

**Legal Translation:
A Study of *Rogatory Letters* and its Implications**

Luciane Reiter Fröhlich

Universidade Federal de Santa Catarina

Postdoctoral Researcher in Legal Translation
Centro de Comunicação e Expressão – CCE
Universidade Federal de Santa Catarina
Florianópolis-SC, Brazil

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Legal Translation has assumed a key role within the communicative purposes of our globalized reality, in a wide variety of multilingual and multicultural settings, receiving substantial attention from researchers in the field. Indeed, because of the special nature of the law, the languages, and the legal systems involved, legal translation is known as the most complex and demanding of all areas of specialized translation (Cao, 2007; Šarčević, 2012). This complexity requires advanced technical knowledge of the translator, not simply proficiency in the source (L1) and target (L2) languages, but also knowledge of the peculiarities of two legal languages and legal systems involved. Moreover, the translator needs to understand not only what individual words, phrases and

sentences mean, but also the legal effect they may have (Šarčević, 2010). Considering all this, the thesis explores this field of research, and is inserted into the interface between Translation Studies and Forensic Linguistics, focusing on the skills profile of beginning legal translators.

The motivation for this research was an observation of the peculiarities associated with the translation of Brazilian legal texts, especially rogatory letters. These texts are linguistically very complex and require maximal precision, since they usually carry great social, legal and also economic consequences. According to J. Gibbons (2004), the complexity of sentences and phrasal structures, as well as the use of grammatical metaphors, complicate the understanding of legal texts. This complexity, combined with the idea that legal translations are considered “the ultimate linguistic challenge” (Cao, 2007), makes the work of the legal translator extremely difficult. Therefore, the professional education of translators and the supervision of their translations must be undertaken in a systematic and stringent way. As a result, translator training and evaluation of professional performance should be even more stringent.

However, in this research we observed several worrying aspects that deserve careful consideration. It is not unusual for translators to be left to their own devices. There are no undergraduate or postgraduate courses in Brazil that adequately prepare students for working as legal translators; the profession is not properly regulated; there is no official supervision, and not even a regulatory standard. The combination of these factors makes the translation process more error prone and directly impacts the quality of translations. The situation is made even worse by the increasing demand for translations from the international legal communities.

In this context, we propose some methodological guidelines for legal translation designed to help legal translators to improve the quality of their translations, and to collaborate in the establishment and consolidation of the research field in Legal Translation in Brazil. In addition, we suggest specific translation solutions (to/from the German language) for many of the complex terms and key-expressions typically found in rogatory letters as well as for sentences that feature recurring “legalese” patterns (Andrade, 2009).

It is therefore an exploratory study, mainly based on theories of Forensic Linguistics, with contributions from Malcolm Coulthard (2007; 2010), John Gibbons (2004; 2005), Lawrence Solan (1998; 2010), Peter Tiersma (1999), among others; and theories of Legal Translation Studies, based on publications by Malcolm Coulthard (1991), Deborah Cao (2007; 2010) and Susan Šarčević (2010; 2012).

Thus, for the implementation of the research and subsequent analysis of the peculiarities of Brazilian legal texts, six sample of rogatory letters, considered highly complex legal documents (OAB-Paraná, 2011), were chosen. All of them had been issued by the Judiciary of the State of Santa Catarina, between the years 2004 and 2011, and submitted for public translation into German, which is the specialized language of the author of this thesis, who worked with these letters as an ad hoc sworn translator.

Beyond this analysis, we suggest ways to simplify legal language based partly on the assumptions of the Plain Language movement (<http://www.plainlanguageaustralia.com>) and partly on research from Tiersma (1999) and others. As a result of linguistic simplification, legal texts will become more “democratic” and the duties of translators less arduous.

Finally, as an extension of this research, we proposed an “Estudos da Tradução Forense” research line based on translation competence and aimed at assisting beginning legal translators. This resulted in a set of modules or “disciplinas” combined into a prototype curriculum. To support this issue, we used the research on translation competence carried out by the Spanish group PACTE (2000; 2011), by Amparo Hurtado Albir and Fabio Alves (2009), by Maria Lúcia Vasconcellos (2012) and by Jeremy Munday (2009), among others.

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