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## The notion of *lavoro subordinato* and its English translation in EU documents

### Reflections from a dataset-based analysis

#### *Abstract*

This paper sets out to point out the difficulties stemming from translating notions pertaining to industrial relations and labour law discourse. In order to do so, the Italian concept of *lavoro subordinato* is examined and then compared with the terms used to render this concept in English. This has been done by considering a dataset of 100 documents drafted in Italian by the European Union and subsequently translated into English. The analysis reveals that a lack of consistency exists as regards the terminology that has been employed to translate this term into English. At times, the wording used to transpose *lavoro subordinato* in English can be questioned because it seems to move away from source-text meaning. The paper reasserts the challenges faced by translators when dealing with legal terms and the need to fully understand the function of the practices they denote when attempting to render them in another language and system.

## 1 Introductory remarks

Following major advances in technology, the need to clearly define workers' employment status has come to the fore again lately. In this respect,

the recent increase in digitalisation with recourse to Artificial Intelligence, the highest penetration of the broadband Internet, the development of the Internet of Things and the platform economy has opened the ground to new forms of work organisation and tasks distribution across the workforce. (Pesole et al. 2018: 7)

In Italy as elsewhere, a traditional distinction that has been called into question by the foregoing changes is that between *lavoro autonomo* and *lavoro subordinato*, which has always attracted considerable interest on behalf of labour law and industrial relations scholars, particularly at the time of determining employees' working conditions and labour rights. Drawing a clear line between these two forms of employment also entails dealing with translation problems, especially when engaging in comparative analysis.

One reason for this is that in legal discourse "comparison implies the activity of translation since the task of the comparatist is to explain, using her language, a foreign law,

which moreover is generally formulated in a different language” (Glanert 2014: 2). Yet in cross-national comparison “establishing credible equivalence is difficult” (Teune 1990: 54).

Arguably, the English words used to translate the notion of *lavoro autonomo* seem to reflect the source-text meaning – ‘self-employment’ or ‘independent work’ are mostly used in English to convey the source-text meaning. Conversely, the rendering of *lavoro subordinato* which, as opposed to *lavoro autonomo*, refers to paid work performed through an employment contract – might result in ambiguities and misinterpretations, especially since “identical words in different languages may have different meanings, while the corresponding term might embrace wholly different realities” (Blanpain 2010: 16).

This is exactly the topic the present paper intends to address. By examining a selected dataset of texts containing the wording *lavoro subordinato* and its English translation, this paper sets out to investigate the terminology employed in target texts to convey the meaning of the Italian concept scrutinised.

After some introductory remarks (Section 1), an analysis of the relevant literature will be carried out (Section 2), which will be followed by an illustration of some definitional and methodological issues (Section 3). A discussion of the findings (Section 4) will then set the basis for some concluding reflections (Section 5).

## 2 Theoretical background

A vast amount of translation studies research has focused on legal translation and on how to render in English concepts pertaining to the Italian legal system (Felici 2010; Šarčević 2016; Tessuto 2016; Williams/Tessuto 2016; Loiacono/Bertoli 2018). The difficulty arising from translation is nicely pointed out by Garzone (2000), who has argued that “the complexity of legal discourse helps explain why legal translation has focussed mainly on the preservation of the letter, rather than on the effective rendering of the target language” (Garzone 2000: 3).

The same point is made by Masiola and Tomei (2015). Considering Italian-to-English translations, they posit that “translation efforts are constantly thwarted by lack of equivalents, missing slots, shifts in meaning, diverging systems, desemantisation (the generalisation of meaning of a sign) and symmetrical voids” (Masiola/Tomei 2015: 5). In this sense, relevant literature brims with examples of Italian legal concepts and their ambiguous translation into English. Cao (2007) makes reference to the concept of *proprietà*, which is frequently rendered as ‘property’ in English. Yet the latter has a wider semantic scope than the Italian term, which often corresponds to ‘ownership’ rather than ‘property’ (Cao 2007). Still on the same issue, Mattiello (2012) provides an excellent example of the risks posed by translation when using apparently similar terms. Referring to the Italian notion of *contratto*, he argues that

unlike *contratto*, the lexeme ‘contract’ includes not only bilateral agreements, but also unilateral contracts. On the other hand, it does not include other legal relationships such as trust, gift, settlement which fall under the label of Italian *contratto*. (Mattiello 2012: 160)

