

LEGAL EDUCATION OF COURT INTERPRETERS AND SWORN TRANSLATORS UPON THE DIRECTIVE 2010/64/EU

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ABSTRACT

The purpose of the paper is to expose current difficulties connected with education of legal translators and interpreters and to put forward a proposal for establishing an educational program to ensure the respective quality of service. It is pointed out that the translation is not only a linguistic activity and requires broad expertise in legal knowledge and legal language as well as awareness of ways in which legal knowledge is expressed in linguistic communication. The paper outlines the main assumptions of the Directive of the European Parliament and of the Council 2010/64/EU of 20 October 2010 on the right to interpretation and translation in criminal proceedings, including the requirement to ensure the respective quality of translation. The protection of rights of accused persons in criminal proceedings has been identified as a fundamental right within the European Union: everyone charged with a criminal offence has the right to the free assistance of an interpreter if he cannot understand or speak the language used in court. The education policy directly affects many other policies and fundamental freedoms, hence the concept of leaving the responsibility for its formation with the Member States and to reduce the Union's competences only to encouraging, supporting and complementing them. The interdisciplinary character of the research allows to shed a new light on the issue of education of translators and interpreters acting for authorities and law enforcement bodies.

Key Words: law, translators, interpreters, European Union, legal education.

INTRODUCTION

The differences between national legal systems of the Member States of the European Union increase trading costs, introduce uncertainty as to the applicable law and cause imbalances among individuals. Undoubtedly, the Union's objective is to strive for closer integration of the Member States to achieve its smooth functioning in all areas. Some areas of substantive law in particular need harmonization, while others are resistant to this process. Some of them has been successively harmonized for a long time: these include maritime law, aviation law, commercial law with elements of cross-border exchanging of services, competition law and private international law. For other areas, however, such as real estate law, there is little practical need for harmonization (Oppermann, Classen & Nettesheim, No. 1067). There are also typical national fields of law, that are conditioned socially, religiously and culturally or that fall under family and inheritance law and that are also resistant to harmonization (Caemmerer, 1996: 66). Criminal law and education also belong to this typical national area.

METHOD

The article is based on traditional methods applied in legal studies. The main one is the dogmatic method consisting in the analysis of legal acts within the field of research serving the implementation of its specific objectives. Due to the interdisciplinary character of the research, there will be a review and a critical analysis of the output of the literature in both linguistics and European law. It will also be necessary to take into account the research accomplishments in other fields of law, especially in Polish criminal law and domestic regulations

on the profession of sworn translator, as well as to observe their practical application. The analysis and synthesis of the achievements in these fields will allow gathering adequate knowledge essential for the development of the research area. The purpose of the paper is to expose current difficulties connected with the necessity for education of legal translators and interpreters and to put forward a proposal for establishing - in accordance with current legal regulations in the European Union -an educational program to ensure the respective quality of service.

FINDINGS

According to the Charter of the Fundamental Rights of the European Union and the European Convention on Human Rights, any trial in the absence of an interpreter for the benefit of a defendant who does not speak the language of criminal proceedings is a clear breach of EU and international law. The protection of rights of accused persons in criminal proceedings has been thus identified as a fundamental right within the European Union. Article 6 of the European Convention on Human Rights, along with Article 47 of the Charter of the Fundamental Rights of the European Union guarantee the right to a fair trial.

The Stockholm Programme – “An open and secure justice serving and protecting the citizens” is the European Union’s plan in the areas of freedom, security and justice that has been set up for the period from 2010 to 2014. The programme promotes fundamental rights as enshrined in the Charter of the Fundamental Rights of the European Union and the European Convention on Human Rights, which state that everyone charged with a criminal offence has the right to “the free assistance of an interpreter if he cannot understand or speak the language used in court”.

The Stockholm Programme indicates the need for the Member States to establish common minimum rules in order to harmonize their standards of civil and criminal law and to strengthen their mutual trust. As stated in Article 3 of the Stockholm Programme, “In the Hague Programme, adopted in 2004, the European Council noted that in order for the principle of mutual recognition to become effective, mutual trust needed to be strengthened by progressively developing a European judicial culture based on the diversity of legal systems and unity through European law. The judicial systems of the Member States should be able to work together coherently and effectively in accordance with their national legal traditions.”

