**THE STATUS OF “SWORN TRANSLATOR” IN**

**THE COUNTRIES OF THE EU**

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 **Introduction**

The status of “sworn translator” differs in the individual countries of the European Union, because the process of certification is not unified. The differences in the certification process result from several factors such as the various legal systems, the different qualification requirements of individual states, different legislation for certified translations, and for those languages needed for legal purposes, and so on. There are also countries that do not offer any officially determined requirements for the status of “sworn translator”, or do not use the term “sworn translator” at all. We will focus on four selected countries in the European Union – the Slovak Republic, the Czech Republic, Spain and the United Kingdom to illustrate some of the main differences. First we will characterise certified translation and legal language, and identify the most evident differences between the procedures of certification. Then, we will characterise those differences in legislation, which lead to different conditions for certification in the four countries named above. Finally, we will compare and summarise the main features of the certification process in these four EU countries, and some conclusions.

1 **Certified Translation and Legal Language**

Legal language is not a language of ordinary use, but a specialized language of legal norms and related discourse. Law is a system of rules and guidelines that is bound to a particular state or organization. When the translation of legal terminology involves transfer of information between two different legal systems, it requires particular attention. Legal texts are produced for a certain purpose, fulfilling a specific function, and each legal system or legal culture establishes its own rules (Chromá, 2007). Translating legal texts means transferring legal information from one language and culture into another language and culture, taking into account the differences in legal systems and the purpose of translation. According to Tomášek (1998: 113) legal translation is a procedure based on both linguistic and legal comparative approaches. He divides the translation process into “intrasemiotic” and “intersemiotic”. “Intrasemiotic” translation is the transfer of information between two semantic levels within one language, from the first to the second semantic level of the source language, in other words transference from the legal language to the legal metalanguage, while “intersemiotic” translation is the translation of a legal text from the source language to the target language. The language of law is a culture-bound language for special purposes. However, this does not mean that it is completely detached from everyday language. Most of the words, in fact, are taken from everyday language. On the other hand, legal language influences ordinary speech and many of its originally technical terms are now accepted as common (Mellinkoff, 1963).

The so-called “sworn translation”, or “certified translation”, is a type of translation that must be done in accordance with special requirements and legal regulations. Such documents will normally range from the school papers needed for a student’s transfer from one country to another, through birth, marriage or death certificates for naturalization, marriage or inheritance purposes, to contracts, powers-of-attorney, promissory notes and articles of incorporation or other commercial documents for international transactions. In principle, however, any text may be submitted to a “sworn” translation procedure if such a text, for any reason, is to be processed by government authorities, at any level, or by the Courts.

There is nothing like an internationally used term for certified translation and certified translator. The terms “sworn translation” and “sworn translator” are, for example, largely used in Latin-American countries, while terms such as “official translation”, “ official translator”, “certified translation”, “certified translator”, “official translation” are more frequent in Europe.

 However, legal systems in European countries differ, and their legal languages belong to different legal systems. With respect to legal English, for example, we should realize that the legal system of English-speaking countries have developed differently from legal systems in Europe, which has led to the fact that there are many terminological differences – for example, terms “solicitor” and “barrister” both refer to the same person for the British, but these two terms do not overlap and each of them has a different area of responsibility. On the other hand, in Slovakia the term “advokát” generally covers both (Hrehovčík, Bázlik, 2009).

**2 Various Procedures of Translation Certification in the EU states**

This year, the EU legislators have instituted new rules which should eliminate the need for translations, as well as the acceptance of non-certified copies and translations. It should also improve administrative cooperation between member states by using a common system to check the authenticity of documents. In addition some public documents will be exempt from the obligation to have the signatures and stamps on them verified. This simplification of procedures will apply to certain public documents, such as those concerning birth, death, name, marriage, registered partnership, parenthood, adoption, residence, citizenship, nationality, real estate, legal status and representation of a company or other undertaking, intellectual property rights and the absence of a criminal record. This is an important improvement vis-á-vis the situation today, when people and companies usually have to prove the authenticity of their documents and use certified copies and certified translations bearing the stamp of an official translator. On one hand, it seems to be a logical measure when we consider how the process of translation certification varies from country to country, but on the other hand many questions still arise.

