντες* (Agrarian Laws, Title II paragraph 10), *ceia ce vor avea* [en. those who shall have] (CRÎ chapter 5 paragraph 57) < *οἱ ἔχοντες* (Agrarian Laws, Title V, paragraph 3), *cela ce va omorî* [en. those who shall kill] (CRÎ chapter 6 paragraph 67) < *ὁ διαφθείρων* (Agrarian Laws, Title VI, paragraph 11), *pre cel ce să botează* [en. the one who shall be baptised] (ÎL chapter 152) < *τὸν βαπτιζόμενον* (MN Patriarchal Answer, chapter 127), *pre cel ce botează* [en. the one who shall baptise] (ÎL chapter 152) < *τὸν βαπτίζοντα* (MN Patriarchal Answer chapter 127).

Another example that follows the Greek-Byzantine pattern consists of the genitives' concatenation: […] *nu să va chema să fie făcut acea ucidere cu putearea tatălui sau a stăpânului sau a rudei sau a priatenului* […] [en. shall not be called out to have made such a killing empowered by his father or his master or his relative or his friend] (CRÎ chapter 77 paragraph 11) < […] *δὲν λογᾶται πῶς νὰ τὸν ἐφόνευσε μὲ ὁρισμὸν καὶ πρόσταξιν τοῦ πατρός του ἢ τοῦ αὐθεντός του ἢ τοῦ συγγενῆ του ἢ τοῦ φίλου του* […] (Chapter XI Imperial Laws, comp. Farinaccius Qu 134, chapter III, no. 67); […] *şi se va vădi cu mărturii adevărate că au furat sau ale beserecilor, sau ale mormînturilor, sau bucate ale oamenilor, atunce se dăsparte* [en. and shall be proved with true proofs that he has stolen or from the churches, or from the graves, or people's food, then they shall be separated] (ÎL chapter 221) < […] *καὶ ἀποδειχθῇ μετὰ ἀληθοῦς ἀποδείξεως, ὅτι ἔκλεψεν, ἢ ἐκκλησιῶν ἢ τάφων ἢ τινῶν ἀνθρώπων πράγματα, χωρίζεται.* (MN, Look, Chapter 177).

Following the historical thread of drafting the Romanian regulatory texts, one can easily notice that these, as they are shaped even today, owe their specificity to the adoption of the Byzantine means of organization, structuring and expression, no matter whether we speak about figures of speech or syntactical constructions.

2 Solving the untranslatability cases

In the present article we shall also focus our analysis on the most eloquent cases of *untranslatability,* generated by the need of transferring the cultural and legal concepts from one legal system to another, an important step for the *functionality* of the translation product (*metafrasma*). The cases of the *untranslatability*, obvious at the level of the terminological sequence or unit, are solved by *integrating*

the factors determining the phenomenon (by borrowing and adapting new words), their *conceptual compensation* (with reference to the indigenous reality) or their *lexical compensation* (linguistic calques or loan translation) – and even their *intentional ignoring* or loss.

2.1 Integration

Both regulatory texts provide a series of loan words, with higher or lower stability in the target language. Their satisfying accommodation to the Romanian language's phonetic and grammatical systems could be a hint for their frequent use in those times, but it could also be proof of their adoption in a previous linguistic stage that was under the direct Slavic influence. This is the situation of the lexemes *arvonă* (CRÎ chapter 1 paragraph 12)/ *arvună* [en. advance payment] (ÎL chapter 172), *sodomiia* [en. sodomy] (CRÎ chapter 39 paragraph 18, ÎL paragraph 333), *eparhiea* (CRÎ chapter 31 paragraph 1)/ *eparhie* [en. eparchy] (ÎL chapter 13), *nomocanon* [en. nomocanon] (ÎL chapter 317). We find also a series of adapted Greek words: *catargă* (CRÎ chapter 8 paragraph 12, ÎL chapter 130 paragraph 2) together with its non-adapted form *caterga* [en. galley] (CRÎ chapter 30 paragraph 2), several denominations regarding orthodox clerical offices: canstrisiul (ÎL chapter 394), *epitongonatul* (ÎL chapter 394), *hartofilaxul* (ÎL chapter 394), *ipomnimatograful* (ÎL chapter 394), *notarul* (ÎL chapter 394), *protodectul* (ÎL chapter 394), *protonotariul* (ÎL chapter 394), *sachelarul* (ÎL chapter 394), *sacheliul* (ÎL chapter 394), *schevofilaxul* (ÎL chapter 394) etc. Also the case of other Greek words should be mentioned, such as *falchedia* (ÎL chapter 282)/ *falchidiu*[7] [en. the fortune's fourth that children are entitled to inherit] (ÎL chapter 282), *meride* [en. family registers] (ÎL chapter 161), *nearaoa* [en. novels as in *Justinian's Novels*] (ÎL g 35), *onghii* [en. ounce] (ÎL chapter 26), *pandete* [en. pandects] (ÎL chapter 409), *repondie* [en. repudiation] (ÎL chapter 213), *scandălă* [en. scandal] (ÎL chapter 15). The loan words which were not adapted, disappeared more easily, especially after the Phanariotes' regime fall in 1821, such being the case of *cliros* [en. clergy] (CRÎ chapter 8 paragraph 12, ÎL chapter 31), *ierosilia* [en. sacrilege] (CRÎ chapter 35 paragraph 1), *scopos* [en. scope] (CRÎ chapter 8 paragraph 18), *amfithalis* [en. children with same mother and father] (ÎL chapter 274), *catara*

