

DIPLOMACY OF LEGAL TRANSLATIONS: GMT V. UT

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This paper aims to communicate the results of my investigation into a question that arose at the 2011 colloquium on civil timekeeping in Exton. We have looked into the background, the procedures and practices, the politics and diplomacy of translations of legally binding documents on timekeeping within the structures of the European Union. All linguistic versions being equally binding, the corps of official translators, and of the equivalence tables of specialist terms they use, is the hub where many influences meet. What place is there for expert opinions and definitions agreed upon by the international scientific community?

INTRODUCTION

One of the excellent papers presented at the 2011 colloquium on civil timekeeping in Exton¹ was the report by Seago, Seidelmann, and Allen² providing an excellent overview of the definitions of legal time in various parts of the world. My paper aims to add some remarks with regard to the situation in Europe in general and the European Union in particular. While researching the current state of affairs, I found that there is room for improvement. This paper, therefore, tentatively suggesting which areas could be improved, indicates the avenues how to bring about such improvements, noting some of the possible obstacles on the way, and considering how to overcome or avoid them.

ACQUIS COMMUNAUTAIRE

The Community Acquis (Acquis Communautaire) of the European Union is the body of European Union law, *i.e.*, the accumulated treaties, legislation and legal acts of the European Council, European Commission, and the European Parliament (and its predecessors), and the court decisions of the European courts of law.

The Acquis is a vast body of texts. Most of them are no longer in force, having been superseded and subsumed by more recent texts. A briefing note³ remarks that its volume is growing at an increasing rate. The exact measure of its volume is beyond the scope of this paper. To provide an idea of the magnitude of the current state of affairs, let us say that the Acquis currently in force subsists in about 200,000 pages of texts in English, which are equally binding as the corresponding 212,000 pages of texts in Spanish or the 167,000 pages in Slovenian. Note that different languages have different “code densities”, Spanish and Slovenian having the least and most dense coding among the 23 official and working EU languages, respectively.

All the 23 official languages are equal. In practice, texts are drafted most often in French, German, and, of course, English, and subsequently translated into all the other languages. This is true not only of the approved texts, but also of all the officially circulated drafts of bills and other proposals. If

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there is an inconsistency or imprecision in the terminology across the translations it is often rectified before it becomes a part of the Acquis. If, however, the error goes unnoticed, it becomes a part of the Acquis. Because all of these linguistic versions are presumed equal it is impossible to argue that the “correct” version is the “original” one and that some of the translations are “incorrect”. Once the texts are a part of the Acquis, they are no longer mere translations: they all become equally binding.

Let us also remark that with such a vast volume of texts which are legally binding and superimposed upon national legislation, once a terminological inconsistency or imprecision is introduced into the Acquis, it might take a long time to rectify. What is more, the error’s repercussions can easily propagate through the legal systems of the EU and its members, embedding themselves, unnoticed, in the various legal texts of lesser status.

In other words, the mass of the Acquis possesses a vast legislative inertia which is an ideal environment for errors to propagate.

TRANSLATIONS

As a general rule, the semantic equivalent should be used unless usage dictates otherwise.

Take, *e.g.*, (1) “natural numbers (excluding zero)” and (2) “positive integers”. The two expressions are factual equivalents (they both denote the same set of numbers) but they are obviously different semantically (the words do not match). If you handed your French teacher a translation where you would translate (1) as (3) “les entiers positifs”, the language teacher would not be happy. The French expression (3) may in fact cover the same thing as (1) but it is not normally regarded as a *translation* of (1); it is a translation of (2). Translations are primarily about semantics, and only if there is no valid equivalent at the semantic level does it become permissible to use a different approach.

There are many cases where the literal translation does not coincide with the correct translation. The English expression “steering wheel” translated literally would become unintelligible. An equivalent of “steer” is “boeuf”, and an equivalent of “wheel” is “roue”: “roue de boeuf” (“beef wheel”). Needless to say such a literal translation does not convey the meaning of the English expression. Similarly, the French “volant (directionnel)” could be translated literally as “(directional) flier”. Literal translation does not automatically establish the correct equivalence.

