

Waldemar Nazarov

Ambiguity in co-drafting and multilingual legal translation

A frame-semantic analysis of the first Swiss COVID-19 regulation

Abstract

In light of the COVID-19 pandemic, governments were forced to quickly establish legal measures aimed at containing the spread of the virus, while the stringent application of fundamental legal principles continued to apply. An emerging issue in this regard can be found in Switzerland, a legal system that establishes its laws in several languages, depending crucially on a joint drafting system enabled through translation. Within just two weeks, two consecutive regulations were enacted to remedy the ambiguities in the hastily drafted first version, raising the question of the difficulties the drafting and translation of emergency legal provisions may encounter. A frame-based analysis of the French and German versions of the very first Swiss COVID-19 Regulation will illustrate the preponderance of intertextuality and relationality in constructing legal knowledge segments with regard to the prevention of unintended legal ramifications among official language versions.

1 Introduction

Legal language is known for various technicalities and subtleties that often insulate the translation and terminology of law from other specialized fields, requiring a special treatment of this domain. Even in light of the recent pandemic, which forced governments to quickly introduce measures aimed to stem the spread of the coronavirus, fundamental legal principles continued to apply. In this context, it seems highly likely that a quickly evolving pandemic can affect legislation, especially with respect to the generally stringent application and interpretation of laws. An emerging issue in this regard can be found in Switzerland, a multilingual nation that establishes its legal provisions in several languages. As is also the case within the European Union, countries such as Belgium or Switzerland depend crucially on a joint drafting system to make laws accessible in all of their official languages (cf. Weisflog 1996: 27), requiring legal translation that results in the different language versions.

Given the pandemic-related urgency, some difficulties were encountered in the co-drafting process in Switzerland. Within just two weeks, two consecutive COVID-19 regulations were enacted, the second of which remedied ambiguities in the hastily drafted first version (cf. Märkli 2020a). The French and German texts of the very first Swiss COVID-19 Regulation (COVO), the incongruencies of which were highlighted and

analyzed by Märkli (2020a), will be examined and described from a frame-semantic point of view, considering that the use of legal terms in a given setting activates specific knowledge segments in a jurist's mind. Especially in European civil-law systems, where codified statutes play a more pivotal role than in common-law nations, adhering to the doctrine of *stare decisis*, linguistic interpretation of legal language serves a crucial function. In this context, a frame-semantic analysis of the disputed terminology in the Swiss regulation will illustrate how the choice of terms may be construed as inconsistency and lead to unintended legal ramifications.

2 Legal translation within nations and beyond

The need to tackle the complex task of creating legislation in different languages has been foregrounded by the constantly growing European Union, which needs to provide access to its legal texts in each of the 24 official languages of its member states. Even though the total number of languages has skyrocketed and the EU now presents the largest translation activity worldwide, the principle of language equality among the member states has never been called into question (cf. Glanert 2011: 8). On the contrary, linguistic equality has become a fundamental right, set forth in the Treaty on the European Union, which, in conjunction with the Charter of Fundamental Rights of the European Union, enables anyone to interact with EU institutions in any EU language without discrimination (cf. Baaij 2018: 90). When the number of official languages, initially amounting to four, started growing, the profession of a lawyer-linguist was created to enable translations of court judgements, directives, and regulations of the European Union (cf. Šarčević/Robertson 2013: 182–183). EU legal translators and translators of international legislation must therefore be well acquainted with legal interpretation and legal reasoning given that their translations become binding law that may be relied upon by member states (cf. Prieto Ramos 2011: 13).

This type of translation, where legal texts and terminology refer to one and the same system of reference, has played a decisive role in the study of legal translation. In an early approach, Didier (1991: 9) specifically qualifies the translation of law within one legal system as “traduction” [translation], insulating it from a case of “transposition”, where legal texts are transferred into another language that expresses the legal system of another nation. While this specific distinction has not established itself in today's approaches to classifying legal translation scenarios (cf. Bocquet 2008: 80), the case of transferring legal texts within plurilingual systems is indeed regarded as a separate research topic. Weisflog (1996: 22), for instance, qualifies translation within a “Kommunikationsgemeinschaft” [communication community] that does not consist of one common language as a special case of legal translation, while Wiesmann (2004: 116) proposes three full-fledged parallel types: apart from the translation between different legal systems, she regards the case of a multilingual system as a separate scenario, even slightly distinguishing it from the translation on an international level or within a supranational system, e. g. the European Union.

