„Facta Simonidis", 17 (2024), nr 2
s. 387–403

dr hab. Marta Sobieszewska, prof. UMCS
Uniwersytet Marii Curie-Skłodowskiej w Lublinie
e-mail: marta.sobieszewska@mail.umcs.pl
https://orcid.org/0000-0002-2429-802X

Application of Juritraductology to Translate Legal Terms Determining a Person's Age. The Polish-French Example

Zastosowanie jurystraduktologii do tłumaczenia terminów prawnych określających wiek osób. Przykład polsko-francuski

Summary

The aim of this article is to apply the juritraductological method to the translation of age-defining terms, using Polish and French examples ('małoletni'/'mineur'). Juritraductology is a new field of interdisciplinary research that has been developing in France since the late 20th century. Its importance and scope are growing with the progress of work conducted by a team of researchers led by Prof. Sylvie Monjean-Decaudin at the Centre de Recherche Interdisciplinaire en Juritraductologie (Cerije) in Paris. The juritraductological method, as applied in this paper, is a three-stage translation process. The first stage, called "semasiological" (from words to concepts), allows for answering the question, "what does a word mean?" The second stage consists of a contrastive analysis of Polish and French law (comparative law). The third and last stage is "onomasiological" (from concepts to words) and answers the question "what are these concepts called?" Both approaches – onomasiological and semasiological – can be considered complementary, as they enable the implementation of mutually reinforcing tasks. The research results obtained will allow for assessment of the contribution of the new scientific discipline toward improving the quality of legal translations.
Keywords: juritraductology, legal terms, semasiology, onomasiology, comparative law

Streszczenie

Celem artykułu jest praktyczne zastosowanie metody juryslingwistycznej do tłumaczenia terminów określających wiek osoby na przykładzie języka polskiego i francuskiego ('małoletni'/'mineur'). Juryslingwistyka jest nowym polem badań interdyscyplinarnych, które rozwija się we Francji od początku XXI wieku. Jej znaczenie i zasięg rosną wraz z postępem prac prowadzonych przez zespół badaczy kierowany przez prof. Sylvie Monjean-Decaudin w Centre de Recherche Interdisciplinaire

ISSN: 1899-3109; eISSN: 2956-4085
https://doi.org/10.56583/fs.2631

en Juritraductologie (Cerije) w Paryżu. Zaprezentowane badanie przedstawia trzyetapowy proces tłumaczenia, w którym pierwszy etap, nazywany „semazjologicznym" (od słów do pojęć), pozwala odpowiedzieć na pytanie „co oznacza słowo?". Drugi etap polega na analizie kontrastywnej prawa polskiego i francuskiego (prawo porównawcze). Trzeci i ostatni etap ma charakter „onomazjologiczny" (od pojęć do słów) i odpowiada na pytanie „jak nazywają się te pojęcia?". Oba podejścia – onomazjologiczne i semazjologiczne – można uznać za komplementarne, ponieważ umożliwiają realizację wzajemnie uzupełniających się zadań. Uzyskany wynik badania pozwoli ocenić wkład nowej dyscypliny naukowej w poprawę jakości tłumaczeń z zakresu prawa.
Słowa kluczowe: jurystraduktologia; terminy prawne; semazjologia; onomazjologia; prawo porównawcze

Introduction

The language of law presents a far-reaching specificity compared to other specialized languages (i.e., architecture, medicine, science, etc.) and is recognizable due to its structure and style. Its specificity results from the need to refer to precise, technical realities of a changing nature and to name the legal reality in all its complexity. Law depends on the historical and cultural context in which it developed and is expressed through the language of a given community or, as Alain Sériaux writes in his book *Le droit comme langage* (2020), "It is, in essence, language, discourse: jurisdiction."[1]

The complexity of legal matter is therefore reflected in the language that expresses it. In the 1980s, a special issue of the journal "Meta" (1979) was devoted to the translation of legal texts, in which outstanding researchers such as Jean-Claude Gémar,[2] Georges Mounin,[3] and Jean Darbelnet[4] (et al.) presented the theoretical foundations of a new discipline later called "jurilinguistics." From then on, the efforts of linguists and lawyers, often independent of each other, aimed to define its subject and scope, giving legal translation its rightful place in the education of translators. The language of law gives rise to scientific disciplines that have not been developed by any other specialized language – jurilinguistics (or legal linguistic[5]) and juritraductology. Jurilinguistics, examining the discourse of

1 "Il est, par essence, langage, discours : jurisdictio" (A. Sériaux A, *Le droit comme langage*, Paris 2020, book cover).

2 J.-C. Gémar, *La traduction juridique et son enseignment: aspects theoriques et pratiques*, "Meta," 24 (1979), nº 1, pp. 35-53, https://doi.org/10.7202/002870ar.

3 G. Mounin, *La linguistique comme science auxiliaire dans les disciplines juridiques*, "Meta," 24 (1979), nº 1, pp. 9-17, https://doi.org/10.7202/003676ar.

