

## PROCESS-ORIENTED APPROACH TO IDENTIFY COMPETENCES FOR LEGAL TRANSLATION: INTERDISCIPLINARY SOURCES REVIEW FOR CONCEPTUAL FRAMEWORK

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**Abstract:** The paper aims to substantiate the need for a process-oriented approach to the professional competences identification in the field of legal translation as part to language and culture mediation activities on the whole. The above attempt stands on the interdisciplinary approach in relation to the governance and management in the society as a whole. This perspective allows the authors to identify the essence and sub-competences for Legal Translation Competences on the grounds of interdisciplinary sources review. The paper also reveals benefits of the desk field research with regard to the interdisciplinary sources review and specifies prospective ways form further studies. The overall results lay conceptual grounds for further empirical studies about procedural skills for Legal Translation.

**Keywords:** process-oriented approach, competence, legal translation, interdisciplinary studies.

### 1 Introduction

The period of 2018-2019 has witnessed an interdisciplinary breakthrough in the field of competence-based analysis with regard to mediation and translation issues in general.

Within the academic world the mediation is not just simply indicated as it was in old Common European Framework of References (CEFR, 2003). Today it is represented by a system of level descriptors for determining levels of proficiency in language and culture mediation based on the studied and native languages at A2-C1 levels (CEFR, 2018).

In addition, starting from 2014, international standards of translation and interpreting have been developed and approved (ISO 17100:2014, ISO 20228: 2019). A big step forward has been made in the development of international academic standards for the definition and description of the professional competence of an interpreter not only a multi-component, but also a multi-level phenomenon (EMT, 2017, PACTE, 2018, QUALETRA, 2014).

In academic studies the task has been verbalized with regard to developing a process-oriented approach to the translators' training (Roig-Sanz & Meylaerts, 2018).

For two and a half decades, a number of studies have been carried out to study the requirements for the content of the training of legal translators (QUALETRA, 2014).

Special attention to the professional competence of translators in the legal sphere is associated with the special role of legal and medical translation in modern society, which relates to ensuring fundamental human rights (legal translation), including the rights to health and protection of human life (medical translation).

Taking into account the above process-oriented approach to determining the essence of the competencies of a specialist in the field of translation in the legal sphere is timely.

The relevance of language mediation skills for specialists of any profile, on the one hand (CEFR, 2018), and the relevance for international professional and educational standards for legal translators and interpreters training and service provision

requirements, on the other (ISO 17100, 2014, ISO 18 841, 2018, ISO 20228, 2019) is confirmed.

Such an interfiled view seems reasonable in connection with the dominant process approach to management in modern society as a whole, in education, in particular.

*The present paper goal* is two-fold and aims to map sub-competence for Legal Translation Competences on grounds of interdisciplinary sources review for building further research conceptual framework.

The above goal requires *a number of tasks to be implemented*, including the following ones:

- The search for and analysis of sources that lead to the present paper argument and reasoning on process-oriented approach to the society governance and management
- The search for and analysis of sources that focus on the present paper argument for process-oriented approach to education and translation studies
- The search for and analysis of sources that focus on focus on the present paper argument for the process-oriented approach to identifying competences for translation in legal domain.

*The research methodology* has stood on the interdisciplinary sources review.

*The research materials* have integrated the Translation Academia and Industry white papers, research papers on process-oriented approach to translation in general, and to legal translation studies, in particular.

### 2 Process-Oriented Approach to Society Governance and Management

The process-approach to the development of society and organizations has a long history and dates back to the statement of ancient Greek philosopher Heraclitus and his maxim "Everything flows" (Chisholm, 1911). Scholars acknowledge that K. Marx consistently applied this approach to studies of society (Roseberry, 1997).

A. Whitehead (1924) in his works theoretically substantiated the methodology of the process-oriented approach. Previously, for almost two centuries, a functional management approach was sufficient (Taylor, 1911; Weber, 2013). Under that vision, the organization and its activities were viewed as a system within which certain functions were defined, distributed and implemented for each department. This approach did not allow the employees of the enterprise to see the extent of their participation in the overall production process, did not stimulate inter-structural interaction between departments, did not concentrate the attention of employees of various departments on the final consumer of the product, etc.

In terms of society requirements (Mosse, 1998) regarding the consumer, the production processes integration, other management concepts were required (Foster & Suddaby, 2015; Miebach, 2015).