It is essential to note that legal translation carried out with the goal of creating different official language versions in a multilingual nation appears as the origin of the discipline *jurilinguistique*, which was introduced in Canada in the 1970s due to the necessity of co-drafting and legal translation (cf. Gémar 2015: 477).¹ However, when compared to other multilingual nations, such as Switzerland or Belgium, Canada is a rather complex case. It presents a certain “*dualité juridique canadienne*”, i. e. the state not only has two legal languages, but also two different legal systems and even two legal traditions, given that the English-speaking area developed a common-law system, while French-Canadian law is rooted in European civil law (cf. Sparer 2002: 267–268). As the translation and co-drafting of legislation and court decisions between two languages, two systems and two legal traditions within one country became such a challenging task, *jurilinguistique* appeared as a discipline to grasp these difficulties and develop strategies to remedy them in order to ensure the functioning of the bilingual nation (cf. Gémar 2015: 477–478). Co-drafting of legislation in multilingual systems has therefore become an independent object of research that presents special features within Legal Translation Studies.

2.1 Translating legal texts in multilingual systems

Multilingual nations find themselves in rather isolated positions among the different legal translation scenarios since they – apart from special cases like Canada – respectively constitute a single legal system of reference for the terminology of law (cf. Sandrini 1999: 15–16) and therefore require adapted approaches to transferring legal texts between official languages. Contrary to the case of inter-systemic legal translation, where the source and target languages are linked to different legal systems, a multilingual nation is based on a “*régime de plurilinguisme officiel*” (Dullion 2015: 93) and thus makes legal comparison – a necessary and crucial step in a transnational scenario – a redundant task in default of comparable elements (cf. Dullion 2014: 638; de Groot 1988: 410).

To give an example, the terms *personne morale* and *personne physique* in French law are oftentimes compared to a similar differentiation in the German legal system: *juristische Person* and *natürliche Person*. Both *personne morale* and *juristische Person* refer to a legal entity in company law, but the much wider extent of the French term also covers partnerships, called *Personengesellschaften* in German law, and is not merely limited to corporations, *Körperschaften*, as is the case with the German *juristische Person* (cf. Müller-Gugenberger 1976: 41–43). Due to the general incongruity between legal terminologies from different legal systems (see chapter 2.2), which is based on the extreme system-dependence of legal languages and on the fact that the rules and institutions of one state are not identical to others (cf. de Groot 1999b: 204), a translation in such cases is in dire need of legal comparison that allows for finding approximate

¹ The French-Canadian term *jurilinguistique* has specifically emerged to tackle translation and has since turned into a discipline that comprises both the study of legal translation and of language in law, which is due to the genesis of this field. Apart from this, the English language makes a rather clear distinction between the field of Legal Linguistics and of Legal Translation Studies (cf. Prieto Ramos 2014: 268).

equivalents in the target legal system in order for the translator to render the source term comprehensible for the target audience. Such an analysis reveals that the two presented concepts appear closest to one another. However, their significant differences lead to two different knowledge segments (frames) in Germany and France, which may call for a translator's note that provides precisions to fill the gaps between the terms and to assimilate the chosen translation to the source concept. In Switzerland, on the other hand, *personne morale* and *juristische Person* have the exact² same meaning because they are linked to the same legal framework within the Swiss legal system, merely expressed in its various official languages. This can be concluded by consulting the second title of the first book of the Swiss Civil Code,³ which sets forth the legal regime for legal entities in Switzerland under the title *Des personnes morales* in the French and *Die juristischen Personen* in the German version, where one and the same Swiss legal concept is stipulated and expressed in different languages.

Legal translation in a plurilingual nation can, for one, take place in a private setting: if a purchasing agreement written in French under Swiss law needs to be translated into German for the purpose of the execution of a contract between a French-speaking and a German-speaking Swiss citizen, Austrian or German legal sources will not provide any relevant terminological resources for the German target text, rendering legal comparison superfluous. From an institutional point of view, legal translation occurs on a legislative level when laws are drafted and communicated in the different official legal languages of the nation at issue. With countries such as Belgium or Switzerland publishing statutes in different languages, the goal is to provide all native speakers with non-discriminatory access to the same rule. An Italian-speaking Swiss person can therefore rely on the Italian version of the same regulation even when it is the result of a translation from another official language of the country. This very peculiar circumstance gives prominence to the distinction of the question of equivalence between legal terminologies.

2.2 Equivalence between legal languages

The question of equivalence has regularly been tackled specifically in connection with inter-systemic legal translation, where concepts from completely incongruent legal systems must be compared. The example of *personne morale* and *juristische Person*, presented in chapter 2.1, is a rather obvious case with discrepancies in significant knowledge elements. It is; however, a common presumption in Legal Translation Studies that full equivalence between legal terms from different systems cannot be found at any point in the translation (cf. Pommer 2006: 65; Kjær 1995: 51). As each country has its own statutes and regulations determining the knowledge segments evoked by their system-dependent legal terms as well as unique case law and legal doctrines that limit legal

² Even the idea of absolute equivalence between legal languages pertaining to the same system of reference, be it on a supranational, international or national level, has been called into question by some researchers. See Leung (2016), McAuliffe (2013) and Solan (2022) for extensive research on the lack of uniformity in plurilingual legislation.