The Stockholm Programme also emphasizes that the mutual trust between authorities and services of the Member States as well as between the decision-makers is the basis for effective cooperation in this area. With respect to the cross-border crime, the program emphasizes the need to intensify efforts to improve the effectiveness of judicial cooperation. The instruments adopted should be user-friendly and focus on the issues that regularly arise in cross-border cooperation, such as the terms and conditions of language and the principle of proportionality. In order to improve the cooperation based on the principle of mutual recognition, it may be necessary to harmonize the substantive and the procedural law of the Member States. The Action Plan implementing the Stockholm Programme emphasizes that the EU's policy towards the convergence of substantive and procedural criminal law should be guided by a strategy that is fully consistent with the principle of subsidiarity and coherence.

The principle of recognition of judgments and judicial decisions found its expression regarding the legal aid between the Member States in the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union, signed in Brussels on 29 May 2000 as well as in the Protocol to this Convention, signed in Luxembourg on 16 October 2001. The Convention specifies cases in which legal assistance must be guaranteed and regulates respective procedures. The protocol includes additional measures to fight against organized crime, money laundering and financial crime. These acts supplement and develop the European Convention on Mutual Assistance in Criminal Matters of 1959.

Article 82(2) of the Treaty on the Functioning of the European Union (hereafter TFEU) enables the harmonization through directives according to Article 288(3) of the TFEU. These directives shall be adopted jointly by the European Parliament and the Council, acting in the ordinary legislative procedure pursuant to

Article 289(1) and 294 of the TFEU. The purpose of the directives must be to facilitate the mutual recognition of judgments and judicial decisions and police and judicial cooperation in criminal matters having a cross-border dimension. The nature of the phrase "and" is not clear - it can be understood cumulative or alternative (Callies & Ruffert, 2011, art. 82 TFEU, No. 31). The directives adopted in this area can only define minimum standards, which does not prevent the Member States from maintaining or introducing a higher level of protection for individuals. Pursuant to Article 82(2) of the TFEU the directives may be adopted only "to the extent necessary" while simultaneously meeting the principle of proportionality set out in Article 5(4) of the Treaty on European Union (hereafter TEU) and the principle of subsidiarity found in Article 5(3) of the TEU. The established standards should also take into account the differences between the legal traditions and systems of the Member States, which even more explicitly emphasizes the need to respect the principles of proportionality and subsidiarity. The project of such an act shall therefore state the reasons on which it is based and shall refer to any proposals, initiatives, recommendations, requests or opinions required by the Treaties.

The condition relating to the rights of individuals in criminal proceedings that is specified in Article 82(2)b) of the TFEU put the cooperation between the Member States in criminal matters in unfavourable light, because it gave the impression that the existing instruments do not respect the rights of suspects and accused (Suhr, 2009, pp. 318 ff). In this area some particular solutions have been adopted, such as the Council Framework Decision 2008/977 / JHA of 27 November 2008 concerning the protection of personal data processed in the framework of police and judicial cooperation in criminal matters and the Directive of the European Parliament and of the Council 2010/64 / EU of 20 October 2010 on the right to interpretation and translation in criminal proceedings. That was the first time the European Commission has succeeded in regulating court interpreting and sworn translating in a legal instrument.

The Directive 2010/64/EU on the right to interpretation and translation in criminal proceedings aims to improve the protection of individual rights by developing the common minimum rules for the right to a fair trial and the right of defence maintained by these documents. The necessity for ensuring sufficient quality of the translation or interpretation provided to the suspected or accused person "to safeguard the fairness of the proceedings, in particular by ensuring that suspected or accused persons have knowledge of the case against them and are able to exercise their right of defence" is the object of specific provisions in Articles 2(8) and 3(9) of the Directive. Moreover, the quality of the interpreting or translating service provided may be the object of a specific review procedure according to Articles 2(5) and 3(5).

