

THE CONCEPT OF NORM IN PROFESSIONAL (LEGAL) TRANSLATION AND INTERPRETING: THE TRAINEE (USER) VIEW

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Abstract: The concept of translation norm has occupied a prominent place in Translation Studies as a terminological challenge for scholars and the reflection of their research fields. The emergence and internalisation of norms is a natural consequence of the socialisation process since norms can be also used as evaluation criteria for certain social (permissible and acceptable) behaviours. However, the operation of norms in translation is hard to be observed: the objects of direct observation are products of the translation process and results of norm-governed translator behaviour. A question might be asked whether norms hinder or rather facilitate the process – a potential answer suggests the dependence of norm application on the translator’s experience and knowledge accrued as factors central for successful performance. These factors are manifested in the performance of professional translators and interpreters, therefore the article focuses initially on the concept of professionalism in translation and interpreting. This is followed by a brief introduction of the notion of norms positioned in the context of translating and interpreting legal texts. The article closes with the presentation of the survey conducted among translation and interpreting trainees.

POJĘCIE NORMY W PROFESJONALNYM PRZEKŁADZIE (TEKSTÓW PRAWNICZYCH)

Streszczenie: Pojęcie normy tłumaczeniowej stanowi istotny punkt na mapie przekładoznawstwa, będąc zarówno terminologicznym wyzwaniem dla badaczy, jak i odzwierciedleniem ich zainteresowań. Zjawisko internalizacji norm jest naturalną konsekwencją procesu socjalizacji, ponieważ normy mogą służyć również jako kryteria oceny pewnych społecznie dopuszczalnych. Trudno jednakże zauważyć działanie norm: to, co do nas dociera, to produkty procesu tłumaczeniowego i skutki zachowania tłumacza kierującego się normą. Można zatem zadać pytanie, czy norma jest przeszkodą czy ułatwieniem pracy dla tłumacza – stosowanie norm może być pochodną skumulowanej wiedzy i doświadczenia tłumacza, które to czynniki przejawiają się w pracy tłumaczy-profesjonalistów. Artykuł zatem wstępnie koncentruje się na pojęciu profesjonalizmu w przekładzie. Następnie krótko omawia pojęcie norm w kontekście tłumaczenia tekstów prawnych i prawniczych. W artykule zaprezentowane zostaną ponadto wyniki badania przeprowadzonego na adeptach sztuki przekładu.

Professionalism and the operation of norms

The very concept of professionalism – irrespective of the fact whether it concerns translation or interpreting – embraces a number of issues combining both linguistic and the extralinguistic domains of the translators’/ interpreters’ performance. Professionalism seems to be expressed in the education possessed, experience and knowledge accumulated throughout the years of working in the profession as well as effective usage (and taking benefit of) auxiliary devices such as, e.g., CAT tools, dictionaries and glossaries (traditional and online ones) and, obviously, computer technologies. The professional translator/interpreter should be also able to use effectively theoretical background, or even be able to postulate his or her own assumptions that could be verified positively in practice. The knowledge is transferred despite cultural and language barriers; this is enabled owing to experience and motivation for further (successful) performance. However, the linguistic knowledge of the translator is only one domain out of a whole assortment of others that are indispensable for efficient usage of strategies and techniques that aim at creating a good quality – professional translation – and to transfer information included in the source text (Fraser 2000). Professionalism in translation and interpreting is an efficient operation of cognitive skills, owing to which the translator/interpreter is capable of analysing and identifying problems encountered while performing a translation task. It also enables to recognise those domains which require from the translator/interpreter to be broadened and in which further specialisation is necessary, and to accumulate experience which is a must in the work of every translator/interpreter. The individual development assumes in this case a growing trend towards specialisation, increasing knowledge and experience, the ability to collect and accumulate information as well as using the whole body of information, knowledge and experience to be capitalized on in new or novel translation/interpreting situations. Due to the abovementioned cognitive factors the professional translator/interpreter knows which successful coping strategies and techniques can be used while facing such situations.