4 J. Darbelnet, *Réflexions sur le discours juridique*, "Meta," 24 (1979), nº 1, pp. 26-34, https://doi.org/10.7202/002480ar.

5 The term 'linguistics of law' (Fr. 'linguistique juridique') was first used by François Gény in 1921; see F. Gény, *Science et technique en droit privé positif*, partie 3, Paris 1921. However, it was Cornu, who titled his book this way in *Linguistique juridique*, Paris 1990, who is considered the "father" of the discipline in France.

law in all its aspects and manifestations, constitutes valuable assistance in its editing, understanding, interpretation, translation, and execution.[6] Juritraductology, however, develops on two levels. On the one hand, it focuses on researching, describing, and theorizing linguistic phenomena related to legal translation, and on the other, it raises important issues regarding translation policy in the context of national and international law.

At the end of the 20th century, legal translation became an independent subject of study for lawyers and legal translators in Canada and Europe.[7] This epistemological starting point gave rise to a new interdisciplinary field of research: "juritraductology."[8]

The neologism 'juritraductology' ('juritraductologie') was used by Jacques Pelage,[9] thus naming the science dealing with the problems of translating law. According to Palege, juritraductology is inextricably linked to comparative law, and the interpretation of legal discourse is the point at which the translator's knowledge meets the lawyer's knowledge. In other words, knowledge in the field of legal sciences unquestionably improves the translator's qualifications and is extremely desirable from the perspective of the quality and effectiveness of the translator's work. That is why it is so important to educate translators in both fields, especially those who specialize in legal translation. Translators working for the Court of Justice of the European Union (or other EU institutions) are also lawyers and linguists (French: 'juriste-linguiste'). Similarly, in the world of science, in accordance with international standards, to be called a jurilinguist (or a lawyer-linguist), one must have dual education in law and linguistics.

Juritraductology opens the perspective of interdisciplinary research covering comparative law, linguistics, traductology, jurilinguistics, and the right to translation. The institution of the right to translation is often treated as a "side issue, less relevant to other elements of the right to defense."[10] However, Directive 2010/64/EU of the European

6 M. Sobieszewska, *Juryslingwistyka: między językiem a prawem*, "Studia Iuridica Lublinensia," 24 (2015), no. 4, p. 125, https://doi.org/10.17951/sil.2015.24.4.123.

7 M. Sparer, *Pour une dimension culturelle de la traduction juridique*, "Meta," 24 (1979), nº 1, pp. 68-94, https://doi.org/10.7202/004204ar; L.-P. Pigeon, *La traduction juridique. L'équivalence fonctionnelle*, in: *Langage du droit et traduction. Essais de jurilinguistique*, dir. J.-C. Gémar, Montréal 1982, pp. 271-281; E. Ortega Arjonilla, P. San Ginés Aguilar (coords.), *Introducción a la traducción jurídica y jurada (inglés-español): Orientaciones metodológicas para la realización de traducciones juradas y de documentos jurídicos*, Granada 1996; S. Šarčević, *New Approach to Legal Translation*, The Hague 1997; C. Bocquet, *La traduction juridique. Fondement et méthode*, Bruxelles 2008; and others.

8 F. Barbin, S. Monjean-Decaudin, *La traduction juridique et économique*, Paris 2019; S. Monjean-Decaudin, *Peut-on traduire le droit? Approche juritraductologique*, in: *Langues et langages juridiques. Traduction et traductologie, didactique et pédagogie*, dir. R. Baumert et al., Bayonne 2021, 25-46; idem, *Traité de juritraductologie. Épistémologie et méthodologie de la traduction juridique*, Villeneuve d'Ascq 2022.

9 J. Pelage, *Éléments de traductologie juridique: Application aux langues romanes*, Launay 2001, pp. 87-91.

10 M. Toruński, *Prawo do tłumaczenia pokrzywdzonego w polskim procesie karnym – wybrane zagadnienia*, "Problemy Prawa Karnego," 5 (2015), nr 1, p. 2, http://dx.doi.org/10.31261/PPK.2021.05.03.

Parliament and of the Council of 20 October 2012 on the right to interpretation and translation in criminal proceedings[11] gives all citizens suspected of or arrested for a crime the right to interpretation and to use translation services legal documents in their native language. Anyone who finds themselves in a country whose language they do not understand or speak is exposed to the likelihood of events occurring and their legal consequences. In other words, the aforementioned directive seeks to ensure that suspected or accused persons have the right to interpretation and translation in criminal proceedings, with a view to ensuring their right to a fair trial. The right to translation thus responds to one of the fundamental needs of globalization: legal and judicial communication between members of communities with different languages and legal cultures.

Juritraductology is different from Legal Translation Studies, which mainly focuses on the analysis of the complexity of translating legal texts and/or concepts. This research falls within the scope of (juri)linguistics and translation studies and puts forward a variety of approaches and solutions of undeniable value. This research is also joined by the analyses of comparative lawyers, who deal with the problems of translating legal concepts specific to individual legal systems. Moreover, juritraductology, developed by Cerije in France[12] (the first interdisciplinary research center on the theory and practice of legal translation, observed from the perspective of legal sciences and translatology), is not limited to law translation (*traduction du droit*) but also takes into account the law of translation (*droit de la traduction*), which has been omitted in legal translation works so far. The aim of juritraductologists is to develop an integrated epistemological concept that will allow for the development of a universal pragmatic approach to the issues of law and translation.