³ *Code civil suisse* (FR)/*Schweizerisches Zivilgesetzbuch* (DE).

concepts in their interpretation, frames are activated in a jurist's mind that do not exist with the same exact structure and connections in other nations. This becomes especially clear when differentiating between common-law systems, which rely more on precedents in case law and can be found in English-speaking countries, and civil-law systems, which exist in most European nations (cf. Stolze 1999: 47). But even within one legal family, two nations' laws are never identical. As a result, the term *contrat*, determined by French legislation, cannot be aligned with the concept *Vertrag* from the German legal system, given that the frames evoked by these terms differ in their structures due to the separation between German and French contract law. This debate has even gone so far that some scholars call into question the translatability of law.⁴ Comparatist Kischel (2009: 7), for example, fully denies the possibility of inter-systemic legal translation, which he grounds on the unique inter-connections of the legal concepts in each legal system.⁵

According to de Groot (1999a: 20–21) and Bestué (2019: 137), the only situation where full equivalence is possible in multilingual legal terminology work occurs when the source and target languages are linked to the same legal system, which is the case in Switzerland. From a terminological point of view, the system of reference – a concept that has been introduced by Sager, Dungworth and McDonald (1980: 70–76) in the context of terminology science – is one and the same in a plurilingual state as it is merely expressed in different languages (cf. Šarčević 1997: 14–15). This is exactly why legal comparison becomes irrelevant, with source and target concepts not referring to different systems and therefore not evoking different frames. In Switzerland, where a judgment rendered by the Federal Supreme Court⁶ ensures that the official languages of the state must be treated with equality⁷ (cf. Pommer 2006: 39; Weisflog 1996: 27), the institutionally co-drafted regulations and statutes cannot be regarded as descriptive translations but as legal instruments (cf. Dullion 2014: 638) and parallel official versions (cf. Stolze 2014: 245). This differs from the function that inter-systemic legal translation presents, where access must be provided to a text created under a foreign system (cf. Arntz/Picht/Schmitz 2014: 163). As Glanert (2011: 1160) points out, the strict requirement of equivalence can lead to dire consequences in case of errors that can cause divergent interpretation of the same law.

The COVID-19 pandemic revealed this risk as it called for hastily drafted measures with the goal of containing the virus. This paper will thus look at Märkli's (2020a) analysis of the inconsistencies in and between the German and French versions of the very first COVID-19 Regulation in Switzerland from the perspective of frame semantics and legal translation.

⁴ For some of the most prominent works on the translatability of law, see Glanert (2011) and Legrand (2005).

⁵ It is important to note that the thesis of legal untranslatability faces many opponents, who consider this presumption to be extreme, including Engberg (2013), Großfeld (2003) and Rovere (2017).

⁶ *Tribunal fédéral* (FR)/*Bundesgericht* (DE).

⁷ See Schmid (2014: 332) for further legal references.

3 Linguistic interpretation of the first Swiss COVID-19 regulation

When the COVID-19 pandemic reached alarming proportions in Europe at the beginning of 2020, nations were faced with the urgent need to adopt safety measures aimed to contain the spread of the virus. Switzerland, a multilingual state that provides statutes and regulations in several official languages, adopted its very first COVID-19 Regulation in February 2020, setting forth various measures to stem the coronavirus inside the country. To make it available to citizens of the different language areas of the state, this hastily drafted legal text was quickly decreed and translated into the other official languages (cf. Märkli 2020a: 2). As a result, discrepancies have been discovered in this specific legal source, which was followed and superseded by a second, more detailed regulation approximately two weeks later (cf. Märkli 2020b: 59) – a case that was analyzed by Märkli (2020a) with regard to the choice of language and terminology in the German and French versions.

The second section of the first Swiss COVID-19 Regulation, containing the two paragraphs in question, is the cornerstone of the text (cf. Märkli 2020a: 3) and sets forth a prohibition of gatherings of more than 1,000 persons in its first subsection. The pandemic constituting an urgent sanitary situation, the provision was drafted in accordance with the nation's legal regime regarding special and extraordinary circumstances in order to quickly forbid sizable gatherings that facilitated the spread of the virus (cf. Märkli 2020a: 2).

Art. 2 Interdiction de manifestations

1 Il est interdit d'organiser en Suisse des **manifestations** publiques ou privées **accueillant** plus de 1000 personnes simultanément.

2 Lors de manifestations publiques ou privées **accueillant** moins de 1000 personnes, les organisateurs, en collaboration avec l'autorité cantonale compétente, doivent évaluer les risques pour déterminer s'ils peuvent ou non organiser la manifestation.

(section 2 COVO, French version)

Art. 2 Veranstaltungsverbot

1 Es ist verboten, öffentliche oder private **Veranstaltungen**, bei denen **sich** gleichzeitig mehr als 1000 Personen **aufhalten**, in der Schweiz durchzuführen.