7| Translating the Latin legal texts in Greek in Byzantine Empire a series of Latin legal terms were adopted by the Greek legal terminology and they were accommodated to the Greek morphological system. A part of those accommodated terms was adopted by the Romanian legal terminology during the translating process of the Greek-Byzantine regulatory texts. This is also the case of the terms: *falchidiu* <gr. *φαλκίδιον*< lat. *Lex falcidia* [en. the fourth of fortune that is inherited by law by the heirs; with the other three fourths the testor could dispose as he wished], *notar* < gr. *νοτάριος*< lat. *notarius* [en. notary], *repondie* < gr. *ρεπούδιον* < lat. *repudium* [en.repudiation], *sachelar* or *sacheliu* < gr. *σακκέλλιον*< lat. *saccellarius* [en. treasurer], *etc.*

[en. curse] (ÎL chapter 37), *diazighion* [en. divorce] (ÎL chapter 213), *eterothalis* [en. half-brother] (ÎL chapter 274).

The affiliation of the Greek loan words to the formal written register facilitated their disappearance and replacement with neologisms of French origin, which was a result of the historical events and the legal reforms that took place in the second half of the 19th century. The maintenance of a loan into the target text and language indicates the fact that the translator feels the conceptual terminological void and, in order to obtain the equivalence, he chooses to innovate his terminological point of view.

2.2 Compensation

The most interesting cases by far are the *compensation* ones, achieved with both *conceptual* and *lexical compensation*. This equivalence mechanism in translation occurs by conventionalizing the concepts, by passing them through "the matrix of the cultural and historical standard practice" (Steiner 1983: 301).

2.2.1 Conceptual compensation

The *conceptual compensation* occurs when the cultural elements from the source language don't exist in the socio-cultural environment of the target language. Below we describe such a case, in which, if the translator had not chosen to adapt the message to the indigenous reality, the regulatory text had not had any enforceability: […] *muiarea carea se va spurca de silnici sau de pradătorii carii o vor robi* […] [en. the woman who was defiled by the powerful ones or by preditors who shall enslave her] (ÎL chapter 223) < […] *ἡ γυναῖκα ὁποῦ νὰ μοιχευθῇ ὑπὸ δυναστῶν ἢ ὑπὸ κουρσάρων ὁποῦ νὰ τὴν αἰχμαλωτίσουν* […][8] (MN, From the civil law, chapter 179).

The above-mentioned case is the more interesting the more the translator -legislator, even though he adapts the text to the indigenous environment by replacing the word *κουρσάρης* [en. pirate] in the source text with *pradătorii* [en. preditors], maintains certain particularities regarding the open salty waters mentioned in the source text to which Wallachia in those times had no access: […] *iară sângele* […] *să-l arunce în mare sau în râu* [en. and the blood […] to throw it into the sea or river] (IL chapter 97) < *τὸ δὲ αἶμα* […] *νὰ τὸ ῥήξῃ εἰς τὴν θάλασσαν ἢ εἰς ποταμόν* (MN, The one who fasts, chapter. 87). The case repeats itself in ÎL chapter 243 and chapter 282, which indicates a certain degree of automatism in this particular translation with no conceptual adapting.

