

Francesca L. Seracini

The Translation of European Union Legislation

A Corpus-based Study of Norms and Modality

LINGUE E CULTURE
LANGUAGES AND CULTURES – LANGUES ET CULTURES

<http://www.ledonline.it/Lingue-Culture>

COLLANA DIRETTA DA / SERIES EDITED BY / COLLECTION DIRIGÉE PAR

Marisa Verna (*Università Cattolica del Sacro Cuore*)
Giovanni Gobber (*Università Cattolica del Sacro Cuore*)

COMITATO SCIENTIFICO / EDITORIAL BOARD / COMITÉ SCIENTIFIQUE

Thomas Austenfeld (*Université de Fribourg*)
Susan Conrad (*Portland State University*)
Manuel Alvar Ezquerro (*Universidad Complutense de Madrid*)
Françoise Gaillard (*Université Paris VII - Diderot*)
Roman Govoruchko (*Università RGGU di Mosca*)
Augusto Guarino (*Università di Napoli L'Orientale*)
Juliane House (*University of Hamburg*)
Georgy Akhillovich Levinton (*European University at St. Petersburg*)
Anthony Mollica (*Brock University*)
Michael Rossington (*Newcastle University*)
Nikola Roßbach (*Universität Kassel*)
José Carlos Rovira Soler (*Universidad de Alicante*)
William Sharpe (*Barnard College - Columbia University*)
Thomas Travisano (*Hartwick College*)
Bart Van Den Bossche (*KU Leuven*)
Jakob Wüest (*Universität Zürich*)

Tutti i lavori pubblicati nella Collana sono stati sottoposti a peer review
da parte di revisori esterni.

All works published in this series have undergone external peer review.

ISSN 2234-9235
ISBN 978-88-7916-928-8

Copyright © 2020

LED Edizioni Universitarie di Lettere Economia Diritto

Via Cervignano 4 - 20137 Milano

www.lededizioni.com - www.ledonline.it - E-mail: led@lededizioni.com

I diritti di riproduzione, memorizzazione e archiviazione elettronica, pubblicazione con qualsiasi mezzo analogico o digitale (comprese le copie fotostatiche, i supporti digitali e l'inserimento in banche dati) e i diritti di traduzione e di adattamento totale o parziale sono riservati per tutti i paesi.

Le fotocopie per uso personale del lettore possono essere effettuate nei limiti del 15% di ciascun volume/fascicolo di periodico dietro pagamento alla SIAE del compenso previsto dall'art. 68, commi 4 e 5, della legge 22 aprile 1941 n. 633.

Le riproduzioni effettuate per finalità di carattere professionale, economico o commerciale o comunque per uso diverso da quello personale possono essere effettuate a seguito di specifica autorizzazione rilasciata da: AIDRO, Corso di Porta Romana n. 108 - 20122 Milano

E-mail segreteria@aidro.org <mailto:segreteria@aidro.org>

sito web www.aidro.org <<http://www.aidro.org>>

In copertina: Sonia Basilissi, *La luce* (2020)
olio su tela, 30 × 40

Videoimpaginazione: Paola Mignanego
Stampa: Logo

CONTENTS

<i>Preface</i>	9
1. Multilingualism at the European Union	13
1.1. Introduction (p. 13) – 1.2. European Union legal instruments (p. 14) – 1.3. Multilingualism at the European Union: legal principles (p. 16) – 1.3.1. Legal basis of multilingualism (p. 16) – 1.3.2. The principle of equal authenticity (p. 19) – 1.3.3. Legal harmonisation (p. 21)	
2. Drafting and translation of European Union legislation	25
2.1. Introduction (p. 25) – 2.2. Quality in European Union legislative texts (p. 27) – 2.2.1. From drafting to translation (p. 29) – 2.2.2. The role of the translators (p. 33) – 2.2.3. Translation tools (p. 34) – 2.3. European Union legal language and translation (p. 36) – 2.3.1. Main characteristics of EU legal language (p. 36) – 2.3.2. Clarity in EU legal texts (p. 40) – 2.3.3. The translation of EU legislation (p. 43)	
3. Theoretical framework and methodological considerations	47
3.1. Introduction (p. 47) – 3.2. Descriptive Translation Studies (p. 48) – 3.2.1. Basic theoretical concepts: a brief outline (p. 48) – 3.2.2. Norms in translation (p. 50) – 3.2.3. Corpus-based Descriptive Translation Studies (p. 52) – 3.3. Universal features in translation (p. 53) – 3.4. The EURO-CoL and the UK-LAW corpora (p. 57)	
4. Modality in legal discourse	61
4.1. Introduction (p. 61) – 4.2. Modality in legal language and translation (p. 63)	
5. Translational patterns for modality in the Euro-CoL corpus	73
5.1. Introduction (p. 73) – 5.2. Distribution of the expressions of modality in ENGLEX (p. 75) – 5.3. <i>Shall</i> (p. 77) – 5.3.1. <i>Shall</i> in the EURO-CoL corpus (p. 77) – 5.3.2. The translation of <i>shall</i> in the EURO-CoL corpus (p. 84) – 5.4. <i>Should</i> (p. 89) – 5.4.1. <i>Should</i> in the EURO-CoL corpus (p. 89) –	

5.4.2. The translation of <i>should</i> in the EURO-CoL corpus (p. 93) – 5.5. <i>May</i> (p. 104) – 5.5.1. <i>May</i> in the EURO-CoL corpus (p. 104) – 5.5.2. The translation of <i>may</i> in the EURO-CoL corpus (p. 108) – 5.6. <i>Must</i> (p. 119) – 5.6.1. <i>Must</i> in the EURO-CoL corpus (p. 119) – 5.6.2. The translation of <i>must</i> in the EURO-CoL corpus (p. 123) – 5.7. <i>Can</i> (p. 129) – 5.7.1. <i>Can</i> in the EURO-CoL corpus (p. 129) – 5.7.2. The translation of <i>can</i> in the EURO-CoL corpus (p. 132) – 5.8. <i>Will</i> (p. 138) – 5.8.1. <i>Will</i> in the EURO-CoL corpus (p. 138) – 5.8.2. The translation of <i>will</i> in the EURO-CoL corpus (p. 140) – 5.9. <i>Be to</i> (p. 146) – 5.9.1. <i>Be to</i> in the EURO-CoL corpus (p. 146) – 5.9.2. The translation of <i>be to</i> in the EURO-CoL corpus (p. 150) – 5.10. Discussion of results (p. 153)	
6. Concluding remarks	157
6.1. Three tendencies of translational behaviour and norms (p. 157) – 6.2. Evidence of translation universals (p. 160) – 6.3. Implications, limitations and future directions (p. 161)	
 APPENDICES 	
Appendix 1. ENGLISH – Wordlist (Top 300 Words)	164
Appendix 2. ITALEX – Wordlist (Top 300 Words)	168
Appendix 3. ITALEX/LEGITALIA – Keyword List (Top 300 Words)	172
 <i>References</i>	 177

to Chiara

PREFACE

Multilingualism at the European Union has a legal basis in the Council Regulation 1/58¹, which establishes that the languages of the Member States are all official languages. The same regulation also establishes that the legislation adopted by the EU has to be drafted and made available in all the official languages. Significantly, no reference is made to *translation* in the regulation, but simply to *drafting*, which reinforces the idea that all languages are on a par with each other. Yet, translation is at the basis of multilingualism at the EU and clearly plays a key role in realising the aim of harmonisation – that is, uniform application and interpretation of EU laws across all the Member States (cf. Baaij 2012b; Pommer 2012; Pozzo 2014a). The present study is an effort to gain a better understanding of how translation contributes to achieving this aim. It explores the context in which EU translation takes place and analyses EU legislative texts translated from English into Italian with a view to offering a deeper insight into how the translation strategies reflect the objectives – and the constraints – of the translators’ work.

Previous research into EU translation has focused both on linguistic and translational aspects. Studies investigating EU legal English – the *lingua franca* that is today *de facto* used in EU legal drafting – have identified features that distinguish it from legal English used in UK legislation, thus revealing that they constitute two different varieties (cf. Garzone 2000; Koskinen 2000; Caliendo 2004; Robertson 2010; Sandrelli 2018). Research into EU translation has explored its complexities (cf. Garzone 2000; Piehl 2006; Felici 2010; Piehl 2013; Biel 2014a; Biel 2014c; Felici 2015) and has highlighted how it departs from some of the established concepts at the basis of Translation Studies theories (cf. e.g. Koskinen 2001; Kjær 2007; Biel - Engberg 2013; Biel 2014c).

¹ Available at <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:31958R0001&qid=1485604158847&from=EN>. Last accessed 24 August 2019.

This book seeks to provide a further insight into the translation of EU legislation, focusing on the translation from the English to the Italian version of the laws. It is inevitable that the policy of integral multilingualism, the principle of equal authenticity and the aim of legal harmonization influence the translators in their translational behaviour. What traces does this influence leave in the translated laws? What other contextual factors have an impact on the choices of the translators? Considering the institutional context and the constraints placed on the translators, what are the norms that govern the translation of EU legislation? This study aims to formulate hypotheses that can provide an answer to these questions based on an observation of the recurrent patterns of translational behaviour.

The idea that translation is a norm-governed activity was put forward by Toury (2012 [1995]). Norms in translation are what is reputed to be appropriate or inappropriate translational behaviour in a specific situation within a certain context (Toury 2012 [1995], 63). They are strictly related to translation strategies, in that they determine the choices of the translator (Toury 2012 [1995]); they are not, however, explicitly expressed or readily visible in the translated text. In order to be able to formulate hypotheses as regards the norms that have governed the translator's choices, it is necessary to identify the translation strategies by observing parallel sections of source text / target text. Conclusions can then be drawn on the basis of the recurrent translational patterns observed and of the contextual factors that may have acted as constraints for the translation process (Toury 2012 [1995]).

For the purpose of the present research, a «multilingually comparable corpus» (Hansen-Schirra - Teich 2009, 1162) – the EURO-CoL corpus – was compiled. The corpus comprises a bilingual parallel corpus of EU laws in English (ENGLEX) and the same laws translated into Italian (ITALEX), as well as a monolingual comparable corpus of Italian national laws (LEGITALIA). A monolingual reference corpus of original UK secondary law (UK-LAW) was also compiled for the study.

In order to identify the recurrent translational patterns in the corpus, the study adopts Munday's (2002) Systemic Model for Descriptive Translation Studies, which combines Toury's (2012 [1995]) three-phase method of analysis of translation shifts with corpus linguistics tools. The analysis is carried out with a mixed methods approach (cf. Saldanha - O'Brien 2013), integrating quantitative data with a qualitative observation of parallel sections of source text / target text. The context in which the translation process takes place and its potential influence on the translators' work are also explored in depth.

The analysis focuses specifically on the translation of expressions of modality. The reason behind this choice is that these expressions have been found to be particularly frequent in the ENGLISH subcorpus. This high frequency is typical of legal discourse, which deals with obligations and permissions. Moreover, modality poses particular difficulties for translators; this is due to the differences that exist between languages in expressing modality (cf. Palmer 1986; 1990 [1979]) and to the polysemy that characterises modals (cf. Garzone 2001; 2013). In particular, as regards EU translation, given the large number of languages involved, potential misinterpretations concerning expressions of obligation can present a serious threat to legal harmonisation (Šarčević 2007, 47).

THE ORGANISATION OF THE TEXT

The book is structured into six chapters. Chapter 1 provides the contextual background for legal translation at the European Union. The legal culture, the legal instruments and the legislative procedure are presented, together with the political and legal basis of multilingualism. Chapter 2 addresses the drafting and translation processes, with a particular focus on the implications for the translators' work. Significant features characterising EU legal language and EU legal translation are also discussed. The purpose of these first two chapters is to explore the contextual factors and linguistic issues that can influence the translators' choices as a key to understanding the translational patterns observed in the subsequent analysis of the corpus. Chapter 3 is divided into two parts. In the first part, it lays down the theoretical and methodological framework and the principles underlying the analysis. In the second part, it provides a detailed description of the corpus and of the criteria that were applied for its compilation. Chapter 4 reports on the results of the preliminary analysis, which led to the choice of seven expressions of modality as units of analysis based on their high frequency in the ENGLISH subcorpus. The chapter also reviews the literature concerning the use of these modals in legal discourse. Chapter 5 considers each expression of modality, investigates the parallel sections where they occur, identifies their various uses and meanings, and explores the most recurrent translation strategies. Chapter 6 summarises the results of the analysis, draws conclusions concerning the tendencies of translational behaviour observed in the corpus and formulates hypotheses as regards the norms governing the translation of EU legislation.

ACKNOWLEDGEMENTS

I wish to thank all the people that have contributed to my work in various ways. I would like to express my appreciation and thanks to Prof. Margherita Ulrych, my Ph.D. supervisor at the Department of Scienze Linguistiche e Letterature Straniere of Università Cattolica del Sacro Cuore in Milan, for her invaluable help and guidance throughout my doctoral research. Heartfelt thanks go to Prof. Amanda Murphy and Prof. Pierfranca Forchini for their precious advice and constant encouragement. I am also grateful to Prof. Annarita Felici at the Faculty of Translation and Interpreting of Université de Genève for her valuable suggestions and help in the early stages of my work. I would like to thank the two Directors of the book series *Lingue e Culture*, Prof. Marisa Verna and Prof. Giovanni Gobber, for accepting my work. I also wish to thank my two anonymous reviewers for their insightful and useful comments.

1.

MULTILINGUALISM AT THE EUROPEAN UNION

1.1. INTRODUCTION

One of the main distinguishing factors of the European Union (EU) with respect to other international organisations is that the EU is an autonomous legal system which adopts its own legislation and that this legislation then becomes part of the national law of each Member State (cf. Wagner *et al.* 2012, 48). As Borchardt (2010, 113) points out, the EU *limits* the legislative sovereignty of the Member States through a body of autonomous laws which are binding on all EU citizens. The fact that the EU is an autonomous legal order «is the only guarantee that Union law will not be watered down by interaction with national law, and that it will apply uniformly throughout the Union» (Borchardt 2010, 113).

However, the relation between the legal order of the EU and that of the Member States is characterised by interdependency rather than superimposition, especially considering that EU law needs to be incorporated within the legal orders of the Member States for it to be implemented (Borchardt 2010, 113). This interdependency is all the more evident if one considers that not only do EU laws become part of the legal order of the Member States, but also that EU legislation itself originates from the various legal cultures of all the Member States. As Pozzo (2011, 660) observes, the EU legal system is «a legal order in the making», which is «strongly affected by the various different cultural and legal backgrounds» (*my translation*)¹. Moreover, from a linguistic point of view, «the EU laws are drafted [...] in English, but are conceived in

¹ «un ordinamento *in fieri*, quello europeo, che risente moltissimo dei diversi retroterra culturali e giuridici» (Pozzo 2011, 660).

German, or in Polish, or in French» (Pozzo 2011, 660; *my translation*)². The EU can therefore be considered as a supranational entity with a «political and socio-cultural identity *in fieri*» (Felici 2010, 105) and an «a-national» culture (Koskinen 2000, 57).

1.2. EUROPEAN UNION LEGAL INSTRUMENTS

EU legal instruments are classified into primary and secondary legislation. EU primary legislation consists of the treaties, which can be viewed as the bedrock on which all EU policies are based. The EU website³ defines a treaty as «a binding agreement between EU member countries» which «sets out EU objectives, rules for EU institutions, how decisions are made and the relationship between the EU and its member countries».

EU secondary legislation is produced by the European Union Institutions and implemented by the Member States. Article 288 of the Treaty on the Functioning of the European Union (TFEU)⁴ prescribes that:

To exercise the Union's competences, the institutions shall adopt regulations, directives, decisions, recommendations and opinions.

A regulation shall have general application. It shall be binding in its entirety and directly applicable in all Member States.

A directive shall be binding, as to the result to be achieved, upon each Member State to which it is addressed, but shall leave to the national authorities the choice of form and methods.

A decision shall be binding in its entirety. A decision which specifies those to whom it is addressed shall be binding only on them.

Recommendations and opinions shall have no binding force.

The present work focuses on regulations, directives and decisions, which are the three binding legislative instruments that the European Union can adopt. As stated in the extract above, the difference between these three types of laws lies in the way they are binding. Regulations are binding legislative acts that apply directly to all Member States. Directives are

² «La norma giuridica si forgia comunque in inglese, ma viene pensata in tedesco, o in polacco, o in francese» (Pozzo 2011, 660).

³ Available at https://europa.eu/european-union/law/treaties_en. Last accessed 22 August 2019.

⁴ Available at <http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:12012E/TXT&from=EN>. Last accessed 22 August 2019.

legislative acts that merely set an objective that must be reached by each Member State within a set timeframe. Each country is then free to decide how to implement a certain directive and incorporate it in the national legislation. Decisions, instead, are directly applicable legislative texts but they are binding only for the addressees. Decisions may be addressed not only to Member States, but also institutions, organisations and business companies.

The EU institutions that are directly involved in the law-making process are the European Council, the European Commission, the European Parliament and the Council of the European Union⁵. The institution that sets the broad objectives of the European Union in all the areas of EU activity is the European Council. It is composed of the Heads of State or Government of the Member States and has regular meetings four times a year in Brussels. The European Commission is the institution that is empowered to initiate legislation. It forwards the legislative proposals to the European Parliament, to the Council of the European Union, as well as to the national parliaments. The Parliament discusses the proposal and can either accept it as it is or make amendments. It then forwards the proposal to the Council of the European Union. The Council can either accept the Parliament's position, or it can propose changes to the Parliament's position. In the former case, the legislative act is adopted. In the latter case, the proposed changes are sent back to the Parliament for a second reading. The amended proposal is then sent to the Council. If the Council approves it, the legislative act is adopted, if it does not approve it, a meeting of the Conciliation Committee is convened. The Conciliation Committee proposes a joint text based on the positions of the Parliament and of the Council. If the Conciliation Committee does not come to an agreement on the joint text, the procedure comes an end and the proposed legislative act is rejected. If, on the contrary, a joint text is approved, the text is sent to both the Parliament and the Council for a third reading. If both the Parliament and the Council approve the joint text, the legislative proposal is adopted. If one – or both – rejects it, the procedure is ended and the legislative proposal is failed. Wagner *et al.* (2012, 14) sum up effectively the roles of the three EU institutions involved in law making as follows: «[i]n a nutshell: the European Council

⁵ This section is based on the information available online on the official website of the European Parliament and on the Eur-Lex section of the EU website. In particular, the sections consulted are available at http://www.europarl.europa.eu/external/html/legislativeprocedure/default_en.htm; <http://www.europarl.europa.eu/aboutparliament/en/20150201PVL00004/Legislative-powers>; <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=URISERV%3Aai0032>. Last accessed 22 August 2019.

steers policy. The Commission **proposes**, the Parliament and the Council **decide**» (*emphasis in the original*).

There is a distinction between two possible legislative procedures: the ordinary legislative procedure and the special legislative procedure. In the ordinary legislative procedure, both the Parliament and the Council adopt the legislative act, whereas in the special legislative procedure only the Council decides on the act, while the Parliament merely has a consultative and advisory role. The acts that are adopted either by ordinary or by special legislative procedures are called ‘legislative acts’. In certain cases, in accordance with article 290 of the TFEU, the European Parliament and the Council can delegate to the Commission the power to adopt a non-legislative act, which is denominated ‘delegated act’. These acts are functional in amending or supplementing certain parts of a legislative act, providing, for example, additional details or technical information.

Finally, another type of act, the ‘implementing act’, is a legally binding EU act and «require[s] uniform conditions for the implementation»⁶. As the Eur-Lex website reports, while «[r]esponsibility for implementing legally binding EU acts lies primarily with EU countries, [...] [i]n these cases, the Commission or, in duly justified specific cases and in cases provided in the Articles 24 and 26 of the Treaty on European Union, the Council is empowered to adopt implementing acts (Article 291 of the TFEU)»⁷.

1.3. MULTILINGUALISM AT THE EUROPEAN UNION: LEGAL PRINCIPLES

1.3.1. *Legal basis of multilingualism*

The language regime of the European Union is established by Council Regulation 1/58 and its subsequent amendments. In 1958, Article 1 of this Regulation stated that «[t]he official languages and the working languages of the institutions of the Community shall be Dutch, French,

⁶ <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=URISERV%3Aai0032>. Last accessed 22 August 2019.

⁷ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=LEGISSUM%3Aai0032>. Last accessed 22 August 2019.

German and Italian», i.e. the languages of the six countries (Belgium, France, Germany, Italy, Luxembourg and the Netherlands) that in 1957 signed the Treaties of Rome, which established the European Coal and Steel Community (ECSC). Regulation 1/58 is amended every time a new State joins the EU, and its latest consolidated version includes 24 official languages ⁸.

The principles at the basis of the choice of integral multilingualism are democracy, transparency in communication, and safeguarding of legal rights and obligations, as can be inferred from the following extract from the EU website:

As a democratic organisation, the EU has to **communicate with its citizens** in their own language. The same goes for national governments and civil services, businesses and other organisations all over the EU. Europeans have a right to know what is being done in their name. They must also be able to play an active part without having to learn other languages.

The EU institutions pass **laws that apply directly to everyone in the EU**. Everybody – individuals, organisations and the courts – must be able to understand them, which means they must be available in all official languages. Using as many national languages as possible makes the EU and its institutions more **open and effective**. (*emphasis in the original*) ⁹

Article 4 of Regulation 1/58 states that «Regulations and other documents of general application shall be drafted in the official languages», while Article 5 specifies that «The Official Journal of the European Union shall be published in the official languages». This means that all EU citizens have access to EU legislation and institutions in their own national language ¹⁰.

⁸ The following are currently the official languages of the European Union: Bulgarian, Croatian, Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Irish, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovenian, Spanish and Swedish.

⁹ Available at http://ec.europa.eu/dgs/translation/translating/officiallanguages/index_en.htm. Last accessed 24 August 2019.

¹⁰ The EU institutions' commitment to the safeguarding of linguistic diversity goes hand in hand with the promotion of language learning. In the *Council conclusions of 20 May 2014 on multilingualism and the development of language competences* (available at [http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52014XG0614\(06\)&from=EN](http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52014XG0614(06)&from=EN); last accessed 24 August 2019), for example, the Council states that «[L]inguistic diversity is a fundamental component of European culture and intercultural dialogue, and that the ability to communicate in a language other than one's mother tongue is acknowledged to be one of the key competences which citizens should seek to acquire».

Interestingly, as Felici (2015, 125) points out, the EU institutions do not provide a clear distinction between ‘official’ and ‘working’ languages. Article 6 of Regulation 1/58, however, gives some further indication by stating that «[t]he institutions of the Community may stipulate in their rules of procedure which of the languages are to be used in specific cases», which means that, despite the equal status of all the languages, integral multilingualism is not necessarily applied in every activity carried out by the EU institutions (Venchiarutti 2008, 309). The practical advantage of this is highlighted by Pommer (2012, 1242-1243) who points out that «[d]ue to the great number of official languages, full multilingualism is often impractical in daily negotiations, so a more or less informal regime of working languages, such as the dominance of French at the European Court of Justice (ECJ), is often in place». This does not apply, however, to legislation, where integral multilingualism is always applied so that every law is available in all the official languages.

As stated in the following extract from the *Interpreting and Translating for Europe* brochure, published in 2010 by the European Commission¹¹, translation has a fundamental role in achieving the double objective of facilitating interaction between peoples and preserving cultural diversity:

Even if there are theoretical difficulties, translation is an efficient communication tool. It allows citizens of an increasingly interconnected world to interact and have a say in shaping their common future without the need to give up their language – an integral part of their identity.

Multilingualism also has a strong symbolic value: it signifies that no language – and consequently no Member State – is in a position of supremacy. As Paunio (2016, 5) observes, «the communicative function of translation may in some cases be subordinate to its symbolic function: instead of conveying a particular message, the primary function of a translation may simply be existential: it must simply **exist**» (*my emphasis*). In the case of the EU legislation, the mere fact that there is a translated version of every law for each of the official languages is in itself of value.

¹¹ Available at http://www.eesc.europa.eu/resources/docs/citi-brochure_EN.pdf. Last accessed 24 August 2019.

1.3.2. *The principle of equal authenticity*

The principle of equal authenticity is defined in Article 33 of the Vienna Convention on the Law of Treaties of 1969¹² as follows:

When a treaty has been authenticated in two or more languages, the text is equally authoritative in each language, unless the treaty provides or the parties agree that, in case of divergence, a particular text shall prevail.

Article 55 of the Treaty on European Union¹³, states that

This Treaty, drawn up in a single **original** in the Bulgarian, Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Irish, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovenian, Spanish and Swedish languages, **the texts in each of these languages being equally authentic**, shall be deposited in the archives of the Government of the Italian Republic, which will transmit a certified copy to each of the governments of the other signatory States. (*my emphasis*)

The Treaty on European Union, therefore, validates the fundamental principle of multilingual EU law, i.e. equal authenticity of the different language versions¹⁴ of all EU primary and secondary legislation.

Despite the fact that the various language versions are translations and not co-drafted laws, the word choice in the provisions avoids any reference to translated texts. The above-mentioned Article 55 of the Treaty on European Union speaks of «original» texts in the various different languages, which underlines the fact that the various texts are *language versions* and not *translations*. Similarly, Article 4 of Council Regulation 1/58 uses the verb *to draft* and not the verb *to translate*. This word choice prevents any possible suggestion that the source text is predominant compared to the target texts, thus reinforcing the concept that the texts in the different languages have equal legal force. As Leung (2014, 61) observes,

¹² Available at <https://treaties.un.org/doc/Publication/UNTS/Volume%201155/volume-1155-I-18232-English.pdf>. Last accessed 27 August 2019.

¹³ Consolidated version of the Treaty on European Union originally signed in Maastricht on 7 February 1992, available at <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A12012M%2FTXT>. Last accessed 27 August 2019.

¹⁴ The principle of equal authenticity does not apply exclusively to multilingual EU law. The same principle applies to bilingual jurisdictions such as Canada and Hong Kong (cf. Leung 2014) and to any multilateral instrument where, unless specified otherwise, the parallel versions of the laws are equally authoritative (cf. Šarčević 1997).

‘authentication’ (the legislative process through which a translation acquires the status of an authentic text) removes inferior connotations from the translated text which would otherwise subvert the principle of equal authenticity by suggesting that different language texts have unequal status.

The fact that all language versions are on a par with each other has a direct consequence on the interpretation of the law: in case of discrepancies between language versions, there is no original text to refer to for the correct interpretation. As Šarčević (1997, 200) points out, «the practice of giving priority to the original text has been declared incompatible with the principle of equal authenticity». Moreover, each of the language versions is not viewed in its relation of equivalence with a single source text, but rather with each of the other language versions (Koskinen 2001, 296). Šarčević (2015a, 2) observes, however, that «[a]lthough insiders boast of ‘absolute concordance’ between the equally authentic texts of EU legislation, obviously such equivalence cannot be achieved in practice». Similarly, Wagner (2001, 67) argues that the principle of equal authenticity is a «legal fiction», and that it «defies all logic but is nevertheless necessary, to safeguard linguistic equality».

The European Court of Justice (ECJ) is the body called upon in case of discrepancies in the interpretation of the different language versions. Its role with respect to linguistic diversity is to ensure that EU legislation is interpreted and applied uniformly, and that legal certainty is safeguarded (Šarčević 2015a, 3). The ECJ has reiterated the principle of equality between language versions in numerous court cases. The most notable sentence concerning the interpretation of the law is Case 282/81 *Srl CILFIT and Lanificio di Gavardo SpA v Ministry of Health*¹⁵, where the Court states that

it must be borne in mind that community legislation is drafted in several languages and that the different language versions are all equally authentic. An interpretation of a provision of community law thus involves a comparison of the different language versions.

The criteria that the ECJ has adopted to determine the correct interpretation of a law in case of discrepancies have developed over the course of time (cf. Pozzo 2008, 383-432). Currently, the criteria applied depend on the type of interpretative doubt and on the number of language versions involved. When the diverging language versions are very limited in

¹⁵ Available at <http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:61981CJ0283&from=IT>. Last accessed 27 August 2019.

number (only one or two), the ECJ often uses a literal criterion, whereby the various language versions are compared, and the meaning is interpreted literally (cf. Pozzo 2008, 425-426)¹⁶. In the case of a larger number of diverging language versions, the ECJ uses a teleological criterion, whereby the 'correct' interpretation of the law is decided on the basis of the objective of the norm itself (cf. Pozzo 2008, 427-431)¹⁷. From the point of view of the translators, this criterion places particular emphasis on the meaning of a provision. As Šarčević (2001b, 88-89) observes, the «broad principles» developed by the ECJ for multilingual interpretation allow translators «to concentrate on transferring the sense of the original, not just the words» of a legislative text.

1.3.3. *Legal harmonisation*

Article 3 of the above-mentioned consolidated versions of the Treaty on European Union and the Treaty on the Functioning of the European Union declares that

The Union shall establish an internal market. It shall work for the sustainable development of Europe based on balanced economic growth and price stability, a highly competitive social market economy, aiming at full employment and social progress, and a high level of protection and improvement of the quality of the environment. It shall promote scientific and technological advance.

Considering these objectives, the harmonisation of legislation – i.e. «a uniform interpretation and application of EU legislation» (Baaij 2012b, 4-5) – across Member States is of key importance. As discussed in Section 1.2, EU legislation is implemented in each of the Member States in different ways, depending on the type of law¹⁸. However, regardless of the different steps involved in the implementation processes, the various

¹⁶ An example of application of this criterion can be found in Case C-296/95 *The Queen v Commissioners of Customs and Excise, ex parte EMU Tabac SARL, The Man in Black Ltd, John Cunningham*, available at <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A61995CJ0296>. Last accessed 27 August 2019. Cf. Pozzo 2008, 425-427.

¹⁷ This criterion was adopted, for example, in Case C-310/95 *Road Air BV v Inspecteur der Invoerrechten en Accijnzen*, available at <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A61995CJ0310>. Last accessed 27 August 2019. Cf. Pozzo 2008, 428-431.

¹⁸ EU measures can require different degrees of harmonisation, from «total» – or «full» – harmonisation to «minimum» harmonisation, «where Community law sets a floor, and the Treaty provisions set the ceiling» (Lohse 2012, 287).

language versions of the regulations, directives and decisions have to be understood in the same way in all Member States (cf. Baaij 2012b, 17). Translation plays a fundamental role in this, aiming for legal harmonisation while, at the same time, safeguarding the cultural diversity of the Member States (Baaij 2012a, xvii; 2012b, 1).

The requirement of achieving uniform interpretation and application of the law across Member States means that it is necessary to provide clear indications regarding legal terminology. The problem with EU terms is that they originate within the various national legal systems of the Member States and they are, therefore, strongly culture-bound. When these terms are used in EU legislative texts, this can lead to confusion and interpretative problems. The risk of misinterpretations is even higher when – as is sometimes the case – there is a lack of consistency in the terminology used within the same law (Pozzo 2006, 18-24) ¹⁹.

In order to reduce the risk of misinterpretations, the European Court of Justice has clarified that the meaning of EU terminology is independent from national legal systems. This means that, although the same terms may be used in both EU and national law, the legal concepts they refer to could be different (cf. Pozzo 2008). The above-mentioned Case 282/81 (the so-called CILFIT Case) clearly establishes this by stating that:

It must also be borne in mind, even where the different language versions are entirely in accord with one another that Community law uses terminology which is peculiar to it. Furthermore, it must be emphasized that legal concepts do not necessarily have the same meaning in Community law and in the law of the various Member States. ²⁰

The use of definitions in the legislative texts can also help avoid misinterpretations (Rossi 2008, 372). However, according to Rossi (2008, 374), EU legal instruments tend to limit the definitions to the specific legal terms used in the act, while they do not provide any definition for other more general terms used, such as, for example, ‘contract’. Another

¹⁹ Pozzo (2006, 19) provides the example of Directive 85/577, where the English version uses indifferently the expressions «to assess the obligations arising under the contract», «right of cancellation», «right to renounce the effects of his undertaking», «right of renunciation», which, however, refer to different legal rights. The Italian version, on the contrary, exclusively uses the expression «diritto di rescindere». The two language versions, therefore, provide *de facto* a different interpretation of the legislator’s intention.

²⁰ See also Case 157/80 *Criminal Proceedings against Siegfried Ewald Rinkau*, available at <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:61980CJ0157&qid=1481103372825>. Last accessed 28 August 2019.

problem is identified by Pozzo (2006, 18) in the use of «a-technical definitions», i.e. definitions which do not provide the necessary «univocal criteria» for interpretation. This incompleteness in the definition of legal terms can potentially hinder the harmonisation of EU legislation when EU laws are implemented within the various national legal systems (Pozzo 2006, 16-17; Rossi 2008, 375-376).

The complexity of harmonising EU laws across Member States has an obvious impact on both the drafting and translation processes, inevitably placing constraints on the translators. The next chapter will present the context in which the drafting and translation of EU laws takes place and will consider other factors that can influence the translators' work.

2.

DRAFTING AND TRANSLATION OF EUROPEAN UNION LEGISLATION

2.1. INTRODUCTION

The EU website reports that, in total, «[t]he EU institutions employ around 4,300 translators and 800 interpreters on its permanent staff»¹. Each of the three EU institutions directly involved in law-making has its own translation department, as well as freelance translators working for it. The European Commission has the largest translation service in the world, the Directorate-General for Translation (DGT), which employs around 1,527 translators, language technology experts, quality experts, terminologists and reviewers in total between the two headquarters in Brussels and in Luxembourg². It translates from and into all the official languages, but English is by far the most frequently used language both in source texts and target texts. By way of example, the Directorate-General for Translation reports that 1,937,002 pages are translated from English, while only 74,725 pages are translated from French, the second most frequently used language at the EU. The fact that the European Commission has authority in many different sectors is reflected in the wide variety of texts translated by the DGT (cf. Cosmai 2007, 79-80). The translation of legislative texts constitutes the largest part of the DGT's work (49%), though it is not the only area where translation is required. The DGT is also involved, for example, in the translation of external communication

¹ Information retrieved from https://europa.eu/european-union/about-eu/figures/administration_en#languages. Last accessed 28 August 2019. The data includes translators and interpreters working at the Commission, the Council, the European Parliament, as well as at the European Court of Justice.

² Information retrieved from *Translation in Figures 2019*, available at <https://publications.europa.eu/en/publication-detail/-/publication/62f8069c-67d4-11e9-9f05-01aa75ed71a1/language-en/format-PDF/source-95969931>. Last accessed 28 August 2019.

and web content (21%), other official documents (10%) and incoming correspondence (9%)³.

With specific reference to legislative texts, Cosmai (2007, 79-80) sums up as follows the three main steps in the legislative process where the translation of different types of documents is required. Firstly, there is a preparatory phase, where the relevant Directorate-General produces a draft proposal, which can be supplemented by other documents such as, for example, reports, internal documents, public speeches. Secondly, there is the legislative phase proper, where the final version of the proposal for a new law to be presented to the European Parliament and to the Council is adopted. Thirdly, there is the phase concerning the implementation of the new law, where the documents that need to be translated include, for example, the reports by the Member States on the adoption of the law. In the initial stages of the legislative procedure, the documents are usually drafted in English, French or German⁴ and only the final document that is adopted by the Commission and sent to the other EU institutions is translated into all the official languages.

The translation service of the Council of the European Union employs about 650 in-house translators at its headquarters in Brussels⁵. It also provides for the translation needs of the European Council (Wagner *et al.* 2012, 16). The wide variety of areas in which the Council has the power to intervene compels the translators working at the Council to be generally competent in all EU-related fields (Cosmai 2007, 81). The main part of the work of the Translation Service of the Council is translating the law proposals of the Commission. These legal texts undergo several translations following the various discussions and modifications of the original proposal (Cosmai 2007, 81; Venchiarutti 2008, 319). As Cosmai (2007, 81) points out, «the delicate political role of the Council [...] also has an impact on the translators' work» (*my translation*)⁶. Moreover, due to the highly confidential nature of its documents, the Council out-

³ Information retrieved from *Translation in Figures 2019*.