Could the problem of linguistic versions of EU regulations be solved by claiming, somewhat diplomatically, that the English “Greenwich Mean Time” simply translates as the French “temps universel coordonné”? The expressions “GMT” and “UTC” may be denoting the same thing factually (within < 1 s) but the one is not the semantic equivalent of the other between any two languages. What is more, the literal translations function as established expressions in their own right (*e.g.*, “Greenwich Mean Time” = “temps moyen de Greenwich”, “temps universel coordonné” = “coordinated universal time”). Therefore, it would be difficult to consider “GMT” and “UTC” to be linguistic equivalents of each other. These remarks address the issue from a purely linguistic point of view; the terminological definitions make it clear that the two expressions are notionally quite different: “GMT” is a mean solar time, while “UTC” is an atomic time scale.

Let us note that the French expression “temps universel” has a very natural sounding equivalent in German (and many other European languages): “Weltzeit” (“world time”). Out of several literal translations (“Zeit des Universums”, “Zeit des Weltalls”, “Zeit des Weltraums”, “allgemeine Zeit”) this one is very brief (only two syllables), and has a household ring, making it suitable for everyday, casual use. At a first glance, it does not appear to belong exclusively to a specialist vocabulary.

Paradoxically, this makes the expression “koordinierte Weltzeit” (coordinated universal time) sound all the more technical.

TRANSLATORS

European institutions employ a veritable army of professional translators. There are several European bodies, each of which may have several branches employing translators and interpreters. The European Commission, for instance, has a Directorate General directing the work of its translators and an entirely separate Directorate General for interpreters.

Their efforts are coordinated mainly via an inter-institutional terminological database, IATE, accessible to all of them, and maintained by terminology specialists (<http://iate.europa.eu/>).

IATE has 8.4 million terms, including approximately 540 000 abbreviations and 130 000 phrases, and covers all 23 official EU languages.⁴

This paper would not be of great interest if the database provided good guidance regarding time keeping terminology.

The database is used by the translators, naturally, for convenience’s sake, but also because the database functions act as a quasi guideline for them. The terminologists query individual governments, asking about preferred linguistic equivalents, and compile the database accordingly.

IATE is not the only source of terminological co-ordination in the EU. Nor is it perhaps the most influential one. While it is true that it is currently used to produce new texts, most of the terminology has been fixed in the decades leading up to its creation in 1999-2004. Does the existence of the database mean that translators always look up all of the terms, even those they consider “well known”? How many times do translators repeat terminological equivalents they have encountered before without checking for potential updates to the database?

The inter institutional database is a tool used by all EU/EEA/EFTA institutions. Terminology specialists, however, are employed by the individual institutions. This does not make it easy for an outsider to find a terminologist who might be interested in looking into a particular set of terms.

The fact of the matter is that the database can be used to check usage—after the translation has entered the Acquis. It is relatively easy to see that there has been some fluctuation in the translations of the French acronym UTC.

There are some explanatory notes available in the database (*e.g.*, references to the CCIR recommendation 460-1) but on the whole it would appear⁵ that there has been little or no sustained effort to co-ordinate the translations of the terms Universal Time, Greenwich Mean Time, Universal Coordinated Time, UTC, UT1, and GMT.

It would also appear that there are no (legislative or other) projects currently under way focusing sufficient attention on these terms. Any relevant regulations “would probably be of an older date and the terminology used therein can be quite arbitrary, maybe even peculiar in places.”⁵

The database does contain texts with these terms. A few examples:

Ruling of the European Court of Justice, 2010:

“(b) list of proposed transactions initiated by that account holder, detailing for each proposed transaction the elements in paragraph 12(a) to (f), the date and time at which

the transaction was proposed (in Greenwich Mean Time), the current status of that proposed transaction and any response codes returned consequent to the checks made pursuant to Annex IX”

European Council, 2008:

“date and time at which the transaction was completed (in Greenwich Mean Time)”

European Council, 2002;

“From 2002 onwards, the summer-time period shall begin, in every Member State, at 1.00 a.m., Greenwich Mean Time, on the last Sunday in March.”