Another suggestive example for the *conceptual compensation* with the purpose of generalising and achieving the enforceability of the norm, is also the following one,

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8| [en. the woman who was defiled by the powerful ones or by *pirates* who shall enslave her], personal translation from Greek.

in which the translator chooses for the phytonym *συκαῖς* [en. figs] the hypernym *pomăt* [en. orchard], although the familiarization with this lexeme had occurred due to the previous religious texts regarding the Holy Land: *Ceia ce vor întră în vie, sau în pomăt, pentru să mănânce numai poame, să nu să cearte; iară de să va arăta lucrul cum au mărs să fure, să-i bată și să le ia și hainele.* [en. Those who shall enter the vineyard or orchard, to eat only the fruits, shall not be punished; but if is proved that they went to steal, they shall be beaten and their clothes taken] (CRÎ paragraph 35) < *Οἱ ἐν ἀμπέλοις ἤ συκαῖς ἀλλοτρίαις εἰσερχόμενοι, εἰ μὲν βρώσεως ἔνεκεν, ἀθῷοι ἔστωσαν• εἰ δὲ κλοπῆς χάριν, τυπτόμενοι τῶν χιτώνων στερείσθωσαν*[9]. (Title II About theft).

Conceptual compensations occur especially in the case of the measurement units for length [*10 împistreale* (en. stades) (ÎL chapter 56) < *δέκα στάδια* (MN chapter 50)] and weight [*mierță sau veadre* (en. misurette or liquid measure of 2.7 imperial gallons (CRÎ case 5 paragraph 57) < *μέτρον σίτου καὶ οἴνου* (Imperial Laws Title V paragraph 3)], or in the case of the monetary units [*12 aspri, carii fac 2 potronici de argin* (en. 12 aspron which are 2 silver constanda (CRÎ p 2 z 36) or *12 aspri, carii fac 2 costande de argint* (en. 12 silver coins which are 2 silver coins of Constantine) (ÎL chapter 299) < *φόλλεις δώδεκα*].

2.2.2 Lexical compensation

Lexical compensation occurs while calquing, solving in this manner the *untranslatability* cases for which the translator uses the pre-existing lexical units which, most of the times, belong to the general vocabulary. Such an example is the sequence *Pentru răspunsul sau judecata judecatorilor aleși.* [en. About the response or judgement of the elected judges] (ÎL chapter 289) < *Περὶ ἀποφάσεως αἱρετῶν κριτῶν*[10] (MN, chapter 228).

Here the translator uses the syntactic calque *judecătorii aleși* [en. elected judges] (ÎL chapter 289), for which the famous legal expert Andronache Donici, later in his *Manual juridic* [en. Legal Guide] (1813) proposes not only the adapted loan word *eretocrite* [en. judge arbiter] (1959: 36) but also the sequence *judecători arbitri* [en. judges arbiters] (1959: 36) or even *judecători compromensari* [en. judges arbiters] (1959: 36). In *Legiuirea Caragea* [en. Legislation of Caradja Voievode] (1818) next to the above-mentioned calque *judecător ales* (1955: 88) appears also the non-adapted loan word *eretocritis* [en. judge arbiter] < *αἱρετοκρίτης* (1955: 88).

The same case one encounters also when examining other calques which occur once with the elaboration of the two laws: *lucruri îmblătoare sau neîmblătoare* [en. walking or unwalking belongings, meaning movable or immovable property]

9| [en. Those who shall enter the others' vineyard or *orchards of figs*, to eat the fruits only, shall not be punished, but if they enter to steal, they shall be beaten and their clothes taken.], personal translation from Greek.

10| [en. About the decision of the judges arbiters], personal translation from Greek.

(ÎL chapter 16), but also *lucrure mutate sau nemutate* [en. moved or unmoved belongings, meaning tangible or intangible property] (ÎL chapter 24) < πράγματα κινητὰ ἢ ἀκίνητα (MN Canon 6 synod 2 chapter 16), reencountered under the form of *lucruri mișcătoare* [en. movables] (PC, 1780/1957: 92; MD 1813/1954: 46; LC 1818/ 1955: 26) or *avere mișcătoare* [en. movable property] (LC, 1955: 84), and under the form of *lucruri nemișcătoare* [en. immovable property] (PC 1780/1957: 104; MD 1813/1954: 58; LC 1818/ 1955: 8). And in the case of the calque *zeastrea cea din afară* or *zeastrele de afară* [en. the outside dowry meaning gifts beside dowry] (ÎL g 265) < ἐξωπροίκα[11] (MN chapter 205), this is subsequently replaced (PC, 1780/1957: 202; CC[12], 1817/ 1958: 63; LC, 1818/1955: 84) with *exoprica* (sg.) or *exopricale* (pl.) (CC, 1958: 559), thus loan words partially accommodated in the language from the plural form of the Greek word ἐξώπροικα, which functioned in the Phanariote era and the form *exopricon* (Galdi, 1939: 187) from the singular form of the Greek < ἐξώπροικον.