1. The method of juritraductology

Juritraductology makes full use of its interdisciplinarity, drawing on legal sciences, linguistics, and traductology, while intensively developing a pragmatic approach. Its goal is to achieve maximum equivalence between the source and target texts.[13] In practice, the use of the juritraductological method means a three-stage procedure:[14]

(1) The first stage is semasiological in nature and involves understanding the source text by analyzing the form, discovering the meanings of lexemes, sentences, and finally

11 Directive 2010/64/EU of the European Parliament and of the Council of 20 October 2010 on the right to interpretation and translation in criminal proceedings, https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2010:280:0001:0007:en:PDF [access: 5.11.2024].

12 Centre de recherche interdisciplinaire en juritraductologie (Cerije), https://www.cerije.eu/ [access: 3.11.2024].

13 F. Barbin, S. Monjean-Decaudin, *La traduction juridique et économique*.

14 S. Monjean-Decaudin, *Traité de juritraductologie*.

the entire text. To fully understand the assumptions of the semasiological method, it is necessary to refer to the concept of the linguistic sign proposed by Ferdinand de Saussure. A linguistic sign is a bilateral unit consisting of a signifier ('un signifiant') and a signified ('un signifié'). According to the assumptions of the semasiological concept, completely different functions and meanings are attributed to different forms. As Milan Golian states, "the method of semasiology consists of both, in participle forms of language, in procedure of the class, in deducing categories of forms and, in analyzing them, categories of concepts [...]."[15]

In the canonical approach, semasiological research takes as its starting point the description of vocabulary, presented in systemic or thematic categories, and seeks an answer to the question: "what do words mean?" and, consequently, to the question: "what concepts (conceptual models) can be reached by analyzing words and the relations between them?" It is therefore assumed that semasiology starts from the description of language units and the relations between them, and assumes a sequence: from words to concepts that can be reconstructed from lexical data.

(2) Comparative law. The next step is to distinguish the affiliation of terms by asking whether a term is legal or non-legal (general). To find the answer, the translator needs to consult specialized dictionaries or terminology databases on the Internet (e.g., IATE[16]). This stage of translation involves comparing (for example) Polish and French law. This is the so-called "non-linguistic stage,"[17] because it concerns the comparison of source and target institutions. The use of comparative law allows for the comparison of two laws: source law and target law. Comparing here includes determining the relations of similarities and differences between terms and their "referents" in the law of a given system, estimating their scope, searching for the reasons for their use, and recognizing their meaning.[18]

In a model approach, legal comparative studies based on linguistic criteria would consist of an appropriate combination of identical, or at least similar in meaning, terms from different languages. However, the problem is that in the array of institutions and legal solutions, it is not always possible to find such an equivalent. For example, in France, civil partnerships are called "pacs" (*pacte civil de solidarité*), in Belgium "couples pacsés" are called "la cohabitation de fait" or "union libre," and in

15 "[...] la méthode sémasiologique consistera alors, à partir des formes d'une langue, à procéder à leur classement, à dégager les catégories formelles et, en dernière analyse, les catégories conceptuelles [...]" (M. Golian, *L'aspect verbal en français?*, Hamburg 1979, p. 7).

16 IATE, The terminology database of the European Union, https://iate.europa.eu/ [access: 5.10.2024].

17 S. Monjean-Decaudin, *Réflexion sur l'inflexion du signifié dans la traduction juridique de Claude Bocquet*, "Parallèles," 2013, nº 25, p. 22.

18 Y.-M. Laithier, *Droit comparé*, Paris 2009.

Québec, as the case may be, "union de fait" or "union civile." However, not all countries have adopted such a solution, and the legislation of some countries, e.g., Bulgaria, Lithuania, Poland, Romania or Slovakia does not provide for the registration of civil partnerships. The lack of legal equivalence makes derivation an impossible functional equivalent at the linguistic level. Translating "pacs" *verbum pro verbo* – as "civil solidarity pact" makes little sense without additional clarification that it is a French partnership. Another example is the difficulty of translating the terms 'law' in the objective sense and 'entitlement' in the subjective sense. The English equivalents of these Polish terms are 'prawo' ('law') and 'uprawnienie' ('right'). However, in many languages, e.g., Latin, French, Italian, there is only one term – '*ius*', 'droit', 'diritto', 'derecho' – meaning both 'law' and 'entitlement'.

(3) The term 'onomasiology' was introduced to linguistics by Adolf Zauner in 1902, in his doctoral thesis, published a year later.[19] The aim of onomasiology is to answer the question, "Why language uses this or that term to name this or that concept."[20] The question, therefore, concerns how the user of a given language names and categorizes the reality surrounding them.

Research that follows the sequence from concepts to words is considered to be in line with the onomasiological direction. The semasiological question, "What do words mean?" can be supplemented by an onomasiological question: "What are things called?"