⁴ Information retrieved from *Translation and Multilingualism*, available at <http://bookshop.europa.eu/en/translation-and-multilingualism-pbHC0414307/>. Last accessed 28 August 2019.

⁵ Information retrieved from *The Council's Language Service: Facts and Figures*, available at <https://publications.europa.eu/en/publication-detail/-/publication/bffd20b0-e77d-42a0-b3ca-bc83d8fa8310/language-en/format-PDF/source-103472149>. Last accessed 28 August 2019.

⁶ «il delicato ruolo politico del Consiglio si ripercuot[e] [...] anche sulla prassi della traduzione» (Cosmai 2007, 81).

sources very little of its translation work to agencies or freelance translators (Cosmai 2007, 109; Wagner *et al.* 2012, 17).

The other EU institution involved in law-making, i.e. the European Parliament, also has its own translation service, with about 700 in-house translators working at its headquarters in Luxembourg⁷. Approximately 30% of the translation work of the European Parliament is instead carried out by freelance translators or outsourced to agencies (Wagner *et al.* 2012, 16).

The quality and readability of the laws in all the language versions are top priorities for EU institutions. The following section will present the key steps taken to address these issues both at the level of drafting and of translation.

2.2. QUALITY IN EUROPEAN UNION LEGISLATIVE TEXTS

The Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, *Better Regulation for Better Results: An EU Agenda* (COM(2015) 215 final)⁸, calls on the European Parliament and the Council to

[a]gree that legislation should be comprehensible and clear, allow parties to easily understand their rights and obligations, include appropriate reporting, monitoring and evaluation requirements, avoid disproportionate costs, and be practical to implement

and

[c]ommit to better legal drafting so that EU laws are correct, comprehensible, clear, and consistent – so that everyone understands their rights and obligations easily and with certainty.

The EU institution's commitment to improving the quality of legislation is testified by the numerous documents encouraging great attention towards this issue and fostering new initiatives in this area. Among these, the *White Paper on European Governance*⁹ adopted in 2001 by the Euro-

⁷ Information retrieved from <http://www.europarl.europa.eu/about-parliament/en/organisation-and-rules/multilingualism>. Last accessed 28 August 2019.

⁸ Available at <http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1451989021436&uri=CELEX:52015DC0215>. Last accessed 28 August 2019.

⁹ Available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2001:0428:FIN:EN:PDF>. Last accessed 28 August 2019.

pean Commission clearly states that «[t]he European Union will rightly continue to be judged by the impact of its regulation on the ground» and that, to that end, the European Union «must pay constant attention to **improving the quality, effectiveness and simplicity of regulatory acts**» (*emphasis in the original*). Quality in legislation is, therefore, viewed as functional to the realisation of the EU's political objectives. The *Inter-institutional Agreement on Better Law-Making*¹⁰ adopted in 2003 by the Commission, the Council and the European Parliament, affirms that «[t]he European Parliament, the Council of the European Union and the Commission of the European Communities [...] agree to **improve the quality of law-making** by means of a series of initiatives and procedures set out in [the] [...] interinstitutional agreement» (*my emphasis*). In particular, «[t]hey [...] agree to **promote simplicity, clarity and consistency** in the drafting of laws and the utmost transparency of the legislative process» (*my emphasis*). In 2010, the Commission launched its *Smart Regulation Agenda*¹¹, which presented the measures to be taken in order to achieve the aim – as the document states – of «getting legislation right», so as «to deliver the ambitious objectives for smart, sustainable, and inclusive growth set out by the Europe 2020 Strategy» (European Commission 2010, 2). With particular regard to legal drafting, the *Smart Regulation Agenda* affirms that

Union legislation should be well drafted in order to ensure it adequately reflects the intention of the legislator and can achieve its regulatory aim. Respect for the requirements of legislative drafting plays an important role in achieving the goal of legal certainty. If legislation is clear it can be implemented effectively, citizens and economic actors can know their rights and obligations and the courts can enforce them.

The *Smart Regulation Agenda* was followed up, in 2015, by a staff working document – *Better Regulation Guidelines*¹² – providing practical guidance to the staff involved in the legislative process. These guidelines are further complemented by the *Better Regulation 'Toolbox'*¹³, another working document providing further guidance. The importance of producing clear legislation is reiterated in the *Toolbox* where it is stated that

¹⁰ Available at [http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32003Q1231\(01\):EN:HTML](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32003Q1231(01):EN:HTML). Last accessed 28 August 2019.

¹¹ Available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2010:0543:FIN:EN:PDF>. Last accessed 28 August 2019.

¹² Available at http://ec.europa.eu/smart-regulation/guidelines/docs/swd_br_guidelines_en.pdf. Last accessed 28 August 2019.

¹³ Available at http://ec.europa.eu/smart-regulation/guidelines/docs/br_toolbox_en.pdf. Last accessed 28 August 2019.

«[w]hen well designed, such hard rules [i.e. legally binding EU rules] provide clarity as to the behaviour which is expected, making it relatively straightforward to identify non-compliant behaviour» (European Commission 2015, 86; *my emphasis*).

2.2.1. *From drafting to translation*

In the multilingual context of the EU where 23 out of 24 language versions of a law are translations, the quality of legal drafting goes hand in hand with the quality of translation. In a document dated 2015, *DGT Translation Quality Guidelines*¹⁴, the DGT provides an explanation of what is to be intended as ‘quality’ in EU translation: «our translations [should] [...] be fit for their intended communicative purpose to satisfy the expressed or implied needs and expectations of our direct customers, our partners in the other EU institutions, the end-users, and any other relevant stakeholders» (European Commission Directorate-General for Translation 2015, 1). The document goes on to highlight the political implications behind the translators’ work by stating that «text production has to comply with the legal requirements of multilingualism, but also with the Commission’s political objectives: bridging the gap between the EU and its citizens; involving citizens and stakeholders in the political process at European level; and convincing them of the added value of European cooperation» (European Commission Directorate-General for Translation 2015, 1). The document also highlights the risks of poor quality in translation:

Translation errors and discrepancies create risks of litigation and financial, political and image-related damage. They may entail considerable extra work later in the legislative process, in working groups and in other EU institutions, including the cumbersome processing of corrigenda requests. They may also result in difficulties and problems – and potentially errors – of interpretation and implementation at the national level. (European Commission Directorate-General for Translation 2015, 1)

The EU institutions have set up various initiatives concerning methods and procedures for all the stages of the document production chain with the aim of improving the quality of the final product, i.e. the text of the law in the different language versions. The first step of the process is the drafting of the original text of the law in the working language, which

¹⁴ Available at http://ec.europa.eu/translation/maltese/guidelines/documents/dgt_translation_quality_guidelines_en.pdf. Last accessed 28 August 2019.

usually is, as previously mentioned, English. The European Council has highlighted how the drafting of the original text plays a key role in achieving high quality in the subsequent translations, maintaining that «the quality of translations is heavily dependent on the quality of the originals» (European Union 2011a, 6)¹⁵. Strandvik (2012, 49) clearly expresses in the following passage how the quality of the original draft ultimately impacts on the successful achievement of legal harmonisation:

[t]ranslation is not the first step in legal harmonization. The first step is the drafting of the originals. Translators have no possibility to redraft the originals and limited leeway to adapt the texts to the conventions of the TL. Therefore, the importance of the authors' awareness of the implications of translation cannot be overestimated. The better the quality of the ST, the easier it is to translate, the better the result and the higher the probability of identical legal effect in all language versions.

Similarly, the General Secretariat of the Council (European Union 2011a, 13) points out that «[t]he difficulties caused by technical or linguistic errors or infelicities in a document are multiplied out during translation» and that «[i]t therefore makes sense to address these problems as near as possible to the source, before the document is distributed to translation units».

Wagner *et al.* (2012, 69) ascribe poor drafting to a number of different factors. Firstly, the original draft is produced – usually collectively – by authors that cannot be identified. The scenario that Wagner *et al.* (2012, 70) paint clearly illustrates the point: «EU documents are invented by many committees; and finally haggled over by politicians – often late at night or early in the morning – with planes to catch, a point to be made beforehand, and no time to read the whole thing carefully». The result of these negotiations is often a text drafted in such a way that it manages to satisfy the various parties involved; vague language leaving various possible different interpretations is a typical feature of these texts (Šarčević 2010, 35; cf. Tabory 1980, 227). Wagner (2004, 7) defines this as a process of «'consensus building'» where, «[i]n the desire to secure agreement at any cost, documents are sometimes inflated – and their logic distorted – by the inclusion of disparate material» and «[f]oggy language helps to achieve an appearance of political consensus».

Another factor impacting negatively on the quality of legal drafting is the fact that the original text is mostly drafted in English or – less fre-

¹⁵ *Quality Assurance at the Council's Translation Department*, available at https://www.consilium.europa.eu/uedocs/cmsUpload/Quality_assurance_EN.pdf. Last accessed 28 August 2019.

quently – in French by non-native speakers of these languages. «Everyone working in the EU institutions is subjected to a flood of Eurojargon, franglais and false friends, and it is difficult not to be swept along by the tide» (Wagner *et al.* 2012, 69). It can even happen that the working language changes in the course of the legislative process (Mattila 2013, 153).

EU institutions have taken steps to provide additional support to staff involved in the process of legal drafting. One of these initiatives is the creation of an editing service within some of the translation services of the EU institutions. The Council points out how «[e]diting [the] [...] originals before they are translated makes sense from an efficiency point of view, since it will speed up the translation process» (General Secretariat of the Council 2011, 6). Another initiative – albeit, according to Wagner *et al.* (2012, 75), «a very rare practice» – is the participation of translators in the work of the drafting teams. As Wagner *et al.* (2012, 75) observe, «[t]his can help to obviate problems of quality and translatability», since «[e]diting is always more successful when the authors are there to explain unclear passages and/or sanction alternative workings».

Efficient coordination between the various parties involved in the drafting and translation processes is also a key factor for quality in legislation and various efforts have been made to improve this. The DGT's *Programme for Quality Management in Translation: 22 Quality Actions*¹⁶ published in 2009, for example, promotes an improvement in the partnership with the customers of the DGT in terms of «mutual understanding» through «proactive assistance from Directorates-General» (European Commission Directorate-General for Translation 2009, 51). In order to achieve uniformity and consistency in the legislative texts, the EU institutions have established common rules regarding matters such as the structure of the texts and the use of terminology. These common rules are reported in the *Joint Practical Guide of the European Parliament, the Council and the Commission, for Persons Involved in the Drafting of European Union Legislation*¹⁷, which is available in all the official languages and periodically updated. In the *Joint Practical Guide* (European Union 2015, 16), drafters are reminded of the importance of drafting the original texts in such a way as to facilitate the translators' work:

The person drafting an act of general application must always be aware that the text has to satisfy the requirements of Council Regulation No 1,

¹⁶ Available at http://ec.europa.eu/dgs/translation/publications/studies/quality_management_translation_en.pdf. Last accessed 28 August 2019.

¹⁷ Available at <https://publications.europa.eu/en/publication-detail/-/publication/3879747d-7a3c-411b-a3a0-55c14e2ba732>. Last accessed 28 August 2019.

which requires that such acts be adopted in all the official languages. That entails additional requirements beyond those which apply to the drafting of a national legislative text.

More specifically,

the original text must be particularly simple, clear and direct, since any over-complexity or ambiguity, however slight, could result in inaccuracies, approximations or complete mistranslations in one or more of the other Union languages. (European Union 2015, 16)

In addition to the *Joint Practical Guide*, other guidelines such as the *Inter-institutional Style Guide*¹⁸, the English-specific *English Style Guide*¹⁹, and the guide specifically addressed to drafters, *Writing for Translation*²⁰, are important tools for both drafters and translators.

The final step of the document production chain is quality control. EU translated documents are checked at the end of the process and they are expected to comply with the requirements provided for by the ISO 17100²¹. In the previously mentioned *DGT Translation Quality Guidelines* document, the Directorate-General for Translation states that «[i]n brief, translation should be carried out keeping the purpose of the translated text in mind, respecting the linguistic conventions of the target language and relevant project specifications» (European Commission Directorate-General for Translation 2015, 3). In order to guarantee the maximum level of quality of EU legislative texts, considering their legal and financial implications, «EU legal acts should always be subject to full revision. The combination of translator and reviser competences should ensure a high level of risk mitigation. Even in situations of extreme work pressure, legal acts should be revised» (European Commission Directorate-General for Translation 2015, 6).

The above-mentioned DGT document makes a distinction between ‘revision’ and ‘review’ as ways of carrying out quality controls. The former refers to «bilingual examination of target language content against source language content for its suitability for the agreed purpose», while the

¹⁸ Available at <http://publications.europa.eu/code/en/en-000100.htm>. Last accessed 28 August 2019.

¹⁹ Available at https://ec.europa.eu/info/files/english-resources-english-style-guide_en. Last accessed 28 August 2019.

²⁰ Available at <http://cdt.europa.eu/en/documentation/writing-translation>. Last accessed 28 August 2019.

²¹ ISO 17100 «provides requirements for the core processes, resources, and other aspects necessary for the delivery of a quality translation service that meets applicable specifications» (information retrieved from http://www.iso.org/iso/catalogue_detail.htm?csnumber=59149; last accessed 28 August 2019).

latter «means monolingual examination of target language content for its suitability for the agreed purpose» (European Commission Directorate-General for Translation 2015, 2-3). The DGT points out that the following elements need to be verified in view of quality assurance: (1) consistency with legal memories²²; (2) compliance with drafting conventions at a European Union and at a national level; (3) internal and external consistency of terminology; (4) ambiguous passages in the texts; (5) consistency with basic legal acts – such as the treaties – in formulations and terminology; (6) respect of the ‘sentence rule’, which requires the same «sentence boundaries» for all the language versions (European Commission Directorate-General for Translation 2015, 6).

Effective management of the complete translation process is also crucial for the quality of the end products. The DGT uses a system to track the document throughout the whole workflow, from the department’s request for a new translation, to the delivery of the translated text in all the languages required (European Union 2014, 14). Moreover, production is monitored over a period of time through weekly, monthly and yearly reports and statistics (European Union 2014, 14).

2.2.2. *The role of the translators*

The competence of the translators is, of course, a key pre-requirement for the production of quality translations. Particular care is taken in the recruiting process, as well as in the continuous development of skills and competences of the translators through training (European Union 2011a, 5)²³. Motivation is also identified as a factor influencing the translators’ work, and the initiatives taken by the European Council to improve work satisfaction aim to offer «variety and a sense of responsibility to [...] staff» as well as to provide «prompt, regular and relevant feedback» (European Union 2011a, 6).

Other factors also have an impact on the quality of the translators’ work. Among these, tight deadlines are, in Wagner *et al.*’s (2012, 79) words, «public enemy number one». The translators’ concern for the

²² One example is the *Manual of Precedents for Acts Established within the Council of the European Union*, available at <http://bookshop.europa.eu/en/manual-of-precedents-for-acts-established-within-the-council-of-the-european-union-pbQC4101381/>. Last accessed 28 August 2019.

²³ *Quality Assurance at the Council’s Translation Department*, available at <https://publications.europa.eu/en/publication-detail/-/publication/af889468-04a9-4c94-af40-7b4235c523e0>. Last accessed 11 September 2019.

quality of the translated texts clashes with the requesters' point of view that «an imperfect translation delivered on time is much better than a perfect one delivered too late» (Wagner *et al.* 2012, 79). Moreover, the original texts are often amended several times even after the original draft has been handed in to the translation department, so «[i]t is not unusual for a text to go through six or seven successive versions (with accompanying translations) before reaching its final form» (Wagner *et al.* 2012, 80).

Translators obviously do not work alone: they are members of a team composed of revisers, whose task is to correct and improve the translated texts; legal revisers, who check the legislative texts from a legal point of view; politicians and officials, who verify that the style and contents of the documents are appropriate (Wagner *et al.* 2012, 57). Quality controllers are also part of the team, with the specific task of monitoring the linguists' work (European Union 2011a, 8-9). Despite the fundamental role of the translators within the EU they are, therefore, «a mere link in the long chain of the legislative process» (Wagner *et al.* 2012, 50), where various elements influence the translators' choices, limit their discretion and end up having an impact on the end product.

2.2.3. Translation tools

The *Interinstitutional Agreement on Better Law-Making*²⁴ identifies consistency between different documents, as well as within a text itself, as one of the key elements for quality in legislation. Biel (2017, 35; *emphasis in the original*) points out that «**equivalence** of translation in relation to the source text [...], in relation to other language versions [...] and in terms of **consistency/continuity** with preceding and/or higher ranking texts» is a crucial variable which contributes to the quality of translated EU documents.

Computer-Assisted Translation (CAT) tools are a useful aid in achieving this consistency at a terminological and phraseological level. Translation memories, i.e. archives in electronic format of parallel segments in source and target languages from previously translated texts (Wagner *et al.* 2012, 89), are a very useful tool too. As well as being an aid to translators, translation memories guarantee greater uniformity between EU legal texts. However, at the same time, they inevitably end

²⁴ Available at [http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32003Q1231\(01\):EN:HTML](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32003Q1231(01):EN:HTML). Last accessed 28 August 2019.

up limiting the translators' discretion by restricting their decisions to previous choices (European Union 2014, 11-12). In Wagner *et al.*'s words (2012, 50), «there are conventions that specify one particular translation option (and not necessarily the one [the translator considers] [...] the most correct, the most elegant or the most apt) rather than all the other possible ones». Considering that translation memories support the reiteration of certain linguistic structures and terms from text to text, they have also undoubtedly contributed to shaping the particular variety of English used at the EU institutions.

A very large central translation memory is available through the Euramis (European Advanced Multilingual Information System) platform developed at the Commission (European Union 2016). This platform «is a set of web applications combined with e-mail to give access to a whole range of language-processing services» and it connects all the translation aid systems of the DTG (European Union 2014, 11). When a new translation is requested, the central translation memory automatically extracts any similar passages or phrases that have been previously translated (European Union 2016, 5). In 2016 the Euramis central memory contained more than one billion segments in all the official languages (European Union 2016, 11). Since each newly translated text is uploaded into Euramis for future use in other translations, the size of the translation memory is constantly increasing (European Union 2014, 12).

One key factor for the successful harmonisation of EU law across all the Member States is represented by uniformity in terminology; ensuring consistency in the use of legal terms both within one text and between different texts is crucial for the EU institutions. The terminologists working within the various language departments are responsible for providing support in terminological issues for all the official languages. As illustrated in the *Translation and Multilingualism* booklet (European Union 2014, 13), their work includes:

- responding to requests for help with terminology from translators and other EU staff;
- proactively preparing terminology for technically demanding documents prior to translation;
- cooperating with colleagues in terminology services in other EU institutions, as well as with national bodies and terminology organisations;
- feeding IATE [Inter-Active Terminology for Europe, i.e. an inter-institutional database containing specialised terms in all the official languages] [...] and managing and consolidating its content.

IATE contains about 8.6 million terms and 500,000 abbreviations from all the areas in which the EU institutions operate and is continuously

updated by translators and terminologists (European Union 2014, 9). As it is publicly available, it is a very useful tool also for any translator of specialised texts. Finally, the publicly available EUR-Lex database containing all EU legislation, as well as the judgements of the ECJ, the legislative proposals and the summaries of the EU laws in all the official languages is also a fundamental tool for the translators' work.

2.3. EUROPEAN UNION LEGAL LANGUAGE AND TRANSLATION

2.3.1. *Main characteristics of EU legal language*

Legal languages normally have their origin and develop within the legal order and culture of a certain country²⁵. The case of EU legal language is unique, since it originates from EU culture, which is not the culture of one single country, but rather the result of the encounter of the cultures of all the Member States. Within this context, EU legal language has been created as a new, ideally neutral language which, in fact, is affected by the cultures of the countries that have contributed to creating it (Catenaccio 2008, 144). As Kjær (2007, 80) puts it, «EU law is an independent legal order without an independent legal language, without a language of its own».

English has an increasingly special – though unofficial – role as a *lingua franca* at the EU. The *Translation and Multilingualism* booklet reports that in 2013 up to 81% of the drafting was done in English. This percentage is likely to have gone up even further since then. The increasing use of English as a working language at EU level is also due, as Gotti (2008, 184) points out, to the fact that, as regards translation, English functions as a «pivot» language for many other languages. This means that, where there is a lack of translators for certain language combinations (for example, Lithuanian into Croatian), the text undergoes a two-step translation process: first, it is translated into English, and then from English into the target language.

Pozzo (2014a, 17) observes how the fact that legal English, which originates from a common law legal system, is used at the EU to express

²⁵ In general terms, legal language can be defined as a sub-category of language used by the legal profession (Gémar 2014, 77). Mantovani (2008, 24) defines legal language as «a variety of the general language related to a specific practical science, that is the law» (*my translation*).

legal concepts within a civil law legal order, has created a somewhat paradoxical situation. In Pozzo's (2014a, 17) words, «the specific features of the English language as the most spoken – but at the same time, **the least suitable language to express civil law concepts** have become evident in a context that should be at the same time multilingual and harmonised» (*my translation; my emphasis*)²⁶ (cf. also Ferreri 2006, 63; Tessuto 2012, 24; Sandrelli 2018, 63). This new *lingua franca* poses, therefore, particular challenges for the translators at the EU (Pozzo 2014a, 25). Mattila (2013, 349) refers to this *lingua franca* as «a new basic variant of legal English [that] is in course of development» at the EU. Similarly, Catenaccio (2008, 142) points out that EU legal English and legal English used in the UK «must be considered as two separate systems, each with its own specific characteristics» (*my translation*)²⁷. For example, Sandrelli (2018, 89) found that some linguistic features – such as loanwords, calques, certain prepositions and compound words – are over-represented in EU legal English compared to legal English in the UK, most likely due to language contact and interference from other official languages in the multilingual context of EU legal drafting.

One relevant distinction between EU legal English and legal English in the UK concerns terminology. As Mattila (2013, 349) observes, EU legal English «contains a number of terms that do not exist in common-law English and many terms that exist in common-law English but that are used with a more or less distinct continental meaning» (cf. also Catenaccio 2008, 166). One example is the term *regulation* that refers to a specific type of EU law, but also to a different type of British national law (cf. Ferreri 2008, 287). According to Mattila (2013, 349), «[t]his phenomenon is highly significant from the standpoint of international legal communication» as «[b]oth common-law and continental lawyers need to be aware of the existence of the two variants of legal English in today's world (and still more in tomorrow's): what is traditional, and what is based on the civil-law (continental) system of legal concepts» (Mattila 2013, 349)²⁸.

²⁶ «si sono poste in evidenza le caratteristiche della lingua inglese come lingua più parlata ma allo stesso tempo meno adatta all'espressione dei concetti di *civil law* in un contesto che si vorrebbe allo stesso tempo multilingue e armonizzato» (Pozzo 2014a, 17).

²⁷ «l'inglese giuridico europeo e l'inglese giuridico britannico devono essere considerati come due sistemi distinti, aventi ciascuno caratteristiche proprie peculiari» (Catenaccio 2008, 142).

²⁸ As Tessuto (2016, 152) points out, there are other varieties of legal English in the other common law English-speaking countries, such as the US, Australia, New Zealand, Canada. These varieties of legal English have a shared root since they originated from England's common law language, but over the centuries they have developed in different ways and have acquired their own distinctive features.

Despite the special role played by English at the European Union, EU legal language is obviously not EU legal English alone. EU legal language concerns the «creation of a new variant of **all** official languages» (Paunio 2016, 9, *my emphasis*; cf. also Koskinen 2000, 53), which are shaped and moulded by the drafting and translation processes (cf. Biel 2014c, 60). EU institutions often resort to using national terminology to express EU legal concepts. As discussed in Chapter 1, in order to avoid misinterpretations, the meaning of EU terminology is independent from national legal systems, which means that the national term acquires a different meaning when used to express EU norms (cf. Pozzo 2008; Tessuto 2012). Guidelines issued by the EU institutions in the *Joint Practical Guide* expressly state that «concepts or terminology specific to any one national legal system are to be used with care» (European Union 2015, 11). As a consequence, EU drafters sometimes choose to use neutral terms with a broader, more general meaning, rather than specific technical terms (Šarčević 1997), or to create neologisms (Guggeis 2012). This effort can, however, result in a text characterised by complicated terms or circumlocutions (Mattila 2013, 154). Paunio (2016, 9) highlights how the new terms and structures characterising EU language can be the cause of some difficulty in interpreting EU legislation at a national level. In Paunio's (2016, 9) words, «even when we are talking about concepts belonging to the autonomous sphere of EU law, some confusion as to their meaning [...] may nonetheless exist when 'imported' into the national context by national judges and authorities». Robertson's (2010, 5) view is that

[w]ith EU legal language one can look at one language alone, by itself, in the form of EU texts written in that language. But EU law is multi-lingual and each language version is influenced by other languages in various ways: drafting may be by non-native speakers; the text translated from another language; concepts borrowed from another language; the base language switched to another version during negotiation, etc. The meaning of EU texts derives from all the texts together and not just one language version.

The new variety of each national language is also influenced by the fact that communication at the European Union institutions takes place all the time between officials of different nationalities (cf. Gémard 2006, 132) and that workers at the EU institutions continuously deal with translated texts. As Ferreri (2006, 55) points out, these factors inevitably leave traces on all the languages used at EU level (cf. also Koskinen 2000, 6; Ajani - Rossi 2006, 132). It is therefore easy to understand how, as a result of this, EU languages diverge from the standard conventions of the

national languages (cf. Biel 2014c). The variety of legal language used at the EU is referred to by scholars as «Eurolect» (Koskinen 2000; Mori 2018b), «Eurospeak» (Koskinen 2000) or «Euro-speak» (Robertson 2010), «Euro-legalese» (Garzone 2000).

Another question that has been posed is whether the adoption of EU regulations at a national level and the implementation of EU directives into national legal systems is gradually changing national legal languages. Since EU legislative texts become, *de facto*, part of the national legislation of each Member State, it can be hypothesised that EU legal language could have some effects on the various national legal languages. As Catenaccio (2008, 145) points out, «[a]s the EU requires that the Member States [...] implement the laws issued by the EU itself, the national governments have the task of integrating within their legal orders laws that are the result of a compromise between different traditions, both in terms of legal contents and linguistically» (*my translation*)²⁹.

Biel's (2014c) comparison of national Polish language in the period before and after the accession of Poland to the EU in 2004, has shown that «[t]he changes in the post-accession language consist in an increased or decreased frequency of certain established patterns of national law rather than in introducing alien or distorted patterns» (Biel 2014c, 304-305). Despite these changes, however, the results of the analysis reveal that the language of EU legislation appears to have had little impact on national legal Polish and that «[t]he generic features of national law tend to be stable and resistant to change» (Biel 2014c, 300). Piehl's (2006) investigation into the influence of EU legislation on Finnish legal discourse has shown similar results, and «it does not seem that the language has been disrupted, as often feared» (Piehl 2006, 190). As regards national legal Italian, Cortellazzo (2012, 179-183) puts forward the idea that it is not so much the language that is changing under the influence of EU law, but rather that the law itself is changing, and that the changes in national legal Italian are merely a result of that. In Cortellazzo's (2012, 179) words, «the linguistic harmonisation of the legal language in Europe is secondary to the harmonisation of EU law» (*my translation*).

²⁹ «l'Unione richiede che gli stati membri [...] implementino le leggi emanate in seno all'Unione stessa, i governi nazionali si trovano ad affrontare il compito di integrare nei loro sistemi giuridici leggi che sono il risultato, sia in termini di contenuto normativo che di formulazione linguistica, di un compromesso fra tradizioni diverse» (Catenaccio 2008, 145).

2.3.2. Clarity in EU legal texts

In the 1970s, increasing awareness of the difficulty for the lay public of understanding legal documents – in particular documents addressed to consumers, such as, for example, loans and insurance terms – led to the emergence of a movement promoting clarity in legal language in the anglophone countries (Mattila 2013, 328-329). The movement began in the US, then spread to Canada, the UK, Australia, New Zealand, the Republic of South Africa (cf. Williams 2011, 140; Mattila 2013, 329) and soon concerned legal language in other areas as well, such as legislation and administration.

Internationally, the concern for clarity in legal documents extended also to the international organisations where English is used as a *lingua franca*. Interestingly, the first to raise awareness of the need for clearer writing at the European Union were the Commission translators, who started the ‘Fight the FOG’ campaign in 1998. As Wagner *et al.* (2012, 72) explain, FOG «is a metaphor for a grey pall that descends on Commission documents, causing delays and irritation, making it difficult to find one’s way» and «FOG is also an acronym for ‘farrago of Gallicisms’, ‘frequency of gobbledygook’, ‘full of garbage’ etc.» (Wagner *et al.* 2012, 72). The movement for clarity acquired a new implication within the context of the EU: as the original draft of most texts has to be translated into the other official languages, drafting clear original texts is essential also for the quality of all the subsequent translations (Wagner 2002, 29).

The aim of the ‘Fight the FOG’ campaign was «to raise awareness of the difference between ‘real English’ and what was being written in Commission documents» (Wagner *et al.* 2012, 73). This intent was carried out by means of various initiatives, which included lectures, courses on clear writing and the development of guidelines. The reception was positive, although changes were slow (Wagner 2002, 28). One principle in particular was promoted by the campaigners, i.e. the KISS (Keep It Short and Simple) principle, as «[s]hort documents are [...] easier to finalise and faster to translate», with the additional advantage of reducing the costs of translation work. In 2010, the ‘Fight the FOG’ campaign was replaced by the ‘Clear Writing’ campaign. Unlike the ‘Fight the FOG’ campaign, which was centred around the English language, the ‘Clear Writing’ campaign is multilingual, so the principles that it offers are universal and not language-dependent. These principles are contained in the *How to Write Clearly*³⁰ booklet, which is available in all the 24 official

³⁰ Available at <https://publications.europa.eu/en/publication-detail/-/publication/c2dab20c-0414-408d-87b5-dd3c6e5dd9a5>. Last accessed 13 September 2019.

languages. While ‘Fight the FOG’ was launched and carried out by the DGT on its own account, the ‘Clear Writing’ campaign is managed on a much larger scale by the Commission and its efforts are part of a broader strategy aimed at quality improvement in EU legal texts (Wagner *et al.* 2012, 74).

Another problem addressed by the ‘Fight the FOG’ – and subsequently, the ‘Clear Writing’ – campaigners is Eurojargon. As Wagner (2004, 7) puts it, «[j]argon and abstruse acronyms may aid communication between specialists but if they spill over into the wrong context, they are irritating and sound ridiculous». Eliminating the use of terms and expressions only understandable by Eurocrats from the documents addressed to the lay public is, however, a complicated matter (Wagner 2002, 28). In Wagner’s (2002, 28) view, «[i]t seems to be part of a larger problem: the widening gap between the EU institutions and ordinary people». In other words, «[I]inguistic clarity is just one part of the general ‘transparency and accountability’ package so urgently needed in the institutions», which need «to improve public understanding of the EU» (Wagner 2004, 7). This point highlights how the efforts made to improve the quality of EU texts have the precise strategic intent of bringing the EU institutions closer to citizens.

In the early stages, the campaign concerned informative texts only, and not legal drafting. However, it soon became clear that the problem of poor quality in the texts written for the lay public was strictly related to the poor quality of the source of these materials, i.e. the legal texts (Wagner 2002, 29-30). This sparked a number of initiatives aimed to improve the quality of legal drafting. The legal services of the three main EU institutions (the Commission, the Council and the European Parliament) adopted the *Interinstitutional Agreement on Better Law-Making*³¹ in 2003, which supported the improvement of legal drafting by providing common guidelines (cf. Wagner 2002, 30) in addition to the previously mentioned *Joint Practical Guide* and *Interinstitutional Style Guide*.

According to Williams (2011, 148) «the drafting style has changed relatively little since the UK and Ireland entered the European Community in 1973». For example, in EU legislation, the frequency of the modal *shall* has remained virtually unchanged (Williams 2011, 148; cf. also Williams 2013; Anselmi - Seracini 2015), despite the fact that all the anglophone countries have dramatically reduced its use in legal language. However, as Williams (2011, 148) notes, there is also evidence of some changes

³¹ Available at [http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32003Q1231\(01\):EN:HTML](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32003Q1231(01):EN:HTML). Last accessed 28 August 2019.

in EU legal language. For example, the use of the archaic word *whereas*, in its legal meaning of «considering that», which used to introduce each recital in EU laws, dropped by more than 85% in the period between 1973 and 2010 (Williams 2011, 148-149). Yet, on the whole, the changes in legal language have been generally slow at the European Union; this is also the case for other international organisations such as the United Nations (Williams 2011, 141). According to Williams (2011, 149),

we should not be surprised if progress is slower in international bodies where a number of languages are of equal rank and have legal force. It is much easier to introduce changes in drafting style in a monolingual situation, as in Australia or Westminster, or where at most there are only two official languages, as is the case in Canada, New Zealand, Wales or the Republic of Ireland. In a multilingual environment it is a far more complex task to modernize the style of just one language without this having unforeseeable consequences on some or all of the other languages.

In other words, going along the well-trodden path of the usual linguistic patterns is often felt as the safest route (cf. also Mattila 2013, 124-125; Tiersma 1999, 241-242).

One other element to consider is that the goals of the legal system itself are, in certain respects, in conflict with the aim of clear communication (Tiersma 1999, 243). In Tiersma's (Tiersma 1999, 243) words, «[the legal system] endeavors to state the law as authoritatively as possible» and «[f]ormal, archaic, and ritualistic language helps accomplish this goal by conveying an aura of timelessness that makes the law seem almost eternal, and thus more credible and worthy of respect». In his view, improving clarity in legal discourse should involve «keeping those features that enhance the functioning of the legal system, while discarding those that serve no justifiable purpose» (Tiersma 1999, 240).

Concerns for clarity in legal language have also been raised regarding other languages. In the case of Italian, Ferreri (2006, 56) observes, for example, how solemnity is often favoured at the expense of clarity in EU translated legislation. The Rete REI (Rete per l'eccellenza dell'italiano istituzionale) was founded with the specific aim of promoting clear communication in Italian between the public institutions – EU institutions, as well as Italian and Swiss public administrations – and the lay public. Its members include the language services of the EU institutions, as well as academics and experts of translation and terminology in various sectors. Article 2 of the Manifesto of the Rete REI states that

L'italiano istituzionale risulta ancora scarsamente accessibile a chi non appartiene alle istituzioni, caratterizzato com'è da un eccessivo, e spesso

inutile, tecnicismo, da una tendenza all'amplificazione, da uno stile indiretto e poco trasparente; in altri termini, una lingua lontana da quella usata dai cittadini. Un tale strumento non è adeguato ai principi che oggi stanno alla base dei rapporti delle istituzioni con i cittadini: semplificazione, trasparenza, efficacia.³²

The Manifesto advocates the use of clear, precise and simple language to facilitate the lay public's understanding of the institutional texts:

Occorre puntare a migliorare la chiarezza della redazione legislativa, in particolare attraverso una riflessione costante sulle regole di redazione dei testi normativi emanati dalle istituzioni che utilizzano l'italiano come lingua ufficiale, in tutte le loro forme (leggi, direttive, regolamenti, circolari, ecc.), la loro strutturazione e il loro contenuto [...]. Occorre anche giungere a una armonizzazione dei suggerimenti redazionali.³³

2.3.3. *The translation of EU legislation*

Legal translation forms a «fuzzy» category of specialised translation that includes different contextual situations, subject matters, levels of specialisation and genres (Biel 2014c, 50-51). Many different classifications have been proposed for legal translation (cf. Šarčević 1997; Trosborg 1997; Cao 2007). Cao's (2007, 12) tripartite classification distinguishes three categories of translated texts based on the purpose of the target text. Applying this categorisation, the translation of EU legislation falls within the category that includes texts translated for normative purposes, such as equally authentic laws and international legal instruments, in multilingual jurisdictions or international organisations (Cao 2007, 10). Once these texts are translated and have gone through the authentication

³² «Institutional Italian is still insufficiently accessible to the people who do not belong to the institutions. It is characterised by excessive, and often unnecessary, jargon, by a tendency towards amplification, by a style that is indirect and opaque; in other words, it is a language that diverges greatly from the language used by the citizens. This type of instrument is inadequate for the principles that are at the basis of the relations between the institutions and the citizens: simplification, transparency, efficacy» (http://ec.europa.eu/translation/italian/rei/about/documents/manifesto_italiano_istituzionale_qualita_it.pdf; last accessed 13 September 2019; *my translation*).