Attempts aimed at creating the definition of professionalism in translation/interpreting are problematic: it is difficult to select assessment criteria which are individually varied depending on those items that a given translation user perceives as important for the translation and for its reception. Therefore, it might be postulated that professionalism in translation is manifested as a result of relations existing between the translator/interpreter and translation/interpretation users, of interaction of cultures and contexts, and most of all of effective transfer of information and meanings covered in the source language utterances. One should bear in mind that professionalism, apart from the leading role performed by cognitive factors, does not only denote the linguistic sphere subject to assessment and thus to drawing conclusions on the competence of the translator, but also the contextual and communicative spheres that determine the

translator's and interpreter's efficient performance in a variety of contexts, and social and cultural interactions (cf. Wadensjö 1998).

Professionalism of the translator/ interpreter is, as it has been said above, a multidimensional and relative concept due to a plethora of perspectives and expectations related with its perception. This very issue poses another significant challenge for

translators and interpreters: prior expectations of prospective translation or interpretation users do affect the performance. The users consider translation or interpretation successful on condition the (accurate, precise) meaning of the text or utterance is transferred. This phenomenon is very well manifested in the research, to mention just a few names of scholars such as Bühler (1986), Kurz (1989, 1993), Marrone (1993), Kopczyński (1994), Moser (1995), Mesa (2000), Kadric (2000) or Pöchhacker (2000, 2002). The research distinguished between the evaluation of the interpreter's performance from the interpreters' perspective and from the perspective of interpretation users (listeners). Two questionnaires focusing on user expectations, i.e., the research conducted by Bühler (1986) and Kurz (1989), a questionnaire made by Kopczyński (1994) due to references to the interpreter's role and, finally, the questionnaire prepared by Pöchhacker (2000) were presented elsewhere (Kościalkowska-Okońska 2008), therefore their results shall not become the focus of our considerations. What might be, however, inferred from the research is a premise that the professional interpreter is fully responsible for the overall quality of the text/utterance produced, which is seen in this context as the final product of the translation process, and the quality mentioned is the result of overall translation competence manifested by the interpreter. The final product obviously and naturally is evaluated not only in terms of the language but also in view of the entire extralinguistic sphere. Translation and interpretation users do have varying perceptions of the notion of professionals and its practical implications. With these differences in perception, the establishment of uniform criteria seems to be difficult, if not impossible in general. Moreover, these criteria include standards that address communicative, cognitive, linguistic and extralinguistic skills manifested by the translator/interpreter but also standards of normative character imposed on translators/interpreters by, e.g. professional organisations and associations that refer to, inter alia, professional conducts and ethical standards of translators and interpreters. The very term 'standard' in a plethora of contexts seems to be interchangeably applied with the notion of 'norm'. The concept of norm as such deserves a slightly wider discussion; although it seems hardly possible to discuss the concept that occupies such a prominent place in the whole realm of Translation Studies in a short article, it will be very briefly addressed in view of sensitivity to norms manifested by translators and interpreters.

The concept of norms is strongly connected with the socio-cultural perspective of translation. From the perspective of the social functions that translation is considered to have, norms may be tentatively approached as the translation – or transposition - of

ideas or values that are common for a given society into generally accepted and appropriate instructions of performance. These are to be applied in a given – specific – situation upon facing any valid behavioural constraints. The emergence and acquisition of norms in a way naturally results from the socialisation processes, for norms may be also utilised as assessment criteria for specific social behaviours, obviously on condition that the situation permits such a behavioral variety (see Schaffner 1998). Norms explicate social implications of behaviours and activities and do contribute to the establishment of cultures reflected in social order or institutions. The problem with translation norms lies in their very nature, namely, their socio-cultural features and assumed instability (see also Toury 1995). Norms are culturally and socially specific; they are simply embedded within this specific cultural context, and their interference with other remaining norms is the result of cultural systems being in constant contact. The already mentioned instability of norms derives from their character as they are temporally varied (for instance, in historical terms).

Unfortunately, we are not able to observe the direct operation of norms in translation: what we can really see are the products and results of norm-governed translation behaviours. Translation *per se* assumes its interactive and communicative nature and, to be successful, should receive any environmental feedback. The feedback tends to be norm-oriented, thus translation might be treated as the process of text production that is governed by norms. The feedback reflects norms that can be applied to any type of interrelations between texts translated and their sources. Thus they determine the adequacy of solutions, strategies and procedures employed in text production.