The distinction between semasiology and onomasiology defines two poles of the description of meaning. Therefore, it is necessary to emphasize not only the differences – i.e., the direction of research activities – but also the similarities: common, fundamental assumptions about the relationship between language and the world of concepts. The essence of such reasoning is the perception of the semasio-onomasiological relationship between a concept and a word. Zauner stated,

> We have two branches of the science of language that complement each other: one of them starts from something external, from a word, and asks what concept, what meaning would be associated with this word, hence semasiology [...], the other takes the concept as a starting point and determines what a given language has for this concept, a name [...], hence onomasiology.[21]

Because the translated legal text often carries legal consequences, the content of the source text must be accurately reflected in the target text. If the translation accurately reproduces the content of the original, it has served its purpose effectively. A legal text should never be translated 'mot à mot' (word for word), because the translator is

19 A. Zauner, *Die romanischen Namen der Körperteile. Eine onomasiologische Studie*, "Romanische Forschungen", 14 (1903), pp. 339-340.

20 Quoted after J. Wierzchowski, *Semantyka językoznawcza*, Warszawa 1980, pp. 42-43.

21 Quoted after J. Wierzchowski, *Leksykalno-frazeologiczna struktura języka*, Wrocław 1990, pp. 64-65.

not expected to be the so-called 'machine-à-mots'.[22] The meaning of a word can only be discovered in context. A word leads to a concept, and a concept leads to another concept, which, once defined, becomes a term – this is how law works. That is why it is so important to understand concepts in context. A translator of legal texts does not follow straight, defined paths; on the contrary, the process of "transitioning" from one language and legal system to another, from the source text to the target text, is a winding path full of traps. According to Claude Tousignant,[23] the interpretation of contracts or wills can be controversial for a very trivial reason: a poorly selected, misunderstood word, sentence, or even just a sound. "This is how, often times, a libel or a death threat is truly based on only one or a few words, a sentence at most."[24] Therefore, a translator specializing in this matter must be aware of the importance of words in law.

2. Case study: Translation of the Polish-French terms 'małoletni'/'mineur'

Terms used in Polish law to designate a person's age, for example 'małoletni' ('minor'), are a common source of confusion. To use the juritraductological method, initial arrangements should be made, i.e., provide data on the source and target languages, the system/family/branch of law, and the translated term.

1. Source language: Polish/target language: French.
2. Polish law/French law.
3. Family/branch of law: continental law.
4. Translated term: 'małoletni' ('minor').

2.1. Semasiological stage

The first stage, semasiological, consists of adding the source concept to the legal and semantic content. This is the beginning of the process of comparing rights based on supporting questions that the translator asks themselves, e.g.:

1. What does the term 'minor' mean?
2. Is it a legal term? If so, what is its definition?

To answer these questions, one needs to look for information in dictionaries, legislation, and doctrine.

22 Irimia D., *Pour une nouvelle branche de droit? La traduction juridique, du droit au langage*, "Études de linguistique appliquée," 2016, nº 183, p. 330, https://doi.org/10.3917/ela.183.0329.

23 C. Tousignant, *La sociolinguistique au secours des juristes*, "Criminologie," 24 (1991), nº 1, p. 109.

24 "C'est ainsi que, souventes fois, un libelle ou une menace de mort ne reposent véritablement que sur un ou quelques mots, une phrase tout au plus" (ibidem).

In Polish, in the common sense, an adult is someone who has turned 18. All others are: 'dzieci' ('children'), 'małoletni' ('minors'), 'nieletni' ('juveniles'), 'niepełnoletni' or 'młodociani' ('minors or young people').

According to the *Wielki słownik języka polskiego*, 'maloletni' ('minor') is a person who "has not yet turned 18 and does not have full civil rights and does not bear full responsibility for their actions" ('małoletni' to osoba, która "nie ukończyła jeszcze 18 lat i nie ma pełnych praw obywatelskich oraz nie ponosi pełnej odpowiedzialności za swoje czyny").

In the *Encyklopedia prawa*, 'małoletni' ('minor') refers to a person

> who has not yet reached the age of majority and does not have the capacity to perform legal acts or whose capacity is limited. Under Polish civil law, this is a person under the age of 18. However, there are certain exceptions.

Further:

> According to Art. 10 of the Polish Civil Code [Kodeks cywilny; K.c. – M.S.], an adult is someone who has reached the age of 18. From that moment on, as a rule, every natural person acquires full legal capacity, i.e., the ability to perform legal acts on their own behalf. Nevertheless, as stated in Art. 12 of the Civil Code, from the age of 13, minors acquire limited legal capacity, which means that they can perform minor legal acts in everyday matters. As a rule, a minor will not be able to perform legal acts that have serious consequences (e.g. enter into a credit agreement), but over the age of 13, they will be able to perform minor acts (e.g. buy bread).[25]

On the website of the Ministry of Justice, under the *Pojęcia i definicje* tab, the following definition is provided:

> A minor is a natural person who has not yet reached the age of 18. They become of age on the day they reach the age of 18 or on the day they enter into marriage. They do not lose it even if the marriage is annulled. Only upon reaching the age of majority do they acquire full legal capacity. A minor who has not yet reached the age of 13 does not have legal capacity. A minor who has reached the age of 13 but has not yet reached the age of 18 has limited legal capacity.[26]

Once this information has been found, questions should be asked about the use of the term 'małoletni' in various branches of law.