³³ «It is necessary to aim to improve clarity in legislative drafting, in particular through careful consideration of the drafting norms for legal texts issued by the institutions that use Italian as an official language, in all their forms (laws, directives, regulations, circular letters, etc.), their structure and their content [...]. It is also necessary to harmonise the drafting guidelines» (http://ec.europa.eu/translation/italian/rei/about/documents/manifesto_italiano_istituzionale_qualita_it.pdf; last accessed 13 September 2019; *my translation*).

process, they have equal legal force to the original and to all the other language versions (Cao 2007, 10; cf. also Šarčević 1997, 20).

The main challenge that is generally recognised in legal translation is that «[it] is an operation not only between two distinct languages but, above all, between two distinct legal systems» (Biel 2014c, 49; cf. also Sacco 1987, 850; Garzone 2000, 3; G  mar 2006, 112; G  mar 2014, 69). As noted by Biel (2014c, 49), legal systems «have been designed to answer the needs of a particular nation and reflect its idiosyncrasies». Legal systems are, in turn, closely interconnected with language as «[l]egal language has developed its characteristics to meet the demands of the legal system in which it is expressed» (Cao 2007, 28). This particular challenge, which differentiates legal translation from other types of specialised translation, is further complicated in the case of the translation of EU legislative texts, where so many different legal systems and legal languages are involved. In Kj  r's (2007, 69) words, «Europe's extreme degree of linguistic and legal pluralism³⁴ makes the complexity of legal translation in the EU unparalleled in the world». As Graziadei (2015, 25) observes, «divergent interpretations of uniform law do not occur simply because languages have a particular genius of their own, but because of the lack of uniformity at the conceptual level».

As pointed out previously, the European Union is a supranational identity that is still in the process of establishing itself as a culture in its own right (cf. Felici 2010, 105). The treaties are the foundations of EU culture: they are negotiated and agreed upon by the Member States and, at the same time, they establish the legal system and culture of EU legislation (Robertson 2015, 35). The particular nature of EU culture, which originates from the different cultures of all the Member States, but is – at the same time – autonomous, has a strong impact on EU translation. The usual interaction between source culture and target culture is complicated (Koskinen 2000, 57) and is neither possible to define EU translation as translation within one single legal system³⁵, nor as translation between different legal systems (Kj  r 2007, 74-78).

The situation in the case of EU translation is made even more complex by the fact that not all legislative instruments interact in the same

³⁴ Pozzo (2015, 76) reports that there are now as many as 500 possible language combinations in EU translations.

³⁵ Translation within one legal system and culture is the type of translation that takes place in the domestic legislation of bilingual or trilingual jurisdictions – such as Canada and Switzerland respectively – where laws are translated into the different official languages, but the legal system and the culture remain the same (cf. Cao 2007; Kj  r 2007; Giuggioli 2008).

way with the national legal orders of the Member States: while regulations and decisions are directly adopted by the Member States, directives need to be transposed into national legislation. This involves a rewriting process from the EU directive into one or more national laws that can be viewed as an example of what Jakobson (1959, 233) defined as «intralingual translation or rewording» (cf. Kjær 2007, 76). Therefore, two types of translation processes should be considered under the umbrella term of 'EU translation': on the one hand, the interlingual translation that takes place at the level of the EU institutions when the laws are translated into the different languages, and, on the other, the intralingual translation that takes place in each Member State when EU directives are transposed into national legislation.

Koskinen's (2000, 54) view as regards the translation policy at the EU is that, «[i]n practice, the translation policy aims at *a*cultural communication». Koskinen (2000, 54) holds that «[t]his is partly due to the need to draft some documents so that they are applicable in all Member States, which means avoiding culture-specific features». Interestingly, Koskinen (2000, 54) points out that «the overall institutional attitude» at the European Union is «not [to] encourage any degree of cultural adaptation» nor to convey the idea that translation can be considered as «intercultural communication». According to Koskinen (2000, 54), this is clearly visible in the «preference for surface-level similarity» between translated texts, which should – in the intentions of the EU institutions – be perceived as «[a] guarantee that readers of the various translations all get the same message».

After considering the context in which EU translation takes place, its peculiarities and limitations, and the influence that it potentially has on the translators' work, the next chapter will go on to provide a theoretical and methodological framework for the subsequent study of EU translated laws.

3.

THEORETICAL FRAMEWORK AND METHODOLOGICAL CONSIDERATIONS

3.1. INTRODUCTION

The present chapter has a theoretical and methodological focus. The first part of the chapter presents the theoretical framework and the methodological principles underlying the subsequent analysis of EU translation, with particular reference to Legal Translation Studies and Corpus-based Descriptive Translation Studies. The second part of the chapter describes the EURO-CoL and UK-LAW corpora and the criteria behind their compilation.

One key feature that needs to be taken into account when studying translation is its inherent interdisciplinary nature. Interdisciplinarity can be described as «the combination of theories from different disciplines in research» (Brems *et al.* 2014b, 5). This also applies to legal translation, which has benefited from the numerous studies that have been carried out with different methodologies and aims in the fields of Translation Studies, Terminology, Linguistics and Comparative Law (Biel - Engberg 2013). The interdisciplinary nature of legal translation has an impact on translator training as well (cf. de Groot 1987; Šarčević 1994; Gémár 2001; Cao 2007), since translators need to have a strong competence in both language and the law. Harvey (2002, 182) argues that «[f]rom the epistemological standpoint, legal translation stands at the crossroads of three areas of inquiry – legal theory, language theory and translation theory».

Research into legal translation has gradually become an independent branch of studies within the broader field of specialised translation (Prieto Ramos 2014). Prieto Ramos (2014, 261) defines this new branch as «Legal Translation Studies» (LTS) and points out that it represents today «one of the most prominent fields within TS». Given its interdisciplinary

nature, research into legal translation requires an approach that brings together concepts from Translation Studies, Linguistics and the Law:

Linguistic mediation between legal systems or within multilingual legal contexts (such as international or multilingual national systems) and the academic study of such mediation require the coherent integration of concepts from TS, Linguistics (as drawn upon through TS) and Law. Without these elements, it can be argued that legal translation as a problem-solving activity would be an unreliable exercise, and LTS would not stand where it stands today. (Prieto Ramos 2014, 261)

Regarding, more specifically, the study of EU legal translation, researchers have highlighted the difficulty in applying some of the traditional Translation Studies concepts and methodologies to translation in this particular context (cf. e.g. Koskinen 2001; Kjær 2007; Biel 2014c). As Biel and Engberg (2013, 6) observe,

Owing to its unprecedented multilingualism, institutionality and hybridity, EU translation has challenged some central concepts of Translation Studies with its fluid and non-final source texts, concurrent drafting and translation, collective translation processes, and the replacement of source text and target texts by authentic language versions.

Based on these considerations, the present study borrows concepts from Translation Studies, Linguistics and Comparative Law. The theoretical basis is provided by the Descriptive Translation Studies paradigm; the following section briefly outlines the key concepts that will be applied to the study of EU legal translation.

3.2. DESCRIPTIVE TRANSLATION STUDIES

3.2.1. *Basic theoretical concepts: a brief outline*

Descriptive Translation Studies (DTS) developed starting from the 1970s from the work of various scholars (Bassnett - Lefevere 1998; Hermans 1999; Toury 2012 [1995]), coming mostly from literary studies and working in different countries, on the basis of Holmes's (2004 [1972]) categorisation of the studies of translation¹. Although they did not form

¹ Holmes's (2004 [1972]) categorisation distinguishes between «pure» and «applied» studies on translation. Within the category of «pure» studies, Holmes (2004 [1972]) includes two sub-categories, the «theoretical» and the «descriptive» studies.

an actual school, these scholars shared some fundamental assumptions regarding translation (cf. Hermans 1999, 7-9) and a common aim, i.e. «to establish a new paradigm for the study of literary translation, on the basis of a comprehensive theory and ongoing practical research» (Hermans 1985b, 10). Hermans (1985b, 10-11) summarises as follows their common views:

What they have in common is, briefly, a view of literature as a complex and dynamic system; a conviction that there should be a continual interplay between theoretical models and practical case studies; an approach to literary translation which is descriptive, target-oriented, functional and systemic; and an interest in the norms and constraints that govern the production and reception of translations in the relation between translation and other types of text processing, and in the place and role of translations both within a given literature and in the interaction between literatures.

The approach to research is, therefore, descriptive, rather than prescriptive. As Hermans (1999, 7) points out, the descriptive paradigm considers translation «as it actually occurs, now and in the past, as part of cultural history». While previous translation theories placed the source text firmly centre stage, DTS have a ‘target-oriented’ approach and translations are «regarded as facts of the culture that [...] host[s] them» (Toury 2012 [1995], 18). Therefore, consideration of contextual and cultural factors is the key to understanding the translators’ choices². The importance of translation for the target culture is highlighted by Toury (2012 [1995], 21) who points out that «cultures resort to translating precisely as **a way of filling in gaps**, whenever and wherever such gaps may manifest themselves» (*emphasis in the original*).

In the present research, concepts derived from the theoretical framework of Descriptive Translation Studies (cf. Bassnett - Lefevere 1998; Hermans 1999; Toury 2012 [1995]) are applied to the study of EU legal translation. In particular, the study refers to the concept of *norms* in translation as defined by Toury (2012 [1995]; cf. also Chesterman 2016).

² This focus on the target text and culture was also influenced by Even-Zohar’s (2004 [1978]) «Polysystem Theory», which views culture as a system of systems (a polysystem). Within the polysystem, translated literature is a system in its own right whose position is constantly changing, occupying at times a more central and at times a more peripheral position within the broader system of literature. Even-Zohar’s (2004 [1978]) Polysystem Theory confers a fundamental role to translated literature in shaping the receiving culture and paves the way for the consideration of context in translation research.

3.2.2. *Norms in translation*

Norms are «the translation of general values or ideas shared by a community – as to what would count as right or wrong, adequate or inadequate – into performance ‘instructions’ appropriate for and applicable to concrete situations» (Toury 2012 [1995], 63). Norms govern, therefore, the translator’s behaviour and choices which, in turn, determine the strategies that are adopted in a translation (Toury 2012 [1995]). Strategies are, in Lörcher’s (1991, 76) words, «a potentially conscious procedure for the solution of a problem which an individual is faced with when translating a text segment from one language into another». The relation between a norm and a strategy is not of direct one-to-one correspondence, since the same norm may give rise to various different strategies and – viceversa – different norms may result in the same strategy being used (Toury 2012 [1995], 65). Chesterman (2016, 66) suggests that norms exercise a prescriptive pressure on the translators, so that «translators tend to behave as they think they ought to behave». Although it is possible for the translator to interpret norms in a different way or to decide not to conform to them, norms may be viewed not only as guidelines but also as a form of constraint (Chesterman 2016).

Toury’s classification (2012 [1995], 82-84) distinguishes between two groups of norms: «preliminary» and «operational» norms. Preliminary norms precede operational norms logically and temporally, and concern (1) the «translation policy», e.g., the choice of the texts that are to be translated into a specific language and culture and (2) the «directness of translation», e.g., if – and to what degree – translating through a mediating language is tolerated. Operational norms determine, directly or indirectly, the relationship between source and target texts in terms of transformations, replacements or omissions. Within the category of operational norms, «matricial norms» govern the replacement of source text features and the textual organisation of the target text, while «textual-linguistic norms» govern how the target text is formulated linguistically (Toury 2012 [1995], 82-84). Textual-linguistic norms may or may not be related to the norms governing the production of non-translated texts in the target culture (Toury (2012 [1995], 83).

Two principles constitute the «value» of any translation: the principle of «acceptability» and the principle of «adequacy» Toury (2012 [1995]). The former is defined as «the production of a text in a particular culture/language which is designed to occupy a certain position, or fill a certain slot, in the host culture», while the latter is defined as «constituting a representation in that language/culture of a text already existing in

some other language, belonging to a different culture and occupying a definable position within it» (Toury 2012 [1995], 69). The translator's stronger orientation towards either acceptability or adequacy is viewed by Toury (2012 [1995]) as the basic choice that determines the «initial norm». However, it is never black and white, as «a translation will never be *either* adequate or acceptable», but rather a compromise between the two tendencies Toury (2012 [1995], 70).

From a methodological perspective, as norms are not readily visible in the translated text, in order to determine what norms have governed a translation, the researcher must start from an observation of what is visible, i.e. the strategies adopted in the translated text, and then go on to form hypotheses regarding the possible norms that could be behind the translator's choices (Toury 2012 [1995], 87). What the researcher has to look for by comparing segments of source text and target text are «**regularities of behaviour in recurrent situations**» (Toury 2012 [1995], 64, *emphasis in the original*), since «[m]any of the regularities, some might say all of them, are the result of the activity of norms and may therefore be taken as direct evidence of their activity» (Toury 2012 [1995], 65).

Contextual factors that may have influenced the translator's choices also need to be taken into account when formulating hypotheses regarding the translational norms governing a translated text (Toury 2012 [1995], 87-88). For example, in the case of EU translation, the fact that the work of editors and translators is subjected to specific guidelines that place an emphasis on 'clarity' exercises a form of pressure on the editor/translator (Ulrych 2014, 16-17)³.

The necessary precondition in supposing that a norm has governed the translational behaviour is that in the recurrent situation observed, more than one type of behaviour would potentially be possible (Toury 2012 [1995], 64). As Hermans (1999, 73) points out, «the translator's decision-making concerns us here only to the extent that it lies within his or her control». Toury (2012 [1995], 33) also argues that generalisations cannot be drawn by observing one source text / target text pair alone: the analysis should be extended to larger quantities of data bound by a common guiding principle such as, e.g., text-type, time-frame or transla-

³ Lefevere (1992, 15) first introduced the concept of «patronage», intended as «the powers (persons, institutions) that can further or hinder the reading, writing, and rewriting of literature». Extending this concept to non-literary translation, Ulrych (2014, 15) defines Lefevere's (1992) patronage as «any kind of force that can influence translation» and identifies the context around EU editors and translators as an example of such force.

tor. The use of corpus linguistics as a methodology within the framework of DTS offers just that: a shift of the focus of research from the single translated text to a corpus, as well as a means to describe language use in translation on the basis of statistically representative quantitative data (cf. Kenny 2001; Olohan 2004).

3.2.3. *Corpus-based Descriptive Translation Studies*

In the early Nineties, Baker (1993, 248) first foresaw the potential of corpus linguistics applied to translation studies for research into «features of translated texts per se» with the aim of understanding «the nature of translated text». With the application of corpus linguistics as a methodology, she advocated a change of focus in research, moving away from the traditional comparison between source text and target text to a comparison between original text production and translation (cf. Baker 1995). In a later paper, she comments on the introduction of the methods and tools of corpus linguistics in translation research as a sign of «an increased awareness within translation studies of the distinctive nature of translation as a communicative event which is shaped by its own goals, pressures and context of production» (Baker 1996, 175).

Corpus linguistics and Descriptive Translation Studies share a focus on authentic data as the object of study, and an interest in recurring patterns in texts (cf. Kenny 1998; Olohan 2004). In particular, as Baker (1993, 239) points out, there is a similarity between the notion of norms, which she defines as «options which are regularly taken up by translators at a given time and in a given socio-cultural situation» and the concept – which is key in corpus linguistics – of «typicality», intended by Sinclair (1991, 17) as «what is central and typical in the language». According to Baker (1993, 240), «[norms] can be identified only by reference to a corpus of source and target texts, the scrutiny of which would allow us to record strategies of translation which are repeatedly opted for, in preference to other available strategies, in a given culture or textual system».

Munday's (2002) Systemic Model for Descriptive Translation Studies provides a method of analysis which combines Toury's (2012 [1995]) model with the methodology of corpus linguistics. This model requires the use of corpus linguistics tools in the first stages of an analysis to objectively identify the significant linguistic features in a source text / target text pair that merit further investigation. Although Munday (2002) introduces his model as a means to analyse the translations of a

newspaper article for publication in different countries, it was applied in the present research – with some adaptation – to the study of legal translation. In particular, in line with Munday's (2002) method, corpus linguistics tools were used to pinpoint significant language features in the corpus. These language features were then investigated further in order to identify patterns in the shifts between source texts and target texts. Ultimately, based on the findings, hypotheses regarding the translation norms were formulated.

3.3. UNIVERSAL FEATURES IN TRANSLATION

The study of translation universals, i.e. «features which typically occur in translated text rather than original utterances and which are not the result of interference from specific linguistic systems» (Baker 1993, 243) has both benefited and incentivised the use of corpus linguistics in translation research. Research carried out on translated texts has shown that the target language used in translations is generally somewhat unnatural and different from the language of original target culture texts. Various terms are used in translation research to refer to the language of translations, such as «third code» (Frawley 1984a, 168), «translanguage», «hybrid language», «third language» and, most frequently, «translationese» (cf. Olohan 2004; Biel 2010a). Toury (1979) was among the first scholars to acknowledge that the unique features of translated language are often not deviations from the correct lexico-grammatical and morpho-syntactical features of the Target Language (TL), but rather they are *unusual* – though grammatically correct – deviations from conventional TL forms. Significantly, the use of these forms is generally not related to the translator's level of linguistic competence (Toury 1979).

As Baker (1993, 242) points out, translationese is the result of «the very activity of translating, the need to communicate in translated utterances, [which] operates as a major constraint on translational behaviour and gives rise to patterns which are specific to translated texts». Within these patterns, Baker (1996) identifies the following tendencies:

1. «explicitation»: the tendency to increase the level of explicitness in a translated text compared to its source text;
2. «simplification»: the tendency to replace words that are felt to be semantically ambiguous and to simplify the language in the translated text at the level of lexis, syntax or text;

3. «normalisation»: «the tendency to conform to patterns and practices which are typical of the target language, even to the point of exaggerating them» (Baker 1996, 176-177);
4. «levelling out»: the translator's tendency to reduce variance and to 'flatten' the source text's specific traits.

Toury (2012 [1995], 80) also identifies some recurrent features in the language of translated texts and he proposes two «probabilistic laws» of translational behaviour to account for these features: the law of growing standardisation and the law of interference. The law of growing standardisation is formulated as follows: «in translation, textual relations obtaining in the original are often modified, sometimes to the point of being totally ignored, in favour of [more] habitual options offered by a target repertoire» (Toury 2012 [1995], 304). These «more habitual options» may entail, for example, a simpler textual/sentence structure, or flatter or less ambiguous lexis.

The second law proposed by Toury (2012 [1995], 310), i.e. the law of interference, posits that «in translation, phenomena pertaining to the make-up of the source text tend to force themselves on the translators and be transferred to the target text». A distinction between «negative transfer» and «positive transfer» is made, the former being deviations in the target text from the conventional patterns of the target language, and the latter being an overuse of certain features of the target language (Toury 2012 [1995], 311). Although in some cases interference may simply be due to the inexperience or incompetency of the translator, Toury (2012 [1995], 311) views it as an inherent feature of translation: only particular conditions and deliberate efforts by the translator can lead to an interference-free translated text. Toury (2012 [1995]) points out that interference is not, in absolute terms, an undesirable feature of translation. Its undesirability – and the degree of its tolerance – is determined by factors such as text-type and the socio-cultural conditions in which a translation is produced. In the case of the translation of equally authoritative texts, such as EU legislation, fidelity to the source text and uniform interpretation of the law are obviously a priority, so a certain degree of tolerance of interference in the translated laws can be expected.

Chesterman (2004a) proposes a distinction between the two relations that any translated text is involved in at the same time: the relation with its source text and the one with comparable non-translated texts in the target culture. Chesterman (2004a, 39) identifies the former as a relation of equivalence of the translated text with the source text, while the latter as «the relation of textual fit with comparable non-translated texts in the target language». As Biel (2010b, 28) points out, this classification

«reflects two interrelated aspects of any specialised translation: accuracy and naturalness, respectively»⁴. Equivalence and textual fit can also be seen as the two key variables that need to be taken into account to ensure quality in a translated text (Biel 2017). Chesterman (2004a) proposes a classification of universals according to these two relations, distinguishing between «S-universals», i.e. recurrent features pointing to differences between translations and their source texts and «T-universals», i.e. typical features pointing, instead, to differences between translations and comparable original (i.e. non-translated) texts. The potential indicators of these universal features as shown in *Table 3.1* (Chesterman 2004a, 39-40).

Table 3.1. – Chesterman's (2004a, 40) classification of potential S-/T-universals.

POTENTIAL S-UNIVERSALS
<ul style="list-style-type: none"> ▪ Lengthening (target texts tend to be longer than their source texts) ▪ Law of interference (Toury 2012 [1995]) ▪ Law of standardisation (Toury 2012 [1995]) ▪ Dialect normalisation ▪ Reduction of complex narrative voices ▪ Explicitation ▪ Sanitisation ▪ Retranslation hypothesis ▪ Reduction of repetition
POTENTIAL T-UNIVERSALS
<ul style="list-style-type: none"> ▪ Simplification ▪ Conventionalization/Normalisation ▪ Untypical lexical patterning ▪ Under-representation of TL-specific items

Chesterman's classification is at the basis of Biel's (2014c, 118) study of textual fit in translated EU law where the concept is used in its broader sense as the «linguistic distance between translations and nontranslations of a comparable genre». Biel's (2014c) work provided evidence of certain features in EU translation which point to the explicitation and untypical collocations hypotheses. However, at the same time, the results of her study also contradict the normalisation, standardisation and levelling out hypotheses in translated EU laws. This would suggest that translation universals are in some way influenced by norms, genre and language

⁴ The relation of equivalence with the source text identified by Chesterman (2004a) also recalls Toury's (2012 [1995]) principle of «adequacy» while the notion of textual fit can be related to Toury's principle of «accuracy».

pair (Biel 2014c, 306). As Biel (2014c, 306) puts it, «it is impossible to separate these parameters from the constraints of the translation process itself and I believe that translation universals should be viewed as effects of all these causes».

Despite having attracted some criticism (cf. Tymoczko 1998; Chesterman - Arrojo 2000; House 2008) concerning, in particular, the idea of ‘universality’ itself of certain features, the concept of translation universals is generally recognised as a useful one in Translation Studies. As Chesterman (2004b, 11) observes, «[w]hat ultimately matters is perhaps not the universals, which we can never finally confirm anyway, but new knowledge of the patterns, and patterns of patterns, which help us to make sense of what we are looking at». In fact, «the more we know about T-universals, for instance, the more scholars or trainers will see them as undesirable features that should be avoided – at least in translations whose skopos includes optimum naturalness» (Chesterman 2004b, 11). With regard to legal translation, the significance of research into translation universals is argued by Biel (2010a). In her words, «[t]ranslation universals elicit a number of questions, still unanswered, concerning their potential impact on legal translation» and, therefore, the key point is not so much their existence or the generalisations that may be drawn, but rather the possible effect of certain recurrent features on the «accuracy and naturalness of translations» (Biel 2010a, 8).

For example, considering explicitation in legal translation, Biel (2014c, 100) has underlined how «[t]he degree of explicitation is correlated with the conceptual distance between legal systems: the more distant legal systems are the higher the need to explicate» (cf. also Mauranen 2008, 39). In other words, consistently with the tendency defined by Klaudy (1998) as «pragmatic explicitation»⁵, translators tend to provide the reader with the necessary additional information needed to understand concepts that belong to the different legal system of the source text. Awareness of this practice, which is intended to help the reader in the correct interpretation of the translated legal text, is important since

⁵ Klaudy (1998) distinguishes between four different types of explicitation in translation: «obligatory explicitation», «optional explicitation», «pragmatic explicitation» and «translation-inherent explicitation». Obligatory explicitation occurs when the syntactic and semantic differences between the languages involved make it necessary to add or change something at a grammatical/lexical level. On the contrary, optional explicitation occurs for stylistic reasons, to avoid unnaturalness in the translated text. Pragmatic explicitation occurs when implicit cultural information is made explicit in order to provide the addressees with the knowledge they are lacking. Translation-inherent explicitation is dictated by the nature of the translation process.

it is not devoid of risks. As Hjort-Pedersen and Faber (2010, 238) point out, «[f]rom a legal point of view, adding or subtracting information in legal translation is a high-risk procedure because of the potential change of legal meaning and/or effect of the target text».

Based on these considerations, the possible applicability to EU legal translation of the concepts related to translation universals will be discussed in view of the results of the analysis. In particular, the possible impact of such features on the accuracy and readability of translated EU legislative texts will be considered. In the following section, the corpora on which the research is based are described in detail.

3.4. THE EURO-CoL AND THE UK-LAW CORPORA

The EURO-CoL corpus was compiled specifically for this study. It is what Hansen-Schirra and Teich (2009, 1162) define as a «multilingually comparable corpus», i.e. a corpus which comprises both parallel and comparable corpora. The bilingual parallel corpus included in EURO-CoL is made up of a subcorpus of EU laws in English (ENGLEX) and a subcorpus of the same laws translated into Italian (ITALEX). The comparable monolingual corpus included in EURO-CoL comprises Italian laws originally drafted in Italy (LEGITALIA) (see *Figure 3.1*).

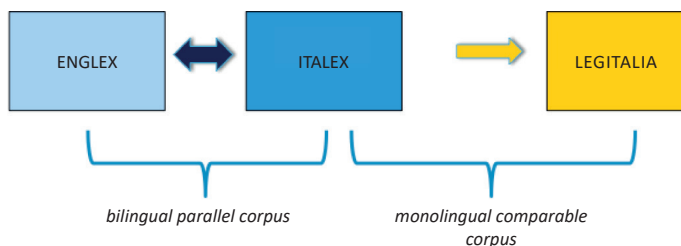


Figure 3.1. – The EURO-CoL corpus.

One of the main methodological problems related to research into the translation of EU legislation is the fact that, due to the principle of equal authenticity, once a law is adopted and made available in all the language versions, it is not possible to trace back the source text, i.e. the original draft. This means that there can be no certainty that the texts included in a bilingual parallel corpus of EU laws are source texts and their respective translations. As regards the ENGLEX/ITALEX bilingual parallel

corpus, this problem was partially solved by choosing a recent time frame for the analysis. As the DGT officially states that there has been an increasing use of English as the language used for drafting documents (European Union 2014), it can be assumed that the original draft of the more recent laws – such as the ones included in the corpora for the present research – was in English⁶.

Since, as Biber *et al.* (1998, 246) point out, «[a] corpus is not simply a collection of texts» but, rather, it «seeks to **represent** a language or some part of a language» (*my emphasis*; cf. also Zanettin 2012, 40), the EURO-CoL corpus was designed according to specific criteria in order to ensure its representativeness. Elements such as size, text-type and time frame were taken into consideration; the size of the ENGLISH/ITALEX parallel corpus is 5,955,956 running words (2,937,323 words in ENGLISH and 3,018,633 words in ITALEX), while the LEGITALIA corpus comprises 2,573,468 words.

As regards text type, it was decided to include only secondary EU legislation (directives, regulations and decisions) and not primary legislation (i.e. the treaties) in the corpus, as EU secondary legislation poses more translational problems than primary legislation (cf. Biel 2014c, 58) due to the process of incorporation within national legislation. As Felici (2010, 100) observes, «while the Treaties correspond more or less to international law in force, the EU secondary legislation [...] present features that interact in a more sophisticated manner with national law». The ENGLISH corpus contains the complete texts of 205 laws that entered into force between 2005 and 2015, while the ITALEX corpus contains the same 205 laws in Italian. The choice of a relatively restricted time frame for the laws included in present research reflects the synchronic perspective of the analysis (cf. Kennedy 1998, 60): as legal language has been the object of a process of modernisation in recent years, legislative texts belonging to very distant time frames could have exhibited different linguistic features, which would have vitiated the results of the analysis on translational behaviour.

For reasons of completeness, it was decided to include all the laws adopted in the time frame considered related to one branch of EU legislation in particular, i.e. consumer protection law⁷. The original laws were

⁶ As mentioned in Chapter 2, the DGT booklet *Translation and Multilingualism* reports that in 2013 the English language accounted for 81% of the total number of pages drafted, whereas French – the second most frequently used language – for a mere 4.5%.

⁷ Other branches of EU legislation concern areas such as environment, human rights, foreign policy, employment: see <https://eur-lex.europa.eu/browse/summaries>.

downloaded from the EUR-Lex section of the EU website, which contains all EU legislation⁸. Of the 205 laws included, 112 are regulations, 78 directives and 15 decisions; the texts in their entirety were included in the corpus.

The LEGITALIA corpus was compiled according to similar criteria. It is composed of 245 Italian secondary laws (230 *leggi* and 15 *decreti legge*) that came into force in the same time span as the EU laws, that is between 2005 and 2015. The laws were downloaded from *Parlamento.it*⁹ – the official website of the Italian Parliament – and from *Normattiva*¹⁰ – the official website of the Italian laws in force. The whole texts of the laws were included in the corpus. In order not to vitiate the results of the analysis, only the Italian legislation that is not related to EU laws was selected and included in the corpus. This means that, given the small number of Italian consumer laws that are not based on either EU directives or regulations, it was necessary to include also national legislative texts from other branches of the law in the corpus. As a result, while LEGITALIA is comparable to the ITALEX subcorpus in terms of type of laws and time frame considered, it is not directly comparable as regards the branch of the law. Methodologically, this would be a limitation for research into consumer law terminology, which is not, however, the aim of this study.

The same methodological considerations also apply to the other reference corpus that was compiled for this study, i.e. a monolingual comparable corpus of British legislation (the UK-LAW corpus). UK-LAW comprises 312 UK Statutory Instruments from 2005 to 2015, and a total of 1,212,101 running words. The laws were downloaded from the official website of UK legislation¹¹ and the complete texts were included, with the exception of the ‘explanatory notes’, which were manually deleted as they are not part of the legislation. As in the case of LEGITALIA, the laws in the UK-LAW corpus were selected so as not to include any law that was based on either EU directives or regulations.

html?locale=en for a complete list of the summaries of the laws by topic. Last accessed 18 September 2019.

⁸ Available at <http://eur-lex.europa.eu/homepage.html>. Last accessed 18 September 2019.

⁹ Available at www.parlamento.it. Last accessed 18 September 2019.

¹⁰ Available at www.normattiva.it. Last accessed 18 September 2019.

¹¹ Available at www.legislation.gov.uk. Last accessed 19 September 2019.

4.

MODALITY IN LEGAL DISCOURSE

4.1. INTRODUCTION

As illustrated in Chapter 3, Munday's (2002) Systemic Model for Descriptive Translation Studies model was applied in order to objectively select the segments of source text and target text worthy of investigation with regard to translational behaviour. This chapter reports on the results of this preliminary analysis conducted on the EURO-CoL corpus and reviews the literature concerning the seven expressions of modality subsequently selected for the study.

The preliminary analysis was carried out in three steps. In the first step, recurrent linguistic features in the ENGLISH corpus (i.e. the source texts) were identified. In the second step, these recurrent features were compared with the linguistic elements that occur frequently in ITALEX (i.e. the target texts) in order to identify similarities and differences. Finally, ITALEX was compared with the reference corpus LEGITALIA, with the aim of identifying similarities and differences in the distribution of the linguistic elements. The underlying hypothesis is that recurrent linguistic features that characterise the ENGLISH subcorpus and that present similarities or differences in their distribution between the three corpora are significant for the analysis of the translational patterns in EU translated laws.

Firstly, a wordlist of the top 300 most frequent words in ENGLISH was produced with the aid of the concordancing package AntConc 3.2.3m¹ (see Appendix 1). The list was displayed in frequency order and 'cleaned' of the letters indicating a subdivision of the articles in the laws into different subsections – e.g. (i), (ii), (iii), (b), (c) etc. – that recur-

¹ Developed by Laurence Anthony and available at <http://www.laurenceanthony.net/software.html>. Last accessed 18 September 2019.

rently appeared in the corpus. The ENGLISH wordlist revealed a high frequency of six modal verbs, with *shall* ranking as the 9th most frequent word, followed by *should* as the 25th, *may* as the 31st, *must* as the 59th, *can* as the 147th and *will* as the 230th. The wordlist also showed a high frequency of *is/are* verb forms in ENGLISH. It was hypothesised that this high frequency could partly be related to the occurrences in the corpus of the modal idiom *is/are to* to express obligation and command (cf. Quirk *et al.* 1972, 89-90). In order to verify this, the frequency of *is to* and *are to* was calculated and the results confirmed that there is a moderately high frequency (986 occurrences) of this modal idiom in ENGLISH. A wordlist of the top 300 most frequent words in the ITALEX subcorpus of EU laws in Italian was then drawn up and this also revealed a high frequency of expressions of modality (see Appendix 2). The results of this preliminary analysis confirmed what numerous previous studies into legal language found, i.e. that modality strongly characterises legal texts (cf. Garzone 1999; Williams 2005; Williams 2006; Caliendo 2007; Garzone 2013; Williams 2013; Biel 2014a; Biel 2014c).

In order to compare the ITALEX corpus of translated laws with the LEGITALIA reference corpus of national laws, a keyword list was produced with the aid of the concordancing package AntConc. This provided an indication of unusually frequent – or infrequent – words in the ITALEX corpus compared to the LEGITALIA reference corpus of Italian original laws and interestingly revealed a different distribution of the expressions of modality between the two corpora. The different characterisation in terms of modality of the ITALEX and LEGITALIA corpora suggests that the translation process left an imprint on the translated laws. This hypothesis is corroborated by previous research that emphasised how the translation of modality represents a particularly critical area for translators (cf. Šarčević 2007, 47).

On the basis of these considerations, the most frequent verb forms expressing modality in ENGLISH (*shall, should, may, must, can, will* and *be to*) were chosen as units of analysis for the subsequent study of translation strategies, which is reported in the next chapter. The following section provides an outline of the literature concerning these expressions of modality with specific reference to legal language and translation. The guidelines given to legal drafters and translators by the EU institutions as regards the use of these expressions are also reported.

4.2. MODALITY IN LEGAL LANGUAGE AND TRANSLATION

Modals can be classified depending on the type of meaning they express, which can be epistemic, deontic or dynamic. Palmer (1986; 1990 [1979]) defines epistemic modals as «essentially making a judgement about the truth of the proposition», «deontic» modals as «being concerned with influencing actions, states or events» and dynamic modals as expressing «ability» and «volition».

As pointed out previously, expressions of modality are frequent in legal discourse and can present particular issues for translation, since languages differ in the way they express modality linguistically: some languages through modal verbs, others through mood and others still, through particles and clitics (cf. Palmer 1986). As Palmer (1990 [1979], 2) observes, «investigation has shown that there are very different formal systems, such as the modal verbs in English, the subjunctive mood in both modern and classical languages of Europe [...] that have much in common in terms of the meanings of what they express».

A further complication for translation is represented by the fact that modals are polysemic, with meanings ranging from obligation and permission to ability and possibility (cf. Garzone 2001, 153), which results in the fact that «inherent indeterminacy [...] characterizes to some degree the meaning of all modals» (Garzone 2013, 74). Moreover, the negative form of the modal verbs depends on what is being negated, either the modality (e.g. the permission) or the proposition (e.g. the modal lays an obligation for an act *not* to take place). Quirk *et al.* (1985, 794-796) define the two types of negation as «auxiliary negation» and «main verb negation».

Šarčević (2007, 47) highlights the potential problems that the translation of expressions of modality pose by arguing that

[s]ince different languages use different forms to express obligations in English, [...] this is one of the main sources of mistranslations and one of the most sensitive, as any ambiguity in this regard leads to different results in practice, thus threatening the uniform interpretation of Community law.