2 Bei öffentlichen oder privaten Veranstaltungen, bei denen weniger als 1000 Personen **teilnehmen**, müssen die Veranstalter zusammen mit der zuständigen kantonalen Behörde eine Risikoabwägung vornehmen, ob sie die Veranstaltung durchführen können oder nicht.

(section 2 COVO, German version)

Two main aspects are scrutinized by the Swiss jurist in this section: first, the choice of the term *manifestation* (FR)/*Veranstaltung* (DE)⁸, which was used to refer to events and/or gatherings in public or private spaces (see chapter 3.1), and second, the inconsistency between the chosen action verbs *accueillir* (FR)/*sich aufhalten* and *teilnehmen* (DE) that qualify the type of presence or participation at a gathering (see chapter 3.2). From a frame-semantic point of view, these points illustrate the relevance of

⁸ In this article, the abbreviations FR and DE will be used to designate French and German terms that specifically pertain to the Swiss legal system.

intertextuality in the form of frame relations and the risk of inconsistencies in multilingual laws due to the activation of divergent knowledge segments. As a theory that was developed to describe the adequate understanding of lexical items by taking account of any knowledge relevant to cognitively constructing the required frame (cf. Busse 2012: 11), such knowledge-based approach serves as an analytical tool not only for describing general language, but also for illustrating terminology (cf. Faber/Márquez Linares/Vega Expósito 2005) and depicting the translation of legal texts (cf. Engberg 2018).

3.1 Fixed legal frames and intertextuality in the COVO prohibition on gatherings

Legal terminology is inextricably linked to a specific legal system (cf. de Groot 1999b: 204). Due to such dependence, legal terms bear relations to one another when used in a certain context and thereby carry the content of the entire system (cf. Sandrini 1999: 30). When a term is used in a legal text, the legal frame surrounding this concept is activated and automatically applicable, often leaving little room for misconceptions.⁹ The textual canon, for example, constitutes a pivotal method of interpreting legislation (cf. Schmid 2014: 335–336). As it refers to the linguistic aspects of a statute or regulation, argumentation can be construed according to language used in the text.

The term *manifestation* (FR)/*Veranstaltung* (DE) fits no explicit legal definition in any Swiss statutes, yet it is used in section 2 of the first Swiss COVID-19 Regulation, which aims to prohibit gatherings of more than 1,000 persons. When this term is constructed as a frame in the interpretation process, the recipient must determine whether the concept in question merely refers to a limited number of types of events or whether it is applied to any kind of gatherings in general. From the mere use of this term, it is unclear whether gatherings also comprise meetings in an office or in a restaurant for instance (cf. Märkli 2020a: 7). If no federal law provides any legal definition determining the frame for this specific noun, intertextuality manifests itself in the research on the use of this term in other national legal resources (cf. Dullion 2014: 640), since the use and determination of the term in related texts must be taken into consideration.

At first, Märkli (2020a: 7) refers to the Swiss Epidemics Act¹⁰, a federal statute aimed at the control of a nationwide disease. Section 40 subsection 1 provides that cantonal authorities can adopt measures in order to prevent transmittable diseases within the population or specific groups of persons. Subsection 2 enumerates a set of measures that serve as examples and/or recommendations for provisions at a cantonal level in this context:

⁹ It is imperative to note that, despite a high degree of precision with regard to the semantic fields of legal terms, legal language exhibits a certain ambiguity in order to remain open to judicial interpretation. See Busse (1999) for a detailed description.

¹⁰ *Loi sur les épidémies, LEp* (FR)/*Epidemiegesetz, EpG* (DE).

- 2 Elles peuvent en particulier prendre les mesures suivantes:
- a. prononcer l'interdiction totale ou partielle de **manifestations**;
 - b. fermer des écoles, d'autres institutions publiques ou des entreprises privées, ou réglementer leur fonctionnement;
 - c. interdire ou limiter l'entrée et la sortie de certains bâtiments ou zones, ou certaines activités se déroulant dans des endroits définis.

(section 40 subsection 2 Swiss Epidemics Act, French version)

- 2 Sie können insbesondere folgende Massnahmen treffen:
- a. **Veranstaltungen** verbieten oder einschränken;
 - b. Schulen, andere öffentliche Institutionen und private Unternehmen schliessen oder Vorschriften zum Betrieb verfügen;
 - c. das Betreten und Verlassen bestimmter Gebäude und Gebiete sowie bestimmte Aktivitäten an definierten Orten verbieten oder einschränken.