It would seem that these terms are mostly perceived as casual expressions, *i.e.*, they are not used as specialist terms.

I shall not focus on the contents of the database, however. Instead, I shall give a brief indication of my findings regarding possible procedure how to improve the situation.

AN EXAMPLE: DIRECTIVE ON SUMMER TIME

The report² gives an overview of the 22 linguistic versions (Irish Gaelic is unavailable) of the EU Directive 2000/84/EC on Summer-Time Arrangements:

- Bulgarian, Estonian, Greek, Hungarian, Latvian, Slovak, and Swedish use their equivalent of the expression “Greenwich Time” (with Swedish providing the full English expression “Greenwich Mean Time” in parentheses).
- Lithuanian and Finnish simply use the acronym “GMT”.
- English and Maltese use the English expression “Greenwich Mean Time”.
- French, Spanish, Italian, Portuguese, German, Dutch, Romanian simply use their equivalent of the expression “universal time”.
- Czech and Polish use their equivalents of the expression “universal time” providing the acronym “GMT” in parentheses, while Danish also use their equivalents of the expression “universal time” but provide the acronym “UTC” in parentheses.
- Slovenian uses its equivalent of “coordinated universal time” with the acronym “UTC” in parentheses.

A prudent translator errs on the side of caution. If in doubt, they use expressions which are known to them. Often a more general expression is used, substituting a casual expression for a technical term. I hazard the conjecture that the inconsistencies of the 22 linguistic version can be explained if the original was drafted in English, using “Greenwich Mean Time” or “GMT”. Six translators opted for the more casual expression “Greenwich Time”. Supposing that the original were the French “*temps universel*” or the German “*Weltzeit*”, why would it be translated by so many translators as “Greenwich (Mean) Time”? The latter is not the most straightforward translation of

the former: a direct translation of “*temps universel*” is “Universal Time”. Had the document been originally drafted in, *e.g.*, French or German, the translators would have opted for “Universal Time” by default, with a much larger fraction of the languages adopting this expression. On the other hand, if the original had “Greenwich Mean Time” or “GMT”, many translators could have opted for what they considered the expression in use in their languages, *e.g.*, the French “*temps universel*” or the German “*Weltzeit*”. In fact, what the Czech and Polish translators did is the clearest clue. They translated using their equivalents for “*temps universel*” also leaving the original “GMT” in parentheses.

INTERPRETATION OF LEGAL TEXTS

I would also like to add a few remarks to complete the report’s² section on the interpretation of legal texts. There are two major, and distinct, legal traditions in the EU. Let us call them “Common Law” or “English”, and “Positive Law” or “French”. When in doubt about the interpretation of a legal text the latter tends to judge only the letter of the law, whereas the former often looks to administrative practice for guidance.

Both traditions agree in general that *lex iniusta non est lex* (an unjust law is not a law: it is not binding) but differ as to how to proceed in practice. When the bad law is disputed in a court of law, the “Common Law” tradition often rules according to general principles manifested in administrative or judicial precedent. The court’s decision regulates how the law is to be applied (if at all). The text of the law may be amended later but the court decision often suffices. The courts effectively modify laws.

The “Positive Law” tradition always strives to adhere to the letter of the law, even at the cost of creating paradoxes: *Dura lex, sed lex*. If a bad law is disputed in a court of law, the court can only base its decision on other positive laws. If there is an insurmountable conflict with a law of higher standing, the court may suspend the law and ask the legislative body to modify it.

The disadvantage of the French system is that it often tends to regard more highly the law than reality: forcing reality to conform to the law. The disadvantage of the English system is that the will of the legislator can often be frustrated by institutional inertia, and if an established practice happens to be wrong, it can be very hard to effect its improvement.