The Directorate-General for Translation at the European Union acknowledges the difficulty that modality presents for translators, as shown in the following extract from the booklet published by the European Union in 2010, *Lawmaking in the EU Multilingual Environment*²:

² Available at https://publications.europa.eu/en/search-results?p_p_id=-portal2012searchExecutor_WAR_portal2012portlet_INSTANCE_q8EzsBteHybf&p_p_lifecycle=1&p_p_state=normal&queryText=Study+on+lawmaking+in+the+EU+-

The excessive use of terms *shall* and *will* caused difficulties in a number of languages where they were translated using future tense although the languages concerned should and could have used the present tense in a prescribing sense. *Should* also caused translation difficulties for some languages, especially when it is used in preambles where target languages would rather use the subjunctive mood, because of normative aspects of provisions in preambles.

Shall is the most researched modal in legal discourse (cf. Garzone 2001; Williams 2005; Caliendo 2007; Biel 2014a; Biel 2014c). It has been defined as «the very word that is supposed to create a legal duty» (Kimble 1992, 61) and «by far the most ubiquitous modal verbal construction in prescriptive texts in English over the last few hundred years» (Williams 2005, 87).

In general English, *shall* is used with a first person subject in place of *will* either as a future auxiliary, or to express volition (Quirk *et al.* 1985, 230; Biber *et al.* 1999, 485). It is also rarely used with second and third person subjects to express the speaker's volition in granting a favour or giving an order (Quirk *et al.* 1985, 230). As pointed out by Quirk *et al.* (1985, 230), «[i]n these cases *shall* is archaic and 'authoritarian' in tone». Palmer (1990 [1979], 69-82) attributes to *shall* the meaning of obligation combined with a guarantee that the action expressed will take place. The use of *shall* has gradually declined in general English and, as a consequence, its use has increasingly been regarded as typical of legal language (Williams 2005, 116), where it is used with a third person subject to lay down rules and legal requirements (Quirk *et al.* 1985, 230), conveying the idea of obligation, futurity and depersonalisation necessary in laws and regulations (cf. Garzone 2001, 155; Williams 2005, 116).

The meanings associated with *shall* in legal language have been widely investigated by Garzone (2001). In her study based on a corpus of British Acts of Parliament, she identifies two different meanings. The first is deontic and agent-oriented, conveying an idea of obligation for the subject to perform the action expressed by the main verb³. The second is performative⁴, with *shall* «not only perform[ing] an act but also giv[ing]

multilingual+environment.&facet.collection=EULex%2CEUPub%2CEUDir%2CEUWebPage%2CEUSummariesOfLegislation&startRow=1&resultsPerPage=10&SEARCH_TYPE=SIMPLE. Last accessed 19 September 2019.

³ Cf. Garzone's (2001, 157) example: «The Secretary of State *shall* pay to the Commission [...]».

⁴ Carcaterra (1994, 224-225) specifies that «prescriptive sentences tend to give rise to an event by exercising a form of pressure on somebody's behaviour. The [performative norms] [...] produce themselves the effect that is their aim and **content**: they constitute it [...] the moment they come into force. They can, therefore, be called

rise contextually to a new state of things or new legal relationships or a new legal status» (Garzone 2001, 158; cf. also Cao 2007, 65)⁵. This particular meaning of *shall* realises the kind of performativity denominated by Conte (1994, 248-249) as *performatività thetica* [thetic performativity] (cf. also Garzone 1999, 130-132; 2001, 158) which is different from the so-called *performatività athetica* [athetic performativity], i.e. the performativity of utterances that simply perform the action that is being uttered⁶. As demonstrated by Garzone (2001, 160), it is the context that confers a performative (thetic) meaning (cf. also Caliendo 2007, 247) or a purely deontic meaning to *shall*⁷. *Shall* can have a performative meaning only if the subject is inanimate (e.g., *there; this Act; an order*) and «if the lexical verb has a stative meaning in the specific context» (Garzone 2001, 163). On the contrary, agent-orientedness – that is, the explicit reference to the addressee of an obligation – is an indication of deontic meaning (Garzone 2001, 163)⁸. The polysemy of the modal *shall* is also observed in EU legislation in English by Caliendo (2007), who argues that *shall* – as well as *should* and *must* – acquires a more performative or prescriptive meaning depending on the type of law in which it occurs.

The possibility of a strictly deontic or a performative meaning of *shall* is highlighted – albeit with different terminology – also in Driedg-

constitutive norms, or even, with a word more familiar to jurists, **enacting** norms» [«Le proposizioni prescrittive tendono a produrre un evento esercitando una pressione sul comportamento di qualcuno, [le norme performative] [...] producono l'effetto, che è il loro scopo e il loro **contenuto**, realizzandolo da sé: lo costituiscono [...] nel momento stesso del loro entrare in vigore. Si possono cioè chiamare norme **constitutive**, o anche, con parola forse più familiare al giurista, norme **dispositive**»] (*my translation; emphasis in the original*).

⁵ Cf. Garzone's (2001, 157) example «There *shall be* an authority for Greater London [...]».

⁶ For example, the performativity in the sentence *I accept your offer* is simply the act of accepting: the sentence does not bring about a new state of things. Austin (1975 [1962], 32) defines these as «explicit performatives», utterances that «begin with or include some highly significant and unambiguous expression such as 'I bet', 'I promise', 'I bequeath' – an expression very commonly also used in naming the act which, in making an utterance, I am performing – for example betting, promising, bequeathing» (cf. also Garzone 2001, 158).

⁷ Garzone (1999, 138) points out that «the combination of the two functions [i.e. deontic and performative] within one modal is not unacceptable at all» [«la combinazione delle due funzioni in un unico modale non è affatto inaccettabile»] (*my translation*) even though the difference is not visible either at a morphosyntactic or at a lexical level.

⁸ Carcattera (1994, 225) points out that, while prescriptive norms are addressed to an agent and are aimed at influencing the agent's behaviour, constitutive norms do not have a real addressee.

er's (1980) study of legislative drafting in English and French. Driedger (1980, 319) observes how «the word *shall* is an auxiliary of obligation and also a non-obligatory auxiliary» and how «[t]he latter sense has many meanings». With reference to translation, as Driedger (1980, 320) argues, «[c]are must be taken in moving from English to French, that the non-obligatory *shall* in English is not rendered as an obligatory *shall* in French». Moreover, Driedger (1980, 320) observes, «[t]here are some cases where *shall* in English, even though used in an obligatory sense, cannot be translated into French». The danger of attributing a wrong meaning to *shall* when translating it into another language is also highlighted by G  mar (1981, 346). As he points out, *shall* «abounds [...] in legal texts in its emphatic form and it is used also to express types of modality that are not always concerned with obligation and imposition»⁹ (G  mar 1981, 346; *my translation*).

The widespread use of the modal *shall* in all its meanings in legal texts has made it a distinguishing feature of legal language through the centuries. As Kimble (1992, 61) points out, however, this modal is also «the most misused word in the legal vocabulary», something which is partly responsible for *shall*'s growing unpopularity in legal discourse (cf. Kimble 1992; Williams 2005; Cutts 2013). Drafters have often abused of it by using it merely to convey a legalistic air to legal texts, or simply to declare the law, with no intended meaning of obligation or permission, with the result of possible ambiguity. As Williams (2006, 241) argues, «[i]t is this redundant use of *shall* that has helped it give it such a bad reputation». Trosborg (1997, 132-133) points out that

the question to be asked by a draftsman before composing any provisions is whether he is intending to direct a legal person to do, refrain from doing, or to consider the option of doing something, or he is intending to declare a state of affairs; if the former is the case then he/she should choose modal expressions (*shall*, *may not* or *may*) if the latter, then he/she should choose modal-free expressions in the simple present tense.

With increasing awareness of the need to simplify and improve clarity in legal documents, the use of *shall* in legal discourse has gradually been reduced in many English-speaking countries (cf. Williams 2005; Cutts 2013). As regards the United Kingdom, which was initially more resistant to change, recent corpus-based studies have shown that the use of *shall*

⁹ «[*Shall*] abonde [...] dans les textes de loi sous sa forme emphatique et on l'emploie m  me pour exprimer des modalit  s qui ne sont pas toujours d'ordre obligatoire ou contraignant» (G  mar 1981, 346).

has declined so dramatically that this modal has almost entirely disappeared from the more recent legislation (cf. Garzone 2013; Williams 2013; Anselmi - Seracini 2015).

An interesting exception is represented by the European Union. Despite its commitment to improving the quality of legal drafting (cf. Williams 2005, 172-174), the European Union does not discourage the use of *shall*. On the contrary, its use is specifically required in the enacting terms of binding acts, as is explicitly specified in the previously-mentioned *Joint Practical Guide for Persons Involved in the Drafting of European Union Legislation* (2015, 12). The *Manual on Legislative Drafting*¹⁰ (European Commission 1996, 24) makes a distinction between «mandatory» provisions and «declaratory» provisions and points out that,

In English, the auxiliary *shall* is used to express mandatory provisions:
Member States shall take the necessary measures ...

But the present tense is used to express declaratory provisions:

A committee ... is established.

Article N is amended as follows: ...

Regulation ... is repealed. (*emphasis in the original*)

The *English Style Guide* (European Commission Directorate-General for Translation 2016, 46) further specifies that *shall* is used in EU legislation for «positive imperative», i.e. «[t]o impose an obligation or a requirement», while *shall not* is used for «negative imperative», i.e. «[t]o impose a prohibition».

At the same time, however, there are signs of an acknowledgment on the part of the European Union of the changes in English legal language outside of the EU. This emerges clearly by comparing the latest *English Style Guide* (dated October 2016) with a previous version (dated October 2014). As regards the use of expression of positive command in the enacting terms, both the 2014 and the 2016 versions recommend using *shall*. However, while the 2014 version specifies that the use of *must* instead of *shall* is theoretically possible, but «not the practice in EU legislation» (European Commission Directorate-General for Translation 2014, 37), the 2016 version concedes that

[i]n contrast with EU usage, most English-speaking countries now generally use *must* instead of *shall*. So you may do the same when translating non-EU legislation as long as you do so consistently. (European Commission Directorate-General for Translation 2016, 46)

¹⁰ Available at http://ec.europa.eu/smart-regulation/better_regulation/documents/legis_draft_comm_en.pdf. Last accessed 19 September 2019.

The literature has highlighted the dramatic rise in recent years in the use of *must* in the legal language of English-speaking countries (cf. Garzone 2013). Williams's (2013) corpus-based study of the changes in the verb phrase in legal English has shown that the increase in the frequency of *must* in legal documents in countries such as Australia and South Africa in the past thirty years, is inversely proportional to the decrease in the use of *shall*, thus revealing that the modal *must* has become one of the alternative ways of expressing obligation in place of *shall* (cf. also Garzone 2008, 84)¹¹.

Palmer (1990 [1979], 39) distinguishes between the meanings of *must* expressing epistemic necessity and deontic necessity. Palmer's (1990 [1979], 103-104) classification also identifies a dynamic modal meaning of *must* when this verb is used to report regulations. In prescriptive texts, however, *must* is generally only used with a deontic meaning (cf. Williams 2005; Caliendo 2007; Gibová 2011; Biel 2014a; Biel 2014b) and Williams (2005, 126) observes that «[o]ne characteristic of *must* in prescriptive legal discourse with respect to its general usage in other contexts is that there is generally no mistaking its underlying meaning of obligation».

As mentioned above, at EU level, despite the recommendations to use *shall* to impose obligations and requirements in the enacting terms, the *English Style Guide* (European Commission Directorate-General for Translation 2016, 46) also acknowledges the fact that *must* is used today in place of *shall* in most English-speaking countries. The same applies to *must not* as a replacement for *shall not*. As regards the non-enacting terms and the annexes of the laws, instead, the guidelines specifically require that *must* – or other expressions such as *has/have to*, *is/are required to* – are used in place of *shall* (European Commission Directorate-General for Translation 2016, 46). The reason for this can be found in the *Joint Practical Guide* (European Commission 2015, 12) where it is stated that «[t]he choice of verb and tense varies between different types of act and

¹¹ Prior to the changes in legal language resulting from the influence of the Plain Language Movement, *must* did not occur frequently in legal language. As Gibová (2011, 9) points out, one of the possible causes of this low frequency is the fact that «the modal *must* is [...] fairly subjective (since objective obligation tends to be expressed by means of *have to*)». Regarding, more specifically, the use of *must* in place of *shall*, Garzone (2013, 75) points out that «in theoretical terms this substitution is to some extent questionable», as «[*m*]ust imposes an obligation on an agent to which completion of action is entrusted. Therefore, there always remains some scope, however minimum, for failure to perform, while it is inherent in the general meaning of *shall* that it does not only formulate an obligation, but carries with it the presumption that fulfilment of action is guaranteed».

the different languages, and also between the recitals and the enacting terms» and that «in non-binding acts, imperative forms, or a structure or presentation too close to that of a binding act, must not be used». This is also stated in the Italian version of the *Joint Practical Guide*.

Deontic modality is also expressed with increasing frequency in legal discourse by the *be to* modal idiom. Quirk *et al.* (1985, 143) define *be to* as «an idiom expressing futurity, with varied connotations of ‘compulsion’, ‘plan’, ‘destiny’, etc., according to context». In particular, when referring to the future, the expression *be to* «also conveys the connotations of ‘requirement’ and ‘destiny’» (Quirk *et al.* 1985, 218). In legal discourse this idiom usually expresses a meaning of requirement. The *be to* construction is also found in secondary clauses in legislation. However, in this position, *be to* does not usually express obligation but rather «a precondition which must be fulfilled so that some other situation may occur» (Williams 2013, 136). Despite its apparent suitability to legal discourse, the modal expression *be to* was used – until recently – relatively infrequently in legislative texts (Williams 2005, 135). In recent years, however, this construction has been employed more frequently as a substitute for *shall*, as recent studies have revealed (cf. Garzone 2013; Biel 2014c).

As a result of the dramatic drop in the use of *shall* in recent years, another modal verb, i.e. *may*, has now become the most frequent modal in UK laws (Garzone 2013, 70; Williams 2013, 363). The meaning expressed by *may* can be deontic or epistemic, positive or negative (Palmer 1990 [1979], 39) and can express permission, possibility or ability (Biber *et al.* 1999, 485). In legal discourse, *may* is mostly used with a deontic meaning in main clauses, expressing permission in affirmative contexts and prohibition in negative contexts (Williams 2005, 121). However, *may* can also be found with an epistemic meaning expressing possibility in subordinate clauses and – occasionally – in main clauses (Williams 2005, 122).

At the EU, the guidelines in the *English Style Guide* (European Commission Directorate-General for Translation 2016, 47) recommend using – in the enacting terms – *may* to express positive permission and *need not* to express negative permission, i.e. «[t]o give permission not do something». The guidelines also specify the following:

Do not use *may not* for a prohibition, despite the many occurrences that can be found, since it could be interpreted as expressing possibility. (European Commission Directorate-General for Translation 2016, 46)

This marks a change in EU guidelines, since the previous version of the *English Style Guide* (dated October 2014) held a different position:

Where a prohibition is meant, [...] use *may not*:

- The Judges may not hold any political or administrative office.
- This additive may not be used in foods.

With reference to non-enacting terms, instead, both versions of the *English Style Guide* recommend avoiding *may not*, «as it could be taken to mean a negative possibility» (European Commission Directorate-General for Translation 2016, 48). An alternative expression, such as *must not*, is prescribed instead.

Caliendo *et al.* (2005, 386) have found a higher frequency of the modal *may* in EU directives compared to regulations and decisions in their analysis of secondary EU legislation. This data is also confirmed by Biel (2014c, 167). According to Caliendo *et al.* (2005, 387),

the high frequency of modal *may* in directives [...] confirms the relevant role that concessive acts play in this text type, whose pragmatic purpose is to grant Member States the possibility to choose from a range of possible actions leading to the final fulfillment of a mandatory target.

Moreover,

[p]ermission must also be considered as an instrumental necessity within a heterogeneous community like the EU. Since Directives have to be transposed by [twenty-seven] Member States, each differing in terms of legal, administrative and linguistic background, the concession of a margin of manoeuvre and flexibility becomes an indispensable condition. The presence of *may* serves to mitigate the rigidity of ‘one-fits-all’ legal command and is legitimized by the national systems existing within the same community. (Caliendo *et al.* 2005, 388)

The modal *can* also expresses permission, possibility or ability (Biber *et al.* 1999, 485). Palmer (1990 [1979], 69-116) distinguishes between the meaning of *can* to express deontic possibility (i.e. permission) and to express dynamic possibility (i.e. possibility of an event taking place or ability). However, in legal discourse, *can* is not used frequently in its deontic meaning, as permission is mostly expressed by *may* and *shall* (Williams 2005, 138). *Can* is also used with a relatively low frequency in its dynamic meaning (Williams 2005, 139). Williams (2005, 140) found that «[i]n prescriptive texts deontic *can* occurs much more frequently in negative clauses than in affirmative ones, expressing prohibition», as well as expressing the dynamic meaning of impossibility. In its negative meaning, *can* occurs frequently both in the negative form *cannot* and in the affirmative *can* preceded by a negative pronoun (e.g. *no one*) as a subject (Williams 2005, 140).

No specific guidelines are given regarding the use of *can* in EU legislation. However, since the use of *may* is recommended to express

positive permission (European Commission Directorate-General for Translation 2016, 47), it is possible to infer that *can* should not be used in its deontic meaning but rather in its dynamic meaning in EU legislative texts. Similarly, as the *English Style Guide* (European Commission Directorate-General for Translation 2016, 46) prescribes the use of *shall not* to express prohibition in enacting terms and *must not* in non-enacting terms (European Commission Directorate-General for Translation 2016, 48), *cannot* should not be used to express prohibition, but rather dynamic impossibility.

The modal verb *will* expresses volition and prediction (Biber *et al.* 1999, 485), or reasonable expectation (Palmer 1990 [1979], 50-60). Unlike *shall*, the modal *will* does not express a meaning of obligation, which accounts for its limited use in prescriptive texts as (Williams 2005, 133). According to Williams (2005, 133-134), its «use in legal texts is generally limited to expressing future situations where there is no implicit suggestion of obligation». Only occasionally is it used to express a meaning of volition in secondary clauses (Williams 2005, 133-134). At EU level, the *Manual on Legislative Drafting* (European Commission 1996, 25) states that «[u]se of the future tense with *will* is to be avoided». Even in the case of declarative provisions, the *English Style Guide* (European Commission Directorate-General for Translation 2016, 47) does not contemplate the use of *will* to express a future meaning and specifies that «where a provision applies to the future or is contingent on a future event, the verb used is *shall*».

The modal *should* is used in legal language to express deontic modality with a meaning of ‘weak’ obligation (cf. Diani 2001, 182; Williams 2005, 128; Caliendo 2007, 254). In Williams’s (2005, 129) words, *should* is a «‘medium-strength’ modal» inasmuch as it concedes a «degree of leeway» to the realisation of the obligation expressed. The meaning of *should* is strongly dependent on the context, which determines the stronger or weaker deontic connotation of the modal (Williams 2005, 130-131; Caliendo 2007, 254). Another use of *should* in legal discourse is to express condition in the protasis of a conditional clause (Williams 2005, 132), forming the *should* + SUBJECT + VERB structure (Quirk *et al.* 1972, 100). In Biber *et al.*’s (1999) classification, this modal verb falls within the category of modals expressing obligation or necessity. Palmer (1990 [1979], 82) does not include *should* in the category of deontic modals but concedes, however, that *should* «sometimes [has] highly deontic characteristics». Quirk *et al.* (1972, 100) also identify a meaning of «[o]bligation and logical necessity» conveyed by the modal *should*.

The next chapter analyses – both quantitatively and qualitatively – the translation strategies for the above-mentioned seven expressions of modality from the English to the Italian version of the EU laws in the EURO-CoL corpus. The classification and the previous studies reviewed in the present section, as well as the EU guidelines presented, will provide a basis for the interpretation and discussion of the results.

5.

TRANSLATIONAL PATTERNS FOR MODALITY IN THE EURO-COL CORPUS

5.1. INTRODUCTION

The translation from English into Italian of the seven expressions of modality (i.e. the modal verbs *shall*, *should*, *may*, *must*, *can*, *will* and the modal idiom *be to*) selected as units of analysis for the study of the translation norms in EU translated legislation will be analysed in this chapter.

For each expression of modality considered, a quantitative analysis was first carried out in order to obtain data concerning its distribution in the different parts of the EU laws (preambles and enacting terms)¹ in English and its most frequent collocational patterns. The identification of these ‘association patterns’ is important as the linguistic associations of a single item – i.e. the lexical and grammatical associations of the linguistic item considered – characterises a variety of language (Biber *et al.* 1998, 5-7). The national legal languages of both the source texts and the target texts were also taken into consideration and the results of the analysis on ENGLISH and ITALIAN were compared, respectively, to the two reference corpora, UK-LAW and LEGITALIA². The aim was to determine

¹ EU legislative texts may also include an ‘annex’ containing rules and technical data – often displayed as lists or tables. As annexes are *de facto* a part of the normative section of EU laws, they are treated in the present study together with the enacting terms of legislation. For reasons of simplicity, the term ‘enacting terms’ alone is used, although – unless otherwise specified – the reference includes both ‘enacting terms’ and ‘annexes’.

² This part of the analysis takes into account the different structure of EU legislative texts compared to legislation in the UK. As EU legislation contains an introductory section – i.e. the preamble – that does not exist in UK legislation, the frequency of the modal expressions in the enacting terms only, excluding the preambles, was also calculated, in order to obtain comparable data between ENGLISH and UK-LAW.

the specific features that characterise EU legal discourse with regard to the expressions of modality considered.

The analysis then proceeded by combining quantitative and qualitative approaches in order to identify the most recurrent translational patterns for each unit of analysis. The theoretical assumption at the basis of the method of analysis used in the present research is that, since norms govern the translational behaviour, it is possible to identify them by observing the translational strategies recurrently adopted by the translator (Toury 2012 [1995]). By means of a comparison between parallel sections of the source texts and the target texts and an observation of the recurrent choices made by the translators, it is possible to formulate hypotheses concerning the norms governing the translations.

Due to the size of the corpus and the high frequency of the linguistic items analysed (e.g. there are as many as 27,299 occurrences of the modal *shall* in ENGLISH), it was not possible to carry out a qualitative analysis of the translation of all the occurrences. Therefore, the corpus linguistics method of analysis defined «hypothesis testing», developed by Hunston (2002, 52) and based on the method first suggested by Sinclair (1999, 166-167), was adapted in the present research to the study of translation. The «hypothesis testing» method provides that «a small selection of lines is used as a basis for a set of hypotheses about patterns», while «[o]ther searches are then employed to test those hypotheses and form new ones» (Hunston 2002, 52). Sinclair (1999, 166-167) suggests randomly selecting 25-30 concordancing lines, noting the patterns in them, then selecting another 25-30 lines and again noting the patterns, and so on with successive sets of 25-30 lines until no new pattern emerges. This method of linguistic analysis was adapted to the purposes of the present study as follows: a set of 30 concordancing lines was selected and the occurrences of the linguistic items under investigation were observed together with their translations to identify patterns in the strategies adopted by the translator. The same procedure was carried out repeatedly with sets of 30 concordancing lines at a time until no new translational patterns emerged from the analysis. Subsequently, the various hypotheses were tested through further quantitative and qualitative investigation. The analysis combines, therefore, a corpus-driven and a corpus-based approach³.

³ Through a corpus-based approach, corpora are investigated on the basis of previously formulated theories of language with the aim of testing those theories empirically (Tognini-Bonelli 2001, 65). Through a corpus-driven approach, instead, no preconceived theories underlie the investigation of the corpus, and new theories are formulated on the basis of evidence from the corpus (Tognini-Bonelli 2001, 17).

Where the frequencies of a linguistic element were calculated and compared between the different corpora or the different types of laws included in EURO-CoL, the data was normalised to a common base in order to guarantee comparability⁴. Therefore, unless otherwise specified, all the data presented is normalised.

5.2. DISTRIBUTION OF THE EXPRESSIONS OF MODALITY IN ENGLEx

The raw frequency of the modal verbs *shall*, *should*, *may*, *must*, *can*, *will* and of the modal idiom *is/are to* is reported in Chart 5.1 below⁵.

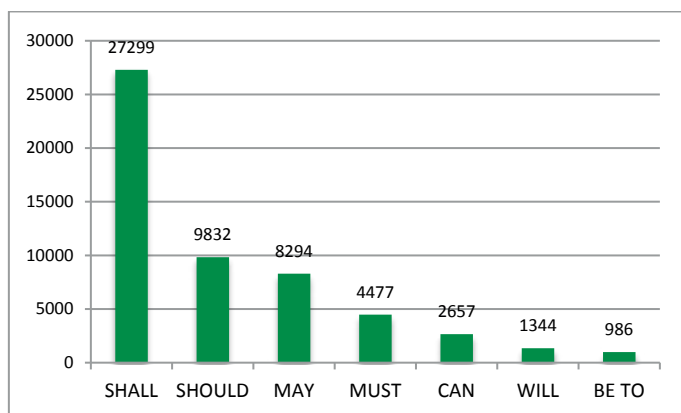


Chart 5.1. – Distribution of the expressions of modality in ENGLEx.

⁴ In Biber *et al.*'s (1998, 263) definition, «'[n]ormalization' is a way to adjust raw frequency counts from texts of different lengths so that they can be compared accurately». In order to normalise the data, the number of occurrences of each language item analysed is divided by the total number of words in each corpus, and the result is then multiplied by a common base. The choice of the base depends on the size of the corpora/subcorpora; a base of 100,000 words was used for the analysis in the present research.

⁵ The calculation of the total occurrences of *shall*, *should*, *may*, *must* and *will* also include the instances where the modal is followed by *not*, thus expressing a different meaning (e.g. prohibition). In the case of *can*, the concordancing software considers *cannot* as a different word. Therefore, in order to obtain comparable data, the occurrences of *can* in the present analysis were calculated together with the occurrences of *cannot*. As regards *may*, the wordlist was manually sorted to eliminate all occurrences referring to the month of *May*.

As *Chart 5.1* shows, *shall* is by far the most frequent modal in ENGLISH, with a number of occurrences which is almost three times the frequency of *should*, the next modal in terms of frequency. Moreover, as the wordlist below shows, *shall* is the second most frequent auxiliary verb after *be* (see *Table 5.1*).

Table 5.1. – Position of shall in the corpus frequency list.

RANK	WORD	FREQUENCY
1	The	198,280
2	Of	131,224
3	And	73,905
4	To	70,553
5	In	65,589
6	Be	33,927
7	Or	32,669
8	For	32,171
9	Shall	27,299

Since, as Biel (2014a, 15) observes, «modality [is] very sensitive to text type (sub-genre) and function», the frequency of the seven expressions of modality was calculated also by law type so as to verify whether there is a different distribution in the directives, regulations and decisions. *Table 5.2* below shows the results of the analysis.

Table 5.2. – Occurrences of the expressions of modality in directives, regulations and decisions.

	DIRECTIVES	REGULATIONS	DECISIONS
SHALL	1,323	764	1,622
SHOULD	367	323	197
MAY	316	268	275
MUST	180	144	35
CAN	99	87	55
WILL	63	38	81
BE TO	48	28	38

The frequencies are represented graphically in *Chart 5.2* below, which compares the different distribution of the expressions of modality in the three types of laws.

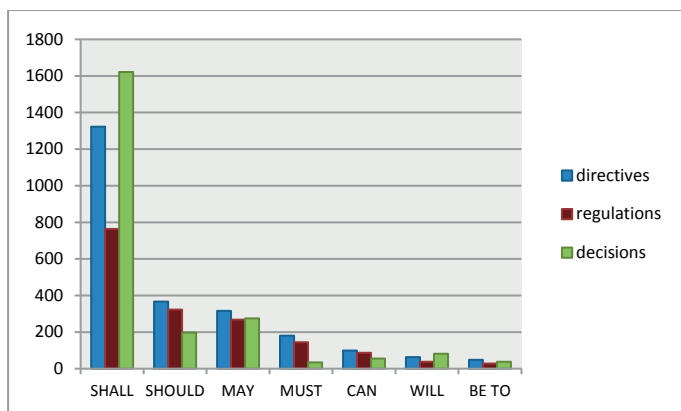


Chart 5.2. – Distribution of the expressions of modality per type of law.

As the results of the analysis show, *shall* is by far the most frequent modal in each type of law. Chart 5.2 shows similarities between directives and decisions in the frequency of *shall* and *will*, while *should*, *must*, and *can* occur with a similar frequency in directives and regulations. *May* occurs most frequently in directives, but its overall distribution is similar in all three types of laws. The occurrences of *is/are to* are slightly higher in directives, but the difference in distribution between the three types of laws is negligible.

The following sections analyse each expression of modality individually. An investigation of the meaning and use of these expressions in EU legal discourse is first presented, followed by a subsequent analysis of the strategies adopted to translate them into Italian.

5.3. ‘SHALL’

5.3.1. ‘*Shall*’ in the EURO-CoL corpus

As shown in Table 5.2, the distribution of *shall* differs in the three types of EU laws considered: it occurs most frequently in decisions (1,622 occurrences per 100,000 words) and directives (1,323 occurrences per 100,000 words), while it occurs with a much lower frequency in regulations (764 occurrences per 100,000 words). The distribution of *shall* in

the different parts of the EU laws (preambles and enacting terms) was also calculated since, as previously mentioned, the guidelines for drafters and translators in the *Joint Practical Guide* (European Commission 2015, 12) specify that different verbs should be used in the recitals and the enacting terms. The analysis revealed that *shall* occurs almost exclusively in the enacting terms (see Table 5.3).

Table 5.3. – Distribution of ‘shall’ in the preambles and in the enacting terms (raw and normalised data).

	RAW DATA	NORMALISED DATA
<i>shall</i> in ENGLISH	27,299	921
<i>shall</i> in preambles	82	20
<i>shall</i> in enacting terms	27,217	1,064

Chart 5.3 below shows the ratio between the frequency of *shall* in the enacting terms and in the preambles.

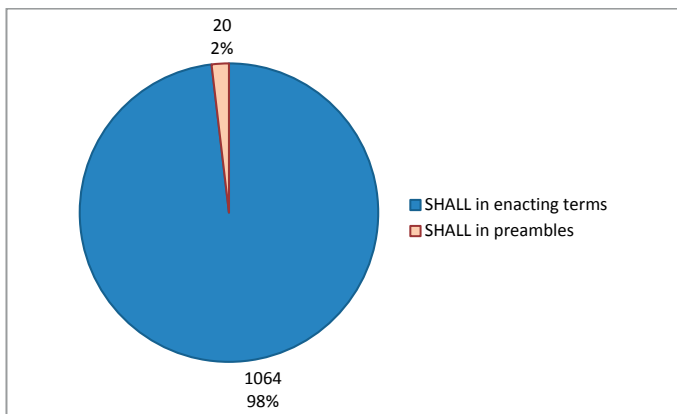


Chart 5.3. – Ratio between the frequency of ‘shall’ in the enacting terms and in the preambles.

The preponderance of *shall* in the enacting terms reveals that the drafters tend to comply with the requirements expressed in the *Joint Practical Guide* (European Commission 2015, 12), which states that

In the enacting terms of binding acts, other languages, such as French, use the present tense, whilst English generally uses the auxiliary *shall*. In both languages, the use of the future tense should be avoided whenever possible. By contrast, in non-binding acts, imperative forms, or a

structure or presentation too close to that of a binding act, must not be used.

As mentioned in Chapter 4, The *English Style Guide* (European Commission Directorate-General for Translation 2016, 46) also specifies that *shall* is to be used to express obligations and requirements, while *shall not* to impose prohibitions.

The analysis then proceeded to compare the frequency of *shall* in EU legislation and in British original laws. Chart 5.4 below shows the normalised data comparing the total frequency of *shall* in ENGLISH, the frequency of *shall* only in the enacting terms of ENGLISH and the frequency of *shall* in the UK-LAW reference corpus. As previously mentioned, the reason why the frequency of *shall* in EU laws was calculated both in the complete texts of the laws, and in the enacting terms only, is that UK laws do not have a preamble.

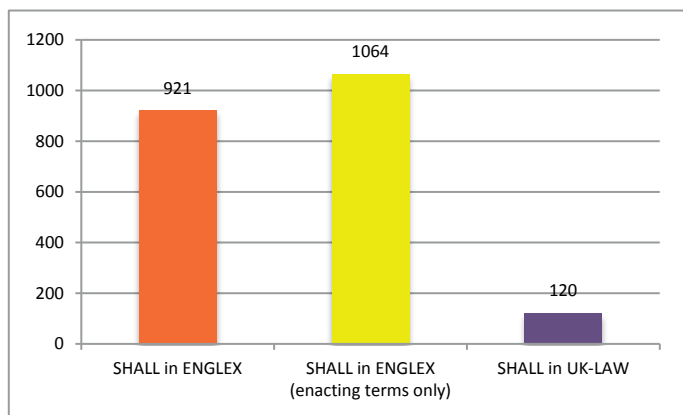


Chart 5.4. – Comparison of the occurrences of *shall* in the ENGLISH corpus and in the enacting terms sections of ENGLISH with the occurrences of ‘*shall*’ in UK-LAW.

The analysis revealed that there is a much higher frequency of the modal *shall* in EU legislative texts compared to UK original legislation. This confirms that, as previous studies have shown (cf. Garzone 2013; Williams 2013; Anselmi - Seracini 2015), the use of *shall* in British legislation has been dramatically reduced in recent years ⁶.

⁶ The *Drafting Guidance* for UK legislation (available at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/454628/guidance-book_August_2015.pdf; last accessed 20 September 2019) produced by the Office of

In order to identify the linguistic associations of *shall* in EU legislative texts, a quantitative analysis of the most frequent collocational patterns was carried out on each of the three types of laws in the ENGLISH corpus with the aid of the clusters/n-grams and collocations functions of the concordancing package AntConc. The results show the behaviour of *shall* in the linguistic environment and identifies similarities and differences between directives, regulations and decisions. *Table 5.4* below reports on the results of the analysis of the top ten most frequent collocates one to the right of the node *shall*.

Table 5.4. – The top ten collocates one to the right of ‘shall’.

DIRECTIVES	REGULATIONS	DECISIONS
Be	Be	Be
Not	Not	Ensure
Ensure	Apply	Provide
Apply	Ensure	Inform
Take	Take	Include
Inform	Provide	Keep
Include	Include	Not
Provide	Also	Take
Also	Establish	Have
Contain	Submit	Affix

As the table shows, *shall* collocates most frequently in all three law types with the verb *be*, which indicates that *shall* forms a strong colligation with the passive voice. Interestingly, the analysis highlighted a similarity between directives and regulations, which present the same most frequent collocations of *shall*, while decisions present some differences. In particular, *shall* colligates frequently with the negative in directives and regulations, but not in decisions. This would point to a stronger tendency towards prohibition in directives and regulations than in decisions ⁷.

the Parliamentary Counsel states that «Office policy is to avoid the use of the legislative *shall*» (2015, 4). The guidelines however also add that «[t]here may, of course, be exceptions» in cases such as, for example, «where the text is being inserted into an Act that already uses it».

⁷ This would require, however, further investigation, as the meaning of prohibition can also be expressed through other language patterns. For example, the determiner *no* before the subject (e.g. «No alcohol shall be consumed», Regulation No 8/2008), and the determiner *neither* and *nor* (e.g. «Neither the body nor its personnel shall be

The analysis of the collocates one to the left of *shall* revealed some differences between the three types of laws (see Table 5.5). In directives, *shall* is preceded most frequently by the subject *State(s)* (164 occurrences per 100,000 words) and *Commission* (63 occurrences per 100,000 words). In regulations, *operator* is the most frequent subject of *shall* (52 occurrences per 100,000 words), followed by *Commission* (46 occurrences per 100,000 words). *Shall* in decisions collocates most frequently with the subject *manufacturer* (201 occurrences per 100,000 words) and *body* (133 occurrences per 100,000 words) preceded by a noun or adjective qualifying the type of body (e.g. *notified body*; *conformity assessment body* etc.). The results clearly indicate that different actors are called into action in each of the three types of laws; for example, since directives are addressed to Member States, it is not surprising to find that the word *States* is the most frequent collocate of *shall*.