(section 40 subsection 2 Swiss Epidemics Act, German version)

Pursuant to this statute, far-reaching measures are related to the gathering of people in private or public areas. Letter (a) mentions *manifestation* (FR)/*Veranstaltung* (DE), suggesting limiting or fully prohibiting it to contain the spread of the virus. Letter (b) further proposes closing down or regulating schools, other public institutions, and private companies. The isolation of the term in question from schools, public institutions, and private companies creates a frame structure that enlists all of them as horizontal options rather than a hierarchy in which a *manifestation* (FR)/*Veranstaltung* (DE) serves as a generic term.

In 2010, the Swiss Federal Council issued an official report,¹¹ covering certain criticism regarding the Epidemics Act. The report, which is addressed to the President of the Swiss National Council and to the President of the Council of States, proposes an amendment to the law and elaborates on some of its aspects. In this context, one part is dedicated to section 40, which according to the report aims to reduce contacts between persons in order to contain the spread of diseases. The report elaborates as follows:

Cet article contient plusieurs mesures ayant pour but de limiter les contacts entre les personnes ou d'éviter toute exposition dans un environnement contaminé afin de réduire la probabilité pour les individus d'être exposés à un agent pathogène et donc infectés. Ces mesures sont d'ordre collectif (éloignement social*) et visent avant tout les **manifestations**, les **écoles** et les **entreprises** qui, vu le nombre de **personnes qui y sont rassemblées**, sont particulièrement propices à la propagation de certaines maladies (p. ex., grippe ou rougeole). La restriction provisoire de l'accès à une certaine région est à envisager dans certaines situations. Les interdictions et les restrictions prévues par cet article visent à réduire les contaminations en empêchant ou en freinant l'extension de maladies transmissibles. Au moment de décider si des mesures concrètes doivent être prises, il convient de prendre en considération le contexte épidémiologique à l'échelle nationale et internationale (lieu, expansion et évolution du foyer infectieux, infectiosité, groupes particulièrement concernés)

¹¹ *Message concernant la révision de la loi fédérale sur la lutte contre les maladies transmissibles de l'homme (Loi sur les épidémies, LEp) du 3 décembre 2010 [10.107] (FR)/Botschaft zur Revision des Bundesgesetzes über die Bekämpfung übertragbarer Krankheiten des Menschen (Epidemiengesetz, EpG) vom 3. Dezember 2010 [10.107] (DE).*

ainsi que les caractéristiques de la **manifestation**, de l'**école** ou de l'**entreprise** (origine des participants et nombre, appartenance des élèves à des groupes fortement exposés, etc.).
(Report, French version, 392)

Artikel 40 enthält verschiedene Massnahmen, die eine Verminderung enger Kontakte zwischen Personen bezwecken oder eine Exposition in einer bestimmten Umgebung verhindern sollen. Ziel ist es, die Wahrscheinlichkeit zu senken, dass Individuen einem Erreger ausgesetzt und dadurch möglicherweise infiziert werden. Diese Massnahmen sind auf die kollektive Ebene ausgerichtet (social distancing*) und betreffen vor allem **Veranstaltungen**, **Schulen** und **Unternehmen**, da **Menschenansammlungen** für die Ausbreitung bestimmter Krankheiten (z. B. Grippe oder Masern) besonders förderlich sind. Es sind also auch Situationen denkbar, in denen vorübergehend der Zugang zu einem bestimmten Gebiet eingeschränkt wird. Die möglichen Einschränkungen und Verbote sollen die Anzahl Erkrankter verringern, indem sie die Ausbreitung der Krankheit eindämmen oder verlangsamen. Beim Entscheid, ob konkrete Massnahmen angeordnet werden sollen, sind das epidemiologische Umfeld in der Schweiz und im internationalen Kontext (Ort, Ausdehnung und Entwicklung der Herde, Infektiosität, besonders betroffene Gruppen) sowie die Merkmale der **Veranstaltung**, der **Schule** oder der **Unternehmen** (Herkunft/Anzahl der Teilnehmenden, Zugehörigkeit der Schülerinnen und Schüler zu besonders stark betroffenen Gruppen usw.) zu berücksichtigen.
(Report, German version, 392)

At this point in the report, the term *manifestation* (FR)/*Veranstaltung* (DE) is again separated from schools and companies, followed by an explanation suggesting that gatherings or crowds of people – designated by the signs *personnes qui y sont rassemblées* (FR)/*Menschenansammlungen* (DE) – are particularly conducive to the spread of certain diseases. The use of the concepts in the report alludes to a structure, according to which the signs used to refer to crowds or gatherings constitute a generic term, a superior frame, that encompasses various options: *manifestation* (FR)/*Veranstaltung* (DE), schools, and companies, all of which are subframes serving as structural constituents of this knowledge segment.

Given this construction, the use of the term *manifestation* (FR)/*Veranstaltung* (DE) in section 2 of the first Swiss COVID-19 Regulation activates a frame that does not include gatherings in schools, companies, and institutions. When interpreting this law, a legal frame can be concluded that prohibits or limits the number in events and gatherings that take place outside of a school, a business environment, or a government building. Intertextuality builds the frame that surrounds this specific term and creates a legal frame derived from textual interpretation. However, section 2 of the first Swiss COVID-19 Regulation aims to regulate gatherings in general, including in schools or companies, since they promote the spread of a disease. A definition of the term for the purposes of this specific regulation therefore would be necessary but is absent in the legal text.