The concept of norms was within the research domain of such scholars as Toury (1980, 1995) and Hermans (1985, 1991, 1996), yet there is one more approach that seems to be of use for our deliberations on norm-governed translation performance, namely, Chesterman's (1993) division of norms into professional and expectancy norms. Professional translation behaviour gives rise to professional norms; a further division of professional norms into accountability norms, relation norms and communication norms is relevant here since these subtypes seem to govern the system of rules that are usually internalised by professional translators.

Norms of accountability address standards of precision and integrity, whereas relation norms focus on the linguistic perspective of translation reality and the need emerging for the translator to construct a relation between the source and target language texts. This relation is a derivative of the translator's understanding of the author's intentions and the readers' expectations which, as it was suggested above, do vary among different groups of recipients. Finally, norms of communication emphasise the role of the translator as a specialist – an expert – in intercultural communication.

On the other hand, expectancy norms are created by expectations of translation recipients and users concerned with the manner in which a given

translation is to operate effectively in the target language. An interesting observation to be made here is that a translator/ an interpreter tries to operate in concord with binding norms that are accepted and expected in a given cultural community and at the same time s/he has to comply with professional norms that are in force within that very community. Norms as an inherent part of our internalised social culture affect the comprehension and processing of the text.

The analysis of the operation and application of norms in interpreting results in a claim that although Toury in his theoretical considerations approached both translation and interpreting, the usefulness of norms in interpreting, in contrast to the same phenomenon in translation, has not been perceived as important from the very beginning (see Schjoldager 2002). Major objections posed concerned a limited number of research corpora: empirical research that is based on a limited scope seems to be an obstacle in analysing the mechanism of norm application (Shlesinger 1989). Other obstacles substantially interfering into the process of creating a corpus material include technical or legal problems (the latter occurring mainly while recording interpreters for research purposes; moreover, interpreters are not always that willing to be recorded, cf. also Shlesinger 1989). Elements that cannot be analysed for the lack of required instruments (cf. Diriker 1999) also affect the process and the final product of interpreting. Particularly in simultaneous interpreting, since interpreters work in real time, it is even more difficult to evaluate whether the interpretation product derives from norms applied and operates effectively during the process, or it rather results from constraints on the information processing (this problem is discussed both by Shlesinger 2000 and Schjoldager 2002). A ground-breaking in this respect postulate would be the suggestion of Schjoldager (2002) of an introduction of a new norm to be binding in interpreting only. This norm would attempt at practising possible options by the interpreter in a situation when a given task becomes increasingly difficult or its performance is even impossible.

Still, a question remains to be answered: what is a norm in translation reality devoid of theoretical determinants? Is it an inhibition for the translator/ interpreter, or rather a strategy adopted a priori that facilitates the success and effectiveness of the process, thus contributing to the success of the translation/ interpreting product? Where is the dividing line between an abstract construct and a practical tool? In order to ascribe an appropriate position to norms, all texts together with all acts of translation (and all items present within them) should be positioned vis-à-vis the context in which they function. The wider variety of translational situations the translators and interpreters face results in the increased flexibility of their translational performance that is appropriate from the social, cultural and normative point of view (conversely, the decreased range of translational situations and possibilities the translators face may result in less effective performance). This tendency may even result in a situation when the social prestige of the translator – whose professional high-quality performance is

common knowledge – is sufficiently high to oppose the pressure of norms without risking any negative consequences for the overall output. Not only may the translator contradict the dominating norms, but s/he may also instigate their modification within the culture in which s/he functions. Norms are relevant for the outcome and therefore they may be treated as internalised behavioural constraints reflecting values and ideas inherent for a given community. Yet, we should bear in mind that the concept of norms is not inhibitive in itself: norms seem to facilitate the manner of translation (as text production) that goes well with standards in force. In this sense norms do affect the process of decision making, however, they do not distort it. On the contrary, they rather seem to validate the decisions already taken that aim at a specific source language text rendition.

It may be hypothesised, subsequent to the above, that professional translators and interpreters have internalised norms in force both in the source and target languages, and for them norms are just one of a number of aspects to be recognised and considered within text processing. Professionals are thus in a way norm-free as they are not limited regarding the possible range of options to choose from, they are more creative in finding and utilizing new meanings (thus being also more productive). As professionals, they can be “trend-setters” in the sense of establishing and determining new norms that may start to operate in a new reality.