In the *Slovak Republic*, a certified translation may be done only by a certified translator, previously known as a “court translator”. A “sworn translator” is a professional certified translator entitled to practice by the Ministry of Justice of the Slovak Republic in accordance with Act No. 382/2004 on Experts, Interpreters and Translators, as amended. The “sworn translator” is included in the official Register of Experts, Interpreters and Translators of the Slovak Republic. Every “sworn translator” is listed in JASPI (the Unified Automated System of Legal Information). The “sworn translator” has to seal and affix his/her signature to the translation. Individual translated pages must be numbered and affixed by a cord together to the pages of the original. Translation includes an introductory section labelled as translation, client name, attachments and translation clause. According to Section 5 of Act No. 382/2004 on Experts, Interpreters and Translators and its later amendments every natural or legal person empowered by the state to perform that activity, who is legally competent, irreproachable in conduct, with a proper education in the field which is the subject of the exam with minimum professional qualifications, with practical experience in the field for at least five years, with a special expert qualification, possessing the necessary material facilities, and who has not been legally erased from the List of Experts, Interpreters and Translators in last three years according to Section 27 paragraph 3 letter d, and is registered in the List of Experts, Interpreters and Translators or not registered there, t is established as an Expert, Translator or Interpreter in accordance with Section 15 may become a “sworn translator” if she/he has sworn an oath before the Ministry of Justice (Act 382/2004 Coll. on Experts, Interpreters and Translators, as amended).

 In the *Czech Republic*, there have been many attempts to amend Act of 1959. The last amendment was made in 2011 with respect to the Act on Experts and Interpreters. In contrast to Slovakia, the profession of “sworn translator” and “sworn interpreter” in the Czech Republic is combined and named as a “sworn interpreter”. The title “sworn interpreter” implies the role of both, “sworn translator” and interpreter. A translation made by the “sworn translator” is attached to the original or directly printed on the sheet of the original. If the translation cannot be attached to the original, the translator is obliged to attach the certified copy to it. Translation must include an attachment stating the number of the diary, a declaration on the legality of the translation, the date of the translation, tariffs, and the signature of the translator. Translators are appointed by the Minister of Justice or the President of a County Court. Applicants must have special educational training in the appropriate field and have appropriate knowledge and practical experience. Sworn translators are then registered in the list of the Ministry of Justice of the Czech Republic kept by the County Courts. A list of “sworn translators is available to the public (available from [www.psp.cz](http://www.psp.cz))

 The situation in *Great Britain* is completely different. According to information on the website of ITT (The Institute of Translation and Interpreting) in the common law system in the UK, there is no "“sworn translator”" concept, which is typical of “civil law” countries. Even so, translations sometimes have to be "sworn" or certified for various purposes, such as when providing official translations for public authorities. In the UK, certifying or swearing has no bearing on the quality of a translation. It serves instead to identify the translator and his qualifications, so that he is accountable. If a translation is sworn before a solicitor (or a notary in Scotland) the legal professional does not verify the quality of the translation, but the translator's identity. Certification does, however, lend weight to a translation: if, for example, a document is wilfully mistranslated or carelessly translated, the translator could be charged with contempt of court, perjury or negligence (http://www.iti.org.uk/). In the UK, there are several types of translation certification:

i/ a *Certified Translation* has a sworn statement attached to it, which is also called a Certificate of Accuracy in which the translator states that he/she is a professional translator, and his/her work is a faithful translation of the original text, and that the translation is complete and correct to the best of his/her knowledge. It must be done by a **professional, qualified, mother-tongue translator;** ii/ a *Notarised Translation* is used if a certified translation is not sufficient for the Criminal Court. It is signed by the translator or and authorized representative of the translation company before a Notary or Commissioner of Deeds. The Notary verifies the translator's identity and attaches a notarial certificate to the translation. It is sometimes also called an “official translation”; iii/ a *Statutory Declaration* means that the translator swears an oath before a solicitor, or that the magistrateattests to the translation's accuracy and provenance. These declarations are accepted in England and Wales, where the Statutory Declaration is bound with the original document and translation as one document; iv/ an *Apostille* - if the translated document is to be used abroad, it may require legalisation by the Foreign and Commonwealth Office. Notarisation is a formality often required for documents which are to be used overseas, or for certifying document copies. Once a document has been notarised by a Notary Public, and if it is to be used overseas, it may need to be apostilled. This means that the Notary's signature and seal are certified, and an apostille stamp or a Legalisation Certificate is added to the document. Once a document has been notarised and apostilled, it may then need to be legalised by the Consulate of the country in which it will be used, if the country is not party to the Hague Convention. However, it should be added that the Apostille process is applied, if needed, in all the countries of the EU as parties to the Hague Convention. There is no official database of “sworn translator”s in the UK. They can be found in such decentralized databases as NRPSI, APCI, ITI or on the list of commercial agencies. The latter is an organization which also register sworn translators in a specific section, whereas the two further register only sworn interpreters, and there is no specific section registering sworn translators.