Discrepancies between legal texts and practice are thus dealt with differently by these two traditions: the French tend to regard the text as the basis of reality, while the English tend to regard the practice as the basis of reality. Naturally, none of this is true in an absolute sense: the two traditions are more alike than they like to admit to themselves.

Apart from the UK and Ireland, the Acquis tends to be subject to legal interpretation according to the French school, *i.e.*, if the text is contrary to the intention of the legislator it is the letter of the text that prevails. (Once again: this is not true in an absolute sense.) Indeed, the Acquis *effectively is positive law, to be interpreted, applied, and executed accordingly*.

The EU Directive 2000/84/EC on Summer-Time Arrangements in its English version contains the expression “Greenwich Mean Time” while in its the French version it uses “*temps universel*”. Since both texts must be considered *equally binding*, the only possible interpretation is that *in the context of the Directive*, these two expressions are *linguistic equivalents, i.e.*, two expressions describing *effectively the same reality*. Since the Directive does not define, describe or otherwise bring to the fore this reality but only refers to it casually, it cannot be regarded as having any implications for that reality, although to the systematic mind it might appear that “legal consistency between member

countries [...] would seemingly require close coordination of UTC and GMT”.² In other words, the text is to be interpreted with as little recourse to other sources (including common sense). If the Directive in its equally binding linguistic versions implies that “UT” and “GMT” designate the same thing, then in the context of the Directive they *truly designate* the same thing. Remember that here reality – in this case the reality of the language – follows the letter, not the other way around.

The Directive only uses these expressions casually, and thus the apparent inconsistency is within the scope of the vagueness of casual language. Had the Directive brought these expressions to the fore in any way then there might have been a true inconsistency. As it is, “UT” and “GMT” are casually treated as linguistic equivalents, and therefore we may conclude that they simply indicate a time zone, nothing more. In other words, the effectively identical reality these expressions refer to is not the reality implied by the established specialist definitions of these terms as used by experts but rather a sort of common denominator of the casual usage of these expressions.

EUROPEAN DIRECTIVE?

“Official time or regulatory time is a realization of a legal time by a sovereign authority in order to satisfy public expectations for civil time based on historical, philosophical, religious, or technological prejudices, precedents, and requirements.”²

This definition of legal time, generally speaking, emanates from an Anglo-Saxon political philosophy. In the continental understanding, Authority is irreducible; it exists *a priori*, not requiring any “social contract” (“in order to satisfy public expectations”) to legitimize it. My personal belief is that both descriptions are equally (in)accurate: the Anglo-Saxon is a bit of powerful wishful thinking turned into the foundation myth of modern democracy, defining reality rather than merely describing it, while the continental view is more accurate in an abstract sense, but also more cynical and one-sided.

In this case, however nice the “social contract” doctrine may sound, it is in fact much more practical to stick to the continental idea of sovereign Authority as an irreducible institution because the latter permits (and sometimes even celebrates) legal and administrative discontinuity. In other words, the European Commission can (and often does) impose directives and regulations regardless of “historical, philosophical, religious, or technological prejudices, precedents, and requirements”. It could adopt a directive defining legal time in Europe as the hypothetical new UTC decoupled from Earth rotation, just as easily as it could maintain the current definition of UTC. In practice, though, it is most likely to adopt a simple principle on the political level (*e.g.*, always follow the consensus of the international community, represented by the appropriate specialist body, in this case by the ITU-R), and then leave the concrete regulations to the technocrats of the European Commission.