Less professional (or non-professional) translators or interpreters are, conversely, norm-bound as in order to translate they have to externalize their norm-related knowledge, expectations and experience, the last being quite frequently absent. Their norm-related knowledge tends to be restricted to the knowledge that any language user of a given society has by simply being aware of the socio-cultural complexity and variability of norms. Norms for them become the filter through which they perceive the translation reality. It must be emphasised that the norm cannot be trained, but it must be internalised so as to operate in an implicit manner in the translator (a professional-to-be). The process of norm internalisation is facilitated through an exposure to a set of environmental factors (e.g., social, behavioural and cultural patterns) that is further enhanced by broadening the scope of extralinguistic knowledge reliant on the accrual of experience.

Translating legal texts

Our deliberations on norms are to be of a more practical usage from the perspective of translating and interpreting legal texts. Obviously, legal texts, being normative in nature *ex definitio* pose specific difficulties for translators and interpreters. As the detailed discussion of the character of legal texts is not possible here for the reasons of space, those problems shall be briefly signalled. The language used in those texts is a specialist

language (cf. Jopek-Bosiacka 2006), with its characteristic features inherent to specialist texts. Following Šarčević (2000) we may claim that legal language is even considered a sub-language that is subject to certain specific semantic, pragmatic and syntactic principles. Another feature typical of those texts is specialist vocabulary, the aim of which is precise and accurate description of the reality encompassed within the normative functioning of legal documents. Terminology that occurs in legal texts tends to be, to a large extent, conceptually ambiguous, or even incoherent (Šarčević, 2000). This is mostly due to the origins of the emergence and evolution of legal systems as we know them today. All legal systems have their own conceptual systems resulting from the existence and operation of institutions in a given state, own culture and history, own social and economic factors, and, finally, legal realia. We may therefore hypothesise that in all these systems legal concepts exist that, owing to the aforementioned systemic differences, may not possibly have their terminological or conceptual correspondents (equivalents) in other languages for one and simple reason: those concepts do not exist either in a certain legal system or in a given culture. The binding – professional, commonsensical to an extent, and not abstract – norm for the translator and interpreter would be then to find an option that would remedy, in the most optimal way available, the (lack of) balance between the two systems and establish a meaningful and adequate linguistic as well as extralinguistic and contextual relation.

In order to verify whether norms may affect in any way professional translator/interpreter performance, a survey was carried out among prospective professionals that aimed at finding answers to nagging questions on the essence of professionalism as it is perceived by trainees. The trainees do not possess professional experience *per se*: they are in the process of development and construal of professional strategies and behaviour. It is of interest how they perceive the role of factors essential for professional performance and whether they recognize the need for development and improvement. The survey and its participants shall be discussed below.

The survey

The group subject to the survey consisted of 38 persons; all of them were trainees of the post-graduate course in legal translation and interpreting at the Nicolaus Copernicus University in Toruń. The course lasts one year and includes over 150 hours. One of the course elements is training in consecutive interpreting (50 hours). The surveyed are mostly graduates of English studies (both on the BA and MA level); only few persons (4 in total) have graduated from other faculties (law or economics and marketing). The survey was done mid-term after students had introductory classes in interpreting followed by several hours of in-class practice. All students attended (obligatorily) one conference during the course; 18 persons participated in a few conferences as

interpretation users (with the maximum number of conferences being 3), thus their conference experience was not extensive.

The attempt of the survey was the construction of a list of features that are considered important by trainees as well as their expectations and impressions concerning professional interpreting and professionalism in translation in general. The trainees were not asked to rate the features, as the aim of the survey was not the statistical occurrence of given features. What was truly important was rather the awareness manifested by trainees of having (or striving at having) specific skills enabling them to perform translation tasks efficiently and in a professional way. Another attempt that trainees were to undertake was to define the notion of norm. In this particular survey trainees cannot be treated as (practicing) interpreters as for almost all of them (i.e., 36 persons), classes in consecutive interpreting were the first time in their life when they had to interpret. Yet, as trainees are active in their own domains of professional activity they can be treated as users (recipients) of interpreting performed by professionals during a conference which trainees might attend. This, in a way, dual interpreter-user perspective might yield inspiring and interesting results.