Going deeper in our investigation of relevant literature, significant relevance has been given to translation issues concerning the Italian-English pair in industrial relations and labour law discourse, which can be seen as the domains the notions scrutinised are mostly used. In some cases, it has been industrial relations scholars engaged in comparative analysis that have underlined the struggle to render in English certain concepts that are part of Italian labour legislation. For instance, Hyman stresses that the Italian *rappresentanza* – which refers to workplace employee representation – is loosely translated into English as ‘works councils’, though the meaning is not exactly the same, and stressing that “comparative industrial relations is confronted at the outset by translation problems” (Hyman 2009: 6). In a similar vein, Hyman (2005) stresses that ‘industrial relations actors’ and not ‘social partners’ is the best way to translate the Italian *parti sociali* when referring to an individual or organization, such as an employer, trade union, or employee, engaged in a cooperative relationship for the mutual benefit of all those concerned. The translation challenges posed by comparing Italian and English industrial relations concepts are also illustrated by Blanpain (2008) who compares the notion of *stabilimento* and ‘establishment’ employed in the 1975 Directive on Collective Redundancies, arguing that “a comparison of the terms used shows that they have different connotations” (Blanpain 2008: 59).

Translation studies scholarship also deals with Italian-to-English translation in industrial relations discourse and the problems this exercise might entail. In this sense, Bromwich and Manzella (2018) have stressed the difficulties stemming from translating industrial relations terminology, maintaining that “the problem consists not only in translating terms from the source to the target language, but also in finding ways to express national concepts that might not be clear to the intended reader” (Bromwich/Manzella 2018: 82). When it comes to translating words in these disciplines, one should examine their characteristics in the national context in which they are used, and looking for possible equivalents in the target system (Manzella 2018: 356).

### 3 Definitional aspects and methodology

In order to appreciate the appropriateness of the terminology employed in EU documents drafted in Italian to translate the term at issue into English, one should be aware of what *lavoro subordinato* means in the source legal system. In Italian legislation, it is Article 2094 of the Italian Civil Code that sets forth the definition of *lavoro subordinato*. It states that this form of employment concerns

lavoro intellettuale o manuale alle dipendenze e sotto la direzione dell'imprenditore ...].  
(Codice civile 1942: art. 2094)

‘intellectual or manual work performed reporting to and following the instructions of the entrepreneur’  
(our translation)

In the context of this paper, it might also be useful to provide a definition of *lavoro autonomo* – e. g. self-employment – which in Italian labour law discourse is frequently

opposed to *lavoro subordinato*. Article 2222 of the Italian Civil Code specifies that a self-employed worker is

una persona che si obbliga a compiere verso un corrispettivo un'opera o un servizio, con lavoro prevalentemente proprio e senza vincolo di subordinazione nei confronti del committente. (Codice civile 1942: art. 2222)

'someone who commits to performing a piece of work or a service in exchange for remuneration, mainly through his/her own effort and without being subordinate to the client.'  
(our translation)

The analysis that follows will take the foregoing definitions as a point of departure, looking at the strategies employed to provide an English translation of the concept scrutinised.

In methodological terms, this paper will consider a number of documents originally drafted in Italian by the European Union and subsequently translated into English which contain the wording *lavoro subordinato*. Specifically, the investigation draws on 100 texts produced in Italian and their corresponding English version, for a total of 200 documents investigated. The dataset was created including documents containing the expression *lavoro subordinato*, which was also the keyword entered in the EUR-Lex search engine to select the material. EUR-Lex is the online platform which provides access to EU documentation in the 24 official EU languages, enabling one to look at up to three different language versions of the same document simultaneously. The texts have been selected based on the following criteria:

- (a) The Italian version of the text is the authentic one (e. g. it bears the wording 'Authentic language: Italian', which in the Italian version would be *Lingua facente fede: italiano*).

The author acknowledges that the notion of authenticity in EU documents has sparked significant debate among translation studies scholars and language practitioners, especially when it comes to 'equal authenticity', which implies the fact that "laws should be co-drafted simultaneously in all languages" (Doczekalska 2009: 355). Nevertheless, it is not possible to draft documents in all EU languages at the same time. Consequently, in the context of this paper 'authentic' refers to texts that are not the result of translation and have been originally drafted in a certain language (Italian in our case);

- (b) The update version of the same document has not been considered, especially not when amendments do not affect the wording scrutinised;
- (c) The following criteria: 'time of publication' and 'type of document' were considered as being of no consequence. As far as document type is concerned – e. g. legislative proposals, consolidated legislation, case-law etc. – this aspect does not seem to have affected the meaning of the terminology under evaluation in this paper.