25 *Encyklopedia prawa* (Encyclopedia of Law), https://www.infor.pl/prawo/encyklopedia-prawa/m/273470,Maloletni.html [access: 7.11.2024].

26 Ministerstwo Sprawiedliwości (Ministry of Justice), *Pojęcia i definicje*, https://isws.ms.gov.pl/pl/pojecia-i-definicje/letter,M,1.html [access: 18.10.2024].

3. Who is a 'minor' in Polish civil law?

Unfortunately, none of the provisions in Poland's legal system directly defines the term 'małoletni'. Based on the content of Art. 10 of the Civil Code, which determines who is entitled to the characteristic of majority, the definition of a minor can be established. Therefore, it is a person who has not completed eighteen years of age and has not obtained majority by entering into marriage. Therefore, a 'osoba małoletnia' ('minor') is the opposite of an 'osoba pełnoletnia' ('adult').

> Art. 10 K.c. Pełnoletność
> § 1. Pełnoletnim jest, kto ukończył lat osiemnaście.
> § 2. Przez zawarcie małżeństwa małoletni uzyskuje pełnoletność. Nie traci jej w razie unieważnienia małżeństwa.
> Art. 15 K.c. Ograniczona zdolność do czynności prawnych
> Ograniczoną zdolność do czynności prawnych mają małoletni, którzy ukończyli lat trzynaście, oraz osoby ubezwłasnowolnione częściowo.[27]

Minority is associated with several legal consequences, e.g., in accordance with Art. 11 of the Civil Code, full legal capacity is acquired upon reaching the age of majority. This means that the minor has not been equipped with full legal capacity and therefore cannot shape their legal situation independently. The Polish legislator solved the problem of legal capacity of minors as follows: minors are divided into two categories – minors up to 13 years of age and minors over 13 years of age. The latter are provided with limited legal capacity.

4. Who is a 'minor' in Polish family law?

Pursuant to Art. 92 of the Polish Family and Guardianship Code (Kodeks rodzinny i opiekuńczy), a 'małoletni' ('minor') is a person who remains under parental authority until adulthood.

5. Who is a 'minor' in Polish criminal law?

In Polish substantive criminal law, the term 'małoletni' ('minor') is used to describe the victim of a crime or offense. The Penal Code includes mainly crimes against sexual freedom and decency (Art. 199 § 2 and 3 of the Penal Code [Kodeks karny] and the crime

27 "Art. 10 of the Polish Civil Code: Majority
§ 1. Anyone who is eighteen years of age is an adult. § 2. By entering into marriage, a minor becomes of majority. He/she does not lose it in the event of an annulment of the marriage.
Art. 15 of the Polish Civil Code: Limited legal capacity
Minors over thirteen years of age and partially incapacitated persons have limited legal capacity." (Trans. J. Dunster).

of getting a minor intoxicated (drunk) (Art. 208 of the Penal Code). The provisions may also distinguish minors with age thresholds, e.g., up to 15 years of age (Art. 197 § 3 point 2 of the Penal Code, Art. 200 § 1-5 of the Penal Code).

6. Who is a 'minor' in the Polish Petty Offenses Code?

The Code of Petty Offenses also mentions 'małoletni' ('minor') in Art. 104:

> (1) Kto skłania do żebrania małoletniego lub osobę bezradną albo pozostającą w stosunku zależności od niego lub oddaną pod jego opiekę, podlega karze aresztu, ograniczenia wolności albo grzywny. I w art. 106 Kto, mając obowiązek opieki lub nadzoru nad małoletnim do lat 7 albo nad inną osobą niezdolną rozpoznać lub obronić się przed niebezpieczeństwem, dopuszcza do jej przebywania w okolicznościach niebezpiecznych dla zdrowia człowieka, podlega karze grzywny albo karze nagany.[28]

7. Who is a 'minor' in the Polish Code of Criminal Procedure?

In accordance with the instructions contained in Art. 185a § 4 and in Art. 185b of the Code of Criminal Procedure (Kodeks postępowania karnego), different rules apply in the case of interrogation of a 'małoletni' ('minor') under 15 as a witness and as an injured party. Art. 185a § 4 states, In cases of crimes listed in § 1, a minor victim who was 15 years old at the time of interrogation shall be interrogated under the conditions specified in § 1-3 when there is a justified fear that interrogation under other conditions could have a negative impact on his mental state.