Table 5.5. – The top ten collocates one to the left of ‘shall’.

DIRECTIVES	REGULATIONS	DECISIONS
States	Operator	Manufacturer
And	Commission	Body
Commission	Article	And
It	It	It
They	Regulation	Documentation
Article	And	Commission
Body	States	Conformity
Directive	EC	States
Paragraph	Paragraph	They
State	ECB	Decisions

Shall presents a variety of uses and semantic connotations in ENGLISH, thus confirming the typical ubiquitous and polysemous traits that have been highlighted in the literature (see Chapter 4). In many instances, *shall* has a performative value in that it brings about in itself a new state of things (cf. Garzone 2001). In examples (1) and (2) below, *shall* does not lay down an obligation, but rather states the legal effect that the norm realises simply by the fact that it has been stated (*shall be replaced*, *shall*

responsible», Decision No 768/2008) also occur in the corpus. As the patterns of the negative forms are not the main focus of this study, these are not investigated further here.

apply) (cf. Carcaterra 1994, 228). In this sense, *shall* acquires what has been defined by Carcaterra (1994, 228) as a «constitutive» or «enacting» performative meaning⁸.

(1)

DIRECTIVE 2005/29/EC
in Article 2: point 3 shall be replaced by the following: «3. ‘trader’ means any natural or legal person who is acting for purposes relating to his trade, craft, business or profession and any one acting in the name of or on behalf of a trader».

(2)

REGULATION (EC) No 834/2007
This Regulation shall apply to the following products originating from agriculture, including aquaculture, where such products are placed on the market or are intended to be placed on the market [...].

As observed by Garzone (2001, 163), *shall* may acquire a performative meaning only in the absence of an agent. On the contrary, where *shall* is referred to an agent (i.e. who is to perform the action), its meaning can be prescriptive and lay down an obligation, as illustrated in examples (3) and (4) below. Obviously, however, as pointed out by Garzone (2001, 167), both performative and prescriptive meanings «require a source of authority».

(3)

DIRECTIVE (EU) 2015/412
Member States shall make publicly available any such measure to all operators concerned, including growers.

(4)

REGULATION (EU) No 648/2012
By 17 February 2013, the Member States shall notify the rules referred to in paragraph 1 to the Commission. They shall notify the Commission of any subsequent amendment thereto without delay.

⁸ Garzone (2008, 61) defines the ‘constitutive’ meaning, which is typical of legal discourse, as a particular type of performativity, whereby a new state comes into being by means of an utterance which «not only directly performs an action, instead of describing it, but realises at the same time the state the utterance itself signifies» [«un enunciato [che] non solo compie direttamente un’azione, invece che descriverla, ma attua contestualmente lo stato di cose che tale enunciato significa»] (*my translation*).

The performative/constitutive and prescriptive meanings are the most frequent meanings expressed by *shall* in the ENGLISH subcorpus. However, the difference between the two meanings is not always clear-cut and easily identifiable. Moreover, within the two above-mentioned meanings, *shall* acquires different semantic connotations depending on the context where it occurs (cf. also Garzone 2001). A stronger idea of futurity associated with *shall* can be seen for example in (5), as a result of the fact that explicit reference is made to a future date⁹.

(5)

REGULATION (EU) No 524/2013
The power to adopt delegated acts referred to in Article 8(3) shall be conferred for an indeterminate period of time from 8 July 2013 .

On the contrary, in example (6), *shall* acquires a stronger conditional connotation, as the provision is limited by the condition posed by *where*.

(6)

REGULATION (EU) No 468/2014
Where the competent authority of a non-participating Member State communicates the information referred to in Article 35(2) of Directive 2013/36/EU in accordance with the procedure laid down in Article 35(3) thereof to the NCA of the participating Member State where the branch is to be established, such NCA shall immediately notify the ECB on the receipt of this communication.

Another connotation of *shall* that was observed in ENGLISH can be defined as an ‘emphatic’ or ‘explanatory’ (cf. G  mar 1981, 346) use of this modal. This particular meaning of *shall* can be found above all in the definition sections of the laws where no real obligation is implied (cf. Tessuto 2003, 348; Williams 2013, 359), as in example (7).

(7)

REGULATION (EC) No 216/2008
‘certificate’ shall mean any approval, licence or other document issued as the result of certification;

⁹ This particular use of the modal *shall* is regulated by the *Joint Practical Guide* (European Commission 2015, 72) which recommends the use of formulaic expressions such as *shall take effect on*, *shall have effect from*, *shall enter into force on*.

5.3.2. The translation of ‘shall’ in the EURO-CoL corpus

In order to identify the translational patterns of *shall* in EURO-CoL, a total of 360 parallel sections where *shall* occurs in ENGLISH and their translations in ITALIAN were examined by means of the hypothesis testing method (cf. Hunston 2002) until no new translational strategies were found. The patterns that were identified were then investigated further both quantitatively and qualitatively.

The Italian version of the *Joint Practical Guide* specifically requires the use of the present indicative¹⁰ to express the performative and prescriptive meanings conveyed by *shall* in the English versions of the laws, as stated in the following extract:

Nell’articolato degli atti vincolanti i verbi si usano all’indicativo presente sia in italiano che in francese, mentre in inglese si usa di norma l’ausiliare *shall* seguito dal verbo all’infinito. Il futuro deve essere evitato per quanto possibile. (European Commission 2015, 12)¹¹

In recommending the use of the present indicative to convey obligation in legislation, the institutional guidelines also conform to the conventional use of verbs in the target culture, as can be seen in the following extract from the *Guida alla redazione dei testi normativi*¹², i.e. the guidelines issued by the Italian government regarding the drafting of legislation in Italy.

Il modo verbale proprio della norma giuridica è l’indicativo presente, modo idoneo ad esprimere il comando. Il modo congiuntivo ed il tempo futuro non raggiungono lo stesso effetto, in quanto esprimono l’ipotesi o la non immediatezza del precetto. In ogni caso, il ricorso a tempi o modi diversi dall’indicativo presente accentua la disomogeneità del testo ed è, perciò, evitato. (Dipartimento per gli Affari Giuridici e Legislativi 2001, 11)¹³

¹⁰ As Garzone (2003, 206) points out, «the simple present indicative is the form customarily used in Romance languages, and in particular in French and in Italian, to convey both prescriptive and constitutive (performative) meaning in the normative and legislative texts».

¹¹ «In the enacting terms of binding acts verbs are in the present indicative both in Italian and in French, while English generally uses the auxiliary *shall*. The use of the future tense should be avoided wherever possible» (*my translation*).

¹² «Gazzetta Ufficiale» No 101 of 3 May 2001 – *Supplemento Ordinario* No 105, available at <https://www.gazzettaufficiale.it/eli/gu/2001/05/03/101/so/105/sg/pdf>. Last accessed 20 September 2019.

¹³ «The appropriate verb form to express obligation in the law is the present indicative. The subjunctive and the future tense do not achieve the same effect, in that the order they express is hypothetical and differed. In any case, use of modes or tenses different from the present indicative produces a text that is not homogeneous and is, therefore, avoided» (*my translation*).

Example (8) and (9) below show the translation of *shall* with, respectively, a performative and a prescriptive meaning, where the translator conforms to the norms prescribed in the guidelines. In example (8), the ‘prohibition’ of unfair commercial practices is realised in English by stating that they *shall be prohibited*, while, in Italian, it is realised through the present indicative *sono vietate*.

(8)

DIRECTIVE 2005/29/EC
Unfair commercial practices shall be prohibited .
Le pratiche commerciali sleali sono vietate .

Example (9) shows the translation of *shall notify* in its prescriptive meaning with the Italian present indicative *comunicano*.

(9)

DECISION 2014/335/EU
Member States shall notify the Secretary-General of the Council without delay of the completion of the procedures for the adoption of this Decision in accordance with their respective constitutional requirements.
Gli Stati membri comunicano senza indugio al segretario generale del Consiglio l’espletamento delle procedure richieste dalle rispettive norme costituzionali per l’adozione della presente decisione.

While the analysis showed that most occurrences of *shall* in the EURO-CoL corpus are translated – in compliance with the institutional guidelines – with the present indicative of the lexical verb, the samples examined with the method of «hypothesis testing» (Hunston 2002) also provided evidence that, in the cases where *shall* has a prescriptive meaning, some alternative translation strategies are occasionally used. One strategy that occurs in the corpus is the use of the Italian present indicative ‘*verbo servire*’¹⁴ *dovere* to translate *shall*. Another strategy adopted by the translators is the use of the Italian future tense. In example (10) below, *shall* is translated, respectively, with a present indicative, with *dovere* and with the future tense¹⁵.

¹⁴ The Italian *verbi servili* (the most important being *potere* and *dovere*) are so called because they ‘serve’ the verb or the predicate. They are different from the auxiliary verbs in that they contribute to the meaning of the sentence (Prandi - De Santis 2011, 441).

¹⁵ A quantitative analysis was carried out to determine the frequency of the future tense in ITALEX. However, as the use of the future tense was observed to occur

(10)

DECISION 2009/705/EC
3. The Commission shall appoint one member and one alternate per Member State in accordance with the following criteria: a) candidates shall have a broad competence and experience in EU consumer affairs; b) candidates who have not previously been members of this Group shall be given priority; [...].
3. La Commissione nomina un membro titolare e un supplente per Stato membro in conformità dei seguenti criteri: a) i candidati devono avere un'ampia esperienza e competenza nel settore della politica europea dei consumatori; b) i candidati che non sono stati in precedenza membri di tale gruppo saranno considerati prioritari; [...].

The fact that *shall* was translated, within the same article, in three different ways, would suggest a deliberate strategy on the part of the translator. Closer examination of the extract from the English version of the law shows that the meaning of *shall* differs in the three instances: *shall appoint* is prescriptive, while *shall have* has an emphatic connotation and *shall be given* is associated with an idea of futurity. It can be hypothesised, therefore, that the translator interpreted the meaning of *shall* and chose a different strategy to translate each meaning. The result is that the Italian text is more explicit but less emphatic in tone.

In the following example (11) from the enacting terms of Directive 2009/41/EC, the compulsory nature of the norm is underlined in the Italian version through the use of the Italian *dovere* instead of the present indicative of the lexical verb.

(11)

DIRECTIVE 2009/41/EC
Member States shall be required to: [...].
Ciascuno Stato membro deve : [...].

This may be viewed as an attempt on the translator's part to reproduce the emphasis that the modal verb *shall* conveys to the English version, thus revealing some interference from the source text. This hypothesis would find confirmation in the fact that the use of *dovere* distances the EU legislative texts in Italian from target language conventions; in fact, the Italian government explicitly discourages the use of the *verbi servili*

particularly with regard to the translation of the modal *will*, the results of this quantitative analysis are reported in Section 5.8.

in national legislation. In particular, the document *Regole e raccomandazioni per la formulazione tecnica dei testi legislativi* issued in May 2001 by the Italian Senato della Repubblica¹⁶ specifies that «[è] evitato l'uso del verbo servile diretto a sottolineare la imperatività della norma ('deve'; 'ha l'obbligo di'; 'è tenuto a')». The *Guida alla redazione dei testi normativi* (Dipartimento per gli Affari Giuridici e Legislativi 2001, 12) mentioned above also states the following:

l'uso del verbo servile diretto a sottolineare l'obbligatorietà del comportamento richiesto al destinatario della disposizione (*deve; ha l'obbligo di; è tenuto a*) nulla aggiunge all'imperatività della norma. Un ordine, cui il precetto giuridico è assimilabile, non si esprime con le parole 'sei obbligato a fare', bensì con l'imperativo 'fai'. L'imperatività si trae dalle conseguenze che l'atto o il sistema ricollegano all'inottemperanza, non dall'uso del verbo *dovere* o simili espressioni. Anzi, l'uso di queste ultime in certe parti del testo è idoneo ad ingenerare nell'interprete il dubbio che analoga obbligatorietà non sussista nelle altre parti del testo nelle quali il verbo servile *dovere* non è usato.¹⁷

In order to verify whether the empirical data in the corpus confirms this hypothesis, the occurrences of the present indicative of *dovere* (in its inflected forms *deve/dev'/devono*) were calculated in both ITALEX and in the reference corpus LEGITALIA. The analysis revealed that there are 306 occurrences per 100,000 words of the present indicative of *dovere* in ITALEX compared to only 150 occurrences per 100,000 words in LEGITALIA, thus reinforcing the hypothesis of interference formulated above¹⁸. This finding supports Toury's (2012 [1995], 310) law of interference according to which translators tend to transfer certain features that characterise the source texts onto the target text. In particular, the data confirms Toury's (2012 [1995], 311) hypothesis of «negative

¹⁶ Available at https://www.senato.it/1057?testo_generico=29&voce_sommario=62. Last accessed 20 September 2019.

¹⁷ «the use of the *verbo servile* intended to highlight the fact that the norm is obligatory for the recipient (*deve; ha l'obbligo di; è tenuto a*) does not add anything to the compulsory nature of the rule of law. An order, which the rule of law is similar to, is not expressed by means of the words 'you are obliged to', but rather with the imperative 'do'. The imperative nature of the norms derives from the consequences that non-compliance entail, not from the use of the verb *dovere* or other similar expressions. On the contrary, the use of these expressions can lead to the wrong assumption that the same degree of obligation is not present in the parts of the text where the '*verbo servile*' *dovere* is not used» (*my translation*).

¹⁸ The verb *dovere* is used to translate also other modal verbs, such as *should* and *must*. The number of occurrences of the *deve/dev'/devono* does not, therefore, reflect the frequency with which this verb is used to translate *shall*, but merely its overall frequency in the ITALEX subcorpus.

transfer», that is, the fact that translated texts tend to deviate from the target language conventions.

The analysis concerning the use of the verb *dovere* to translate *shall* was further refined by comparing, via the «hypothesis testing» method (Hunston 2002), the parallel sections of the laws where *dovere* occurs, with the aim of identifying patterns in the translators' choices. A total of 180 parallel sections were examined. The verb *dovere* appears to be used most frequently to translate *shall* in the cases where – if the present indicative of the verb were used – the statement in the Italian version could erroneously be perceived as factual or informative, instead of prescriptive. For instance, in examples (12) and (13) the use of the present indicative could have resulted either in a descriptive or a prescriptive interpretation of the statement.

(12)

DIRECTIVE 2006/141/EC
The labelling of infant formulae and follow-on formulae shall be designed to provide the necessary information about the appropriate use of the products so as not to discourage breast feeding.
Le etichette degli alimenti per lattanti e degli alimenti di proseguimento devono essere concepite in modo da fornire le informazioni necessarie all'uso appropriato di questi prodotti e non scoraggiare l'allattamento al seno.

(13)

DIRECTIVE 2006/42/EC
An appeal procedure shall be available .
Deve essere possibile una procedura di impugnazione.

The same hypothesis, i.e. the fact that the translator's choice may be dictated by a deliberate attempt to avoid any possible ambiguities in the interpretation of the target text, may explain the frequent use of the verb *dovere* observed in the instances where obligation is subject to a certain condition, as examples (14) and (15) show.

(14)

REGULATION (EC) No 216/2008
When the polyamide or nylon content of the mixture exceeds 25%, method No 4 shall be used .
Se la percentuale di poliammidica o nylon della mischia supera il 25% dev'essere applicato il metodo n. 4.

(15)

REGULATION (EC) No 216/2008
When the number of aircraft of the same type eligible for a restricted certificate of airworthiness so justifies, a restricted type certificate may be issued and an appropriate type certification basis shall be established .
Qualora il numero di aeromobili del medesimo tipo che possono ottenere un certificato ristretto di aeronavigabilità lo giustifichi, può essere rilasciato un certificato ristretto di omologazione del tipo ed una base di certificazione del tipo appropriata deve essere definita .

Shall also occurs, occasionally, in secondary clauses. In these cases it is translated with the subjunctive mode of the verb, as required by the Italian grammar: see example (16) below.

(16)

DECISION No 768/2008/EC
The manufacturer must take all measures necessary in order that the manufacturing process shall ensure compliance of the manufactured products with the technical documentation referred to in point 2 and with the requirements of this Directive that apply to them.
Il fabbricante prende tutte le misure necessarie affinché il processo di fabbricazione garantisca la conformità dei prodotti alla documentazione tecnica di cui al paragrafo 2 e ai requisiti della presente direttiva che ad essi si applicano.

5.4. 'SHOULD'

5.4.1. 'Should' in the EURO-CoL corpus

The analysis of the frequency of *should* in the three types of laws considered (see *Table 5.2*), reveals that the distribution of this modal is similar in directives and regulations (367 and 323 occurrences per 100,000 respectively), whereas it is lower in decisions (197 occurrences per 100,000 words). The analysis of the distribution of *should* within the sections of the laws reveals a much higher frequency of *should* in the preambles than in the enacting terms (see *Table 5.6* and *Chart 5.5*).

Table 5.6. – Distribution of ‘should’ in the preambles and in the enacting terms (raw and normalised data).

	RAW DATA	NORMALISED DATA
<i>should</i> in ENGLISH	9,832	332
<i>should</i> in preambles	6,010	1,483
<i>should</i> in enacting terms	3,822	149

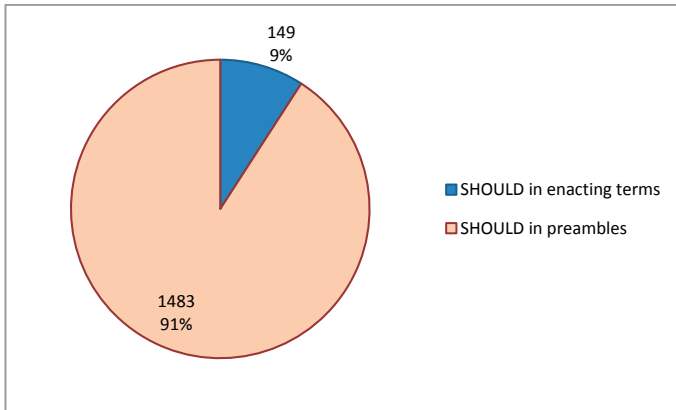


Chart 5.5. – Ratio between the frequency of ‘should’ in the enacting terms and in the preambles.

As the preambles contain the ‘recitals’ (i.e. the explanation of the reasons for what is expressed in the subsequent enacting terms), the use of the modal *should* to express ‘weak’ obligation or to state that something would be recommendable (cf. Diani 2001, 182; Williams 2005, 128; Caliendo 2007, 254) is functional to the purpose of this section of the law.

The comparison between the occurrences of *should* in ENGLISH and in the UK-LAW reference corpus revealed a much higher frequency of this modal in EU law (332 occurrences per 100,000 words in ENGLISH compared to 18 occurrences per 100,000 words in UK-LAW)¹⁹. As British statutory instruments do not contain a preamble, this result is not surprising. The analysis was then further refined by considering only the enacting terms in the comparison with UK-LAW. As Chart 5.6 below shows, the results still confirmed that *should* occurs much more frequently in the corpus of EU legislation (149 occurrences per

¹⁹ This unusually high frequency of *should* in EU legislation was also observed by Biel (2014c, 160) in her study of EU translated law.

100,000 words in the enacting terms), thus providing further evidence that it is a specific feature of EU legal English and supporting the view that EU language constitutes a specific language variety (cf. Garzone 2000; Koskinen 2000; Caliendo 2004; Robertson 2010; Sandrelli 2018).

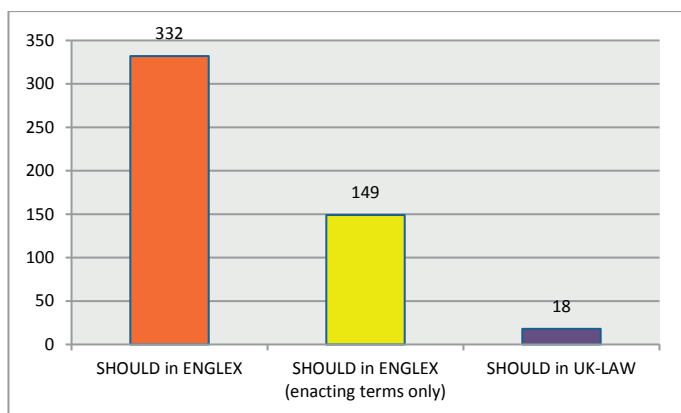


Chart 5.6. – Comparison of the occurrences of ‘should’ in the ENGLISH corpus and in the enacting terms sections of ENGLISH with the occurrences of ‘should’ in UK-LAW.

The analysis of the collocational patterns and clusters with *should* as the node in each of the three types of laws in the ENGLISH corpus was then carried out, paralleling the analysis of *shall* illustrated above. Table 5.7 below shows the top ten most frequent collocates one to the right of the node *should*.

Table 5.7. – The top ten collocates one to the right of ‘should’ in ENGLISH.

DIRECTIVES	REGULATIONS	DECISIONS
be	Be	Be
not	Not	Therefore
therefore	Also	Apply
also	therefore	Take
apply	Have	Also
ensure	Include	Not
take	Apply	Have
have	Ensure	Provide
provide	Take	Present
include	Provide	Ensure

As was also the case for the modal *shall*, *should* collocates most frequently with the verb *be* in directives, regulations and decisions alike, which indicates a strong colligation with the passive voice. The high frequency of the adverb *therefore* as a collocate of *should* in all three types of laws is coherent with the previously mentioned function of *should* to express that something would be recommendable and adds a connotation of ‘logical’ conclusion to the modal.

The top ten collocates one to the left of *should* are diversified in the three types of laws (see Table 5.8 below).

Table 5.8. – The top ten collocates of ‘*should*’ one to the left of ‘*should*’ in ENGLISH.

DIRECTIVES	REGULATIONS	DECISIONS
states	Commission	EC
directive	Regulation	Commission
it	And	States
commission	It	Decision
EC	States	And
consumer	Animals	Legislation
consumers	They	They
they	Substance	Network
authorities	Test	It
which	Data	Agreement

In directives, as was also observed in the analysis of *shall*, the most frequent subject of *should* is *States*, which is consistent with the fact that directives are a call to action addressed to Member States. This is not the case for regulations and decisions, where *Commission* and *EC* occur, respectively, as the most frequent subjects of *should*. The high frequency of the pronoun *it* in all three types of laws, as well as the high frequency of *be* mentioned above, points to a strong colligation of *should* with the impersonal pattern *it should be* + Past Participle. The concordancing lines provided by AntConc confirm this hypothesis: out of a total of 291 occurrences of the collocation *it should* in the ENGLISH corpus, 214 occurrences were identified as *it should be*, or *it should * be*, or *it should ** be* patterns²⁰.

²⁰ The ‘Kleen star’ * character was used in place of any letter or word in the search. For example, the *it should * be* search in the ENGLISH corpus produced patterns such as, for example, *it should preferably be* and *it should therefore be*.

Scholars have emphasised the use of *should* in legal texts to convey the meaning of ‘weak’ obligation (cf. Diani 2001, 182; Williams 2005, 128; Caliendo 2007, 254). This meaning is also found in ENGLISH, as example (17) illustrates.

(17)

REGULATION (EU) No 286/2011
To ensure that suppliers of substances can adapt to the new classification, labelling and packaging provisions introduced by this Regulation, a transitional period should be foreseen and the application of this Regulation should be deferred.

The negative form *should not* expresses mild prohibition, as can be seen in example (18).

(18)

REGULATION (EU) No 286/2011
Negative human data should not normally be used to negate positive results from animal studies.

The view that the meaning of *should* in legislative texts is strongly influenced by the context (cf. Williams 2005, 130-131; Caliendo 2007, 254) also finds confirmation in the instances of *should* in ENGLISH. Depending on whether *should* occurs in the preamble, or in the enacting terms and the annex, its meaning varies from mere recommendation and logical necessity to *de facto* obligation or prohibition. Awareness of the function of the different sections in EU laws helps the recipient interpret the meaning of *should* correctly. For instance, in example (19), the meaning of *should* is to be interpreted as prohibition, since the modal occurs in an annex.

(19)

REGULATION 286/2011
Contaminated work clothing should not be allowed out of the workplace.

5.4.2. The translation of ‘*should*’ in the EURO-CoL corpus

At the EU, the translation of *should* into Italian has created numerous controversies, in particular as regards recitals, due to the different

opinions of the Commission and of the Council and Parliament²¹. Until recently, the Commission's Legal Service required the use of the present indicative of the verb *dovere* to translate *should* in recitals, while the Legal Service of the Council and of the European Parliament recommended the use of the conditional mode²². As pointed out by DGT translator Tron (2010) in an article published in *Inter@lia*, the magazine of the Italian DGT translators, this is partly due to the fact that the Commission considered the recurrent use of the conditional as stylistically 'heavy' and also possibly misleading (Tron 2010, 18). Moreover, the Commission was using *dovere* in its broader connotation, which, aside expressing obligation, also indicates «political or technical necessity» (Tron 2010, 18; *my translation*). The French *devoir* is used similarly to the Italian *dovere* and the same discrepancies can be found in the French version of the laws when *devoir* translates *should*. Gilbert Lautissier, in his role as responsible for the quality of legislation at the Commission's Legal Service, interestingly attributes these discrepancies to historical reasons in this extract from *Ornicar*, *Lettre d'information du département de langue française*, May 2010 (quoted in Tron 2010, 18):

The current situation may be explained as a historical evolution that can be summarised as follows. At the beginning, [the present indicative] *doit* was conventionally used, in French, in the recitals of all the Community acts as the equivalent of *il convient* or *il y a lieu*, to express a necessity, an intention and to announce the dispositions contained in the enacting terms. When the United Kingdom joined the EU, it became necessary to find a translation into English, and *should* appeared. With the increasing power of English, it was decided, in this case as also in others, to re-translate into French, from the English as a source language, what had been originally conceived in French, leading to the conclusion that *should* necessarily corresponds to [the conditional] *devrait*. Despite this, the Commission has kept to the traditional use and maintained *doit* in its acts. The Parliament and the Council, on the contrary, have long changed to *devrait* in theirs. (Lautissier 2010, quoted in Tron 2010, 18; *my translation*)²³

²¹ This information was kindly provided by Gabriella Rojatti, Quality Officer, DG Translation of the European Commission (personal communication of 7 and 10 October 2016).

²² On this issue, see the «Contributo dei giuristi revisori del servizio giuridico della Commissione sul linguaggio dei 'considerando'», in *Inter@lia*, Issue 25 of June 2003, pp. 9-10, available at https://ec.europa.eu/translation/italian/magazine/it_magazine_en.htm. Last accessed 5 October 2019.

²³ «La situation actuelle s'explique par une évolution historique qui peut se résumer comme suit. Au départ, *doit* était utilisé par convention, en français, dans les considérants de tous les actes communautaires comme l'équivalent de *il convient* ou *il y*

Due to the fact that French was – prior to the accession of the United Kingdom in 1973 – the main drafting language, and that the laws were mostly translated into Italian from the French original text, it is probable that the explanation above also accounts for the discrepancies in the translation of *should* in the Italian versions of the laws.

Tron (2010, 19) questions the appropriateness of translating *should* with the conditional as the uncertainty that the conditional *dovrebbe* expresses is unsuitable for a legal text. In his words,

Let's consider the two following sentences: 1) *Tutti i cittadini dovrebbero rispettare la legge*. 2) *Tutti i cittadini devono rispettare la legge*. The first sentence can be interpreted in different ways. It can express a probability, even subject to the realisation of certain conditions (it is probable, depending on the particular situation, that the citizens comply – or do not comply – with the law), a wish, an invitation, a piece of advice, a recommendation, a subjective opinion (the person who is making the statement believes it is preferable that all the citizens comply with the law, but cannot in any way impose this). The second sentence has a totally different meaning and expresses an obligation (whether legal or moral) or a necessity (in order to guarantee the good functioning of society it is necessary that all citizens comply with the laws). Of the two sentences, only the latter can be considered appropriate – due to its unambiguous meaning – in legal discourse. (Tron 2010, 19-20; *my translation*)²⁴

An agreement on this issue was reached in 2013 when it was decided that the norm would be to use the conditional of the verb *dovere* to translate *should* in the preambles, but exceptions would be contemplated in the

a lieu, pour exprimer une nécessité, une intention, et annoncer les dispositions contenues dans les articles. Lors de l'adhésion du Royaume-Uni, il a fallu trouver une traduction en anglais, et *should* est apparu. Avec la montée en puissance de l'anglais, on a ensuite voulu, dans ce cas comme dans bien d'autres, retraduire vers le français, à partir de l'anglais, ce qui avait été conçu en français, pour en arriver à la conclusion que *should* signifie nécessairement *devrait*. La Commission a néanmoins conservé l'usage traditionnel et maintient *doit* dans ses propres actes. Le Parlement et le Conseil, en revanche, sont passés depuis longtemps à *devrait* dans les leurs» (Lautissier 2010, quoted in Tron 2010, 18).

²⁴ «Si considerino queste due proposizioni: 1) 'Tutti i cittadini dovrebbero rispettare la legge'. 2) 'Tutti i cittadini devono rispettare la legge'. La prima può essere intesa in diversi sensi. Può esprimere una probabilità, anche condizionata al verificarsi di determinate circostanze (è probabile, secondo i casi, che i cittadini rispettino o non rispettino la legge) un auspicio, un invito, un consiglio, una raccomandazione, un'opinione soggettiva (chi enuncia la frase ritiene preferibile, per questo o quel motivo, che tutti i cittadini rispettino la legge, ma in nessun modo può esigere o imporre il rispetto della legge). La seconda ha un tutt'altro significato ed esprime un obbligo (giuridico o morale) o una necessità (perché sia garantito il buon funzionamento della società è necessario che tutti i cittadini rispettino la legge). Delle due proposizioni, solo la seconda può ritenersi propria, per la sua univocità, del discorso giuridico» (Tron 2010, 19-20).

cases where the translator considered the conditional inappropriate²⁵. The discussions revolving around the translation of *should* will be taken into account in the analysis of the translational patterns as possible influencing factors for the translators' choices.

The translational patterns of the 9,832 occurrences of *should* in the ENGLISH corpus were analysed through the «hypothesis testing» method (Hunston 2002) by proceeding in the same way as with the modal *shall*. A total of 240 occurrences of *should* were examined by comparing the parallel texts until no new translational strategies were found. The following recurring translational patterns were observed: (1) *should* translated with the impersonal adjectival structure *è opportuno* or, less frequently, with other adjectival expressions, such as *è necessario*; (2) *should* translated with the impersonal verb *occorre*; (3) *should* translated with the Italian 'verbo servile' *dovere* in the conditional mode (*dovrebbe/dovrebbero*); (4) *should* translated with *dovere* in the present indicative; (5) *should* translated with the verbal expression formed by *andare* in the present indicative followed by the past participle of the verb; (6) *should* translated with the Italian preposition *da* followed by the infinitive of the verb; (7) *should* translated with *dovere* in the future indicative.

The number of occurrences of these features was calculated in order to verify how frequent they are in the ITALEX subcorpus. Moreover, in order to identify similarities and differences between the EU translated laws and national original legislation, the results were compared with the LEGITALIA reference corpus. Table 5.9 below shows the normalised frequencies.

Table 5.9. – Distribution in ITALEX and in LEGITALIA of the linguistic expressions that most frequently translate 'should' in ITALEX.

	ITALEX	LEGITALIA
è opportuno	35	0,5
è necessario	25	3
occorre	22	2
dovrebbe/dovrebbero	158	2
deve/dev'/devono	306	150
va/vanno + Past Participle	24	4
da + Infinitive	79	100
dovrà/dovranno	9	13

²⁵ Gabriella Rojatti, Quality Officer, DG Translation of the European Commission, personal communication of 7 and 10 October 2016.

The data reveals that the distribution of these language features in ITALEX differs greatly from LEGITALIA. In particular, the results show that all the features – with the exception of *da* + Infinitive (INF) and *dovrà/dovranno* – are less frequent in LEGITALIA. The expressions of ‘weak’ obligation are, therefore, a typical feature of EU legislation in Italian but not of national legislation; this indicates a departure from target language conventions in favour of a translation that is closer to the source text. Even the relatively higher frequency of *da* + INF cannot be taken as a result that points in the opposite direction, since in this case the data is influenced by the fact that this structure is used in Italian also to form expressions with meanings not associated to obligation or necessity. For instance, in example (20), which is an extract from the Italian Decreto legge 25 giugno 2008 n. 112, *da rischiare* is used to indicate a consequence:

(20)

Fermo quanto previsto dall’articolo 1, comma 21 della legge 23 dicembre 2005, n. 266, ai fini del controllo e monitoraggio della spesa pubblica, la mancata segnalazione da parte del funzionario responsabile dell’andamento della stessa in maniera tale **da rischiare** di non garantire il rispetto delle originarie previsioni di spesa costituisce evento valutabile ai fini della responsabilità disciplinare.

Interestingly, the analysis reveals that the translation of *should* often results in changes at a morphosyntactic and syntactic level in the Italian version of the laws. In examples (21) and (22) below, the use of the adjectival expression *è opportuno* entails a change from the passive voice of the English version to the use of impersonal structures in Italian, followed by a subordinate clause or an infinitive verb and a change in the theme/rheme relation²⁶. This would suggest that the translators tend to comply with the recommendations contained in the manual for Italian EU translators, *Scrivere Chiaro*, which states that drafters should be careful «to enhance the important information by putting it in the appropriate place in the sentence» (European Commission 2013, 7; *my translation*)²⁷. The manual also specifies that, for the sake of clarity,

²⁶ A contribution from the legal revisers of the Commission in the magazine for the European Commission Italian translators *Inter@lia* 25 (2003, 10, available at http://ec.europa.eu/translation/italian/magazine/it_magazine_en.htm; last accessed 20 September 2019) advocates a limited use of adjectival expressions such as *è opportuno* in long texts for the sake of readability, which proves that, when translating *should*, translators are expected to also take account of stylistic considerations.

²⁷ «[v]alorizzare le informazioni che contano collocandole al posto giusto nella frase» (European Commission 2013, 7, available at <http://bookshop.europa.eu/it/scrivere-chiaro-pbHC3212148/>; last accessed 20 September 2019).

drafters should put the important information at the end of the sentence, as «it is the part that the readers will remember» (European Commission 2013, 7; *my translation*)²⁸.

(21)

DECISION (2006/1005/EC)
(5) Implementation of the Agreement should be reviewed by the Technical Commission established by the Agreement.
(6) Each party to the Agreement should designate a management entity and the procedure for amending the Agreement should be defined .
(7) The Agreement should be approved , [...].
(5) È opportuno che l'attuazione dell'accordo sia riesaminata dalla commissione tecnica istituita dall'accordo.
(6) È opportuno che ogni parte dell'accordo designi un ente di gestione ed è necessario definire la procedura per la modifica dell'accordo.
(7) È opportuno approvare detto accordo, [...].

(22)

REGULATION (EU) No 248/2014
Regulation (EU) No 260/2012 should therefore be amended accordingly, [...].
È pertanto opportuno modificare di conseguenza il regolamento (UE) n. 260/2012, [...].

The qualitative analysis of the parallel sections of ENGLEX and ITALEX revealed that, also in the case of the conditional *dovrebbe/dovrebbero*, the translator often introduces optional changes at a linguistic level. These changes tend to simplify and add clarity to the Italian version. In example (23), the conditional *dovrebbe* immediately follows the subject, with the result that the syntactic discontinuity of the English version is avoided in the Italian version, which improves the readability of the passage.

(23)

REGULATION (EU) No 251/2014
The Commission , when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.
Nella preparazione e nell'elaborazione degli atti delegati la Commissione dovrebbe provvedere alla contestuale, tempestiva e appropriata trasmissione dei documenti pertinenti al Parlamento europeo e al Consiglio.