3.2 Discrepancies between official language versions exemplified by the type of presence

The second element that Märkli (2020a: 7) analyzes in the first version of the Swiss COVID-19 Regulation is the verb used to determine the type of presence at the gatherings or events that section 2 aims to limit. The French version uses the verb

accueillir as a predicate for the subject *manifestation* in both subsections to regulate the number of people that may be present without any restrictions. According to the French monolingual Larousse dictionary, which provides some of the relevant knowledge elements for lexical items that have no legal definitions and thus do not constitute legal terms, *accueillir* means “[ê]tre présent, venir pour recevoir quelqu’un à son arrivée quelque part”, which merely implies a presence upon arrival. Following the wording in the French version, the limited number of people at a gathering must not exceed 1,000. In the German version, on the other hand, two different verbs are used: *sich aufhalten* in subsection 1 and *teilnehmen* in subsection 2. The difference between these two German verbs is that subsection 1 refers to the mere presence of persons at a place, while the second verb can have different meanings. According to the German Duden dictionary, the verb *teilnehmen* either denotes “bei etwas (einer Handlung, einem Ablauf, einem Geschehen) dabei sein”, which corresponds to a general presence, or “aktiver Teilnehmer an einer bestimmten Unternehmung, Veranstaltung sein”, which constitutes an active participation at something that has been organized.

The use of two different verbs in the German version therefore evokes diverging frames due to the ambiguous notion of the second verb. If interpreted in accordance with the second meaning, the German version limits gatherings exceeding 1,000 active participants and not just people present. In that case, an event with 1,000 participants and additional people on-site that can be considered organizers, cleaning and security staff, are justified according to the wording of the German version, whereas a French-speaking citizen cannot suggest such interpretation of the French regulation as the latter uses its verb consistently. With verbs often considered the center of a sentence,¹² its weight on the linguistic analysis is significant, creating two different legal effects within the same country depending on the language version that is being referred to.

4 Conclusion

The analyzed terms that led to unintended legal effects and discrepancies in the interpretation of the Swiss COVID-19 Regulation showcase the stringency of legal principles, especially when it comes to statutes and regulations. Despite the urgency that accompanied the co-drafting of the said law through institutional legal translation, a divergent interpretation could be justified according to Märkli’s (2020a) analysis.

In this context, frame semantics provides a useful instrument to describe the semantic construction of language used in legal provisions without clear legal definitions. With regard to the term *manifestation* (FR)/*Veranstaltung* (DE), the evoked knowledge segment can be built on the basis of intertextuality, i. e. according to the use of this term in other authoritative legal texts, creating unintended relations to parallel frames or subframes in the cognitive interpretation process. In the case of the verbs *accueillir* (FR)/*sich aufhalten*; *teilnehmen* (DE), which are not specified by legal definitions either,

¹² This is especially the case in the linguistic valency theory, mostly developed by Tesnière (1959/1966).

general-language interpretation leads to two divergent frames that create different legal effects depending on the language version – which runs contrary to the principle of the single instrument endemic to multilingual legal systems.

It is thus safe to say that the complex co-drafting process remained a challenging task and continued to underly the same stringent requirements despite the urgency created by a rapidly evolving pandemic.