Article 5 of the Directive also addresses the question of practical availability of qualified legal interpreters and translators. According to its provision, the Member States must take concrete measures to ensure the quality of interpretation and - as a means of achieving the necessary quality - establish "a register or registers of independent translators and interpreters who are appropriately qualified". The register, once established, should be made available to legal counsel and relevant authorities. Where the quality of interpretation is not sufficient to guarantee the fairness of the proceedings, according to point 26 of the preamble, the competent authorities must be able to replace the appointed interpreter. Point 32 provides that the level of protection of the Directive should never fall below the standards stipulated by the ECHR and by the Charter. Furthermore, pursuant to point 33 of the preamble, the provisions of this Directive that correspond to rights guaranteed by the ECHR or the Charter should be interpreted and implemented consistently with those rights.

According to Article 6 of the Directive 2010/64/EU, without prejudice to the independence of the judiciary, Member States shall request those responsible for training judges, prosecutors and judicial staff to pay attention to particularities of communicating through an interpreter in order to ensure efficient and effective communication. This recommendation is a novelty aimed to making the prosecutors, police officers or judges aware of factors which may influence the quality of interpretation, such as the rate of speech or highlighting of essential information, which has to be enhanced by appropriate education.

The Member States should have implemented this Directive by 27 October 2013. As defined in the Article 288 TFEU, the directive is a legal act that binding any country to which it is addressed as to the result to be achieved. States are free to choose the form and means to be used. The process of law making involves two

steps. The first step is the adoption of the Directive by the EU institutions - typically Parliament and the Council, acting according to the ordinary legislative procedure. However, the adoption of directives is not a subject to one procedure, but it depends on respective competency norms. The directive must specify the objective of its adoption. The aim is to provide a similar level of protection under taking into account the specifics of the law and the non-legal situation in the Member States. The second step is the implementation of the directive by the Member States.

The scope of freedom, left to the Member States with regard to the transposition of the directive and the determining of sanctions is not unlimited. Above all, the transposition must be effective to achieve the result, so that the objective of the Directive has been implemented (CJEU C-14/83, No. 14). Furthermore, it is necessary to apply appropriate measures for achieving the objective (CJEU C-102/79, No. 44). While implementing of directives with no sanctions, the Member States must carry out an independent assessment of whether sanctions are necessary at all to fully achieve the result prescribed by the Directive. If they consider any sanctions to be necessary, they must choose them from their national criminal, administrative or civil law, as well as establish the specific degree of their dissuasive effect. If, however, the choice of sanctions and their implementation remains the sole responsibility of each Member State, they are obligated to ensure the sanctioning of EU law infringements to the same formal and material extent, as in relation to infringements of national law of a similar nature and importance (Kurcz, 2004: 35; TS EU C-382/92 No. 55). The extent to which the Member States have taken the necessary measures in order to comply with the Directive 2010/64/EU will be assessed by the Commission, which should, by 27 October 2014, submit a report to the European Parliament and to the Council, accompanied, if necessary, by respective legislative proposals.

The lack of transposition of an incorrect transposition of the Directive into the legal order of a Member State may not only lead to the initiation of proceedings by the European Commission for failure to comply with treaty obligations (TFEU, Art. 258), but also to the liability for damages on a general basis (CJEU C -6/90 No. 39f.; CJEU C-334/92, No. 22; CJEU C-178/94, C-179/94, 188-190/94). According to the EU Court of Justice case-law, the lack of transposition or a delayed transposition of the directive causes a direct vertical effect of the directive. The Court dealt with this issue for the first time in the *Van Duyn* case in 1974 (CJEU C-41/74). The Court confirmed then the direct effect of the directive transposed incorrectly or untimely in vertical relationships, that is between the individual and the state. The point was to ensure the full effectiveness of the law of the European Union.