The analysis has considered the authentic version and its parallel text published in English. The use of parallel texts – which are defined as "a source text and its translation

into one or more languages” (Aijmer 2008: 276) – can be explained by the fact that bilingual parallel corpora are increasingly recognised as solid based for contrastive linguistics (Gilles/Ziegler 2013: 127). The terms employed by EU translators to render those in the source language have been extrapolated and ordered by frequency of occurrence, and then examined.

## 4 Data analysis and discussion

The terminology used in EU documents to translate the term *lavoro subordinato* into English is represented in Table 1:

Terminology used in English	Occurrences
salaried employment	25
waged employment	23
employment relationship	12
work contract	11
employed person	9
people in employment	8
paid and gainful employment	7
subordinate work	5

Table 1: Translation of *lavoro subordinato* in EU documents (by occurrence). Source: author’s own elaboration

The different terminology employed in EU texts to refer to *lavoro subordinato* is illustrative of the struggle resulting from translating this term into English. We will now examine the translation options above to see which one captures the source-text meaning more effectively.

### *Salaried and waged employment*

The majority of documents surveyed make use of ‘salaried’ or ‘waged’ employment to refer to *lavoro subordinato*. Indeed, both labour law and industrial relations literature and international reports produced in English resort to this terminology to identify the form of employment that opposes self-employment. By way of example, in 2000, the OECD acknowledged that “Over recent years, there has been a number of indications that the borders between self-employment and wage salary employment are becoming more blurred” (OECD 2000: 162). There exist many definitions of ‘salaried’ or ‘waged’ employment, yet in the context of this paper we can refer to that of Riesco-Sanz, according to which “in most European countries, the legal definition of ‘salaried employment’ continues to be based on the existence of an employment contract” (Riesco-Sanz 2018: 169). In addition, being paid a ‘salary’ or a ‘wage’ means that an employee receives a predetermined amount of money on a regular basis (Steingold 2008: 52).

Consequently, the notion of salaried employment is concerned with signing a contract and being paid a salary on each pay period. If this definition is taken – and then compared to that of *lavoro subordinato* – this wording appears to be an effective one to convey the source-text meaning, notwithstanding differences that might arise between national legal systems in relation to employment status. In this sense, Cao has posited that “legal concepts are abstraction of the generic legal thoughts and rules within a legal system [...] Law is often systematic and structured [...] and often described in categories” (Cao 2007: 54). Consequently, translating terminology which defines legal categories applying at the national level might be challenging because national legal categories might not be suitable across the borders. A point that needs stressing is that the dataset examined in this paper comprises EU documents. In the context of EU legal drafting, “the use of expressions and phrases — in particular legal terms — that are too specific to a particular language or national legal system will increase the risk of translation problems” (European Union 2015: 54).

Therefore, these legal terms can “only be translated using circumlocutions and approximations, which result in semantic divergences between the various language versions” (European Union 2015: 54).

#### *Employment relationship (and work contract)*

A considerable amount of texts drafted in Italian and then translated into English employ ‘employment relationship’ to render *lavoro subordinato*. At first glance, the use of this wording might appear implausible, as this terminology does not seem to do justice to the source-text meaning. However, the choice of such words can be understood when examined in context, especially when the fact of being in an employment relationship is opposed to operating as a self-employed worker. By way of example, speaking of self-employment, Williams has pointed out that many people “prefer to work for themselves, rather than operate within the confines of a conventional employment relationship” (Williams 2017: 50).

Particularly in common-law systems, the employment relationship vs self-employment distinction is usually referred to, thus *lavoro subordinato* is interpreted as falling within the former, seeing that it is not part of the latter. In this case, rather than looking for a literal translation, EU translators have made an attempt to find a functional equivalent, viz. “a term designating a concept or institution of the target legal system having the same function as a particular concept of the source legal system” (Šarčević 2012). In other words, the search for terminology denoting concepts performing the same functions as the ones used in the source text is given priority over the preservation of formal equivalence, i. e. correspondence of form and literal meaning (Baaij 2018). The same approach has been used when the wording ‘work contract’ has been employed to render *lavoro subordinato*.

Yet ‘work contract’ has limited usage in the documentation investigated and here emphasis has been given to the contractual arrangement rather than to the employment relationship, strictly speaking.