²⁸ «è la parte che i lettori ricorderanno» (European Commission 2013, 7).

Example (24) shows a change at a purely stylistic level: the first *should* is translated with *dovrebbero*, while the second is rendered through a concessive clause, thus avoiding the repetition of the conditional.

(24)

REGULATION (EU) No 251/2014
The definitions of aromatised wine products should continue to respect traditional quality practices but should be updated and improved in the light of technological developments.
Le definizioni di prodotti vitivinicoli aromatizzati dovrebbero continuare a rispettare le pratiche tradizionali di qualità, pur venendo aggiornate e affinate alla luce dello sviluppo tecnologico.

In examples (25) and (26) below, the changes concern the relation between theme and rheme in the first extract²⁹, and the use of the impersonal³⁰ structure in place of the active form in the second extract.

(25)

REGULATION (EU) No 251/2014
For that purpose, the power to adopt the necessary transitional measures should be delegated to the Commission.
A tal fine, dovrebbe essere attribuito alla Commissione il potere di adottare le misure transitorie necessarie.

(26)

REGULATION (EU) No 257/2010
(10) Business operators interested in the continuity of the approval of a food additive under re-evaluation should submit any data relevant to the re-evaluation of the food additive.
10) È nell'interesse delle imprese interessate alla conferma dell'approvazione di un additivo alimentare nel quadro di una nuova valutazione comunicare qualsiasi dato pertinente per la nuova valutazione dell'additivo alimentare in questione.

The above-mentioned Italian expressions of 'weak' obligation occur with a much higher frequency in preambles than in the enacting sections of the laws: the frequency of *dovrebbe/dovrebbero* is 80 percent in preambles, while *è opportuno* occurs with a frequency as high as 91 percent in

²⁹ Malone (1988, 65) refers to this translation strategy as «reordering», which he defines as the strategy «whereby one or more target elements appear in a position different from that of the source text».

³⁰ Caterina and Rossi (2008, 187) identify the frequent use of impersonal structures as a typical feature of Italian legal language.

the preambles³¹. This is consistent with the function of the preambles, that is to lay down the premises and explain why the subsequent enacting terms are necessary and appropriate³².

Interestingly, the analysis reveals that the translators tend to attribute a stronger connotation of obligation to *should* when it occurs in the enacting terms, where the above-mentioned patterns (4), (5), (6) and (7) are used frequently. In example (27) below, an extract from the annex section of the law, *should* is translated with the Italian *deve*, which expresses strong obligation. Moreover, there is a neutralisation of the differences in meaning between the modal verbs in the English version (*should*, *must*, *shall*), which are all translated in the Italian version with the same verb *dovere*.

(27)

DECISION 2006/1005/EC
<ul style="list-style-type: none"> — The ENERGY STAR name should always appear in capital letters; — The registration symbol ® must be used with the first time the words 'ENERGY STAR' appear in material for the U.S. market; and — The ® symbol should always be in superscript; — There shall be no space between the words 'ENERGY STAR' and the ® symbol; — The ® symbol shall be repeated in a document for each chapter title or Web page.
<ul style="list-style-type: none"> — La denominazione ENERGY STAR deve sempre comparire in lettere maiuscole; — il simbolo di marchio registrato ® deve sempre essere utilizzato la prima volta in cui le parole «ENERGY STAR» compaiono su materiale destinato al mercato statunitense, e — il simbolo ® deve essere sempre in formato apice; — non devono esserci spazi tra le parole «ENERGY STAR» e il simbolo ®; — in un documento il simbolo ® deve essere ripetuto per ogni titolo di capitolo o pagina internet.

In example (28), also from the annex of the same law, the Italian final clause *da rispettare*, which indicates that something 'is to be done' is

³¹ The percentage does not distinguish between the use of *è opportuno* to translate *should* and other uses which can occasionally be found in the corpus (e.g. *è opportuno* also translates *it is appropriate*).

³² As illustrated above, for many years the European Parliament, the Council and the Commission have followed different drafting and translational norms regarding this modal in preambles. This accounts for the inconsistencies that can be found as regards the translation of *should* in preambles.

used to translate *should*. This suggests that the translator interpreted the meaning of *should* as expressing a stronger idea of necessity and translated it accordingly.

(28)

DECISION 2006/1005/EC
Test Conditions: Outlined below are the ambient test conditions which should be established when performing the power measurement.
Condizioni di prova: in appresso figurano le condizioni ambiente da rispettare durante i test di misurazione del consumo energetico.

The translation of *should* with expressions of stronger obligation does not occur, however, exclusively in the enacting terms. In example (29), an extract from a recital, *should* is translated with the verbal expression formed by *andare* in the present indicative followed by the past participle of the verb, which expresses a stronger degree of necessity than the English modal. Moreover, the different organisation of the elements in the clause adds emphasis to the verbal expression *va istituita* in the Italian version.

(29)

REGULATION (EU) No 242/2010
The first version of that catalogue should therefore be created , [...].
Va quindi istituita la prima versione di tale catalogo, [...].

The translation of *should* with the future tense of *dovere* also confers a connotation of stronger obligation in the recital of the Italian version, as example (30) shows. However, the use of the future tense to translate *should* appears to be an exception and very few examples were found in the corpus.

(30)

REGULATION (EU) No 487/2013
Provisions should be included to implement those measures at the Union level.
Dovranno essere incluse disposizioni per attuare tali misure a livello dell'Unione.

The fact that translators tend to interpret the meaning of *should* and translate with Italian expressions of different degrees of obligation and necessity, results in the production of target texts that are often less ambiguous and more explicit than the source texts, thus supporting the hypotheses of simplification and explicitation as universal features in

translation (cf. Baker 1996). It is interesting to point out that guidelines for translators not only allow for this interpretation on the translators' part, but explicitly require it. As pointed out above, since year 2013 the use of the conditional of the verb *dovere* has been recommended as a translation for *should* in preambles, but exceptions are contemplated in the cases where translators identify the need to express stronger necessity or obligation. In particular, exceptions are admitted where *should* appears to be unsuitably used in the original draft in the first place. For example, in extract (31), *should respect* gives rise to the impression that conforming to the principles of fair competition and international trade is desirable but not unavoidable.

(31)

DIRECTIVE 2009/125/EC
Such Community requirements should respect the principles of fair competition and international trade.
Le specifiche comunitarie dovrebbero rispettare i principi della concorrenza leale e del commercio internazionale.

However, in this particular instance, the translator adhered strictly to the English version and translated literally using the Italian conditional *dovrebbero rispettare*, thus revealing some interference from the source text (cf. Toury 2012 [1995], 310).

In an article published in *Inter@lia*, DGT translator Tron (2010, 20) identifies another instance of inappropriate translation of *should* in the following examples (32) and (33) from Regulation (EC) No 1223/2009 – a consumer law regulation that is also contained in the EURO-CoL corpus.

(32)

REGULATION (EC) No 1223/2009
Cosmetic products should be safe under normal or reasonably foreseeable conditions of use.
I prodotti cosmetici dovrebbero essere sicuri nelle condizioni normali o ragionevolmente prevedibili di uso.

(33)

REGULATION (EC) No 1223/2009
To ensure their safety, cosmetic products placed on the market should be produced according to good manufacturing practice.
Per garantirne la sicurezza, i prodotti cosmetici che vengono commercializzati dovrebbero essere fabbricati nel rispetto delle buone pratiche di fabbricazione.

Tron (2010, 20) motivates as follows his criticism of this translation of the modal *should* with the Italian conditional *dovrebbero*:

These *dovrebbero* in the preamble of a regulation, that is of a legally binding act, cannot appear other than contradictory to the reader, or even imply, so to speak, an admission of powerlessness on the part of the legislator. We would like, it would be desirable and preferable that the cosmetic products were safe and that good practices were respected, but there is no certainty that this will happen, and not even ‘the present regulation’ can guarantee this. These expressions appear even more bizarre if we consider that the two recitals should ‘motivate’ respectively article 3 (‘I prodotti cosmetici messi a disposizione sul mercato sono sicuri per la salute umana se utilizzati in condizioni d’uso normali o ragionevolmente prevedibili...’) and article 8 (‘Nella fabbricazione di prodotti cosmetici sono rispettate le buone pratiche di fabbricazione...’). (Tron 2010, 20; *my translation*)³³

In other words, the Italian present indicative *deve* expresses the necessity that is at the basis of a provision, while the conditional *dovrebbe* merely expresses its convenience (Tron 2010, 20). This article reveals the pressure placed on the DGT translators to take into consideration possible misunderstandings on the receivers’ part and translate in a way that conveys a logically clear and unambiguous message, even if this means disambiguating what is ambiguous in the original text itself³⁴.

Though the modal *should* is mostly used in its deontic meaning, it is also present in the ENGLISH subcorpus with a ‘putative’ meaning (cf. Quirk *et al.* 1972, 100). This use of the modal *should* is rendered in Italian with the subjunctive, which is the mode required in the Italian language to follow expressions such as, for example, *è opportuno che*, *è importante che*, as example (34) illustrates.

³³ «Questi *dovrebbero* collocati nel preambolo di un regolamento, ossia di un atto giuridicamente vincolante, non possono che sembrare al lettore contraddittori, o perfino implicare, per così dire, un’ammissione di impotenza da parte del legislatore: vorremmo, sarebbe auspicabile e preferibile che i prodotti cosmetici fossero sicuri e che le buone pratiche fossero rispettate, ma non c’è alcuna certezza che questo accada, neppure ‘il presente regolamento’ può darcela. Ancora più singolari appaiono queste formulazioni se si considera che i due ‘considerando’ citati hanno il compito di ‘motivare’ rispettivamente l’articolo 3 (‘I prodotti cosmetici messi a disposizione sul mercato sono sicuri per la salute umana se utilizzati in condizioni d’uso normali o ragionevolmente prevedibili...’) e l’articolo 8 (‘Nella fabbricazione di prodotti cosmetici sono rispettate le buone pratiche di fabbricazione...’)» (Tron 2010, 20).

³⁴ However, it is important to remember that translators are also subject to the constraints posed by established drafting conventions, such as the ones reported in the previously mentioned *Manual of Precedents for Acts Established within the Council of the European Union*, where certain expressions containing *should* are fixed in set phrases and formulas. This document, which is available both in English and in Italian, limits the translator’s discretion.

(34)

DIRECTIVE 2008/48/EC
It is important that the market should offer a sufficient degree of consumer protection to ensure consumer confidence. Thus, it should be possible for the free movement of credit offers to take place under optimum conditions for both those who offer credit and those who require it, with due regard to specific situations in the individual Member States.
È opportuno che il mercato offra un livello di tutela dei consumatori sufficiente, in modo da assicurare la fiducia dei consumatori. Ciò dovrebbe rendere possibile la libera circolazione delle offerte di credito nelle migliori condizioni sia per gli operatori dell'offerta sia per i soggetti che rappresentano la domanda, sempre tenendo conto di situazioni particolari nei singoli Stati membri.

Previous studies identified another meaning occasionally conveyed by *should* in legal discourse, i.e. a meaning of «[t]entative condition in conditional clauses» (Williams 2005, 132), formed by the structure *should* + SUBJECT + VERB (cf. Quirk *et al.* 1972, 100). The analysis revealed that this meaning is also present in the ENGLISH subcorpus, though with a very limited frequency (29 occurrences). As example (35) shows, the translation of this meaning of *should* merely follows the requirements of the Italian language, i.e. the use of a conditional conjunction, such as *qualora*, and of the subjunctive mode.

(35)

DIRECTIVE 2006/42/EC
Should the control circuit of the machinery allow for a number of simultaneous movements, the tests must be carried out under the least favourable conditions, as a general rule by combining the movements concerned.
Qualora il circuito di comando della macchina autorizzi più movimenti simultanei le prove devono essere effettuate nelle condizioni più sfavorevoli, in generale combinando i relativi movimenti.

5.5. 'MAY'

5.5.1. 'May' in the EURO-CoL corpus

The quantitative analysis of the distribution of the modal *may* in the three types of laws in the ENGLISH subcorpus reveals a similar distribution

in regulations and decisions (respectively, 268 and 275 occurrences per 100,000 words), and a slightly higher frequency in directives (316 occurrences per 100,000 words) (see *Table 5.2*).

The analysis of the frequency of *may* within the sections of the laws shows a significantly higher number of occurrences of *may* in the enacting terms than in the preambles (see *Table 5.10* below).

Table 5.10. – Distribution of ‘may’ in the preambles and in the enacting terms (raw and normalised data).

	RAW DATA	NORMALISED DATA
<i>may</i> in ENGLISH	8,294	280
<i>may</i> in preambles	629	155
<i>may</i> in enacting terms	7,665	300

Chart 5.7 shows the ratio between the frequency of *may* in the enacting terms and in the preambles.

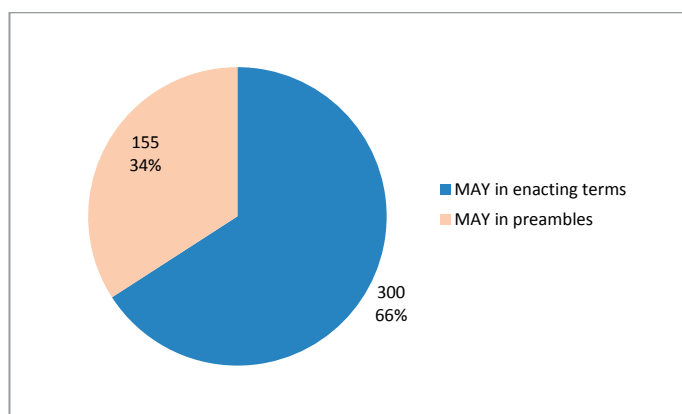


Chart 5.7. – Ratio between the frequency of ‘may’ in the enacting terms and in the preambles.

The comparison between the occurrences of *may* in ENGLISH and the original British legislation contained in the UK-LAW corpus revealed a lower frequency of this modal in EU legislation (280 occurrences per 100,000 words in ENGLISH as opposed to 394 occurrences in UK-LAW). A lower frequency of *may* is confirmed also when considering only the enacting terms of EU laws in the analysis, as *Chart 5.8* illustrates.

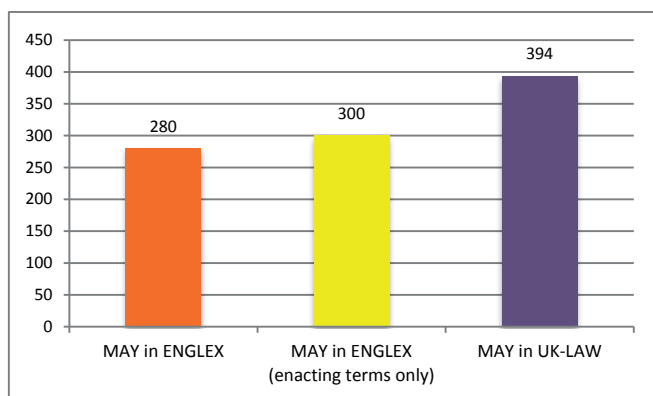


Chart 5.8. – Comparison of the occurrences of ‘may’ in the ENGLISH corpus and in the enacting terms sections of ENGLISH with the occurrences of may in UK LAW.

These results were not unexpected, since, as reported in Chapter 4, *may* has become the most frequent modal in British legislation since the dramatic drop in the use of *shall* (Garzone 2013, 70; Williams 2013, 363). The data provides, therefore, further confirmation of the hypothesis that EU legal English is a language variety characterised by its own specific features, different from legal English in the UK (cf. Garzone 2000; Koskinen 2000; Caliendo 2004; Robertson 2010; Sandrelli 2018).

The collocational patterns with *may* as the node in the directives, regulations and decisions in the ENGLISH subcorpus were then analysed; Table 5.11 shows the top ten most frequent collocates one to the right of the node *may*.

Table 5.11. – The top ten collocates one to the right of ‘may’ in ENGLISH.

DIRECTIVES	REGULATIONS	DECISIONS
Be	Be	Be
not	Also	Also
On	Not	On
Develop	Have	Pay
Adopt	Only	If
Also	Adopt	Decide
Require	on	Invite
Include	contain	Not
Provide	decide	Include
Decide	cause	Have

As was also previously observed with regard to *shall* and *should*, the modal *may* collocates most frequently with the verb *be* in directives, regulations and decisions, which indicates a frequent colligation with the passive voice. The analysis also shows that in directives and regulations, *may* is frequently followed by *not*, which points to a frequent use of the modal to express prohibition or negative epistemic possibility.

As reported in Chapter 4, there has been a recent change concerning the use of *may not* in the institutional guidelines: in the most recent update of the *English Style Guide* (European Commission Directorate-General for Translation 2016, 46), the use of *may not* to express prohibition is discouraged, «since it could be interpreted as expressing possibility». On the contrary, the previous version of the *English Style Guide* explicitly required the use of *may not* in the enacting terms. As the corpus includes legislation belonging to the time frame between 2005 and 2015, a high frequency of *may not* is in line with the guidelines of that period and shows the drafters' compliance with EU norms as they were expressed in the older *English Style Guide*.

Table 5.12 below shows the collocates one to the left of *may*. As can be seen from the results, permission is given/denied most frequently to Member States in directives, as the rank of the words *States* and *State* shows.

Table 5.12. – The top ten collocates one to the left of 'may' in ENGLISH.

DIRECTIVES	REGULATIONS	DECISIONS
States	Commission	Commission
Which	Which	Body
State	States	And
It	It	States
Commission	Authority	It
They	That	Committee
Esma	And	Point
Authorities	Article	Manufacturer
And	Ecb	Which
Body	State	Group

This confirms the findings of previous research carried out by Caliendo *et al.* (2005, 387-388) who, as reported in Chapter 4, observe how the fact that *may* is particularly frequent in directives is an indication of the significance of concessive acts in this type of legislative texts, where Member States are free in their choice of how to implement the law, pro-

vided they achieve the required objective within the set time frame. The modal *may* is also functional in granting some leeway to Member States in the transposition process, which is necessary considering that the same directive needs to be implemented in different national contexts and legal systems (Caliendo *et al.* 2005, 388). Example (36) below illustrates this point.

(36)

DIRECTIVE 2013/39/EU
However, in accordance with Section 1.3.4 of Annex V to Directive 2000/60/EC, Member States may introduce statistical methods, such as a percentile calculation, to ensure an acceptable level of confidence and precision for determining compliance with the MAC-EQS.

The analysis also shows that permission/prohibition is mostly referred to institutions and bodies in directives and regulations, while in decisions it is also referred to other parties (e.g., *manufacturer* and *group*); this finds an explanation in the fact that this type of law can also be addressed to individual companies or organisations.

Although *may* is generally used in legal language with a deontic meaning, expressing permission or prohibition (cf. Williams 2005, 121), scholars acknowledge its occasional use – usually in secondary clauses – also with an epistemic meaning, expressing possibility (cf. Williams 2005, 122; see Chapter 4). This meaning was also occasionally found in ENGLISH, as example (37) shows.

(37)

REGULATION (EU) No 139/2013
The Scientific Opinion identifies the risk caused by those birds that may be infected due to lateral spread from other infected wild birds and from the contaminated environment, as well as overspill from infected poultry.

5.5.2. The translation of ‘*may*’ in the EURO-CoL corpus

The translational patterns for both meanings of *may* were investigated by means of the «hypothesis testing» method (Hunston 2002) and 300 parallel sections in ENGLISH and ITALEX were examined. The qualitative analysis provided evidence of the fact that, despite the higher frequency of *may* in the enacting terms, similar strategies are used to translate this

modal in both preambles and enacting terms. Therefore, the patterns illustrated below do not distinguish between the translation of *may* in the two parts of the laws. The following are the most frequent patterns observed.

- 1 – *may* is mostly translated with the Italian ‘*verbo servile*’ *potere* in the present indicative (*può/possono*) or, with lower frequency, in the future tense (*potrà/potranno*), as examples (38) and (39) illustrate:

(38)

DIRECTIVE 2009/125/EC
A Member State that deems it necessary to maintain national provisions on grounds of overriding needs relating to the protection of the environment, [...], may do so under the conditions laid down in Article 95(4), (5) and (6) of the Treaty, which provides for prior notification to, and approval from, the Commission.
Lo Stato membro che ritenga necessario mantenere disposizioni nazionali in ragione di esigenze rilevanti in termini di protezione dell'ambiente, [...], può farlo alle condizioni stabilite all'articolo 95, paragrafi 4, 5 e 6, del trattato, che prevede la notifica preliminare alla Commissione e l'approvazione da parte di quest'ultima.

(39)

DECISION 2008/365/EC
Other Commission officials with an interest in the proceedings may attend meetings of the group and its sub-groups.
Altri funzionari della Commissione interessati allo svolgimento dei lavori potranno presenziare alle riunioni del gruppo e dei suoi sottogruppi.

The subjunctive mode (*possa/possano*) is also used when *may* occurs in secondary clauses, as can be seen in example (40).

(40)

DIRECTIVE 2009/125/EC
Member States shall take all appropriate measures to ensure that products covered by implementing measures may be placed on the market and/or put into service only if they comply with those measures and bear the CE marking in accordance with Article 5.
Gli Stati membri adottano tutte le opportune disposizioni per garantire che i prodotti oggetto delle misure di esecuzione possano essere immessi sul mercato e/o messi in servizio soltanto se ottemperano a tali misure e siano provvisti della marcatura CE conformemente all'articolo 5.

- 2 – *may* is translated with impersonal nominal or verbal expressions, such as *avere facoltà* or *essere ammesso* as examples (41) and (42) show.

(41)

DECISION 2008/365/EC
The Commission may publish any summary, conclusion, partial conclusion or working document of the group on the Internet site of the Directorate-General for the Internal Market and Services in the original language of the document concerned.
La Commissione ha facoltà di pubblicare qualsiasi sintesi, conclusione, conclusione parziale o documento di lavoro del gruppo sul sito internet della direzione generale del Mercato interno e dei servizi nella lingua originale del documento in questione.

(42)

REGULATION (EC) No 41/2009
They may bear the term 'gluten-free' if the gluten content does not exceed 20 mg/kg in the food as sold to the final consumer.
È ammessa la menzione «senza glutine» se il contenuto di glutine non supera 20 mg/kg nei prodotti alimentari quali venduti al consumatore finale.

- 3 – *may not* with a meaning of prohibition is translated with *non può/ non possono*, as in example (43).

(43)

REGULATION (EC) No 1899/2006
The cockpit voice recorder recordings may not be used for purposes other than for the investigation of an accident or incident subject to mandatory reporting except with the consent of all crew members concerned.
Le registrazioni fatte dal fonoregistratore in cabina di pilotaggio non possono essere utilizzate per fini diversi dall'inchiesta relativa ad un incidente o inconveniente soggetto a obbligo di notifica, salvo accordo di tutti i membri d'equipaggio interessati.

Interestingly, the analysis of the parallel sections of the occurrences of *may/may not* revealed that the translation often entails changes at a syntactic level. Example (44) shows a change in the theme/rheme relation.

(44)

REGULATION (EC) No 765/2008
Any other marking may be affixed to the product provided that the visibility, legibility and meaning of the CE marking is not thereby impaired.
Può essere apposta sul prodotto ogni altra marcatura che non comprometta la visibilità, la leggibilità ed il significato della marcatura CE.

A simplifying tendency can be observed in particular in the translation of negative structures introduced by *may not*. In examples (45) and (46), the negative is avoided in the Italian version, with the result that the texts are more readable.

(45)

REGULATION (EC) No 1899/2006
A pilot may not continue an approach below MDA/MDH unless at least one of the following visual references for the intended runway is distinctly visible and identifiable to the pilot: [...].
Il pilota può continuare un avvicinamento al di sotto della MDA/MDH solo se almeno uno dei seguenti riferimenti visivi per la pista ove intende effettuare l'atterraggio sia chiaramente visibile ed identificabile dal pilota: [...].

(46)

REGULATION (EC) No 1234/2007
Such decisions may not apply before the expiry of a three month period starting from the date of notification to the Commission.
Tali decisioni possono essere applicate solo al termine di un periodo di tre mesi a decorrere dalla data della notifica alla Commissione. Entro tale periodo di tre mesi la Commissione può respingere in tutto o in parte il progetto di decisione qualora l'interesse economico generale invocato non appaia adeguatamente fondato.

Both the English and the Italian version of the manual for drafters and translators *How to Write Clearly*³⁵ (European Commission 2011, 7) expressly recommend opting for the affirmative rather the negative form, wherever possible. Interestingly, in many of the examples found in the corpus, it is only at the translation stage that these guidelines are applied, which suggests a deliberate strategy on the part of the translators.

³⁵ Available at <http://bookshop.europa.eu/en/how-to-write-clearly-pbHC3010536/>. Last accessed 21 September 2019.

Another example of simplification can be found in example (47) below, where the sentence structure is changed in the Italian version, with the result that the syntactic discontinuity of the English version is avoided in the translated text.

(47)

REGULATION (EC) No 765/2008
The Commission may , after consulting the Committee set up by Article 5 of Directive 98/34/EC, request the body recognised under Article 14 to contribute to the development, maintenance and implementation of accreditation in the Community.
La Commissione, previa consultazione del comitato istituito a norma dell'articolo 5 della direttiva 98/34/CE, può chiedere all'organismo riconosciuto ai sensi dell'articolo 14 di contribuire allo sviluppo, al mantenimento e all'attuazione dell'accreditamento nella Comunità.

In other cases, the changes are stylistic and concern, for instance, the avoidance of repetition of the modal *may*, which is replaced by other expressions in the Italian translation, as example (48) shows.

(48)

DECISION No 568/2009/EC
Each observer State may be represented at the meetings by one or more persons, but under no circumstances may there be more than three representatives per State; [...].
Ogni Stato osservatore può farsi rappresentare a queste riunioni da una o più persone, senza che sia superato in alcun caso il numero di tre rappresentanti per Stato; [...].

Other changes that were frequently found in the parallel corpus involve the transformation from the passive voice in ENGLISH into the active voice in ITALEX and the use of impersonal structures in the Italian version, as example (49) and (50) respectively show.

(49)

DECISION 2008/365/EC
The choice of the applicable amount may be modified by the Commission during the preparatory work for the requested opinion if that is justified by unforeseen changes in relation to the relevant criteria.
La Commissione può modificare la scelta dell'importo applicabile nel corso dei lavori preparatori del parere richiesto, qualora ciò sia giustificato da cambiamenti imprevisti rispetto ai criteri pertinenti.

(50)

REGULATION (EC) No 1899/2006
Aeroplanes first issued with an individual certificate of airworthiness on or after 1 April 1998, but not later than 1 April 2001 may not be required to comply with OPS 1.715 (c) if approved by the Authority, provided that [...].
Per i velivoli il cui certificato di navigabilità individuale sia stato rilasciato per la prima volta a partire dal 1° aprile 1998 ma non oltre il 1° aprile 2001 non si può esigere la conformità alla norma OPS 1.715, lettera c), previo accordo dell'Autorità, a condizione che: [...].

Finally, the analysis also revealed a tendency to introduce changes in the translated texts that increase the level of explicitness. In example (51), for instance, the ellipsis in the English text (the omission of the verbal expression *may provide*) is not present in the Italian text, where the verbal expression *possono essere definiti* is added.

(51)

DIRECTIVE 2010/30/EU
Where appropriate, the delegated acts may provide for the label to be attached to the product or printed on the packaging, or for the details of the labelling requirements for printing in catalogues, for distance selling and Internet sales; [...].
Se del caso negli atti delegati può essere prevista l'apposizione dell'etichetta sul prodotto o la sua stampigliatura sull'imballaggio, o possono essere definiti i requisiti per la rappresentazione dell'etichetta nei cataloghi, per le vendite a distanza o via Internet; [...].

The patterns that have been identified as recurring more frequently to translate *may* in its epistemic meaning are the following.

- 1 – *may* translated with the Italian 'verbo servile' *potere* in the present indicative (*può/possono*) and in the subjunctive mode when *may* occurs in secondary clauses (*possa/possano*) as examples (52) and (53) below show.

(52)

REGULATION (EC) No 765/2008
It is very difficult to adopt Community legislation for every product which exists or which may be developed;
È estremamente difficile adottare norme comunitarie per ogni prodotto esistente o che può essere sviluppato;

(53)

DECISION 2008/365/EC
Members appointed in a personal capacity sign an undertaking each year to act in the public interest and a declaration stating whether or not they have any interest which may undermine their objectivity.
I membri nominati a titolo personale sottoscrivono ogni anno l'impegno ad agire nell'interesse pubblico e firmano una dichiarazione in cui precisano se abbiano interessi che possano pregiudicare la loro obiettività.

- 2 – *may* translated with a noun phrase in place of a formulaic verbal phrase containing *may* in the English version, as examples (54) and (55) illustrate.

(54)

REGULATION (EC) No 1234/2007
In order to avoid abuse of any of the advantages provided for in this Regulation, such advantages should not be granted or, as the case may be , should be withdrawn, in cases where it is found that the conditions for obtaining any of those advantages have been created artificially, contrary to the objectives of this Regulation.
Per evitare qualsiasi abuso dei benefici previsti dal presente regolamento, è opportuno che tali benefici non vengano concessi o siano revocati, a seconda dei casi , qualora si riscontri che le condizioni per l'ottenimento degli stessi sono state create artificialmente, in contrasto con gli obiettivi del presente regolamento.

(55)

DIRECTIVE 2006/42/EC
automatic or manual stopping of the moving parts, whatever they may be , must be unimpeded, [...].
l'arresto manuale o automatico degli elementi mobili di qualsiasi tipo non deve essere impedito, [...].

- 3 – *may* translated with impersonal adjectival expressions (e.g. *è possibile*), as in example (56).

(56)

DECISION 2014/955/EU
Note that a specific production unit may need to classify its activities in several chapters.
Occorre rilevare che è possibile che un determinato impianto o stabilimento debba classificare le proprie attività in capitoli diversi.

- 4 – *may not* translated either with the negation of the verb (*può non / possono non*), as in example (57).

(57)

DIRECTIVE 2008/98/EC
It is recognised that certain Member States may not be able to provide a network comprising the full range of final recovery facilities within their territory.
Si riconosce che taluni Stati membri possono non essere in grado di fornire una rete comprendente l'intera gamma di impianti di recupero finale all'interno del proprio territorio.

or with alternative forms, such as the adverb *necessariamente* preceded by the negative *non* (lit. *have not necessarily*), as in example (58).

(58)

REGULATION (EC) No 1334/2008
Materials of vegetable, animal or microbiological origin, for which it can be sufficiently demonstrated that they have hitherto been used for the production of flavourings, are considered to be food materials for this purpose, even though some of these source materials, such as rose wood and strawberry leaves, may not have been used for food as such.
I materiali di origine vegetale, animale o microbiologica di cui può essere sufficientemente dimostrato l'uso nella produzione di aromi sono considerati a tal fine materiali alimentari, anche se alcuni di questi materiali di base, ad esempio il legno di rosa e le foglie di fragola, non sono necessariamente stati utilizzati per gli alimenti nella loro forma originale.

As was previously highlighted with regard to deontic *may*, the translation of this modal is often associated with changes at the syntactic level. This was also found in the case of *may* expressing a meaning of possibility. In example (59), for instance, the changes entailed a reordering of the words in the sentence to avoid syntactic discontinuity, thus increasing the level of readability of the target text compared to the source text:

(59)

REGULATION (EC) No 1234/2007
Moreover, special measures , in particular up-to-date methods of analysis and other measures to determine the characteristics of the standards concerned, may need to be adopted to avoid abuses as regards the quality and authenticity of the products presented to consumers and the important disturbances on the markets such abuses may entail.

Può risultare inoltre necessario adottare misure speciali, in particolare metodi di analisi aggiornati e altri mezzi per determinare le caratteristiche delle norme in questione, onde evitare abusi quanto alla qualità e alla genuinità dei prodotti offerti al consumatore, con conseguenti turbative di rilievo sui mercati.

The changes can also entail explicitation of what is implicit in the English version, by means of extra information added in the Italian version. The result is that possible ambiguities in the interpretation are avoided, as example (60) illustrates.

(60)

REGULATION (EC) No 8/2008
A crew member shall not perform duties on an aeroplane: [...] If he/she knows or suspects that he/she is suffering from fatigue, or feels unfit to the extent that the flight may be endangered .
Nessun membro d'equipaggio presta servizio su un velivolo: [...] se è a conoscenza o sospetta di soffrire di affaticamento o se ha la sensazione di una non perfetta efficienza fisica al punto da poter determinare una situazione di pericolo per lo svolgimento del volo .

This tendency towards disambiguation in the translated text was observed often in the translation of *may*. However, it must be pointed out that occasional instances of an opposite tendency – i.e. changes increasing the ambiguity in the Italian version – were also found in the corpus. In example (61), *may* clearly has an epistemic meaning in the English version, while in the Italian translation the meaning could be either epistemic or deontic (i.e. either *it is possible that the objectives are not met* or *it is allowed not to meet the objectives*).

(61)

DIRECTIVE 2006/42/EC
The essential health and safety requirements laid down in this Annex are mandatory; However, taking into account the state of the art, it may not be possible to meet the objectives set by them. In that event, the machinery must, as far as possible, be designed and constructed with the purpose of approaching these objectives.
I requisiti essenziali di sicurezza e di tutela della salute elencati nel presente allegato sono inderogabili. Tuttavia, tenuto conto dello stato della tecnica, gli obiettivi da essi prefissi possono non essere raggiunti . In tal caso la macchina deve, per quanto possibile, essere progettata e costruita per tendere verso questi obiettivi.

The complexities of the translators' work at the EU and the various constraints it is subject to, could be an explanation for the occasional

instances where the target text is translated in a way that increases its ambiguity.

The analysis indicated that the expression of possibility conveyed in the English version through *may* is sometimes omitted altogether in the Italian version, as shown in example (62) below.

(62)

REGULATION (EC) No 765/2008
Member States shall ensure that the public is aware of the existence, responsibilities and identity of national market surveillance authorities, and of how those authorities may be contacted .
Gli Stati membri garantiscono che il pubblico sia consapevole dell'esistenza, della sfera di competenza e dell'identità delle autorità nazionali di vigilanza del mercato e sappia in che modo contattarle .

The findings suggest that this omission occurs in particular where *may* does not carry a proper connotation of possibility but rather appears to have merely a 'distancing' function. The Italian version loses this connotation, and results in a less tentative text compared to the English source text, as examples (63) and (64) illustrate.

(63)

REGULATION (EC) No 765/2008
In the case of perishable products, the authorities in charge of external border controls shall, as far as possible, seek to ensure that any requirements they may impose with regard to the storage of products or the parking of vehicles used for transport are not incompatible with the preservation of those products.
Per quanto riguarda i prodotti deperibili, le autorità incaricate dei controlli alle frontiere esterne fanno in modo, nella misura del possibile, che le condizioni da esse imposte relativamente al deposito dei prodotti o allo stazionamento dei veicoli di trasporto non siano incompatibili con la conservazione dei prodotti.

(64)

REGULATION (EC) No 1234/2007
The continuation and development of such exports may be ensured by stabilising prices in this trade.
Per proseguire e sviluppare tali esportazioni, occorre stabilizzare i prezzi per tali scambi.

The omission of *may* with a tentative connotation observed in the examples above suggests that the translator interprets the meaning expressed

by *may* in the source text and translates accordingly. The omission simplifies the translated text, which can be viewed as further evidence in support of the simplification hypothesis in translation (cf. Baker 1996).

Given the variety of translation strategies that emerged from the qualitative analysis illustrated above, a quantitative analysis was also carried out to calculate the frequency of the various features in the three different types of laws included in the ITALEX corpus. The aim was to verify whether the differences between the three types of laws influence the translators' choices as regards the translation of *may* / *may not* (see Table 5.13).