In order to become a court interpreter and a sworn translator in Poland, under the Profession of Sworn Translators Act of 25 November 2004, it is necessary to pass an official examination in front of a national board. After complying with the respective formalities the sworn translator is then entered into the national register of sworn translators, that is publicly available on the website of the Ministry of Justice. The title "sworn translator" means upon the Polish law both a translator and an interpreter. According to Article 197 (1) of the Polish Code of Criminal Procedure Act of 6 June 1997, the sworn translators are bound by the provisions providing that they must carry out their duties impartially and according to their conscience. The same applies when an *ad hoc* interpreter is appointed. If the quality of translation / interpretation is poor, the judge has the power to replace the translator / interpreter.

LEGAL KNOWLEDGE

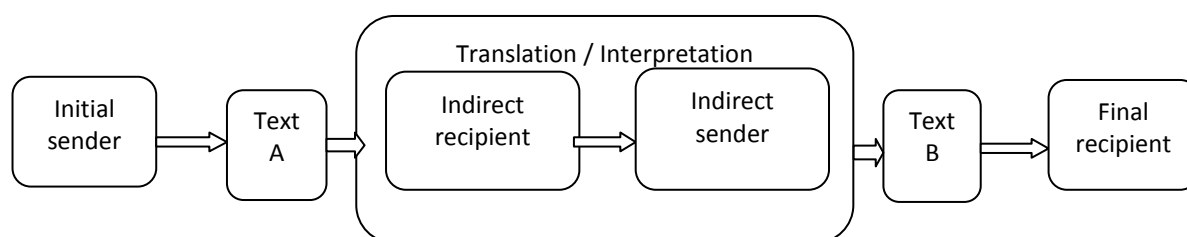
Translation and interpretation are obviously not a purely linguistic act (Osiejewicz, 2010, pp. 360-369). Firstly, the text to be translated must be decoded with respect to its meaning. The meaning ascribed to this text results from the conventions of the source language, from the specialized knowledge and from the translator's / interpreter's valuation and judgment on the text content. To effectively render the text content, the translator / interpreter has also to take into account the capabilities of the recipient (Kielar, 2000: 235). The professional knowledge required of the translator is not confined to linguistics and logically extends to several aspects that result from professional and conventional experience or purely from life occurrences. Thus the basic requirements for translating a legal text are as follows: proficiency in legal language(s), knowledge of the legal system(s) and interpreting / translation skills. The translator must have a specific translational

competence that enables him to replace the source text with the equivalent target text (Grucza F., 1985: 35). This competence is always limited to certain language pairs including certain specialized legal language pairs.

Undoubtedly, legal texts contain certain lexical items (terms) that are constitutive for their cognitive reception (Lukszyn & Zmarzer 2001). The sender of the legal text transmits with its product not only the knowledge and the sense itself, but also the way in which this knowledge and this sense are expressed. For the translation of legal texts, that is for the targeted restructuring of the translation texts not only the knowledge about application of appropriate terms is indispensable, but to the same extent the knowledge of useful and appropriate structuring of the text. Although the structures are not recognized as legal terms, their adequate application is desirable in particular communicative situations. The terms are therefore the most important components of a legal text, but the "professionalism" of the respective legal text is not only limited to terms (Grucza S., 2008c, pp. 177 f).

Only to a small extent is the translation / interpreting done by mechanical application of equivalent expressions and formulations. The main issue is the meaning of expressions that has to be decoded and understood by the translator, because the meaning is the reason for delivering the target text that has been based on terminological equivalents (Kielar, 2002: 177). Insignificant linguistic or text structure - related errors in the target language may only slightly affect the reception of the translation product in the target language, while a false interpretation of the source text, and thus inappropriate reconstruction of intentions of the legal text sender, will lead to failure of the translation process.

The diagram of the translation process in the sense of the anthropological theory of language was proposed by F. Grucza (1981a):



Translational system (Grucza F., 1981).

According to this chart, the text A that is produced by the intermediate sender is received by the translator / interpreter as an indirect recipient and then transmitted by the translator / interpreter as the intermediate sender to the final recipient. The translator / interpreter acts therefore as an intermediary between the producer and the recipient. Both the reception of the text A and the production of the text B by the translator / interpreter are intended to enable the final recipient to reconstruct the appropriate sense and to act appropriately in the communicative aspect (Żmudzki, 2000: 322). In other words, the translation of the text "a" formulated in the language "A" into the language "B" is a reformulation of the text "b" formulated in the language "B" in such a way that the text "b" awakens in its recipients the same or very similar associations, that the text "a" awakens in its recipients (Wojtasiewicz 1996: 22).