> (3) Art. 185b § 1. W sprawach o przestępstwa popełnione z użyciem przemocy lub groźby bezprawnej lub określone w rozdziałach XXIII, XXV i XXVI Kodeksu karnego pokrzywdzonego, który w chwili przesłuchania nie ukończył 15 lat, przesłuchuje się w charakterze świadka tylko wówczas, gdy jego zeznania mogą mieć istotne znaczenie dla rozstrzygnięcia sprawy, i tylko raz, chyba że wyjdą na jaw istotne okoliczności, których wyjaśnienie wymaga ponownego przesłuchania, lub żąda tego oskarżony, który nie miał obrońcy w czasie pierwszego przesłuchania pokrzywdzonego. § 2. Przesłuchanie przeprowadza sąd na posiedzeniu z udziałem biegłego psychologa. Prokurator, obrońca oraz pełnomocnik pokrzywdzonego mają prawo wziąć udział w przesłuchaniu. Osoba wymieniona w art. 51 § 2 lub osoba pełnoletnia wskazana przez pokrzywdzonego, o którym mowa w § 1, ma prawo również być obecna przy przesłuchaniu, jeżeli nie ogranicza to swobody wypowiedzi przesłuchiwanego. Jeżeli oskarżony zawiadomiony o tej czynności nie posiada obrońcy z wyboru, sąd wyznacza mu obrońcę z urzędu. § 3. Na rozprawie

28 "Whoever induces a minor or a helpless person or a person who is dependent on his/her or placed under his/her care to beg, shall be subject to the penalty of arrest, restriction of liberty or a fine. And in art. 106 Whoever, having an obligation to care for or supervise a minor up to 7 years of age or another person unable to recognize or defend himself against danger, allows that person to stay in circumstances dangerous to human health, shall be subject to a fine or a reprimand." (Trans. J. Dunster).

> głównej odtwarza się sporządzony zapis obrazu i dźwięku przesłuchania oraz odczytuje się protokół przesłuchania. § 4. W sprawach o przestępstwa wymienione w § 1 małoletniego pokrzywdzonego, który w chwili przesłuchania ukończył 15 lat, przesłuchuje się w warunkach określonych w § 1-3, gdy zachodzi uzasadniona obawa, że przesłuchanie w innych warunkach mogłoby wywrzeć negatywny wpływ na jego stan psychiczny.[29]

2.2. Comparative law stage

This stage consists of conducting a contrastive analysis to attempt to compare the concept of 'minor' in Polish and French law. For this purpose, it is necessary to determine whether there is a concept similar to the concept of 'małoletni' ('minor') in French law. This study comes down to formulating the following questions:

1. Does the concept of 'minor' or its equivalent exist in French language and law?
2. If so, what is the name of the concept? What is its semantic content?
3. If not, how can the meaning of the concept of 'minor' be transferred?
4. Is the Polish term 'małoletni' an appropriate translation of the French term 'mineur'?

To answer these questions, as in the case of the semasiological stage, it is necessary to check in dictionaries whether the term 'małoletni' exists in French. The *Polsko-francuski słownik terminologii prawniczej* provides the French equivalent of the Polish term 'małoletni' as 'mineur'[30]. Furthermore, the *Trésor de la langue Française informatisé* proposes three definitions. In the first, 'mineur' means "ouvrier qui travaille dans une mine et plus particulièrement dans une mine de charbon, ouvrier d'abattage" ("worker who works in a mine and more particularly in a coal mine, mining worker"). Etymologically and historically "qui travaille à l'exploitation d'une mine" ("who works in the exploitation of

29 "Art. 185b § 1. In cases of crimes committed with the use of violence or unlawful threats or those specified in Chapters XXIII, XXV and XXVI of the Penal Code, the injured party, who was under 15 years of age at the time of interrogation, shall be interrogated as a witness only if his/her testimony is may be important for the resolution of the case, and only once, unless significant circumstances come to light, the clarification of which requires repeated hearing, or the accused who did not have a defense lawyer during the first hearing of the injured party requests it. § 2. The hearing is conducted by the court at a meeting with the participation of an expert psychologist. The prosecutor, defense attorney and attorney of the injured party have the right to participate in the hearing. The person mentioned in Art. 51 § 2 or an adult indicated by the injured party referred to in § 1, has the right to also be present during the interrogation, if this does not limit the freedom of expression of the interrogated person. If the accused notified of this action does not have a defense attorney of his/her choice, the court shall appoint a public defender. § 3. At the main hearing, the recorded image and sound recording of the hearing is played and the minutes of the hearing are read. § 4. In cases of crimes listed in § 1, a minor victim who was 15 years old at the time of interrogation is interrogated under the conditions specified in § 1-3 when there is a justified fear that interrogation under other conditions could have a negative impact on his or her mental condition." (Trans. J. Dunster).