### *Employed person and people in employment*

Looking at the documents translated into English, ‘employed person’ and ‘people in employment’ are widely used to refer to the Italian *lavoro subordinato*. As for the former, it is true indeed that in common-law countries this terminology is taken to denote workers who are not self-employed. However, this usage can be challenged for two main reasons.

Firstly, the notion of ‘employed person’ is a generic one and might encompass any kind of worker, irrespective of whether subordination exists, which as we will see is one of the main requirements for *lavoro subordinato*. While generalisation – here understood as a standard transfer operation whereby the SL unit of a more specific meaning is replaced by a TL unit of a more general meaning (Klaudy 2010: 93) – is a widespread practice in translation, its use should be evaluated carefully in relation to the concept examined in this paper. Secondly, and most importantly, the adjective ‘employed’ might also mean that one has an occupation, i. e. they are not unemployed. While it is true that “the purely linguistic context (or ‘co-text’) should not be left unconsidered” (Schoonjans 2015: 8) as it helps to better understand meaning, one might harbour doubts as to whether this wording refers to people holding a job or to their employment status.

Therefore, the use of ‘employed person’ should be pondered carefully, either because it can be seen as an umbrella term under which different working arrangements are placed, or because it might generate ambiguity in relation to one’s employment conditions. One might recall that preventing ambiguity is one of the purposes of the European Commission. When it comes to drafting and translating, “the aim is to leave no ambiguities, contradictions or doubts as to the meaning of a term” (European Union 2015: 21). In some respects, the arguments put forward in relation to ‘employed persons’ also hold for ‘people in employment’. This terminology might give rise to ambiguity, as it is frequently used to designate people “who undertook paid work (as an employee or self-employed), those who had a job that they were temporarily away from, those on government-supported training and employment programmes, and those doing unpaid family work” (BFI 2017: 3).

### *Paid and gainful employment*

Reference should also be made to the use of ‘paid’ and ‘gainful’ employment to render *lavoro subordinato*, because the recourse to these expressions to translate the Italian notion under scrutiny might be questioned for at least two reasons. Regarding paid employment, one might argue that this expression is too vague to refer to *lavoro subordinato*. In other words, paid employment might also include other working arrangements that fall outside the definition of *lavoro subordinato* (e. g. paid internships

or work performed on a project-by-project basis). Backing this view is the fact that, while it is true that a distinction is usually made in legal discourse between paid employment and self-employment, in this pair the former is usually employed to refer to all forms of employment that are not included in the latter, therefore comprising any type of remunerated work but self-employment. Consequently, employing ‘paid employment’ to refer to *lavoro subordinato* might give rise to misinterpretations, because this terminology might encompass different forms of paid work and also because the nature of the reward provided for work or a service might vary. By the same token, ‘gainful employment’ can also be questioned as the English translation of *lavoro subordinato*. The first reason for this is that there exist considerable differences between the countries with respect to the definition of ‘gainful employment’, so questions might arise as to the type of employment this terminology refers to (Pfau-Effinger 2004). Secondly, and more generally, gainful employment is not necessarily paid. Of course, it includes paid work, but it can also be used to include voluntary work, and education or training. Somebody is gaining something from the process – the beneficiary of the voluntary services, or the student or trainee – even if it is not paid. This is true if one looks at the definition of ‘gainful’: “Serving to increase wealth or resources; providing money or other benefit” (Oxford Dictionary 2018). People can benefit from their work in terms of knowledge, self-fulfilment, increased expertise, and so forth. Accordingly, translating *lavoro subordinato* into English as gainful employment might perplex the international reader who is not familiar with the source-text meaning. The foregoing arguments brings to mind the challenges posed by translation in this domain, which are concerned with the nature of language, the relationship of language to culture, and the ways language is used in the domain of law (Cheng/Kui Sin/Wagner 2016).

### *Subordinate work*

Finally, mention should be made of ‘subordinate work’, which is employed to render *lavoro subordinato*, although in a limited number of cases. The use of this wording is interesting in that it seems to represent an example of a faux amis, namely “words with the same or similar form which have different meanings in two or more languages. The degree of difference might vary from complete to slight” (Newmark 1998: 125). In Italy, but this also applies to other civil-law systems, the notion of *subordinato* bears a specific meaning, which differs from that of ‘subordinate’ in English. One might note that in the Italian legal system, the concept of *subordinazione giuridica* (literally ‘legal subordination’) exists, that is when the employee is subordinate to the employer as regards performance, tasks, compliance with working time etc. If that is the case, one can talk of *lavoro subordinato* (e. g. salaried employment). In other words, the existence of legal subordination (*subordinazione giuridica*) is a requisite to salaried employment (*lavoro subordinato*). Consequently, ‘subordination’ or ‘subordinate’ should only be used when referring to the legal notion enabling one to figure out the existence or the absence of certain employment status (i. e. salaried employment). This point has also been made

by Riesco-Sanz, who posits that “the principle of legal subordination has thus traditionally played a pivotal role in defining the boundaries of salaried employment and also, indirectly, in the definition of other forms of work” (Riesco-Sanz 2018: 169).