During the translation process, at first, the knowledge of the initial sender is expressed in the text A. On the basis of the text A the translator / interpreter as the indirect receiver reconstructs the information intended by the initial sender. After that the translator / interpreter as the indirect sender expresses by means of text B the knowledge that he acquired through the reconstruction. This knowledge is independent of the language used in each case, because this or that language as a kind of practical knowledge enables the translator / interpreter only to make structures of certain statements and express them through the formulation of the text B. The knowledge that has been used for the production of the text B remains unchanged and intact, regardless of the language used in each case. Through the text B, the translator / interpreter pursues his goal, which means that he uses this text as a mean. Although the translator / interpreter performs the dual function of an indirect

recipient and an indirect sender, it must not be forgotten, he is one and the same person, has only one brain and the knowledge he has reconstructed in his brain after reception of the text A and the knowledge that has served him to formulate the text B, are logically the same knowledge, regardless the practical aspect, that is the language used in each case. At the end the final recipient decodes the meaning and the value of the received text B and reconstructs the knowledge that has been used for the formulation of this text. Thus he creates in his mind the knowledge, the meaning and the intentions, on which the production of the text A by the initial sender was based and the expression of which was the intention of the initial sender (Osiejewicz, 2010: 361). This process is similar, both in translation and in interpretation, though of course there are technical differences (Tryuk, 2006: 16).

Thus it is essential to pose a question whether it is better to teach lawyers languages instead of training linguists in law, or in other words, who will better perform in this role: specialists with languages or specialised translators. It is essential to point out, after World War I, there was even no profession of an interpreter in Poland. This profession was mainly pursued by bilingual diplomats, officers, language teachers, scientists, polyglots without a specific profession, whose speeches were regarded as a kind of art (Tryuk, 2007: 25). However, the analysis of legal discourse and mediation in legal communication obviously requires both kinds of knowledge. The key is to establish the proportion in order to determine when could a lawyer trained in the translation and a linguist featuring an extensive knowledge in the field of law and constantly upgrading their professional qualifications be a better translator / interpreter of legal texts.

Obviously there are mostly linguists who translate legal texts, but the answer to the question above depends on the definite circumstances of each act of translation. The language skills are preeminent if the source text is linguistically complex and difficult to decipher, and also when the text recipient expects a linguistically correct output text, whereas specialized legal knowledge appears to be essential for translation among lawyers themselves. The required level of linguistic and professional knowledge of the translator / interpreter depends on the legal difficulty of the text to be translated, as well as on expectations and needs of the translation recipients. Without doubt, however, the foundation for any legal translator / interpreter lies in an extensive knowledge of substantive and procedural law, the judiciary, law enforcement activities and administration combined with a specialized knowledge of legal language, as well as being entirely aware of the ways in which legal knowledge is expressed in linguistic communication (e.g. pleadings in both languages).

LEGAL EDUCATION

A legal interpreter and translator cannot understand the information implicit in specialised texts without legal training. In consequence, without accurate comprehension it is impossible for the legal translator / interpreter to make the text understandable to a foreign recipient. To meet these requirements, current professional practice should be based on appropriate training arrangements for interpreters and translators in order to gradually establish a system of continuous professional development. The legal translator / interpreter training at university level cannot fulfil market needs, since the competences necessary for this occupation as well as the requirements for the relevant national examination are not sufficiently defined. The translator / interpreter education programs have to be established deliberately to enable students to develop the best possible qualities that will help them to exercise their complex role in the future.