A process-oriented approach to the management of the organization's activities was developed. Its essence lies in the continuous nature of managing the interaction of departments in the course of their activities, coordinating the vertical and horizontal processes, the continuity of organization management with regard to individual processes, greater focus in the organization's activities in favor of end users (Dale, 2000; Maier & Remus, 2003).

Special emphasis is laid on a process-oriented study of stakeholders (Vandenbussche et al., 2018).

Modern specialists (Bea & Haas, 2016; Davenport, 2015; Mendling et al., 2018) in the framework of the process-oriented approach highlight such key principles as the integration of procedures, the possibility of collaborations of specialists of various specializations, the use of diverse sources of information from different areas, the responsibility of the process coordinator at each stage.

Experts also note that the process-oriented approach provides control over the observance of quality management and production (Stracke, 2006; Urban & Krawczyk-Dembicka, 2018), horizontal quality control of the result of the previous step at each subsequent stage of the whole process chain.

These characteristics seem to us relevant for the implementation of process-oriented approach to mediation and translation in the legal sphere.

The principles of process management are applicable to planning the stages of work on a translation project, for a multidirectional search for various information sources, a comprehensive analysis of language units, their actualization in the process of translation transformations and the subsequent editing of translation.

In addition, the principles of the process-oriented approach can be used to form a translator's conscious responsibility for the entire process of organizing translation, the quality of making translation decisions and their control. In this case, the quality of the translation procedures performed at a particular stage is confirmed or refuted at the next stage of the process chain (the principle of horizontal control).

### 3 Process-Oriented Approach to Education and Translation Studies

Scholars apply process-oriented analysis to explore change in higher education (Ballis, 2018; Barth, 2013; Brake, 2018), and vocational training (Howe & Staden, 2015).

Researchers identify benefits of process-oriented instruction in learning and thinking strategies (Vermunt, 1995), underlines the prospective of process-oriented approach to whole schooling (Santamaria & Thousand, 2004; Littlewood, 2008).

Contemporary education theory also explores process-oriented potential in various areas, including teacher training (Hoogveld et al., 2005), construction management specialists' professional development (Wang & Leite, 2014), training of culturally competent health practitioners (Duke et al., 2009), engineering education (Machado-Toledo et al., 2018), foreign language learning, etc.

Practitioners use process-oriented approach within different training formats, including e-learning (Massey, 2005), and social media environment (Kimmerle et al., 2015).

The approach under study is implemented with regard to different learning methods and styles, including guided-inquiry learning (Brown, 2010), reasoning (Schmidt & Mamede, 2015), researched-led activities (Böttcher & Thiel, 2018), students' self-studies (Vishnumolakala et al., 2017).

Specifically, scholars confirm the relevance of a process-oriented approach to assessment in educational settings (Jeltova et al., 2007; Schreiber et al., 2016).

As far as Translation Studies are concerned, W. Lörcher (1992) seems to be one of the first scholars who implicitly mentioned a process-oriented approach by emphasizing the importance of exploring the problems that the translator faces in the translation process, oriented towards the transfer of meaning.

Process-oriented approach to translators' training was explicitly formulated in the most general way by D. Gilles (2009). The author considered the process of translation as a sequence of two stages, namely understanding and reformulation. However, the author did not proceed further to the stage of translation editing. Thus, orientation to the needs of translation product end user (client) was not considered. This situation was due to the period of the monograph publication as questions of the translation quality and client's needs appeared on the agenda later).

The last quarter of the twentieth and first decade of the twenty-first century witnessed a significant amount of research papers on mental processes that take place directly in the course of translation (Jääskeläinen, 1987; Königs 1996). Such studies were carried out from the standpoint of psycholinguistics and cognitive research (Lee-Jahnke, 2005; Alvstad et al., 2011). Special attention is paid to the translator's cognitive activity at the stage of the source text perception (Lacruz, 2017), search for adequate resources for creating the translation text (O'Brien, 2015).

There is a constantly evolving list of papers on the tools to study the translation process including comments, diaries, questionnaires, interviews with professional and novice translators (Jääskeläinen, 1999). Retrospective and introspective methods of analyzing the translation process are the subject of special attention (Boito & Caetano, 2018; Hansen-Schirra et al., 2017).

In recent years, special attention has been paid to the conditionality of cognitive practices in translation in diverse social and institutional contexts (Ehrensberger-Dow & Englund-Dimitrova, 2018).