30 E. Łozińska-Małkiewicz, *Polsko-francuski słownik terminologii prawniczej*, wyd. 2, Toruń 2003.

a mine"). In the second, entomologically, 'mineur' refers to "(insecte ou larve d'insecte) qui creuse des galeries dans la terre, le tronc des arbres ou le parenchyme des feuilles pour y déposer ses oeufs" ("[insect or insect larva] which digs galleries in the earth, the trunk of trees or the parenchyma of leaves to lay its eggs there"); etymologically and historically "mineux *adj*. – qui creuse une mine" ("miner adj. – who digs a mine"). In the third, 'mineur' means "qui est plus petit, inférieur ou considéré comme tel" ("which is smaller, inferior or considered as such") and has various uses, e.g., in geography "lit mineur (d'un cours d'eau)" ("minor bed [of a watercourse]"), in logic "terme qui a la plus petite extension et qui sert de sujet à la conclusion" ("term which has the smallest extension and which serves as the subject of the conclusion"), in the Catholic religion "la mineure" est la plus courte

> thèse que les étudiants en théologie soutenaient durant le cours de la license, et dans laquelle il ne s'agissait ordinairement que de théologie positive [...]. On appelait cet acte mineure parce que c'était le plus court de tous ceux qu'on soutenait pendant la licence. *Soutenir une mineure. Faire sa mineure* [...]. *Mineure ordinaire* (Ac. 1835, 1878) ('la mineure' is the shortest "thesis that theology students defended during the course of the degree, and in which it was usually only a question of positive theology [...]. This act was called 'mineure' because it was the shortest of all those that were defended during the degree. To defend 'une mineure', a minor. To do 'sa mineure' [...]. Ordinary minor [Ac. 1835, 1878]").[31]

The *Le Robert Dico online* gives this definition: "mineur (personnes) qui n'a pas atteint l'âge de la majorité (18 ans, en France)" ("minor (persons) who has not reached the age of majority [18 years, in France]").[32] In *Lexique des termes juridiques*, 2011, 'mineur' (civil law) is a natural person who has not yet reached the age of majority (18 years) and who, as a result, is deprived of the possibility of exercising their rights and is placed under a protection regime.[33] In *Vocabulaire juridique* (2009), the term 'mineur' (lat. minor) also means an individual who has not reached the age of majority (usually civil majority).[34]

Two observations follow from this: in Polish, the term 'małoletni' appears exclusively as a legal term, while in French, 'mineur' it is a polysemous term and only in one of its numerous meanings (in legal usage) it is an appropriate translation of the Polish term 'małoletni'.

Similarly to Poland, in France an adult is a person who is over 18 years old, and therefore, a minor is a person who is under 18 years old.[35] This concept is used in the French

31 *Trésor de la langue Française informatisé*, http://atilf.atilf.fr/ [access: 3.11.2024].

32 *Le Robert Dico en ligne*, https://dictionnaire.lerobert.com/definition/mineur [access: 22.10.2024].

33 S. Guinchard, T. Debard (dir.), *Lexique des termes juridiques*, 18 éd. Paris 2011.

34 G. Cornu (dir.), *Vocabulaire juridique*, Paris 2009.

35 Loi no 74-631 du 5 juillet 1974 fixant à dix-huit ans l'âge de la majorité (Law No. 74-631 of July 5, 1974 setting

Civil Code and the Penal Code, so a minor is a person under 18 years of age, regardless of the nature or legal basis of the proceedings. It should be noted, however, that the French legislator does not provide for a lower age limit for criminal responsibility but introduces various age limits for the possibility of imposing measures, educational sanctions, and penalties. The most important criterion here is the ability to recognize the meaning of the committed act, while the upper limit in relation to minors is 18 years of age.

Under French law, a minor who is under 18 years of age does not have legal capacity. In the exercise of their rights, they must be represented by statutory representatives (usually parents). However, minors must participate in all decisions that concern or affect them, depending on their age and judgment. Cases involving minors are handled by judges specializing in family law, abbreviated as "JAF" ("juges aux affaires familiales"), e.g., children's judge ("juges des enfants"), family judge ("le juge aux affaires familiales") or guardianship and guardianship judge ("juge des tutelles").

A reading of the French Civil and Penal Code leads to the conclusion that regardless of the nature or legal basis of the proceedings, as well as regardless of the complicated division of age thresholds determining criminal liability, a minor is referred to as a 'mineur'. E.g., French Civil Code :

> (4) Article 388 C. civ. Le mineur est l'individu de l'un ou l'autre sexe qui n'a point encore l'âge de dix-huit ans accomplis.
> Article 388-1 C. civ. Dans toute procédure le concernant, le mineur capable de discernement peut, sans préjudice des dispositions prévoyant son intervention ou son consentement, être entendu par le juge ou, lorsque son intérêt le commande, par la personne désignée par le juge à cet effet.
> Cette audition est de droit lorsque le mineur en fait la demande. Lorsque le mineur refuse d'être entendu, le juge apprécie le bien-fondé de ce refus. Il peut être entendu seul, avec un avocat ou une personne de son choix. Si ce choix n'apparaît pas conforme à l'intérêt du mineur, le juge peut procéder à la désignation d'une autre personne.
> L'audition du mineur ne lui confère pas la qualité de partie à la procédure.
> Le juge s'assure que le mineur a été informé de son droit à être entendu et à être assisté par un avocat.[36]

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the age of majority at eighteen years), https://www.legifrance.gouv.fr/loda/id/JORFTEXT000000700039 [access: 3.10.2024].