Accordingly, making use of a literal translation is problematic in that the translation outcome might deviate from the source-text meaning. As rightly pointed out by Hyman, in comparative analysis “words, particularly when they undergo translation, are not always what they seem” (Hyman 2004: 38). While similar in form, *subordinato* and ‘subordinate’ have two different meanings: the latter is concerned with one’s employment status, the former with the power the employer has to direct the work performed by the employee.

## 5 Concluding remarks

The present paper has attempted to provide an examination of the translation challenges stemming from national-specific concepts in documents produced by the European Union.

To this end, an analysis has been conducted on a dataset comprising 100 selected EU texts, in order to look at the notion of *lavoro subordinato* and its English translation.

The investigation has yielded insightful findings about the rendering of the concept at issue, which pertains to Italian legal discourse and is particularly employed in industrial relations and labour law settings. One aspect that has clearly emerged is that different terms have been employed to translate *lavoro subordinato* into English. The heterogeneous nature of the terminology adopted to transpose this concept into English speaks volumes about the challenges faced by translators at the European Union. In some cases, an effort has been made to appreciate the features of this form of employment in the source legal system and to find working schemes having the same characteristics in the target one, in order not to deviate from source-text meaning (‘salaried/waged employment’). This move can be regarded as an effective one, in that the outcome of the translation process seems to successfully convey the idea of the concept under translation.

In other cases, translators at the EU attempted to address the issue of translating *lavoro subordinato* by resorting to functional equivalence, therefore a literal rendering has given way to correspondence in terms of function (‘employment relationship’ and, to a little extent, ‘work contract’). Looking at the findings obtained, it is safe to argue that this translation strategy has also been a fruitful one, in that the wording employed in the source text fully describes the employment status delineated by *lavoro subordinato*. As for generalisation – which is a further technique EU translators have relied upon in most of the texts that have been scrutinised – doubts can be cast about its effectiveness, in that the terms employed are over generic and might also designate other ways of working in the target language (e. g. ‘paid employment’, ‘employed person’, ‘people in employment’, ‘gainful employment’). Finally, a limited number of texts translated into English contained terminology that can be seen as a case of a false friend (e. g. ‘subordinate work’). As seen, this choice can be questioned in that the word employed in the target text (‘subordinate’) usually translates a word that has a different meaning in the source

text (*subordinazione*). Therefore, the strategies put forward by EU translators to render *lavoro subordinato* – and the different translation outcomes – bear witness to the difficulties to transpose this concept into English. The lack of consistency as regards the terminology to be used to refer to *lavoro subordinato* is apparent not only when comparing different documents, but also within the same text. For instance, in one of the documents scrutinised (European Union 1982), *lavoro subordinato* has been translated into English as both ‘employment’ and ‘employment relationship’, therefore sowing further doubts in the reader’s mind.

Tellingly, this lack of uniformity also runs counter to the stated purpose of the European Union as regards consistency. In this sense, “consistency of terminology means that the same terms are to be used to express the same concepts and that identical terms must not be used to express different concepts” (European Union 2015: 20). The arguments put forward above are not to be interpreted as a way to belittle the work of translators at the EU, far from it. The author of this paper concurs with Čavoški (2017), who has posited that “we often do not fully appreciate the demanding task of translation and difficulties surrounding this process” (Čavoški 2017: 1), adding that “we expect a translator to be able to reproduce the message expressed in a source language (SL) while at the same time preserving all cultural or legal differences between languages” (Čavoški 2017: 1). If anything, the foregoing findings are a further confirmation of the challenges posed by translating notions pertaining to specific legal frameworks. This exercise is particularly arduous when the concept of employment and its components come into play.

As nicely put by Prieto and Pérez de Gúzman (2018), employment is a ‘floating signifier’ and undergoes constant change, lending itself to nuanced meanings that are construed nationally and vary cross-nationally. Consequently, translation should facilitate comparison and help one to find practices featuring the same functions, if any.

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