A solid educational foundation should be put in place, because this level of expertise can only be achieved in a full-fledged university degree program. It is recommended to establish a special, preferably an inter-faculty, field of study, namely translation / interpretation for authorities and law enforcement bodies, because that is how students will be able to experience the complex character of the role they will be performing when they embark on their careers. The relevant guidance provided by professional associations for such a field of study would be important in order to follow best practices. One of them is e.g. EULITA - European Legal Interpreters and Translators Association, that was founded in Antwerp, Belgium, on 26 November 2009 under the Criminal Justice Programme of the Directorate-General Justice, Freedom, Security of the European Commission (project number JLS/2007/JPEN/249) in order to promote cooperation and best practices in working arrangements with the legal services and legal professions.

In subsequent graduate degree programs translators / interpreters should have the possibility to develop further professional competences. This could be also an essential step for those who have already pursued this profession and are willing to pursue lifelong development by improving their language competences in both Polish and foreign legal language as well as specialized knowledge, particularly regarding the foreign law system, and translation techniques matching the needs of justice and law enforcement agencies.

The training for interpreters currently on offer in Poland is inadequate, primarily due to the lack of training for interpreters of rare languages and the paucity of experts who have competencies to conduct this type of training. Training initiatives conducted in cooperation with representatives of the judiciary are also rare. A solution to this problem would be to train translators / interpreters in various language combinations in cooperation with foreign partners, such as international associations of interpreters / translators. In addition, training is generally available in larger cities, which makes it difficult for students from smaller towns to attend it. The development of e-learning programs could increase its availability of training for a larger group of recipients.

The remuneration of sworn translators in Poland as stated in the Regulation of the Minister of Justice on the Sworn Translator's Remuneration for Translation Services of 24 January 2005 is too low (the fee for an English to Polish translation of a standard calculation page, that is a page containing 1125 characters amounts to 23,00 PLN (approximately 5,5 EUR) in comparison to the prices of educational services, causing financial difficulties in undertaking specialist courses, or even forcing translators / interpreters to take up further, additional employment, enabling them to finance the training. To guarantee the quality of services it is therefore necessary to increase the current wage rates for sworn translators so as to make the profession an attractive alternative to experienced and highly qualified specialists as well as to the best students. In the light of the obligation imposed by the Directive, the state should consider subsidizing specialized training in order to facilitate access to lifelong learning of this professional group.

It is also impossible for sworn translators in Poland to choose a specialisation – they have to be skilled in each branch of law, while lawyers are able to specialise. The abundance of branches of law, and hence the need to master the terminology and substantive knowledge in all these areas, would be conducive to allowing specialization, in particular with regard to the most commonly used languages. This would be beneficial for both members of the judiciary who could benefit from translators specialising in a particular field and to the interpreters themselves who could focus on training in a specific branch of law. Adding information about the specialisation of specific translators to the register of sworn translators available at the Ministry of Justice would directly contribute to improving the quality of translation and increase both the prestige of the profession and trust in those who pursue it.

In many countries, it is a standard practice to separate translators and interpreters, as it is uncommon to be equally efficient in either area because of individual aptitudes. The Polish law on sworn translators does not allow to sworn translators to be devoted exclusively to translation or interpreting. To improve the quality of court interpreting and sworn translation, it is advisable to consider the separation of these two competences.

Nevertheless, an instruction in standards of conduct and good practice is essential among representatives of judiciary. Knowledge of rules governing the profession of a sworn translator (Kierzkowska, 2005) by representatives of judicial institutions is necessary, as it will help to improve the quality of translation. In view of the Directive on the right to interpretation and translation in court proceedings, it is compulsory to set up proper interactions between legal interpreters and translators on the one hand, and judges, prosecutors, attorneys at law etc. on the other in order to contribute to the expedient conduct of proceedings (and thus to decrease litigation costs).

As noted above and as proved in the European Commission 2010 Consultation on European Judicial Training (Ref. Ares (2011) 413544 - 13/04/2011), translation in court should be performed by properly qualified legal translators and interpreters whose training has been widely recognised as both necessary and specific to

answer their need for knowledge of peculiarities of different judicial systems and the respective legal vocabularies, which is sometimes even considered as part of European judicial training as such.