Researchers also study specific resources that can be used to teach students reflection and analysis of their translation activities as a process (Fox, 2000).

As for academic efforts regarding process-oriented approach to mediation and translation in legal domain, the research of Geneva University professor Pierto Ramos (2011) deserves particular emphasis. The scholar has succeeded to describe a number of stages that are specific to legal translation. The first stage involves macro-contextualization. This stage involves a set of operational actions, including the identification of the communicative situation and purpose of translation, the legal system within which the source text for the translation is drafted, the industry within which the translation is carried out, and the definition of applicable legal sources and basic legal concepts related to the translation. Next, the researcher identifies the stage of a legal text typology in accordance with the discursive situation (legislative, judicial, administrative, etc.). Then the process of transferring the content of the source text in the target language is carried out. At this stage problems of terminological and conceptual nature are solved, language conventions of the source and translation texts are balanced, and translation transformations are carried out. The last step involves editing the translation text to ensure its quality (Pierto Ramos, 2011, pp. 14-17).

However, the research findings do not expand to the consideration of competencies that seem critical for the above process. Nonetheless, the mentioned description can hardly be underestimated in terms of a structured vision of the stages of legal translation. Moreover, the present paper rests on this concept in an attempt to further identify the competences that might be required for process-oriented approach to written language and culture mediation in the legal sphere. Such angle of studies has not been research subject so far.

It should be mentioned that recent studies have put on the agenda the issue of documenting and gauging intercultural competence in translation (Angelone, 2016).

#### 4 Process-oriented Approach to Identify Competences for Translation in Legal Domain

The attempts to consider legal translation competences from a process-oriented angle are rooted in the values and needs of the 21st century pedagogy. It considers the task to train creative professionals who are able to successfully adapt and tailor their professional abilities to a rapidly changing world, to implement their awareness of specialists' social responsibilities in the course of professional activities (Vilariño, 2017; Zajda, 2018).

Therefore, specialists' education in the field of legal translation is supposed to go beyond the students' awareness of the humanitarian role of legal translation as a tool to ensure human rights within global multilingual legal settings. The training is expected to enhance and foster students' procedural abilities to integrate and use diverse specific instruments to serve the society, industry, clients' needs in terms of language support (García Méndez, 2016).

First, traditionally Academia and Industry related to Translation and Interpreting activities underline the core importance of native and foreign languages mastery. The respective bilingual sub-competence includes knowledge and skills covering language structure and its use in the course of communication in line with the target language conventions (EMT, 2018). Regarding the legal domain scholars consider the essence of translators' competence as the awareness of legal terminology and discourse conventions in morphology, syntax, phraseology, punctuation, abbreviations in the working legal languages working pair. This list forms the essence of declarative knowledge.

However, on grounds of personal experience and that of the colleagues (legal translators) the authors of the present paper consider it critical to underline the need for training procedural knowledge that would allow professional translators to implement up-to date linguistic decisions in the course of their professional activities.

This vision correlates with the process-oriented approach to legal translator's bilingual competence. The approach under study allows Academia and Industry to consider the bilingual competence as translators' ability to update and adapt the earlier mentioned declarative knowledge to a particular context within legal domain. This adaptation means specialists' turn to procedural skills. They allow translators to identify and choose concrete steps, to further tailor their sequence to particular communicative situation requirements with regards to pragmatic and sociolinguistic-, textual, discursive conventions within the field of bilingual legal domain.

Second, Academia and Industry related to Translation and Interpreting traditionally consider the intercultural sub-competence. It concerns the translator's awareness of cultures that form the conceptual background for the working languages pair. However, as far as intercultural competence is considered with reference to the legal domain, we consider that it requires declarative knowledge of specific language units that identify institutions and procedures, operational activities regarding national jurisdictions, agencies associated with legal domain, levels and field of jurisdiction.

Next, we consider it timely to underline the need for development of legal translators' procedural knowledge. It covers procedural skills regarding search for and comparison of language units that would balance similar formats of governance, institutions and agencies, procedures and steps related different jurisdictions.