References

- Arntz, Reiner; Heribert Picht, Klaus-Dirk Schmitz (2014): *Einführung in die Terminologiearbeit*. 7th ed. Hildesheim: Olms
- Baaij, Cornelis J. W. (2018): *Legal integration and language diversity: Rethinking translation in EU lawmaking*. New York: Oxford University Press
- Bestué, Carmen (2019): “A matter of justice: Integrating comparative law methods into the decision-making process in legal translation.” Łucja Biel, Jan Engberg, M. R. Martín Ruano, Vilemini Sosoni (eds): *Research methods in legal translation and interpreting: Crossing methodological boundaries*. London/New York: Routledge, 130–147
- Bocquet, Claude (2008): *La traduction juridique: Fondement et méthode*. Brussels: De Boeck
- Busse, Dietrich (1999): “Die juristische Fachsprache als Institutionensprache am Beispiel von Gesetzen und ihrer Auslegung.” Lothar Hoffmann, Hartwig Kalverkämper, Herbert E. Wiegand, Christian Galinski, Werner Hüllen (eds): *Fachsprachen/Languages for special purposes*. (Handbücher zur Sprach- und Kommunikationswissenschaft 14.2). Berlin/New York: de Gruyter, 1382–1391
- Busse, Dietrich (2012): *Frame-Semantik: Ein Kompendium*. Berlin/Boston: de Gruyter
- de Groot, Gerard-René (1988): “Problems of legal translation from the point of view of a comparative lawyer.” Paul Nekeman (ed.): *Translation, our future: XIth World Congress of FIT*. Maastricht: Euroterm, 407–421
- de Groot, Gerard-René (1999a): “Das Übersetzen juristischer Terminologie.” Gerard-René de Groot, Reiner Schulze (eds): *Recht und Übersetzen*. Baden-Baden: Nomos, 11–46
- de Groot, Gerard-René (1999b): “Zweisprachige juristische Wörterbücher.” Peter Sandrini (ed.): *Übersetzen von Rechtstexten: Fachkommunikation im Spannungsfeld zwischen Rechtsordnung und Sprache*. Tübingen: Narr, 203–227
- Didier, Emmanuel (1991): “La Common Law en français: Étude juridique et linguistique de la common law en français au Canada.” *Revue internationale de droit comparé* 43 [1]: 7–56 – <https://doi.org/10.3406/ridc.1991.2158>
- Duden (2023): “teilnehmen.” – <https://www.duden.de/rechtschreibung/teilnehmen> (9 December 2023)
- Dullion, Valérie (2014): “Traduire les textes juridiques dans un contexte de plurilinguisme officiel: quelle formation pour quelles compétences spécifiques?” *Meta* 59 [3]: 636–653 – <https://doi.org/10.7202/1028661ar>
- Dullion, Valérie (2015): “Droit comparé pour traducteurs: de la théorie à la didactique de la traduction juridique.” *International Journal for the Semiotics of Law* 28 [1]: 91–106 – <https://doi.org/10.1007/s11196-014-9360-2>

- Engberg, Jan (2013): "Comparative law for translation: The key to successful mediation between legal systems." Anabel Borja Albi, Fernando Prieto Ramos (eds): *Legal translation in context: Professional issues and prospects*. Oxford/Bern/Berlin: Lang, 9–25
- Engberg, Jan (2018): "Comparative law and legal translation as partners in knowledge communication: Frames as a descriptive instrument." Fernando Prieto Ramos (ed.): *Institutional translation for international governance. Enhancing quality in multilingual legal communication*. London: Bloomsbury, 37–48
- Faber, Pamela; Carlos Márquez Linares, Miguel Vega Expósito (2005): "Framing terminology: A process-oriented approach." *Meta* 50 [4]: 1–10 – <https://doi.org/10.7202/019916ar>
- Gémar, Jean-Claude (2015): "De la traduction juridique à la jurilinguistique: la quête de l'équivalence." *Meta* 60 [3]: 476–493 – <https://doi.org/10.7202/1036139ar>
- Glanert, Simone (2011): *De la traductibilité du droit*. Paris: Dalloz
- Großfeld, Bernhard (2003): "Comparatists and languages." Pierre Legrand, Roderick Munday (eds): *Comparative legal studies: Traditions and transitions*. Cambridge/New York/Melbourne: Cambridge University Press, 154–194
- Kischel, Uwe (2009): "Legal cultures – legal languages." Frances Olsen, Alexander Lorz, Dieter Stein (eds): *Translation issues in language and law*. Basingstoke: Palgrave Macmillan, 7–17
- Kjær, Anne Lise (1995): "Vergleich von Unvergleichbarem: Zur kontrastiven Analyse unbestimmter Rechtsbegriffe." Hans-Peder Kromann, Anne Lise Kjær (eds): *Von der Allgegenwart der Lexikologie: Kontrastive Lexikologie als Vorstufe zur zweisprachigen Lexikographie*. Tübingen: Niemeyer, 39–56
- Larousse (2023): "accueillir." – <https://www.larousse.fr/dictionnaires/francais/accueillir/571> (9 December 2023)
- Legrand, Pierre (2005): "Issues in the translatability of law." Sandra Bermann, Michael Wood (eds): *Nation, language, and the ethics of translation*. Princeton, NJ: Princeton University Press, 30–50
- Leung, Janny H. C. (2016): "Translation equivalence as legal fiction." Le Cheng, King Kui Sin, Anne Wagner (eds): *The Ashgate handbook of legal translation*. New York: Routledge, 57–69

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Leona Van Vaerenbergh
University of Antwerp
Arts and Philosophy
Applied Linguistics / Translation and Interpreting
O. L. V. van Lourdeslaan 17/5
B-1090 Brussel
Belgien
Leona.VanVaerenbergh@uantwerpen.be

Klaus Schubert
Universität Hildesheim
Institut für Übersetzungswissenschaft
und Fachkommunikation
Universitätsplatz 1
D-31141 Hildesheim
Deutschland
klaus.schubert@uni-hildesheim.de