In *Spain*, there is no specific legislation regulating certified translation. Very general conditions are mentioned in Article 231.5 of the Constitutional Act and in Articles 440 and 762.8 of the Criminal Record, but they are mainly concerned with interpreters. There is not a single database of “sworn translators”. “Sworn translation” can be only done by professional “sworn translators”. Applicants for the title of “sworn translator” in a combination of Spanish and another language have to pass a special examination, and have to be certified by the Spanish Ministry of Foreign Affairs and Cooperation. After passing the examination the translator is obliged to register his stamp and signature and communicate his rates for sworn translation to the Ministry. This institution also includes the translator’s data in a public list of “sworn translators” of Spain. The translator can become eligible by passing the exam or by completing a degree course in Translation and Interpretation at a Spanish university. Students are obliged to pass law-related subjects. Sworn translators in combinations of the three official languages of Spain other than Spanish – Galician, Catalan and Basque have to be certified by regional authorities, which have to follow a similar procedure to the Spanish Ministry of Foreign Affairs (available from [www.maec.es](http://www.maec.es)). The Ministry of Foreign Affairs in Spain maintains a list of “sworn translators” in alphabetical order. According to the Spanish legislation system, sworn translators must have a degree in Translation and Interpretation. These examinations are organized by the Ministry of Foreign Affairs, and the translator is obliged to gain a fixed number of credits in a specified field. The translator must be officially examined by the Ministry of Foreign Affairs and Cooperationʾs Office of Interpretation of Languages. The official organization for the registration of the sworn translators in “La Spain is Asociación Española de Traductores, Correctores e Intérpretes”, established in 2003 (http://www.asetrad.org/)

**3 Prospects of Certified Translation in the EU**

Efforts by the European Parliament and Council to promote the free movement of citizens and businesses by simplifying the acceptance of certain public documents in the European Union may put an end to the certification of a number of public documents. While the European Legal Interpreters´ and Translators´ Association (EULITA) appreciates EU efforts to simplify the administrative burden on citizens and businesses, the Association has several reservations about the acceptance of non-certified translations of public documents (Paragraph (1) of Article 6 of the proposal) and thinks that requiring a certified translation only in cases where an authority has reasonable doubt as to the correctness or quality of the translation of a public document (Paragraph (2) of Article 6 of the proposal) may cause a number of practical difficulties – and create an additional administrative burden. EULITA is of the opinion that EU legislators should not forget that the signature of a translator makes it possible to trace the author of a translation, while it will be impossible to trace translators if there is no indication relating to the originator of the translated text, and furthermore officials will also have to be fluent in many languages in order to be able to detect flaws in the translation of documents. It is therefore doubtful whether any broadening of the scope of uncertified documents beyond the application of multi-language standardised EU forms will be a step forward, or decrease legal uncertainty.

**Conclusion**

The certified translator plays an important role in the globalised multicultural world as he/she translates official documents that must be certified. The process of certification is not uniform in the EU, which naturally results from different legal systems and different conditions in the individual member states. General requirements such as high educational level, experience, spotless reputation, responsibility and liability are the same in all the member states. Bearing in mind that EU Directive 2010/64 on the right to interpretation and translation in criminal proceedings expressly mentions the right to a high level of quality in language services, it seems to be counter-productive to pursue legislation that will lower the standards for translations of public documents.

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**Resumé**

V dnešnej multikultúrnej dobe je úlohe profesionálneho prekladateľa pripisovaný čoraz väčší význam. Obzvlášť dôležitá je ich činnosť pri preklade oficiálnych dokumentov, ktoré musia byť formálne overené. Proces certifikácie sa v krajinách Európskej Únie líši, čo vyplýva najmä z rozdielnych právnych systémov jednotlivých členských štátov a odlišných podmienok. Všeobecné požiadavky ako napríklad vzdelanie, prax, materiálne zabezpečenie, bezúhonnosť a právna zodpovednosť sú vo všetkých krajinách rovnaké.

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