The theory of George Steiner according to which "not everything can be translated now" (1983: 316) and that "there are texts which we cannot translate yet, but can become translatable in the future based on linguistic changes, refining the interpretive means and changing the receiving sensitivity" (ibid.), becomes fully proved by the cases mentioned above.

2.3 Integration vs. lexical compensation

This strategy of settling the case of de *untranslatability* brings into discussion the existence of *synonymy*, which is characteristic for the fictional style and at the same time rejected by scientific terminology as it affects the *univocity* and *monoreferentiality* of the term. However, synonymy is being tolerated in the case of the initial terminologies (Guilbert 1975: 331), where it bears the name of "synonymic variation of circumstance or occasional synonymy" (Dury/ Lervard 2007: 38, Dury 2007: 66). Caused by the conceptual instability (Freixa 2006: 64), the terminological unit is unstable.

The two codes of law provide a rich material to support the points of view previously mentioned, a material out of which we have selected the most prominent examples: *făgăduialele* [en. promises] (ÎL chapter 253) = *arvunele* [en. advance payment] (ÎL chapter 176), *ierosilia* [en. sacrilege] (CRÎ chapter 35 paragraph 1) = *furarea sfintelor* [en. stealing the holies] (ÎL chapter 102), *legata* [en. type of taxes] (ÎL chapter 286) = *dările ce dă omul ca să stea la un loc* [taxes that a man pays to stay in one place] (ÎL chapter 286), *sodomiia* [en. sodomy] (CRÎ case 333, ÎL chapter 39 paragraph 18) = *zăceare bărbat cu bărbat* [en. to lie man with

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11| ἐξωπροίκα [ex'oprika] = wedding gifts offered to the bride by the groom before the marriage take place. She could dispose of them as she considered and remained in her property in case of divorce; lat. *paraphernalia*.

12| Calimach's Civil Code (Moldavia, 1817).

man] (ÎL chapter 137), *repondie* [en. repudiation] (ÎL chapter 213) = *cartea cea de despărțeală* [en. divorce act] (ÎL g 213) = *carte de lăsat* [en. divorce act] (ÎL chapter 213) = *diazighion* [gr., en. divorce] (ÎL chapter 213), *eterothalis* [gr., en. half-brother] (ÎL chapter 274) = *cu doao mumâni* [en. with two mothers] (ÎL chapter 274), *amfithalis* [gr.] (ÎL chapter 274) = *frați buni* [en. blood brothers, with same mother and father] (ÎL chapter 274), *daltirie* [gr., en. letter of appointment for a priest] (ÎL chapter 313) = *cartea cea tocmită a preotului* [en. the official letter for the priest] (ÎL chapter 313) = *poslanii tocmite* [en. official letters] (ÎL chapter 403), *cu scopos* [en. with a certain purpose] (CRÎ case 215) = *cu socotință* [en. deliberating] (ÎL chapter 173), etc.

This translation strategy based on the decision of the translator to opt either for the *integration* of a loan word, or for the *lexical compensation*, represents a very interesting and important element for those who have as their research object the early translations of legal texts. The existence of both translation parameters in the same texts can indicate the implication of more translators in the translation process (with different educational background or coming from different environments, clerical or profane) or the text elaboration in different periods of time. The existence of the *synonymy* between the terminological units denominating the same concepts in both regulatory texts can be a sign for the socio-cultural and linguistic differences between the two Romanian principalities.

2.4 Intentional loss and ignorance of culture-bound elements

It is another transposing strategy of the legal standard from the source text into an enforceable target text, a strategy dictated by the social reality of the Romanian principalities but also by the Romanian judicial unwritten common law: […] *iară în veacul de acmu să ceartă după voia giudețului, ce să dzice sau să-l bage în ØØØ ocnă, sau îl vor purta pren târg cu piialea pre toate ulițele* […] [en. and nowadays one is punished at the judge's will, meaning either to send him to the salt mines, or to walk him naked through the town on every streets] (CRÎ case 15 paragraph 1) < Ἀμὴ τῶρα τιμωρᾶται κατὰ τὴν θέλισιν τοῦ κριτοῦ, ἤγουν εἰς τὸ κάτεργον ἢ εἰς τὴν ὄκναν, ἢ τὸν γυρίζουσιν εἰς ὅλον τὸ παζάρι, δέρνοντάς τον, ὡς ἤθελε φανῇ τῷ κριτῇ[13]. (Code f Justinian, Chapter VIII, Farinaccius Qu. 140, P I, no. 1, 3, 9, 10). Although the translator has at his disposal the loan word *caterga* [en. galley], as we have seen it in the sub-section 2.1, he chooses its omission in this case because this kind of punishment couldn't be conducted in Moldavia.