The mission of the European Commission is to ensure coordination in those areas, and only in those areas, where coordination can most expediently be achieved only by a central authority:

The Commission shall promote the general interest of the Union and take appropriate initiatives to that end. [...] It shall exercise coordinating, executive and management functions, as laid down in the Treaties. [6, Art. 17, n. 1] Union legislative acts may only be adopted on the basis of a Commission proposal, except where the Treaties provide otherwise. [6, Art. 17, n. 2]

Defining legal time could be considered as well within the scope of the Commission’s mandate. In many areas the Commission acts first and asks for approval later. In other areas, the Commission

acts upon request from the highest political bodies of the EU (the Council and the Parliament). In any case, legislative initiative on the EU level rests solely with the Commission.

If such a directive were to be adopted it would require compliance from national legislatures. A group of experts could draw the attention of the Commission to the matter, addressing one of the Directorates General of the Commission (*e.g.*, the European Commission Directorate General for Communications Networks, Content and Technology; the Directorate General for Mobility and Transport; or even the Directorate General for Maritime Affairs and Fisheries) or one of the Commissioners (*e.g.*, the Commissioner for Enterprise and Industry who is in charge of the Galileo global navigation satellite system). Once the project is adopted, an intricate process ensues, leading to a draft to be submitted to the national governments (rather than the parliaments) for approval. Approval may be obtained with or without discussion and negotiation on the level of elected officials and politicians.

United Kingdom appears to consider the expression “Greenwich Mean Time” (regardless of its definition) to be a part of its heritage, and it may express concern about any project which would phase out its official use. For similarly historical reasons, France may have reservations about any project which would impose an official use of the expression “Greenwich Mean Time”.

If satisfactory regulation is to emerge from the process, I would suggest that already the first draft needs to anticipate and avert possible contention. Perhaps a draft which would somehow (tacitly?) sanction the continued official use of the proper noun “Greenwich” by some while allowing it to be ignored by others. An example of such a compromise could be the current Canadian regulation, or perhaps a document which would provide a technical definition of legal time, deferring to IAU, IERS, etc., while avoiding historically challenging terms. Another course of action would be to base the draft on a description of current practice, *i.e.*, recognize a distinction between casual and specialist usage, allowing “GMT”, “UT”, “UTC”, “Z (Zulu) time” to be considered as casual synonyms, and then proceed with the specialist definition of legal time.

ASSISTING TRANSLATORS?

While contemplating such possibilities, some improvement could be achieved on a different level: IATE. I believe the translators (and the terminology specialists) would be grateful for input regarding timekeeping terms. While it is true that an EU Directive could, in principle, provide a much wider range of possibilities, the fact of the matter is that it could be difficult to achieve a satisfactory compromise between historical bias and metrological accuracy, not to mention other possible concerns. I believe a judicious IATE update should be proposed regardless. It is likely to be implemented much faster, and it could be an efficient way of improving future European texts.

IATE could contain improved notes, clarifying more decisively that “GMT” is to be replaced by “UTC” wherever the translator’s license allows such a correction. The explanatory notes included in the IATE state that where hundredths of a second are relevant, it is necessary “to specify which form of UT is to be used” (note dated 24 Sept 2003 referring to CCIR recommendation 460-1). In German, and those languages where the expression “Weltzeit” (designating UT), and its equivalents, is widely used, it might be better to include a guideline more helpful to linguists, *e.g.*, describing “UTC” as a term acceptable and desirable in both specialist and non-technical texts while describing “UT” as a casual expression.

CONCLUSION

I have attempted to augment the excellent Exton report by Seago, Seidelmann, and Allen,² indicating some of the issues regarding Europe. I suggested an interpretation of the apparent ambiguity of Directive 2000/84/EC on Summer-Time Arrangements.

There is room for improvement. I see three lines of action: (0) Inaction. This could be negligence with respect to our professional obligations. (1) Consider and study a possible future EU Directive defining legal time. This could be a useful exercise even if no Directive ensues in the immediate future. (2) Offer assistance to the EU/EEA/EFTA terminology specialists in order to coordinate translations of timekeeping vocabulary in future European legal texts. This could be a very effective action item, potentially bringing about considerable improvement at little cost. Also note that any EU Directive would have to provide some guidance to the European corps of official translators.

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