- Märkli, Benjamin (2020a): “Die ‘Corona-Verordnung’ des Bundesrats vom 28. Februar 2020.” *Jusletter* 9. März 2020: 1–12 – <https://doi.org/10.38023/48ab40ec-7e5f-47a5-8414-46e5d212df71>
- Märkli, Benjamin (2020b): “Notrecht in der Anwendungsprobe: Grundlegendes am Beispiel der COVID-19-Verordnungen.” *Sicherheit & Recht* 2: 59–67
- McAuliffe, Karen (2013): “The limitations of a multilingual legal system.” *International Journal for the Semiotics of Law* 26 [4]: 861–882 – <https://doi.org/10.1007/s11196-013-9314-0>
- Müller-Gugenberger, Christian (1976): *Gesellschaft, Société und Groupement als Rechtsformen zur Unternehmenskooperation: Eine rechtsvergleichende Untersuchung des französischen, belgischen und deutschen Gesellschaftsrechts im Hinblick auf die grenzüberschreitende Zusammenarbeit in Europa*. Baden-Baden: Nomos
- Pommer, Sieglinde (2006): *Rechtsübersetzung und Rechtsvergleichung: Translatologische Fragen zur Interdisziplinarität*. Frankfurt am Main: Lang
- Prieto Ramos, Fernando (2011): “Developing legal translation competence: An integrative process-oriented approach.” *Comparative Legilinguistics* 5: 7–21 – <https://doi.org/10.14746/cl.2011.5.01>
- Prieto Ramos, Fernando (2014): “Legal translation studies as interdiscipline: Scope and evolution.” *Meta* 59 [2]: 260–277 – <https://doi.org/10.7202/1027475ar>
- Rovere, Giovanni (2017): “Übersetzen und Dolmetschen im Recht.” Ekkehard Felder, Friedemann Vogel (eds): *Handbuch Sprache im Recht*. Berlin/Boston: de Gruyter, 310–328
- Sager, Juan C.; David Dungworth, Peter F. McDonald (1980): *English Special languages: Principles and practice in science and technology*. Wiesbaden: Brandstetter
- Sandrini, Peter (1999): “Translation zwischen Kultur und Kommunikation: Der Sonderfall Recht.” Peter Sandrini (ed.): *Übersetzen von Rechtstexten: Fachkommunikation im Spannungsfeld zwischen Rechtsordnung und Sprache*. Tübingen: Narr, 9–43
- Šarčević, Susan (1997): *New approach to legal translation*. The Hague: Kluwer Law
- Šarčević, Susan; Colin Robertson (2013): “The work of lawyer-linguists in the EU institutions.” Anabel Borja Albi, Fernando Prieto Ramos (eds): *Legal translation in context: Professional issues and prospects*. Oxford/Bern/Berlin: Lang, 181–202
- Schmid, Jörg (2014): “Die Entstehung von Gesetzen in der Schweiz.” *The Rabel Journal of Comparative and International Private Law* 78 [2]: 329–345 – <https://doi.org/10.1628/003372514X680344>
- Solan, Lawrence M. (2022): “Interpreting multilingual laws: Some costs and benefits.” Anne Lise Kjær, Joanna Lam (eds): *Language and legal interpretation in international law*. New York: Oxford University Press, 131–151 – <https://doi.org/10.1093/oso/9780190855208.003.0008>
- Sparer, Michel (2002): “Peut-on faire de la traduction juridique? Comment doit-on l’enseigner?” *Meta* 47 [2]: 265–278 – <https://doi.org/10.7202/008014ar>
- Stolze, Radegundis (1999): “Expertenwissen des juristischen Fachübersetzers.” Peter Sandrini (ed.): *Übersetzen von Rechtstexten: Fachkommunikation im Spannungsfeld zwischen Rechtsordnung und Sprache*. Tübingen: Narr, 45–62
- Stolze, Radegundis (2014): *Praxishandbuch Urkundenübersetzung: Fertigkeiten, Terminologie, Rechtssprache*. Tübingen: Stauffenburg
- Tesnière, Lucien (1959): *Éléments de syntaxe structurale*. 2nd ed. 1966. Paris: Klincksieck
- Weisflog, Walter E. (1996): *Rechtsvergleichung und juristische Übersetzung: Eine interdisziplinäre Studie*. Zürich: Schulthess
- Wiesmann, Eva (2004): *Rechtsübersetzung und Hilfsmittel zur Translation: Wissenschaftliche Grundlagen und computergestützte Umsetzung eines lexikographischen Konzepts*. Tübingen: Narr

Author

Waldemar Nazarov is a court-certified translator and works as a lecturer and research associate at the German Johannes Gutenberg University Mainz as well as the French University of Burgundy and ISIT Paris, where he teaches legal translation, conference interpreting and localization in German, English, French, and Russian.

E-mail: wanazaro@uni-mainz.de, waldemar.nazarov@u-bourgogne.fr,
nazarov.waldemar@isitparis.eu

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