The training of the above skills reveals the essence of the process-oriented approach to the legal translator's intercultural competence. Further, the process-oriented approach to legal translator's intercultural competence is supposed to lead to a consistent development of bilingual training materials that would fit particular settings, specified for cross language

communication in the legal domain. The list includes (but not limits to) -trial-investigation, judicial settings with regard to criminal, civil, administrative, international proceedings, legal matters requiring a notary, legal matters within business activities, settings involving children, victims or other vulnerable persons in the settings involving medical, psychological or psychiatric examination for judicial purposes (ISO, 2019).

Third, both Academia and Industry focus on the pure translation sub-competence. According to internationally respected actors (ISO, 2014, 2018; EMT, 2017; Qualetra, 2014; PACTE, 2018), it implies the ability to translate legal texts of various genres in various professional contexts. Both academic research and industry analytics traditionally focus on the need for relevant skills and abilities to identify and implement strategy, tactics and tools to achieve functional equivalence and adequacy of the source and target texts. However, no consistent attention is paid to the reflection process that the translator needs to constantly engage in along with the translation activities, including proofreading and editing stages. Meanwhile, some scholars underline the importance of embedding reflection in the curriculum for translator training (Berthaud & Mason, 2018; Angelone, 2016; Muñoz Martín, 2014; Norberg, 2014). We consider this should extend to legal translators' training, as well. The present paper considers that process-oriented approach to the essence of the legal translators' pure translation subcompetence includes the specialists' procedural skills to check the relevance of already selected tools in the course of translation from the point of a wider context that is supposed to cover extra linguistic factors, related to legal domain and client's needs.

Further, we turn to the sub-competence in the provision of translation services that is highlighted in international standards for the provision of translation services (ISO 17100, ISO 20228, 2019), in international academic standards for translators' training (EMT, 2017), in academic studies (PACTE, 2018). The above sources focus on the specialist's need for particular knowledge on the service provision key aspects that include quality assurance standards, communication with the customer, interpersonal communication issues budget issues, translation project management, translator's legal liability for the service provision, etc. The above implies the specialist' declarative knowledge in the mentioned areas. The respective procedural knowledge relates to ways to implement communicative, managerial, administrative, financial activities that are part of the process of translation service provision. Scholars mention the current importance of respective skills for translation graduates' success in the Industry (Scarpa & Orlando, 2017). It is important to mention that legal translation is subject to specific international and national regulations in terms of the respective service provision. Thus, it is reasonable to argue that it is the process-oriented approach would allow Academia to consider procedural skills related to the implementation of the above mentioned activities in the legal domain as specific components of the competence in legal translation.

Finally, the above mentioned contemporary international standards for the provision of translation services, international academic standards for translators' training, and academic studies on the topic pay consistent attention to the information and technological sub-competence that implies knowledge and skills related to bilingual information search and processing (Álvarez & Osorio, 2018; Guzmán, 2018). Apart from the traditional list of sources (digital dictionaries, encyclopedias, terminological bases, glossaries, expert systems, multilingual corpora, etc.) it seems to be relevant to mention a number of specific issues regarding the issue of competence in digitally supported legal translation.

On general terms, it is a process-oriented approach to identifying the components of the competence in legal translation that allows Academia and Industry to raise questions on digital sources evaluation, including their reliability and legality with reference to national, regional and international jurisdictions.

Regarding specific issues, it is process-oriented approach that lays grounds for digital database of national and international court decisions to be subject of legal translator's particular attention and consistent analysis.

## 5 Conclusion

The paper has made an attempt to specify the conceptual framework for specific sub-competences in the field of Legal Translation activities by taking into account the materials available in international standards for academic training and service provision.

The process-oriented approach to legal translation field offered in the present paper goes in line with the view of legal translation as an activity with a string interdisciplinary focus (García Méndez, 2016).

The process-oriented approach moves further the discussion on the criteria for classroom evaluation of legal translation assignments quality (Pontrandolfo, 2016).

The proposed angle of the theoretical research considers the language-based details of the fundamental legal translation studies conducted until 2018 and takes into account that the issue of the integrated concept of legal translation competence vision was not discussed so far.

The desk-field analysis of the educational and service provision standards on legal translators' training should focus on a wider vision that covers procedural skills activities before and after the pure translation process.

The above approach specifies the importance of abilities for pre-translation process stage that relates to communication with the client on the overall amount, costs of the required service and payment scheme.

Further analysis will include legal translator's trainers opinions (questionnaires) on the specified topic.

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#### Primary Paper Section: A

#### Secondary Paper Section: AI, AM, AG