Table 5.13. – *Distribution in directives, regulations and decisions of the linguistic features that translate 'may / may not'.*

	DIRECTIVES	REGULATIONS	DECISIONS
può/possono	321	299	278
potrà/potranno	3	2	8
possa/possano	66	28	25
ha/hanno facoltà	1	0,4	2
è ammesso/a, sono ammessi/e	3	3	0
non [verb] necessariamente	2	1	0

The data shows a relatively higher frequency of *può/possono* in directives compared to both regulations and decisions, which could reflect the fact that, as pointed out previously, the modal *may* occurs more frequently in directives in the English version. The analysis also revealed a much higher frequency of the subjunctive *possa/possano* in directives, which points to a greater use of expressions of permission/possibility in secondary clauses in this type of law compared to regulations and decisions.

The analysis was further refined by comparing the overall frequency of the features used to translate *may* in ITALEX with the frequency of the same features in the reference corpus LEGITALIA. The aim was to verify whether the choice of certain linguistic expressions to translate *may* is influenced by target language conventions (Table 5.14 below) ³⁶.

³⁶ As will be shown in the subsequent part of the chapter, the Italian '*verbo servile*' *potere* also translates the modal *can*. Consequently, the results of the quantitative analysis comprise, indifferently, both the instances where the present indicative and the subjunctive of *potere* is used to translate *may* and the instances where it is used

Table 5.14. – Distribution in ITALEX and LEGITALIA of the linguistic features that translate ‘may / may not’.

	ITALEX	LEGITALIA
può/possono	303	296
potrà/potranno	2	12
possa/possano	37	19
ha/hanno la facoltà	0.5	5
è ammesso/a, sono ammessi/e	3	11
non [verb] necessariamente	1	0.2

As Table 5.14 shows, the analysis revealed a similar distribution of the verb *potere* only in the present indicative (*può/possono*), while the other expressions are either over- or underrepresented in the reference corpus of laws originally drafted in Italy. Consequently, it can be inferred that conforming to target language conventions is not the primary aim of the translators when faced with the task of translating the modal verb *may*.

5.6. ‘MUST’

5.6.1. ‘Must’ in the EURO-CoL corpus

The analysis of the distribution of *must* in the three types of laws included in the ENGLISH subcorpus (see Table 5.2) indicated that *must* occurs most frequently in directives (180 occurrences per 100,000 words). The frequency in regulations is slightly lower (144 occurrences per 100,000 words) while the frequency in decisions is significantly lower (only 35 occurrences per 100,000 words). The analysis of the distribution of *must* in the preambles and in the enacting terms revealed that *must* occurs with a much higher frequency in the enacting terms (see

to translate *can*. The number of occurrences resulting from the calculation does not, therefore, intend to be an indication of the exact frequency with which this verb is used to translate *may*, but merely of its overall frequency in ITALEX.

Table 5.15). This is in line with the requirements of the *English Style Guide* (European Commission Directorate-General for Translation 2016, 48), which recommends using *must* in annexes – a part of the enacting terms – «to express objective necessity».

Table 5.15. – Distribution of ‘*must*’ in the preambles and in the enacting terms (raw and normalised data).

	RAW DATA	NORMALISED DATA
<i>must</i> in ENGLISH	4,477	151
<i>must</i> in preambles	185	46
<i>must</i> in enacting terms	4,292	168

Chart 5.9 shows the ratio between the frequency of *must* in the enacting terms and in the preambles.

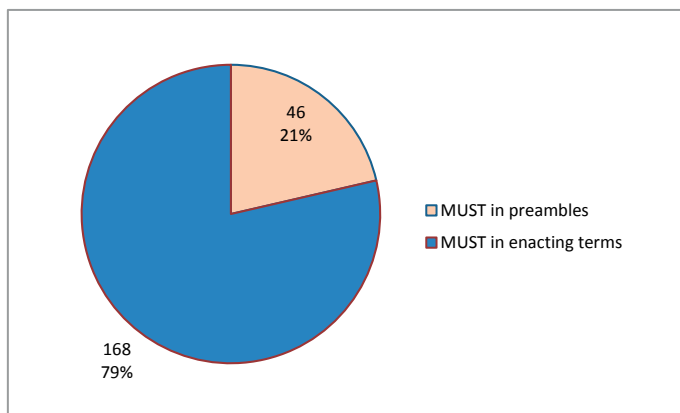


Chart 5.9. – Ratio between the frequency of ‘*must*’ in the enacting terms and in the preambles.

The comparison between the occurrences of *must* in ENGLISH and in the UK-LAW reference corpus revealed that *must* is less frequent in EU laws than in original UK legislation (see Chart 5.10 below). This finds an explanation in the fact that in recent years – under the influence of the movement for plain language in legal texts – *must* has become one of the replacements of *shall* in British laws (cf. Garzone 2013).

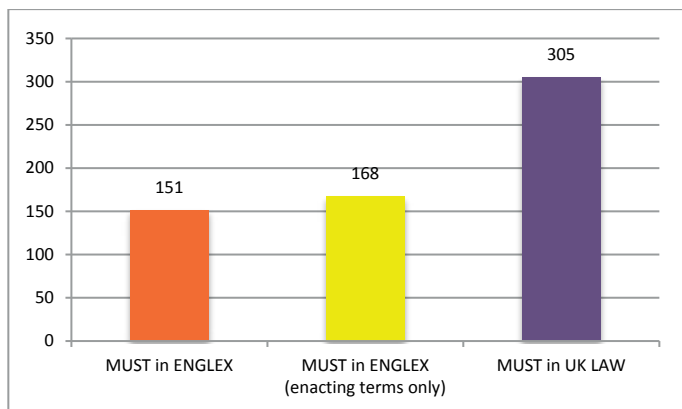


Chart 5.10. – Comparison of the occurrences of ‘must’ in the ENGLISH corpus and in the enacting terms sections of ENGLISH with the occurrences of ‘must’ in UK LAW.

The collocational patterns and clusters one to the right and one to the left of *must* in the directives, regulations and decisions included in the ENGLISH corpus were analysed. Table 5.16 shows the top ten most frequent collocates one to the right of *must*.

Table 5.16. – The top ten collocates one to the right of ‘must’ in ENGLISH.

DIRECTIVES	REGULATIONS	DECISIONS
Be	Be	Be
Not	Not	Fulfil
contain	ensure	Support
Have	include	Provide
Include	have	Meet
Take	take	Indicate
Affix	also	Ensure
Ensure	establish	Contribute
Carry	comply	Comply
Keep	start	Act

The analysis indicated that the modal *must* collocates most frequently with *be* in all three types of laws, thus revealing that – as was also

observed in the case of the other modals examined – *must* colligates frequently with the passive voice. The second most frequent collocate in both directives and regulations is *not*, which indicates that *must* colligates frequently with the negative form to express prohibition. Interestingly, *not* does not appear at all in the top ten collocates of the decisions, which confirms the hypothesis – formulated previously as regards *shall* – that decisions tend to express obligations, rather than prohibitions.

The analysis of the collocates one to the left of *must* shows that, unlike what was observed with regard to *shall*, *should* and *may*, the modal *must* is not frequently preceded by the words *State/States* and *Commission* (see Table 5.17).

Table 5.17. – The top ten collocates one to the left of ‘*must*’ in ENGLISH.

DIRECTIVES	REGULATIONS	DECISIONS
Machinery	Operator	And
Manufacturer	They	Group
It	Grape	Waste
And	Which	Union
Body	And	Structure
They	It	Specified
Devices	Recorder	Notified
Representative	Training	Modules
Which	Report	It
Marking	System	Environment

One possible explanation for this could be linked to the linguistic features that are usually found in the annexes, i.e. the sections of the laws where – as mentioned above – the EU guidelines specifically recommend using *must* to convey a meaning of objective necessity. The obligations in the annexes are generally not referred to the States or the institutions, but to specialised figures or technical entities. As the *Joint Practical Guide* (European Commission 2015, 74) states, annexes can contain, for example, «rules to be applied by customs officers, doctors or veterinarians (such as chemical analysis techniques, sampling methods and forms to be used), lists of products, tables of figures, plans and drawings, etc.» This is also reflected in the results of the analysis, which show that *must* collocates frequently with inanimate subjects (e.g. *devices*, *system*, *waste*), especially in regulations and decisions.

As previously pointed out, research into legal language has shown that *must* is generally used only with a deontic meaning in prescriptive

texts (cf. Williams 2005; Caliendo 2007; Gibová 2011; Biel 2014a; Biel 2014b). The analysis of the bilingual parallel corpus reported in the next Section will therefore only take this meaning into consideration.

5.6.2. The translation of ‘must’ in the EURO-CoL corpus

While, as previously mentioned, the use of *must* in the English version is regulated by institutional guidelines, there are no specific guidelines for its translation into Italian. The only guidelines that it is possible to refer to, are those reported in the *Guida pratica comune* (European Commission 2015, 12) concerning all the verbs in general, which generically recommend using different verb forms depending on whether the verbs are in the recitals or in the enacting terms and whether they are in the binding or in the non-binding acts. The analysis of the 180 parallel sections from ENGLISH and ITALEX that were selected by applying the «hypothesis testing» method (Hunston 2002), revealed a preponderance of the verb *dovere* in the present indicative form to translate *must* in the preambles, enacting terms and annexes alike, and in all three types of laws considered. Example (65) below illustrates this point.

(65)

REGULATION (EC) No 8/2008
An operator must ensure that no person, other than a flight crew member assigned to a flight, is admitted to, or carried in, the flight deck unless that person is: [...].
L'operatore deve garantire che nessuna persona, al di fuori dei membri dell'equipaggio di condotta assegnati al volo, sia ammessa o trasportata in cabina di pilotaggio a meno che tale persona non sia: [...].

In annexes and enacting terms, as shown in example (66), *must* is often translated with the present indicative of the verb, which conveys a stronger prescriptive meaning in the target text, as this is also the form that is normally used to translate *shall*.

(66)

DIRECTIVE 2006/95/EC
4. The manufacturer or his authorised representative must keep a copy of the declaration of conformity with the technical documentation.
5. The manufacturer must take all measures necessary in order that the manufacturing process shall ensure compliance of the manufactured products with the technical documentation referred to in point 2 and with the requirements of this Directive that apply to them.

4. | Il fabbricante o il suo mandatario **conserva** copia della dichiarazione di conformità insieme con la documentazione tecnica.
5. | Il fabbricante **prende** tutte le misure necessarie affinché il processo di fabbricazione garantisca la conformità dei prodotti alla documentazione tecnica di cui al paragrafo 2 e ai requisiti della presente direttiva che ad essi si applicano.

The use of the present indicative was further investigated qualitatively by examining 30 parallel sections where it occurs. The analysis revealed that the translation of *must* by means of the present indicative of the verb tends to occur specifically in the annexes in the cases where *must* has a fully prescriptive meaning.

On the contrary, when the meaning of *must* has a weaker connotation and expresses recommendation more than obligation, it tends to be translated with the Italian '*verbo servile*' *dovere* in the present indicative, as example (67) shows.

(67)

DIRECTIVE 2006/95/EC

The manufacturer **must establish** the technical documentation described in point 3 and he or his authorised representative established within the Community **must keep** it on Community territory at the disposal of the relevant national authorities for inspection purposes for a period ending at least 10 years after the last product has been manufactured. | [...].

3. | Technical documentation **must enable** the conformity of the electrical equipment to the requirements of this Directive to be assessed. It **must**, as far as relevant for such assessment, **cover** the design, manufacture and operation of the electrical equipment. It **must include**: | — | a general description of the electrical equipment, | — | conceptual design and manufacturing drawings and schemes of components, sub-assemblies, circuits, etc., [...].

Il fabbricante **prepara** la documentazione tecnica descritta al paragrafo 3; il fabbricante o il suo mandatario stabilito nella Comunità **tiene** questa documentazione nel territorio della Comunità a disposizione delle autorità nazionali a fini ispettivi per almeno dieci anni a decorrere dall'ultima data di fabbricazione del prodotto. | [...].

3. | La documentazione tecnica **deve consentire** di valutare la conformità del materiale elettrico ai requisiti della direttiva. Essa **deve comprendere**, nella misura necessaria a tale valutazione, il progetto, la fabbricazione ed il funzionamento del materiale elettrico; essa **contiene**: | — | la descrizione generale del materiale elettrico; | — | disegni di progettazione e fabbricazione nonché schemi di componenti, sottounità, circuiti; [...].

The tendency to distinguish between the two different degrees of obligation when translating *must*, could be an indication of compliance with the target language conventions. As previously mentioned, the Italian guidelines to drafting national legislation *Guida alla redazione dei testi normativi* (Dipartimento per gli Affari Giuridici e Legislativi 2001, 12) recommend avoiding the use of the verb *dovere* to express the compulsory nature of a norm. In the absence of specific guidelines as regards the translation of *must* in annexes – which, as part of the enacting section of the EU laws, have a prescriptive function – the translators appear to conform to the Italian national language conventions. This tendency is not, however, fully consistent, and the analysis also showed instances where *must* with strong prescriptive meaning in the annexes is translated with *dovere*, as example (68) shows.

(68)

DIRECTIVE 2010/35/EU
The owner or operator must make available to a notified body conforming to EN ISO/IEC 17020:2004 type A, notified for reassessment of conformity, the information regarding the transportable pressure equipment which enables that body to identify the equipment precisely [...].
Il proprietario o l'operatore deve mettere a disposizione di un organismo notificato che sia conforme alla norma EN ISO/IEC 17020:2004 categoria A, notificato per la rivalutazione della conformità, informazioni sulle attrezzature a pressione trasportabili che consentano a tale organismo di identificarle con precisione [...].

The lack of consistency may also be seen in the two following extracts. Examples (69) and (70) are both taken from the sections of the EU laws that have prescriptive force. In the former, however, both *shall* and *must* are translated with the Italian verb *dovere*, while in the latter, *shall* is translated with the present indicative, and *must* is translated with *dovere*.

(69)

REGULATION (EU) No 139/2013
Approved breeding establishments shall comply with the following conditions:
(a) the breeding establishment must be approved by the competent authority in accordance with the conditions set out in Annex II, and assigned an approval number;
(b) that approval number must have been communicated to the Commission by that authority;
(c) the name and approval number of the breeding establishment must appear on a list of breeding establishments drawn up by the Commission; [...].

Gli stabilimenti di moltiplicazione riconosciuti **devono soddisfare** le seguenti condizioni:

- a) | lo stabilimento di moltiplicazione **deve essere riconosciuto** conforme alle condizioni di cui all'allegato II dall'autorità competente ed essere titolare di un numero di riconoscimento attribuito dalla medesima autorità;
- b) | il numero di riconoscimento **deve essere stato comunicato** alla Commissione da tale autorità;
- c) | il nome e il numero di riconoscimento dello stabilimento di moltiplicazione **devono figurare** su un elenco di stabilimenti di moltiplicazione compilato dalla Commissione; [...].

(70)

DIRECTIVE 2006/95/EC

The CE conformity marking **shall consist** of the initials 'CE' taking the following form:

- | If the CE marking is reduced or enlarged the proportions given in the above graduated drawing **must be respected**.
 - | The various components of the CE marking **must have** substantially the same vertical dimension, which may not be less than 5 mm.
- B. EC declaration of conformity
The EC declaration of conformity **must contain** the following elements: [...].

La marcatura CE di conformità **è costituita** dalle iniziali «CE» secondo il simbolo grafico che segue:

- | In caso di riduzione o di ingrandimento della marcatura CE, **devono essere rispettate** le proporzioni indicate dal simbolo graduato di cui sopra.
 - | I diversi elementi della marcatura CE **devono avere** sostanzialmente la stessa dimensione verticale che non può essere inferiore a 5 mm.
- B. Dichiarazione CE di conformità
La dichiarazione CE di conformità **deve comprendere** i seguenti elementi: [...].

The examples above point to an influence of the source language on the target language, which supports the law of interference hypothesised by Toury (2012 [1995], 310).

The translation of *must* is often accompanied by changes at a morpho-syntactic level. One of the changes that was observed involves the translation of the passive form of *must* with the impersonal form of the verb *dovere* or other impersonal expressions, such as *bisogna*: see examples (71) and (72).

(71)

DECISION No 768/2008/EC

Whenever legislation is drawn up which concerns a product already subject to other Community acts, those acts **must** be taken into account to ensure the consistency of all legislation concerning the same product.

Ogniqualvolta vengono elaborati atti legislativi in relazione a un prodotto già soggetto ad altri atti comunitari, **si deve** tenere conto di questi ultimi per garantire la coerenza di tutta la normativa concernente il medesimo prodotto.

(72)

DECISION (2006/1005/EC)

Another issue to consider when selecting a watt-meter is the frequency response rating of the meter. Electronic equipment that contains switching power supplies causes harmonics (odd harmonics typically up to the 21st). These harmonics **must be accounted for** in power measurement, or the Wattage consumption will be inaccurate.

Altro punto da considerare nel selezionare un wattmetro è la sua risposta di frequenza. Le apparecchiature elettroniche con alimentazione commutata generano armoniche (armoniche dispari, di solito fino alla 21a), di cui **bisogna tener conto** nell'eseguire le misure se si vuole evitare che i risultati siano poco precisi.

In the example above, there is a change also at the level of syntax: in the Italian version, the repetition of the subject *these harmonics* is avoided by joining the two sentences together. A similar translation strategy can be observed in example (73) below, where the obligation expressed by *must* is translated with a conditional clause introduced by *purché*.

(73)

DECISION (2006/1005/EC)

The mark may be resized, but the proportions **must be maintained**. For legibility, we recommend that the mark not be reproduced smaller in width than .375 inch (3/8; 9.5 mm) for print. Lettering legibility inside the mark must be maintained on the Web.

Il marchio può essere di varie dimensioni, **purché vengano conservate** le medesime proporzioni. Per assicurare la leggibilità si consiglia di non riprodurre il marchio con una larghezza inferiore a 0,375 pollici (3/8"; 9,5 mm) per la stampa. Per la pubblicazione in internet si deve comunque conservare la leggibilità delle lettere all'interno del marchio.

The translation of *must* often involves a change in the theme/rheme relation – as was also observed with regard to the other modals analysed. This results in a change of focus, with the most important information being placed at the end of the sentence, as the guidelines for both English and Italian drafters and translators recommend³⁷; see example (74) below.

³⁷ Cf. *How to Write Clearly* (European Commission 2011, 7).

(74)

REGULATION (EC) No 8/2008
A check flight must be completed before the pilot is released for duties as Commander.
Prima di essere assegnato alle funzioni di comandante, il pilota deve completare un volo di controllo.

The negative *must not* is generally translated with the Italian present indicative of the verb *dovere* (*non deve / non devono*) as example (75) shows.

(75)

REGULATION (EU) No 139/2013
The total journey time from that post to that quarantine facility or centre must not normally exceed nine hours.
Il tempo complessivo di viaggio dal posto d'ispezione frontaliere all'impianto o stazione di quarantena non deve di norma superare le nove ore.

As was also observed in the case of the other modals analysed, the negative is often turned into the affirmative in the Italian version – a change that improves the readability of the text: see example (76) below.

(76)

DIRECTIVE 2009/111/EC
Article 66 is amended as follows: (a) paragraphs 1 and 2 are replaced by the following: '1. The items referred to in Article 57(d) to (h) shall be subject to the following limits: (a) the total of the items referred to in Article 57(d) to (h) must not exceed a maximum of 100% of the items in points (a) to (ca) minus (i), (j) and (k) of that Article; [...]'.
l'articolo 66 è così modificato: a) i paragrafi 1 e 2 sono sostituiti dai seguenti: «1. Gli elementi di cui all'articolo 57, lettere da d) a h), sono soggetti ai seguenti limiti: a) il totale degli elementi di cui alle lettere da d) a h) dell'articolo 57 deve essere limitato al massimo al 100% degli elementi di cui alle lettere da a) a c bis) meno quelli di cui alle lettere i), j) e k) dello stesso articolo; [...]'.

As pointed out previously, a limited use of the negative form is in line with the requirements of the manual for drafters and translators *How to Write Clearly*; this reveals once more the translators' tendency to comply with the institutional norms and their effort to add clarity to the target texts.

5.7. ‘CAN’

5.7.1. ‘Can’ in the EURO-CoL corpus

The quantitative analysis of the distribution of *can*³⁸ within the three types of EU legislative texts included in the ENGLISH corpus (see Table 5.2) revealed that *can* has a higher number of occurrences in directives and regulations (99 and 87 occurrences per 100,000 words respectively)³⁹, than in decisions, where the frequency of *can* is significantly lower (55 occurrences per 100,000 words). The analysis of the distribution of *can* in the different sections of EU laws revealed that *can* occurs with a significantly higher frequency in preambles, which points to a more frequent non-prescriptive use of the modal *can* (see Table 5.18).

Table 5.18. – Distribution of ‘can’ in the preambles and in the enacting terms (raw and normalised data).

	RAW FREQUENCY	NORMALISED FREQUENCY
<i>can</i> in ENGLISH	2,657	90
<i>can</i> in preambles	617	152
<i>can</i> in enacting terms	2,040	80

Chart 5.11 shows the ratio between the frequency of *can* in the enacting terms and in the preambles.

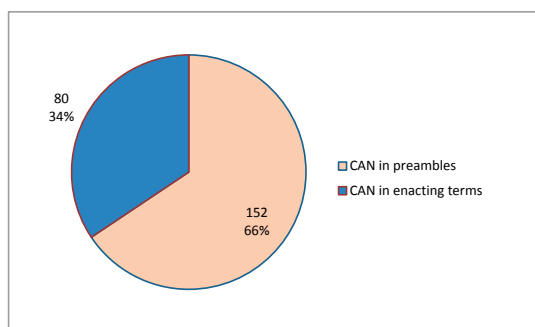


Chart 5.11. – Ratio between the frequency of ‘can’ in the enacting terms and in the preambles.

³⁸ Unless otherwise specified, the quantitative analysis of the frequencies of *can* also includes *cannot*.

³⁹ A higher frequency of the modal *can* in directives compared to regulations was also observed by Biel (2014c, 167).

The comparison of the distribution of *can* in the complete ENGLISH subcorpus, in the enacting terms only, and in the UK-LAW reference corpus revealed a much higher frequency of *can* in EU legislation (respectively, 90 and 80 occurrences per 100,000 words in the complete ENGLISH subcorpus and in the enacting terms only) compared to UK-LAW (23 occurrences per 100,000 words), which provides a further indication of the distinctive features that characterise EU legal language (cf. Garzone 2000; Koskinen 2000; Caliendo 2004; Robertson 2010; Sandrelli 2018). *Chart 5.12* shows the results of the analysis.

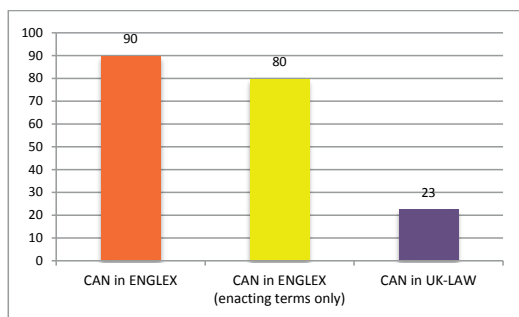


Chart 5.12. – Comparison of the occurrences of ‘can’ in the ENGLISH corpus and in the enacting terms sections of ENGLISH with the occurrences of ‘can’ in UK-LAW.

The analysis of the collocational patterns and clusters one to the right and one to the left of *can* in the three types of laws in the ENGLISH corpus was carried out. *Table 5.19* below shows the top ten most frequent collocates one to the right of *can*.

Table 5.19. – The top ten collocates one to the right of ‘can’ in ENGLISH.

DIRECTIVES	REGULATIONS	DECISIONS
be	Be	Be
therefore	Also	Therefore
also	Cause	Select
reasonably	Therefore	Only
rather	Only	Fully
play	Reasonably	Bring
Only	Provide	Best
provide	Lead	And
Lead	Determine	Which
demonstrate	Still	They

The results show that the modal *can* collocates most frequently with *be* in all three types of laws, thus revealing that, as also emerged in the case of the other modals examined, *can* colligates frequently with the passive voice. In all three types of laws, many of the verbs that collocate with *can* (e.g. *lead*, *provide*, *demonstrate*, *determine*) point to a more frequent use of the modal in its dynamic rather than in its deontic meaning, which is in line with previous studies into legal language (cf. Williams 2005, 138).

This appears to find further confirmation in the analysis of the collocates one to the left of *can*. As Table 5.20 shows, *can* collocates more frequently – though not exclusively – with inanimate subjects (e.g. *machinery*, *substance*, *property*), thus supporting the hypothesis that the meaning expressed by *can* in ENGLISH is generally associated with the possibility of something taking place (i.e. dynamic possibility), rather than with the permission to do something (i.e. deontic possibility).

Table 5.20. – The top ten collocates one to the left of ‘*can*’ in ENGLISH.

DIRECTIVES	REGULATIONS	DECISIONS
Which	It	Which
That	That	They
They	Which	That
And	And	Tasks
It	They	System
Or	This	States
Consumer	Substance	Property
But	Test	Meetings
Machinery	Landing	Marking
Directive	Animals	Market

The subsequent qualitative analysis of the ENGLISH corpus did not provide evidence of any instances of deontic *can*, thus confirming the hypothesis formulated on the basis of the quantitative data. This indicates that drafters tend to comply with institutional guidelines, which recommend the use of the modal *may*, rather than *can*, to express positive permission (European Commission Directorate-General for Translation 2016, 47).

The analysis of the modal verbs *shall*, *should*, *may*, *must* presented above highlighted a frequent collocation of all the modals with *not*. However, in the case of *can*, the negative *not*, added to the modal, forms a new word, i.e. *cannot*, which the concordancing package AntConc computes separately. In order to verify if *can* is frequently used in the negative

form, it was necessary to calculate the ratio between the occurrences of *can* and *cannot*. As Chart 5.13 shows, the negative form *cannot* occurs with a moderate frequency in ENGLISH (444 occurrences)⁴⁰.

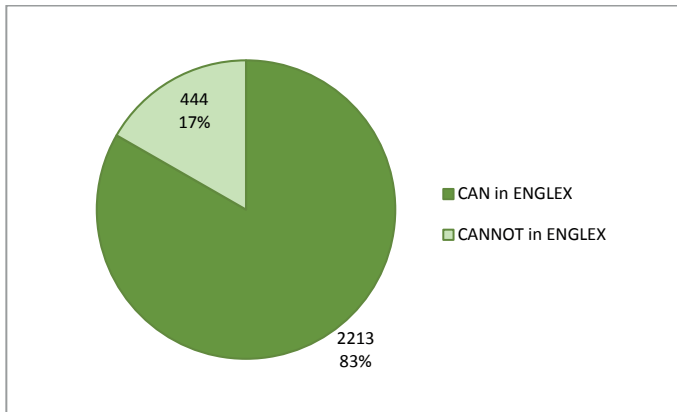


Chart 5.13. – Ratio between the occurrences of ‘can’ and ‘cannot’ in ENGLISH.

The analysis only revealed instances of *cannot* expressing a meaning of dynamic impossibility, which is in line with the institutional guidelines recommending the use of two other modals, i.e. *shall not* and *must not* (European Commission Directorate-General for Translation 2016, 46-48), to express prohibition in – respectively – the enacting terms and the non-enacting terms.

5.7.2. The translation of ‘can’ in the EURO-CoL corpus

A total of 180 parallel sections of the laws in English and Italian containing *can/cannot* were selected by applying the «hypothesis testing» method (Hunston 2002). The examination of the parallel sections did

⁴⁰ As pointed out in Chapter 4, Williams (2005, 140) reports that the use of *can* in prescriptive texts is, in fact, much more frequent in negative than in affirmative clauses. This, however, includes the instances where the affirmative *can* is preceded by a negative pronoun, as well as the instances of *cannot*. The calculation in the present research takes, instead, only the occurrences of *cannot* into consideration. Therefore, while the evidence from the present analysis points in the same direction as Williams’s (2005, 140) results, the data from the two analyses is not directly comparable. However, since this issue is not the main focus of the present work, it will not be investigated further here.

not show any significant differences in the translation strategies concerning *can* between the preambles and the enacting terms; in both parts of the laws there is a high number of instances where *can* is translated with the Italian ‘*verbo servile*’ *potere*. Example (77) below shows the translation of *cannot* and *can* with, respectively, *non possono* and *possono*. Interestingly, this extract also provides an example of the same Italian verb – *potere* – used in the same sentence to translate another modal, i.e. *may* with the meaning of permission. In this case, where the English version uses the two different modals to express two different meanings – one dynamic, the other deontic – the Italian version merely relies on the context. There is, however, no risk of misinterpretation here, as reference to article 5 of the Treaty, as well as the animate subject (*Commission*) makes it clear that the meaning of *può* is deontic and not dynamic possibility.

(77)

REGULATION (EC) No 216/2008
Since the objectives of this Regulation, namely the establishment and uniform application of common rules in the field of civil aviation safety and environmental protection, cannot be sufficiently achieved by the Member States and can therefore, by reason of the Europe-wide scope of this Regulation, be better achieved at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity, as set out in Article 5 of the Treaty.
Poiché gli obiettivi del presente regolamento, vale a dire l'adozione e l'applicazione uniforme di regole comuni sulla sicurezza dell'aviazione civile e sulla protezione ambientale, non possono essere realizzati in misura sufficiente dagli Stati membri e possono dunque, a causa dell'ambito di applicazione a livello europeo del presente regolamento, essere realizzati meglio a livello comunitario, la Comunità può intervenire in base al principio di sussidiarietà sancito dall'articolo 5 del trattato.

In example (78), instead, ambiguity is avoided in the target text by means of the verb *potere* used in the conditional mode instead of the indicative to translate *can*:

(78)

REGULATION (EC) No 216/2008
Consideration should in particular be given to aeroplanes and helicopters with a low maximum take-off mass and whose performance is increasing, which can circulate all over the Community and which are produced in an industrial manner. They therefore can be better regulated at Community level to provide for the necessary uniform level of safety and environmental protection.

Occorrerebbe tener conto, in particolare, di aeroplani ed elicotteri con una ridotta massa massima al decollo, le cui prestazioni sono in continuo progresso, che possono circolare in tutta la Comunità e che sono prodotti su scala industriale. Essi **potrebbero**, pertanto, **essere regolamentati meglio** a livello comunitario per garantire il livello uniforme di sicurezza e protezione ambientale necessario.

As can be seen from the first sentence, the statement is intended to be hypothetical, but the use of *can* in the second sentence in the English version could be interpreted either as a fact or as a hypothesis. By using the conditional, instead, the translators have eliminated any possible misinterpretation in the Italian version.

Another recurrent translational pattern that the analysis revealed is the use of the impersonal adjectival expression *è possibile* and of the nominal expression *è/sono in grado*, to express, respectively, the meaning of *can* as possibility and ability, as examples (79) and (80) illustrate.

(79)

REGULATION (EU) No 10/2011
As migration testing is a very complex issue, these basic rules can , however, not cover all foreseeable cases and details necessary for performing the testing. Therefore a EU guidance document should be established, dealing with more detailed aspects of the implementation of the basic migration testing rules.
Poiché tali prove sono molto complesse, è possibile tuttavia che queste norme di base non coprano tutti i casi prevedibili e tutti i dettagli necessari alla realizzazione delle prove. Di conseguenza, è necessario stabilire un documento di orientamento UE che spieghi più dettagliatamente come applicare le norme di base relative alle prove di migrazione.

(80)

DIRECTIVE 2010/78/EU
Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments (8) and Directive 2006/48/EC should be amended to allow the ESA to establish cooperation agreements with third countries and exchange information where those third countries can provide guarantees that professional secrecy will be protected.
Occorre modificare la direttiva 2004/39/CE del Parlamento europeo e del Consiglio, del 21 aprile 2004, relativa ai mercati degli strumenti finanziari (8), e la direttiva 2006/48/CE per consentire alle AEV di concludere accordi di cooperazione con paesi terzi e scambiare informazioni quando i paesi terzi sono in grado di assicurare la protezione del segreto professionale.

The qualitative analysis was further refined by calculating the number of occurrences of the above-mentioned linguistic items that were found to frequently translate *can/cannot*. Table 5.21 below shows the results of the analysis carried out on both ITALEX and LEGITALIA ⁴¹.

Table 5.21. – Distribution in ITALEX and LEGITALIA of the linguistic features that frequently translate ‘can/cannot’.

	ITALEX	LEGITALIA
può/possono	303	296
potrebbe/potrebbero	17	6
possa/possano	37	19
è possibile	10	4
è/sono in grado	4	1

The data shows that the present indicative *può/possono* has a similar distribution in the two corpora, while all the other features are under-represented in the reference corpus LEGITALIA.

The different distribution of these language features in directives, regulations and decisions was also calculated (see Table 5.22).

Table 5.22. – Distribution in directives, regulations and decisions of the linguistic features that translate ‘can/cannot’.

	DIRECTIVES	REGULATIONS	DECISIONS
può/possono	321	299	278
potrebbe/potrebbero	25	14	15
possa/possano	66	28	25
è possibile	6	11	2
è/sono in grado	2	4	2

As was previously observed with reference to the modal *may*, the higher frequency of *può/possono*, as well as *potrebbe/potrebbero* in directives, is due – in part, at least – to the fact that *may* and *can* occur more frequently in the English version of this type of law. The greater use in directives of

⁴¹ As the present indicative and subjunctive of *potere* translates both *can* and *may*, the data referring to these verb forms (*può/possono* and *possa/possano*) is the same as the one reported in Table 5.14 above. As previously pointed out, since the calculation includes instances where the various forms of the verb *potere* translate *may* as well as *can*, the number of occurrences does not reflect the exact frequency with which the verb *potere* is used to translate *can*, but is a mere indication of its overall frequency in ITALEX.

expressions of permission/possibility in secondary clauses compared to regulations and decisions, which emerges from the higher frequency of the subjunctive *possa/possano*, was also previously observed with reference to the modal *may*. The quantitative analysis also revealed that the other features examined, i.e. the impersonal adjectival expression *è possibile* and the nominal structure *è/sono in grado*, characterise regulations more strongly than directives and decisions.

The qualitative analysis also showed that, occasionally, *can* is translated with single adjectives ending in the suffix *-abile* or *-ibile* (e.g. *misurabile*), which confers a meaning of ‘possibility’ to adjectives in Italian: see example (81) below⁴².

(81)

REGULATION (EC) No 333/2007
‘LOQ’ = Limit of quantification, lowest content of the analyte which can be measured with reasonable statistical certainty.
«LOQ» = limite di quantificazione: il minimo tenore di analita misurabile con ragionevole certezza statistica.

As was also observed in the case of the other modals considered, the analysis of *can* revealed that the translators tend to introduce various changes at a morphosyntactic level in the target texts. One of the changes that was frequently observed concerns the use of the impersonal form of the lexical verb in Italian in place of the passive, as example (82) shows.

(82)

REGULATION (EU) No 10/2011
This Regulation establishes specific requirements for the manufacture and marketing of plastic materials and articles: (a) intended to come into contact with food; or (b) already in contact with food; or (c) which can reasonably be expected to come into contact with food.
Il presente regolamento stabilisce norme specifiche per la fabbricazione e la commercializzazione di materiali e oggetti di materia plastica: a) destinati ad entrare in contatto con i prodotti alimentari, oppure b) già a contatto con i prodotti alimentari; oppure c) di cui si prevede ragionevolmente che possano entrare in contatto con prodotti alimentari.

⁴² However, these adjectives are not only used in ITALEX to translate *can*, but also to translate some English adjectival forms, such as, for example *where applicable*, which is translated as *ove applicabile*. Therefore, the occurrences of these adjectives in ITALEX was not calculated, as the data would not provide a true indication of how frequently this strategy is used to translate the modal *can*.

Another change that occurs frequently is the use of the active voice in place of the passive, which may require a different sentence structure or the use of a different lexical verb, as examples (83) and (84) illustrate.