Another edifying example is the following one: *De va intra dobitocul în vie, sau în pomăt și va cădea în vreo groapă Ø sau va împăra în gard și va muri: ca să nu*

13| [en. But nowadays one gets punished at judge's will, meaning at *galley* or in a salt mine or is walked through the entire town being beaten, as judge decides]; personal translation from Greek.

aibă nice o nevoe cela cu viia sau cu pămătul. [en. if a beast enters the vineyard or the orchard and falls in some hole Ø or it gets stuck in a fence and dies, the owner of the vineyard or orchard shall have no fault] (CRÎ case 4 paragraph 51) < Ἐὰν βοῦς ἢ ὄνος εἰσελθεῖν θέλων ἐν ἀμπελῶνι ἢ ἐν κήπῳ ἐμπέσῃ εἰς τὸν τῆς ἀμπέλου τάφρον ἢ τοῦ κήπου καὶ ἀποθάνῃ, ἀζήμιος ἔστω ὁ κύριος τοῦ ἀμπελῶνος ἢ του κήπου[14] (Code of Justinian, Title IV, paragraph 5). In this case one can see an example of generalizing the message through *conceptual compensation*, on the one hand, and also a more interesting example of ignoring a culture-bound element, on the other hand, a strategy which was dictated by the specificity of the eluded concept. This specificity depends on the way vineyards were cultivated in the Greek-Roman world, which differed from the ones in the Romanian principalities due to the climate. The expression ἀμπέλου τάφρον [en. deep furrow for vineyard] refers to one of the three methods to cultivate grapevine, about which Pliny the Elder speaks in *Historia naturalis* (vol. XVII 35, p. 167): digging [lat. *in pastinato*], cutting deep furrows[15] [lat. *in sulco*] and ditches [lat. *in scrobe*]. The purpose was to collect the necessary water and humidity for the grapevine, yet thanks to the generous climate, these methods were unnecessary in Moldavia and Wallachia.

To conclude this section we can assert that the cases of *untranslatability* analysed in the present study form highly important elements in order to understand not only the cultural and linguistic differences between the two Romanian principalities, but also the way of life in the Byzantine Empire and its legacy in Southern and Eastern Europe. The translators choose the *generating* and the *integration* (*accommodation*) of the terminological units without a lexical correspondent in the Romanian language, or the *conceptual* and *lexical compensation* as a translation strategy but they might also *ignore* the "exotic" elements. All these strategies contribute to the preservation of the nature and the initial scope in the target text, to the generalization and application of the legal standard in the Romanian society of the 17th century.

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14| [en. If an ox or a donkey, as they want to enter a vineyard or an orchard, fell in the vineyard or orchard's *furrow* and died the owner of the vineyard or the orchard shall not be held responsible]; personal translation from Greek.

15| This is the method of cultivating grape wine to which the Byzantine legislator refers, the most frequent mostly in the warmer parts of the Empire, when, "next to digging of the relevant drenches into the soil or the rock – real trenches with a 1.5–2 feet deep" (Amouretti, 1992: 80), very high embankments were built to maintain humidity.

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Abbreviation in the text

CC = *Codul Calimach*, 1718 [en. Calimach' Civil Code]
CRÎ = *Carte românească de învăţătură*, 1646 [en. Romanian Book of Learning]
ÎL = *Îndreptarea legii*, 1652 [en. Rectification of Law]

VARIA

LC   = Legiuirea Caragea, 1818 [en. Legislation of Caragea Voivode Act]
MD = *Manualul juridic al lui Andronachi Donici*, 1813 [en. Legal Guide of An-
          dronachi Donici]
MN = *Nomocanonul lui Malaxos*, 1561 [en. Malaxos' Nomocanon]
PC   = *Pravilniceasca condică* [en. rough translation Legal Code]
(gr.) – Greek
(en.) – English
(lat.) – Latin
(vs.) – versus

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