In this context, it is worth noting that a draft to amend Polish regulations governing the conditions for access to the exercise of certain professions is currently being worked on. According to the draft, the Minister of Justice may by means of an administrative decision be able to exempt a candidate for a sworn translator from the requirement of possessing higher education in the event of a significant shortage of sworn translators of the foreign language which that candidate speaks. As indicated above, the difficulty of legal translation stems from the need to possess specialist knowledge of the two legal systems and the specialized linguistic skills (terminology and the means of expressing knowledge). Apart from this, there are specific difficulties arising from the necessity to explain to a person who does not possess the adequate knowledge the meaning of a specific legal text, which involves the skill to compare legal systems in the source and target languages. It is doubtful whether a person with secondary education would be able to handle such difficulties, as well as whether the proposed change is consistent with the objective of Directive 2010/64/EU and contributes to enhancing the quality of translation.

FINAL REFLECTIONS

Article 6 of the TFEU lists the competences of the European Union to carry out actions to support, coordinate or supplement the actions of the Member States. One of the areas of such action at the European level is education. The common feature of these areas is that the harmonization of legal systems of the Member States is excluded. Actions taken to encourage or coordinate arrangements may take the form of binding norms that have the same legal position as any of the provisions of EU law and cannot be questioned by the Member States. Pursuant to Article 165 of the TFEU, the Union should contribute to the development of quality education by encouraging the cooperation between the Member States and, if necessary, by supporting and supplementing their actions.

The division of competences in this filed as for the supranational and the domestic level has been clearly set out in paragraph 1 of Article 6 of the TFEU, where it is stated that the European Union must fully respect the responsibility of Member States for the content of teaching and the organization of education systems and their cultural and linguistic diversity. The education policy directly affects many other policies and fundamental freedoms, hence the concept of leaving the responsibility for its formation with the Member States and to reduce the Union's competences only to encouraging, supporting and complementing them. Article 165 of the TFEU excludes any harmonization in this area. The prohibition applies to any possible treaty authorization and refers to the content, not to the form of the measure adopted. The concept of harmonization is not limited to situations in which national regulations already exist, but includes the consequences for a Member State arising from the adoption of acts of harmonization (Callies & Ruffert, 2011, art. 165 TFEU, No. 22). The prohibition also includes the so-called indirect harmonization, defined as shaping educational policies of the Member States through the use of financial promises.

The relationship between the EU law and the national laws of EU Member States has been repeatedly considered by the Court of Justice of the EU, as well as by the national courts of the Member States, especially their constitutional courts. The period from 1962 to 1994 was decisive for the present case law. In that time a total of 90 judgments were issued: 20 of them by the Court of Justice of the EU, and the remaining 70 by national courts of the then twelve Member States. The issue has been initiated by the German Federal Constitutional Court in its judgments, the first of which comes from 1967. From 1967 to 1993 this Court commented on the above subject eight times (Wasilewski, 2009: 215). The result of concerns about the preservation of national identity is its famous judgment of 2009, describing - from the perspective of the German state - the boundaries of legitimacy of the Union with regard to the completion of European integration. The judgment concerned the compatibility of the Lisbon Treaty (and two other laws) with the Basic Law for the Federal Republic of Germany and the consequences of the ratification of the Treaty into the German legal order. The Court pointed out the necessity to protect the elements constituting the German state, and containing in the concept of "constitutional identity". It detailed the branches of law, which must be

remain in the activity of the Member States: criminal law outside the scope of intergovernmental cooperation; use of the national armed forces outside the country; responsibility for receipts and expenditure of the state; organization of social order and social security; education. In these areas a consensus allowing the harmonization will remain difficult.

The Member States have decided not to grant to the European Union competences in the area of education policy. This means that under the current Treaty the European Union has only the power to make recommendations regarding the legal education of court interpreters and sworn translators by highlighting the necessity for ensuring the respective quality of translation / interpretation. The burden rests on the Member States.

Note: The paper is an extended written version of an oral presentation at the international academic conference “Legal Education in Contemporary Europe” that was held from 30.9. 2014 to 2.10.2014 in Zielona Góra / Poland to inaugurate the establishing of a new Faculty of Law and Administration at the University of Zielona Góra.

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