36 "Art. 388-1 C. civ. In any procedure concerning him/her, the minor capable of discernment may, without prejudice to the provisions providing for his intervention or his consent, be heard by the judge or, when his/her interests so require, by the person designated by the judge for this purpose. This hearing is legal when the minor requests it. When the minor refuses to be heard, the judge assesses the merits of this refusal. He/she can be heard alone, with a lawyer or a person of his/her choice. If this choice does not appear to be in the interests of the minor, the judge may appoint another person. The hearing of the minor does not confer on him/her the status of party to the procedure. The judge ensures that the minor has been informed of his/her right to be heard and to be assisted by a lawyer." (Trans. J. Dunster).

> (5) Code pénal: Chapitre Ier: Des principes généraux du droit pénal applicable aux mineurs (Art. L11-1 à L11-5) Art. L11-1 C. pén. Lorsqu'ils sont capables de discernement, les mineurs, au sens de l'article 388 du code civil, sont pénalement responsables des crimes, délits ou contraventions dont ils sont reconnus coupables. Les mineurs de moins de treize ans sont présumés ne pas être capables de discernement. Les mineurs âgés d'au moins treize ans sont présumés être capables de discernement. Est capable de discernement le mineur qui a compris et voulu son acte et qui est apte à comprendre le sens de la procédure pénale dont il fait l'objet.[37]

The French legislator facilitates the problem of translation into Polish to such an extent that where further concepts appear in Polish criminal law, i.e., 'nieletni' ('minor'), 13-17-21 years of age, depending on the situation, or 'młodociany' ('juvenile'), perpetrator who was under 21 years of age at the time of committing the prohibited act and 24 years of age at the time of adjudication in the first instance, consistently uses the term 'mineur'.

2.3. Onomasiological stage

The above conclusions lead to the last stage – onomasiological – that is, to derive a functional equivalent, which for 'małoletni' is obviously the French term 'mineur'. It would seem that all difficulties end here and any translator will be able to translate Polish-French concepts determining a person's age. However, practice shows that even if on the French side it is still the same term, 'mineur', it sometimes happens that, due to its polysemic nature, it is translated into Polish not as 'małoletni', 'nieletni', or 'młodociany' (depending on the context and code), but as a 'miner', i.e., "a mine worker who extracts raw materials from the depths of the earth" (French: "mineur – ouvrier qui travaille dans une mine").

Legal terminology takes the translator to a world that uses its own code, i.e., the language of law. This language, being reserved only for specialists, does not enjoy a good reputation in the society, and it is a universal problem, independent of national languages. As can be seen in the above examples, deriving the appropriate equivalent for the French noun 'mineur' or the Polish 'młodociany' is a complex process and depends on many factors.

37 "Penal Code: Chapter I: General principles of criminal law applicable to minors (Art. L11-1 to L11-5) Art. L11-1 Penal Code. When they are capable of discernment, minors, within the meaning of article 388 of the civil code, are criminally responsible for the crimes, misdemeanors or contraventions of which they are found guilty. Minors under the age of thirteen are presumed not to be capable of discernment. Minors aged at least thirteen are presumed to be capable of discernment. A minor is capable of discernment who has understood and wanted his/her act and who is capable of understanding the meaning of the criminal procedure to which he/she is the subject." (Trans. J. Dunster).

Conclusions

This brief juristractological demonstration made it possible to translate the Polish term 'małoletni' into French. As can be seen, this process leaves little room for maneuver for the translator, who must scrupulously follow a methodology that includes comparative law, at the end of which the meaning is transferred to law and language. This rigor results from the imperatives imposed by legal science in terms of the need for precision of concepts and the legal consequences associated with them.[38]

The translation of law shows significant differences depending on the type of text and branch of law, as can be seen in the example of the French term 'mineur', which may have several equivalents in Polish: 'małoletni' ('minor'), 'nieletni' ('juvenile'), 'młodociany' ('young people'). Therefore, it requires great precision and responsibility from the translator because a simple translation error can cause far-reaching legal consequences. Adopting the innovative approach proposed by juritraductology allows the translator to precisely answer the questions asked and find the right equivalent. Learning through comparison, both languages and laws, involves comparing what is known with what is unknown and thus obtaining new knowledge. It can be assumed that comparison is a generally accepted epistemological rule, the main purpose of which is to obtain new knowledge, i.e., cognition.

Undoubtedly, knowledge of comparative law and specialist legal terminology helps the translator effectively manage the risk of errors and mistakes. This is an essential competence held by a good translator, allowing them to anticipate and avoid undesirable interpretations of words, as well as to use terms appropriate for a given type of translation. It can be said, then, that law translation is the process of analyzing terminological issues against the background of the legal system.

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38 Cf. S. Monjean-Decaudin, *La juritraductologie, en théorie et en pratique. Le cas de la traduction de la capitalidad*, in: *Theory and Practice of Translation as a Vehicle for Knowledge Transfer*, coords. C. Expósito Castro, M. del Mar Ogea Pozo, F. Rodríguez Rodríguez, Sevilla 2022, pp. 103-124.

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