This short survey consisted of four open questions, to which the survey subjects were to add question-related features. The questions were the following:

1. Who is a professional translator?
2. Which skills are vital for professional performance?
3. What is forbidden („illegal”) in professional performance?
4. What is a translation norm?

In response to the first question a list of features required – and desired – from every interpreter was included, namely, professional interpreter should be well prepared and should possess the knowledge of both languages combined with deep cultural knowledge of the two language realities, should use an entire assortment of sources (this also covers consulting experts in a particular field in which interpreters specialise) and improve constantly. A professional is not afraid of seeking help in colleagues and does support others in their striving towards professionalism. Professionals are capable of facing unexpected situations, but they are also aware of expectations that interpreting users have; they also know their own limitations. Owing to the experience accrued during years of working in the profession they are poised and focused, reliable; they do manifest high self-esteem, but they do not patronise others.

Question 2 addresses skills that are vital for professionals such as the ability to face various challenges and situations as well as to learn fast. Other factors mentioned were stress management, divided attention and fluency. These were combined with such skills as data management, media competence understood as the ability to use computer technologies, and interpersonal skills.

Question 3 focused on behaviours manifested by interpreters that can be rated as ‘sub-standard’ and should be avoided; these include overinterpreting, changing the

content, showing irritation or nervousness, translating everything, simplifying, being biased, gesticulating or speaking silently. Other activities listed as forbidden or negatively evaluated cover unpunctuality, inappropriate dress, giving up while translating and, finally, shouting at the speaker.

The last question was concentrated on an attempt to elicit from the survey subjects a tentative, though individually varied, definition of translation norm. The number of answers received was rather limited and closed within the confines of practically one domain – adequacy – existing between the original and the translation. The survey subjects defined the translation norm as, to quote a few examples, ‘reliability of the translation’, ‘adequate transfer of the original message’, ‘retaining ideas included in the original’, ‘knowledge of specialist vocabulary without which a reliable translation is impossible’, or ‘conveying the real sense of the original text’, ‘knowledge of both languages’, ‘creativity’, ‘broad extralinguistic knowledge’ and, finally, ‘appropriate behaviour’.

Conclusions

It might be inferred from the above answers that survey subjects seem to follow the outlook on norms postulated by Chesterman. The need for precision and accuracy (as the norm of accountability emphasises these features) is expressed explicitly. Another observable trait is the importance ascribed by the subjects to cognitive skills and features that are to be manifested by interpreters. Even the norm is viewed vis-à-vis cognition by stressing the significance of knowledge or creativity. This might be due to yet another characteristic feature reflected in the survey results: the already mentioned dual perspective of the subjects as – simultaneously – prospective interpreters (therefore striving at reaching the idealised and ideal construct of a professional interpreter) and users of the interpretation, thus adding some evaluative attitude to individual comments and observations. However, problems emerging while trying to define the translation norm seem to reflect another inherent problem of translation: apart from theoretical academia-oriented considerations, the concept of norm seems to remain within the limits of highly refined scholarly debate, of not much practical and practicable nature. Chesterman’s postulates seem to have more bearing to the translation and interpreting reality, yet in real life one might ask a question whether these deliberations result in a definition that would be consciously and deliberately used by practising professionals and trainees in their reflecting upon the intricacies and problems typical of any translation or interpreting task.

In view of the specificity of translation and interpreting, professionals operating in these two domains should keep a (healthy) balance between respecting the translation norm and the domain (in case of legal translation, being the main subject of trainees’ study) that would be the whole realm of the law (with an obvious reservation

that legal texts are normative in nature, i.e., imposing certain obligations to be fulfilled). If the application of norms (the notion of legal norm itself being beyond the scope of this article) is to become the focus of our considerations in the context of legal translation and interpreting, it has to be borne in mind that translation norms are internalised constraints on the translator/interpreter behaviour. This behaviour is also expressed in the form of texts or utterances produced in a variety of translation and interpreting situations; these constraints reflect common values (including law-related ones) shared and accepted by a given community or society.

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