(83)

REGULATION (EC) No 216/2008
An appropriate appeal mechanism should be set up so that decisions of the Executive Director can be subject to appeal to a specialised Board of Appeal, whose decisions are, in turn, open to action before the Court of Justice.
Dovrebbe essere istituito un apposito sistema di ricorso che consenta di impugnare le decisioni del direttore esecutivo dinanzi ad una commissione speciale di ricorso, avverso le cui decisioni può essere adita la Corte di giustizia.

(84)

DECISION 2014/955/EU
If no appropriate waste code can be found in Chapters 01 to 12 or 17 to 20, the Chapters 13, 14 and 15 must be examined to identify the waste.
Se nessuno dei codici dei capitoli da 01 a 12 o da 17 a 20 si presta per la classificazione di un determinato rifiuto, occorre esaminare i capitoli 13, 14 e 15 per identificare il codice corretto.

The various changes often involve a different theme/rheme relation in the Italian version, as shown in example (85):

(85)

REGULATION (EC) No 216/2008
Where an equivalent level of protection to that attained by the application of the rules implementing this Regulation can be achieved by other means , Member States may, without discrimination on grounds of nationality, grant an approval derogating from those implementing rules.
Quando è possibile raggiungere con altri mezzi un livello di protezione equivalente a quello conseguito mediante l'applicazione delle norme di attuazione del presente regolamento , gli Stati membri possono concedere un'approvazione in deroga a tali norme di attuazione, senza discriminazioni basate sulla nazionalità.

As previously pointed out, these changes increase the clarity and readability of the translated texts compared to the source texts. On the one hand, this demonstrates the translators' compliance with the institutional guidelines, which prescribe clear writing. On the other hand, the analysis also proves that translators tend to simplify the target texts and to

increase their level of explicitness compared to the source texts, which supports the view that simplification and explicitation are universal features of translation (cf. Baker 1996).

5.8. 'WILL'

5.8.1. 'Will' in the EURO-CoL corpus

The analysis of the distribution of *will* in the three types of laws illustrated in Table 5.2, shows that *will* occurs with a significantly higher frequency in decisions (81 occurrences per 100,000 words), than in directives (63 occurrences per 100,000 words) and regulations (only 38 occurrences per 100,000 words). As Table 5.23 shows, the calculation of the frequency of *will* in the preambles and in the enacting terms provided very similar results, which is in line with the fact that this modal does not express a prescriptive meaning.

Table 5.23. – Distribution of 'will' in the preambles and in the enacting terms (raw and normalised data).

	RAW FREQUENCY	NORMALISED FREQUENCY
<i>will</i> in ENGLISH	1,344	45
<i>will</i> in preambles	194	48
<i>will</i> in enacting terms	1,150	45

Chart 5.14 below shows the ratio between the frequency of *will* in the enacting terms and in the preambles.

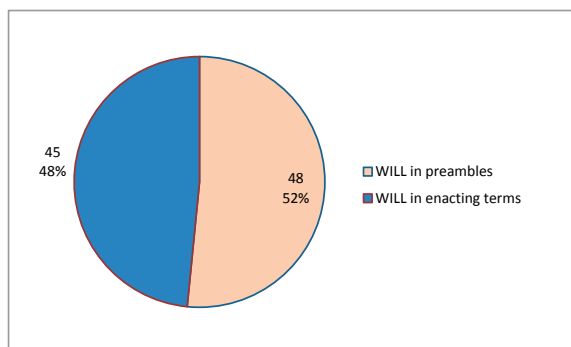


Chart 5.14. – Ratio between the frequency of 'will' in the enacting terms and in the preambles.

The comparison of the frequencies of *will* in ENGLISH and in the UK-LAW reference corpus revealed that *will* occurs more frequently in UK legislation than in EU legislation, as *Chart 5.15* shows.

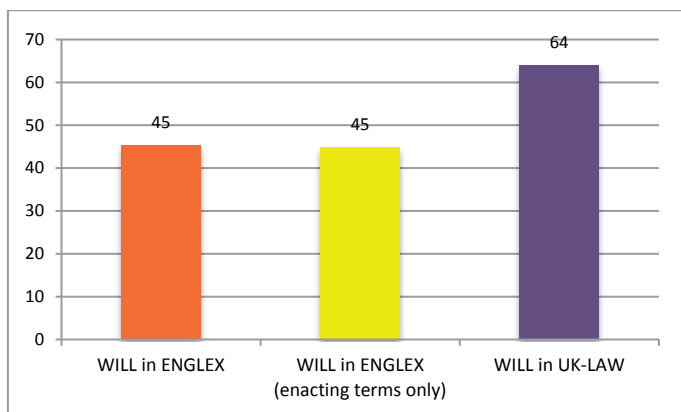


Chart 5.15. – Comparison of the occurrences of ‘will’ in the ENGLISH corpus and in the enacting terms sections of ENGLISH with the occurrences of ‘will’ in UK-LAW.

This is consistent with EU guidelines, which, as reported in Chapter 4, discourage the use of *will* in legislative texts (cf. European Commission 1996, 25; European Commission Directorate-General for Translation 2016, 47).

The analysis of the top 10 collocates one to the right of *will* (see *Table 5.24*) revealed that *will* collocates frequently with *be*, which is an indication of a strong colligation with the passive, as previously observed with regard to all the other modal verbs analysed. Moreover, *will* is frequently followed by the negative *not* in directives and regulations and also – to a lesser degree – in decisions, which indicates that this modal frequently colligates with the negative form.

The collocates one to the left of *will* (see *Table 5.25* below) show that this modal is often preceded by the relative pronouns *that* and *which* in directives and regulations and – less frequently – in decisions, which suggests that it is frequently used in secondary clauses in EU legislative texts. Interestingly, *will* collocates frequently with the term *Commission* in decisions, unlike directives and regulations, where no EU institutions are among the top ten collocates.

Table 5.24. – The top ten collocates one to the right of ‘will’ in ENGLISH.

DIRECTIVES	REGULATIONS	DECISIONS
Be	Be	Be
Not	Not	Continue
continue	Normally	Regularly
Have	have	Not
Remain	land	Take
Give	Result	Support
Need	Allow	Need
Convey	Provide	Meet
Enable	Depend	depend
Still	Apply	address

Table 5.25. – The top ten collocates one to the left of ‘will’ in ENGLISH.

DIRECTIVES	REGULATIONS	DECISIONS
That	Which	That
Which	It	System
It	They	They
You	That	Commission
They	Aeroplane	Specifications
And	Operator	Products
System	And	Members
Body	Conditions	Wording
Consumer	This	Which
Tests	Substance	Tests

5.8.2. The translation of ‘will’ in the EURO-CoL corpus

A qualitative analysis was carried out on 150 instances of *will* and their translations selected by applying the «hypothesis testing» method (Hunston 2002). The analysis revealed the following recurrent translational patterns: (1) *will* translated with future indicative; (2) *will* translated with present indicative; (3) *will* translated with the subjunctive in subordinate clauses; (4) *will* translated with the present participle.

In the following extract – example (86) below – from the enacting terms of Directive 2009/111/EC, *will* is translated with the Italian

future indicative. The English version uses *shall* to refer to an obligation and *will* to refer to a future hypothetical event; the distinction between the two meanings is maintained in the Italian version, where *shall* is translated with the present indicative – in compliance with the institutional guidelines illustrated above – and *will* with the future tense.

(86)

DIRECTIVE 2009/111/EC
A credit institution, other than when acting as an originator, a sponsor or original lender, shall be exposed to the credit risk of a securitisation position in its trading book or non-trading book only if the originator, sponsor or original lender has explicitly disclosed to the credit institution that it will retain , on an ongoing basis, a material net economic interest which, in any event, shall not be less than 5%.
Un ente creditizio che non agisce in qualità di cedente, promotore o prestatore originario è esposto al rischio di credito di una posizione inerente a cartolarizzazione inclusa nel suo portafoglio di negoziazione o fuori portafoglio di negoziazione solo se il cedente, il promotore o il prestatore originario ha esplicitamente comunicato all'ente creditizio che manterrà , in modo permanente, un interesse economico netto rilevante che, in ogni caso, non è inferiore al 5%.

As pointed out previously, according to the Italian guidelines for legislative drafting *Regole e raccomandazioni per la formulazione tecnica dei testi legislativi* (Senato della Repubblica 2001, 15), the use of the future tense is not permitted in the formulation of the norms in Italian national legislation. The qualitative analysis showed that also in EU legislation the Italian future tense tends to be used merely to express an idea of futurity or possible realisation related to the events referred to in the provisions, and not to formulate norms.

Although, as previously illustrated, the use of the future tense in the Italian version was also found to occasionally translate *shall*, *should* and *may*, the qualitative analysis of the parallel corpus pointed to a markedly higher use of the future tense to translate *will* compared to the other modals. In order to verify if – and to what extent – the use of the future tense in the Italian version of EU legislation is influenced by target language conventions, a quantitative analysis was carried out to compare the occurrences of the future tense in ITALEX and LEGITALIA⁴³. The

⁴³ The calculation was carried out in ITALEX and LEGITALIA by summing up the occurrences of the words ending in the suffixes that form the 3rd person singular

results are reported in *Table 5.26*, which interestingly shows a much higher frequency of the future tense in the Italian national legislation compared to EU laws ⁴⁴.

Table 5.26. – Occurrences of the future tense in ITALEX and LEGITALIA.

	ITALEX	LEGITALIA
<i>raw frequency</i>	1,005	1,885
<i>normalised frequency</i>	32	79

Turning to the cases where *will* is translated with the Italian present indicative mode, the qualitative analysis revealed that this choice tends to occur when the meaning expressed by *will* can be intended as more concrete and factual. In example (87) below, for instance, the use of the present indicative to translate *will not apply*, conveys a less hypothetical meaning in the Italian version.

(87)

REGULATION (EC) No 219/2009
The Commission shall determine the conditions under which the concentration levels referred to in paragraph 1 will not apply to recycled materials and to product loops which are in a closed and controlled chain, as well as the types of packaging which are exempted from the requirement referred to in the third indent of paragraph 1.
La Commissione determina le condizioni alle quali i livelli di concentrazione di cui al paragrafo 1 non si applicano ai materiali riciclati e ai circuiti di produzione localizzati in una catena chiusa e controllata, nonché i tipi di imballaggio esonerati dal requisito di cui al paragrafo 1, terzo trattino.

Similarly, in example (88), the verbal expression *continua a soddisfare* conveys a more factual meaning than *will still satisfy* of the English version.

and plural of the future tense in Italian (-erà, -irà, -eranno, -iranno), as well as the occurrences of *sarà/avrà/saranno/avranno*. The 1st and 2nd person do not feature in the corpora.

⁴⁴ Caterina and Rossi (2008, 187) report that Italian legal language is characterised by a frequent use of the deontic future as an expression of obligation. The data from the present analysis points in the same direction, since, despite the guidelines recommending not to use the future tense, it occurs relatively frequently in LEGITALIA.

(88)

DIRECTIVE 2007/23/EC
The notified body must assess the changes proposed and decide whether the altered quality system will still satisfy the requirements referred to in point 3.2 or whether reassessment is required.
L'organismo notificato valuta le modifiche proposte e decide se il sistema modificato continua a soddisfare i requisiti di cui al punto 3.2 o se sia necessaria una nuova verifica.

Occasionally, *will* is translated with the present participle, a typical feature in Italian legal language (Caterina - Rossi 2008, 187). In example (89), the use of the participle *indicanti* in place of the relative clause *which will illustrate*, makes the Italian version more concise.

(89)

DIRECTIVE 2010/35/E
In accordance with paragraph 34 of the Interinstitutional Agreement on better law-making (10), Member States are encouraged to draw up, for themselves and in the interest of the Union, their own tables, which will , as far as possible, illustrate the correlation between this Directive and their transposition measures, and to make those tables public, [...].
Conformemente al punto 34 dell'accordo interistituzionale «Legiferare meglio» (10), gli Stati membri sono incoraggiati a redigere e a rendere pubblici, nell'interesse proprio e dell'Unione, prospetti indicanti , per quanto possibile, la concordanza tra la presente direttiva e i provvedimenti di recepimento, [...].

The analysis revealed that, as was also the case for the other modals examined, the translated texts often present differences at a morphosyntactic and sentence level, which tend to make the Italian version clearer. In example (90) below, for instance, the sentence is simplified by introducing the adjectival structure *è necessario* in place of the noun *need* in the English version.

(90)

DIRECTIVE 2009/111/EC
The financial crisis has revealed a need for a better analysis of and response to macro-prudential problems, which lie at the interface between macroeconomic policy and financial system regulation. This will include a need to examine: measures that mitigate the ups and downs of the business cycle, [...].
La crisi finanziaria ha evidenziato la necessità di una migliore analisi e reazione ai problemi macro-prudenziali, che si collocano all'interfaccia tra la politica macroeconomica e la disciplina del sistema finanziario. In tale contesto è necessario esaminare: le misure volte ad attenuare le fluttuazioni del ciclo economico, [...].

Another change concerns the avoidance of the passive voice by way of various different strategies. In example (91) below, the passive is avoided by introducing an infinitive clause.

(91)

DECISION No 768/2008/EC
When applying the modules referred to in paragraph 1, and wherever applicable and relevant, the legislative instrument may: [...] d) where product verification is performed, specify the manufacturer's choice as to whether the examinations and tests to check the conformity of the products with the appropriate requirements will be carried out , by examination and testing of every product, or by examination and testing of the products on a statistical basis; [...].
All'atto di applicare i moduli di cui al paragrafo 1 e in tutti i casi in cui sia applicabile e pertinente, lo strumento legislativo può: [...] d) qualora sia effettuata una verifica del prodotto, precisare la scelta del fabbricante se effettuare gli esami e le prove atte a verificare la conformità dei prodotti alle prescrizioni applicabili esaminando e provando ogni prodotto o esaminando e provando i prodotti su base statistica; [...].

In example (92), a nominal structure is used in place of a passive verbal structure.

(92)

DIRECTIVE 2006/42/EC
At trade fairs, exhibitions, demonstrations, and such like, Member States shall not prevent the showing of machinery or partly completed machinery which does not conform to this Directive, provided that a visible sign clearly indicates that it does not conform and that it will not be made available until it has been brought into conformity.
Gli Stati membri non impediscono, in particolare in occasione di fiere, di esposizioni, di dimostrazioni e simili, la presentazione di macchine o di quasi-macchine non conformi alla presente direttiva, purché un cartello visibile indichi chiaramente la non conformità di dette macchine e l'impossibilità di disporre delle medesime prima che siano rese conformi.

Other changes concern the negative form, which is often replaced by the affirmative form in the Italian version, as example (93) illustrates.

(93)

REGULATION (EC) No 216/2008
The pilot in command must be satisfied that: [...] the aircraft operating limitations as specified in point 4 will not be exceeded at any time during the flight. [...].

Il comandante deve accertare che: [...] la massa e il baricentro dell'aeromobile **siano tali da permettere** la conduzione del volo **entro** i limiti prescritti nel documento di aeronavigabilità; [...].

The analysis also provided evidence of changes that occasionally point to an opposite tendency. In example (94) below, for instance, the affirmative form *will have to refuse* is translated with the negative *non potranno trattare*. Interestingly, however, despite the use of the negative form, the Italian version is clearer and more readable. This would suggest that the changes from the negative to the affirmative form are introduced in the target texts only when they contribute to greater clarity.

(94)

REGULATION (EU) No 248/2014
From 1 February 2014, banks and other payment service providers will have to refuse to process credit transfers or direct debits that are not SEPA-compliant because of their legal obligations, although, as is currently already the case, they technically could process those payments by continuing to use existing legacy payment schemes alongside SCT and SDD.
Dal 1° febbraio 2014, dovendo rispettare gli obblighi giuridici, le banche e gli altri prestatori di servizi di pagamento non potranno trattare i bonifici e gli addebiti diretti non conformi agli standard SEPA, sebbene, come già accade, essi sarebbero tecnicamente in grado di trattare tali pagamenti continuando ad usare gli schemi di pagamento tradizionali, parallelamente all'esecuzione dei bonifici SEPA e degli addebiti diretti SEPA.

Finally, in subordinate clauses, *will* is translated with the subjunctive; this is dictated by the Italian grammar and does not leave any alternative choice to the translator, as example (95) illustrates.

(95)

REGULATION (EU) No 248/2014
It is therefore very unlikely that all market participants will be SEPA compliant by 1 February 2014.
Pertanto, è molto improbabile che tutti i partecipanti al mercato si conformino alla SEPA entro il 1° febbraio 2014.

5.9. 'BE TO'

5.9.1. 'Be to' in the EURO-CoL corpus

The quantitative analysis of the distribution of the modal idiom *be to*⁴⁵ in each of the three types of EU laws in ENGLISH reported in Table 5.2 revealed that this expression occurs more frequently in directives (48 occurrences per 100,000 words) than in decisions (38 occurrences per 100,000 words) and regulations (28 occurrences per 100,000 words)⁴⁶.

Table 5.27 shows the raw frequency and the normalised frequency of the construction *is/are to* in the preambles and in the enacting terms.

Table 5.27. – Distribution of the modal idiom 'be to' in the preambles and in the enacting terms.

	RAW FREQUENCY	NORMALISED FREQUENCY
<i>is/are to</i> in ENGLISH	986	33
<i>is/are to</i> in preambles	208	51
<i>is/are to</i> in enacting terms	778	30

The data provides evidence of a higher frequency of *is/are to* preambles (63%) than in the enacting terms (37%) of the EU laws (see Chart 5.16 below).

⁴⁵ It must be pointed out that the construction *is/are to* is also present in the corpus in instances where no connotation of modality is implied, as the following example from Regulation (EC) 8/2008 shows: «The purpose of the operational demonstration is to determine or validate the use and effectiveness of the applicable aircraft flight guidance systems, training, flight crew procedures, maintenance programme, and manuals applicable to the Category II/III programme being approved». The quantitative data relative to *is/are to* includes both the instances of *is/are to* as a modal idiom and the instances of *is/are* followed by an infinitive with no modal meaning. The quantitative analysis of the *be to* construction is to be intended, therefore, merely as a relative indication of the frequency of the modal idiom in the ENGLISH and UK-LAW corpora and not as an exact figure of its distribution.

⁴⁶ Unless otherwise specified, the quantitative analysis of the frequencies of *is/are to* also includes the negative form *is/are not to*.

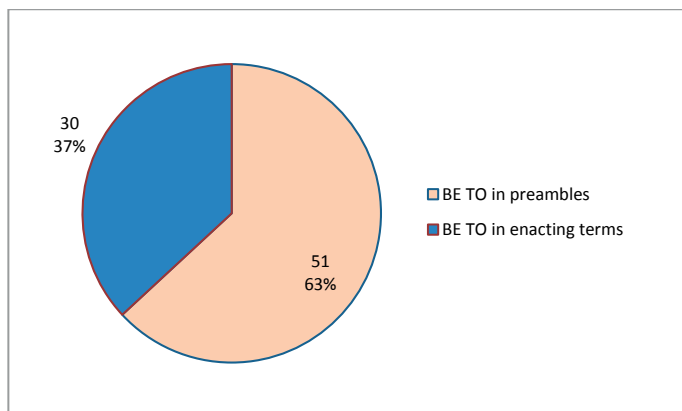


Chart 5.16. – Ratio between the frequency of ‘is/are to’ in the enacting terms and in the reambles.

The comparison with the reference corpus of UK national legislation reveals that the *be to* construction occurs much more frequently in the UK-LAW corpus (see Chart 5.17 below).

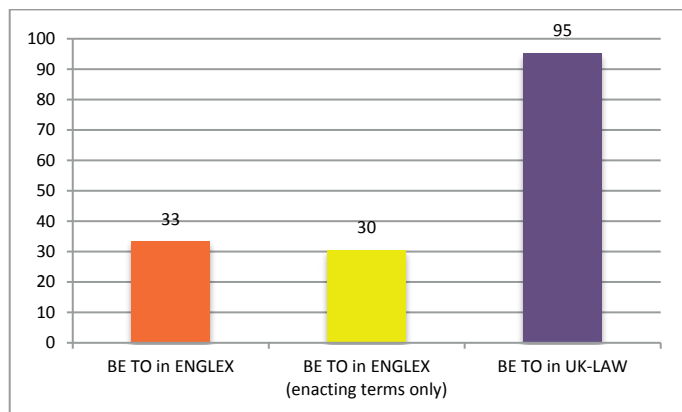


Chart 5.17. – Comparison of the occurrences of ‘is/are to’ in the ENGLISH corpus and in the enacting terms sections of ENGLISH with the occurrences of ‘is/are to’ in UK-LAW.

This result finds an explanation in the fact that, following the recent dramatic decline in the use of *shall* in UK legislation, the modal idiom *is/are to* has been used as a substitute form to express obligation (Williams 2005, 135; Garzone 2013, 70). On the contrary, since the EU spe-

cifically requires the use of *shall* in the enacting terms of binding acts, the frequency of the *be to* modal idiom is much lower in ENGLISH. The use of *shall* in the enacting terms of EU legislative texts also accounts for the higher frequency of *is/are to* in the preambles reported above. The collocates one to the left and to the right of *is to* and *are to* were calculated; Table 5.28 shows the top ten collocates one to the right of *is/are to*.

Table 5.28. – The top ten collocates one to the right of ‘*is/are to*’ in ENGLISH.

DIRECTIVES		REGULATIONS		DECISIONS	
<i>is to</i>	<i>are to</i>	<i>is to</i>	<i>are to</i>	<i>is to</i>	<i>are to</i>
be	be	Be	Be	make	Be
make	ensure	provide	ensure	be	Benefit
say	carry	include	Carry	remain	Retain
ensure	undergo	determine	Take	provide	Apply
contribute	take	Say	Show	continue	==
protect	review	Take	include	benefit	==
provide	require	ensure	Apply	==	==
comprise	read	Use	withstand	==	==
acquire	protect	identify	transfer	==	==
take	prevent	obtain	supply	==	==

As the table shows, the construction *is/are to* colligates frequently with the passive voice, which is consistent with the results of the analysis on the other modals considered. Table 5.29 shows the top ten collocates one to the left of *is/are to*.

Table 5.29. – The top ten collocates immediately to the left of ‘*is/are to*’ in ENGLISH.

DIRECTIVES		REGULATIONS		DECISIONS	
<i>is to</i>	<i>are to</i>	<i>is to</i>	<i>are to</i>	<i>is to</i>	<i>are to</i>
reference	which	Which	which	surveillance	Which
directive	amendments	That	They	resources	Sweden
that	they	Regulation	Units	register	States
surveillance	states	This	That	product	Criteria
which	measures	Test	states	organisations	amendments
statement	waters	take-off	procedures	opinion	==
information	that	Mixture	operations	kingdom	==
it	samples	It	contracts	devices	==
sample	explosives	Information	source	Austria	==
article	or	Chemical	purposes	==	==

Interestingly, when the collocational patterns of the node *is/are to* are compared with the two other modals expressing strong obligation, i.e. *shall* and *must*, the data reveals a strong similarity between *is/are to* and *shall*. Both modal expressions tend to collocate frequently – though not exclusively – with terms that refer to the type of law (e.g. *regulation*), the section of the law (e.g. *article*), or a State (e.g. *Austria, States*) in all three types of legislative texts. This would suggest that the construction *is/are to* is used, albeit infrequently, as an alternative to *shall* and not of *must*.

In the case of *is/are to*, the negative *not* – which was found to collocate frequently with the other modals analysed – is placed between *is/are* and *to* so it does not appear as a collocate of this construction. In order to verify if *is/are to* is frequently used in the negative form, it was necessary to calculate the ratio between the occurrences of *is/are to* and *is/are not to*. As Chart 5.18 shows, the construction *is/are to* is fairly infrequent in the negative, thus revealing that it tends to be used to express obligation rather than prohibition.

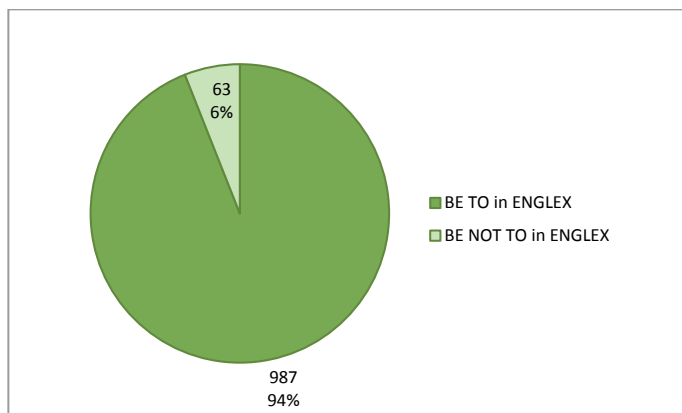


Chart 5.18. – Ratio between the occurrences of ‘*is/are to*’ and ‘*is/are not to*’ in ENGLISH.

As illustrated in Chapter 4, previous research has found that, in legal discourse, the *be to* modal idiom in primary clauses usually conveys the meaning that something is required (cf. Quirk *et al.* 1985, 218). In secondary clauses, *be to* is frequently used to express the necessary pre-condition for the realisation of a certain event or situation (Williams 2013, 136). A qualitative examination of the occurrences of *is/are to* revealed that both these meanings can be found in ENGLISH, as examples (96) and (97) below show.

(96)

REGULATION (EC) No 859/2008
The abbreviated course is to include at least the requirements of subparagraphs (d)1, (d)2(i) or (d)2(ii) as appropriate and (d)3(i).

(97)

REGULATION (EU) No 251/2014
In order to ensure the rights or legitimate interests of producers or operators, the Commission shall be empowered to adopt delegated acts in accordance with Article 33 in order to: [...]. (g) establish the conditions under which an amendment is to be considered as minor as referred to in Article 24(2); [...].

5.9.2. The translation of ‘be to’ in the EURO-CoL corpus

The qualitative analysis of the translation of the modal idiom *is/are to* into Italian was carried out on 90 occurrences of this construction selected from the parallel corpus through the «hypothesis testing» method (Hunston 2002). The analysis revealed that *is/are to* is often translated – in particular in the enacting terms – with the present indicative, which is the verb mode and tense required to express the compulsory nature of a norm both in Italian national and EU legislation: see example (98) below.

(98)

DIRECTIVE 2006/7/EC
The bathing water profile referred to in Article 6 is to consist of : (a) a description of the physical, geographical and hydrological characteristics of the bathing water, [...].
Il profilo delle acque di balneazione di cui all’articolo 6 contiene : a) la descrizione delle caratteristiche fisiche, geografiche e idrologiche delle acque di balneazione e di altre acque di superficie nel bacino drenante delle acque di balneazione interessate, [...].

This translational choice is not, however, carried out consistently and often the verb *dovere* is used in Italian, as can be seen in example (99) below, where both alternatives are used within the same section of the law to translate *is to be taken*.

(99)

DIRECTIVE 2006/7/EC
In the event of short-term pollution, one additional sample is to be taken to confirm that the incident has ended. This sample is not to be part of the set of bathing water quality data. If necessary to replace a disregarded sample, an additional sample is to be taken seven days after the end of the short-term pollution.
In caso di inquinamento di breve durata, è prelevato un campione aggiuntivo per confermare la conclusione dell'evento. Questo campione non deve essere parte della serie di dati sulla qualità delle acque di balneazione. Se è necessario sostituire un campione scaricato, deve essere prelevato un campione aggiuntivo 7 giorni dopo la conclusione dell'inquinamento di breve durata.

Similarly, in subordinate clauses the subjunctive mode is used – as required by the Italian grammar – but the verb *dovere* is sometimes introduced: example (100) below.

(100)

REGULATION (EU) No 558/2010
(6) Article 6 of Regulation (EC) No 854/2004 of the European Parliament and of the Council (2) provides that the Member States are to ensure that the production and placing on the market of live bivalve molluscs, [...] undergo official controls as provided for in Annex II thereto.
(7) Annex II to that Regulation provides that production areas are to be classified according to the level of faecal contamination.
(6) L'articolo 6 del regolamento (CE) n. 854/2004 del Parlamento europeo e del Consiglio (2) stabilisce che gli Stati membri provvedano a che la produzione e l'immissione in commercio dei molluschi bivalvi vivi, [...] siano soggette a controlli ufficiali come stabilito nell'allegato II.
(7) L'allegato II di detto regolamento prevede che le zone di produzione debbono essere classificate in base al livello di contaminazione fecale.

As was also previously observed with reference to *shall*, the use of *dovere* in cases such as this may be explained as the result of interference from the source language, and could be seen as an attempt to introduce an equivalent of the expression *is/are to* in the translated text. This would provide further evidence in support of Toury's (2012 [1995], 310) law of interference as a universal feature in translation.

The analysis also revealed a tendency to introduce changes at a morphosyntactic level. In the definition provided in example (101) below, the meaning of obligation (*Machinery space is to be taken as extending*) expressed by means of the *be to* construction is not translated

in the Italian version, which results in a simplified sentence structure in the target text.

(101)

DIRECTIVE 2009/45/EC
Machinery space is to be taken as extending from the moulded base line to the margin line and between the extreme main transverse watertight bulkheads, bounding the spaces containing the main and auxiliary propulsion machinery, and boilers serving the needs of propulsion.
Locale macchine: il locale che si estende dalla linea di costruzione alla linea limite e fra le paratie stagne trasversali principali estreme che delimitano i locali contenenti la macchina di propulsione principale e ausiliaria e le caldaie necessarie alla propulsione.

In example (102) there is a change in the theme/rheme relation, with the use of a nominal structure in the Italian version in place of the *be to* structure of the English version. As a result, the double obligation is avoided in the target text, which improves the readability of the sentence.

(102)

DIRECTIVE 2013/15/EU
Member States shall determine how such reference is to be made .
Le modalità di tale riferimento sono decise dagli Stati membri.

The analysis also revealed a tendency to avoid the passive voice by using alternative forms in the Italian version, as shown in example (103) below, where an infinitive clause is used in place of the relative clause containing the *are to* construction.

(103)

DECISION No 768/2008/EC
Where Community harmonisation legislation requires conformity assessment to be performed in respect of a particular product, the procedures which are to be used shall be chosen from among the modules set out and specified in Annex II, in accordance with the following criteria: [...].
Qualora la normativa comunitaria di armonizzazione prescriba la valutazione della conformità per un prodotto particolare, le procedure da utilizzare vanno scelte tra i moduli stabiliti e specificati nell'allegato II, conformemente ai criteri seguenti: [...].

In example (104), the passive is avoided by using a different sentence structure in Italian, where the idea of obligation expressed by *is to be conducted* is shifted from *the flight* to *condizioni operative*.

(104)

REGULATION (EC) No 8/2008
An operator shall ensure that the planning of flights is at least based upon (1) and (2) below: [...] (2) The operating conditions under which the flight is to be conducted including: (i) Realistic aeroplane fuel consumption data; (ii) Anticipated masses; [...].
L'operatore assicura che la pianificazione del volo sia basata almeno sui seguenti punti 1 e 2: [...] 2) le condizioni operative previste per il volo, che devono includere: i) dati realistici sul consumo di combustibile del velivolo; ii) masse previste; [...].

5.10. DISCUSSION OF RESULTS

The results of the investigation into the translational patterns of the seven expressions of modality chosen as units of analysis are summarised and discussed in the present section. The analysis provided evidence of some translational choices that are consistently repeated in the translation of all the expressions of modality considered.

The data shows that translators tend to comply with the EU institutions' requirements as regards the translation of modals in EU law. Evidence of this was found, for example, in the use of the present indicative to translate *shall*. The analysis also revealed that, in compliance with the EU institutions' emphasis on the importance of clear writing, translators tend to introduce changes at a morphosyntactic and syntactic level, which often result in a clearer and more readable target text compared to the source text. Changes involve, for example, the use of the active voice in place of the passive, and of the affirmative in place of the negative form. At a syntactic level, the theme/rheme relation is often changed to give prominence to the important information. As Tiersma (1999, 208-209) points out, poor organisation of the information is one of the elements that hinder the recipients' understanding of legal texts, so changes at this level can be seen as an effort to improve the quality of the legislative texts.

It is important to highlight that the same guidelines recommending clarity in EU texts also apply to the English original draft of the laws, as can be seen in the *English Style Guide* and in the *How to Write Clearly* booklets. Despite this, evidence shows that in many cases, the target texts in the EURO-CoL corpus tend to be clearer and more readable than the source texts, as a result of the changes introduced during the transla-

tion process. These results point to the simplification hypothesis (Baker 1996), which posits that translated texts tend to be simplified at the lexical, syntactic and textual level as a result of the translation process itself.

The analysis also revealed that, where the source text contains implicit information, or this is in some way ambiguous, translators tend to disambiguate the meaning, thus producing a translation that reduces the risk of misinterpretations. This was observed, for example, in the cases where the translator interprets the meaning of *should* and translates this modal with Italian expressions conveying different degrees of obligation and necessity. The explicitation hypothesis whereby translations tend to be more explicit than the source texts (Baker 1996) finds confirmation in these results. As Baker (1996, 182) points out, by providing one interpretation and impeding other interpretations of an utterance, translators end up increasing the level of explicitness of the text.

The analysis also revealed some traces of interference from the source texts in the target texts. One example is the overuse of the Italian verb *dovere* in EU laws which emerged from the comparison between ITALEX and LEGITALIA. The higher frequency of *dovere* in EU legislation compared to Italian national legislation suggests that translators tend to occasionally use this verb to reproduce the patterns of *shall* and *must* in the target texts, instead of using the present indicative of the lexical verb, which is the form used in national laws to express obligation. Toury's (2012 [1995], 310) law of interference finds confirmation in these findings; in particular, the analysis provides evidence of what Toury (2012 [1995], 311) defines as «negative transfer», i.e. the deviation in translated texts from the conventional patterns of the target language.

At a linguistic level, the analysis revealed some differences in the use of modality between the three types of laws considered in the study. The results show that there is some similarity in the distribution of the modal expressions between directives and regulations (*shall*, *should*, *must*, *can*, *will* have a similar frequency in these two types of laws), while decisions tend to be characterised differently. The quantitative analysis of the most frequent collocational patterns also revealed that there are similarities between directives and regulations in the use of all the modal expressions under investigation. Decisions, instead, have similar collocational patterns to directives and regulations only as regards *should*, *can* and *be to*, while there are differences concerning the other modals. As pointed out in Chapter 1, directives, regulations and decisions are all binding legislative instruments but they differ in the way they are binding. On the one hand, regulations and directives are similar in that they are binding for all the Member States, while decisions are binding only

for the addressees (i.e. institutions, organisations, business companies etc.). On the other hand, while the texts of regulations and decisions are directly incorporated within the national legal orders, directives merely set an objective that must be reached by each Member State, leaving each country free to decide how to implement the law. These differences can be at the basis of the distinctive use of modality in the three types of laws; for example, they could account for the higher frequency of *may* in directives, since this modal gives some leeway to Member States when transposing the law (cf. Caliendo *et al.* 2005, 388).

The comparison between ENGLISH and UK-LAW shows a different distribution of the expressions of modality between EU legislation and UK laws. In particular, the analysis revealed an overrepresentation of the modals *shall*, *should* and *can* in EU legislation compared to UK laws, and an underrepresentation of *may*, *must*, *will* and *be to*. These differences confirm the hypothesis formulated by various scholars (cf. Garzone 2000; Koskinen 2000; Robertson 2010; Sandrelli 2018) that EU legal English is a variety of language whose features distinguish it from legal English in the UK.

The comparison between ITALEX and LEGITALIA also revealed differences in the way modality is expressed in EU legal Italian and national legal Italian, thus confirming previous research concerning the existence of an Italian Eurolect (Mori 2018b). In particular, the findings show an overrepresentation in EU legislative texts of linguistic features such as the verb forms *potrebbe/potrebbero*, *dovrebbe/dovrebbero*, *deve/devono*, *va/vanno* + Past Participle, the adjectival structures *è possibile*, *è opportuno*, *è necessario*, the nominal structure *è/sono in grado*. On the other hand, the results show that the future tense and the linguistic features *da* + Infinitive, *ha/hanno la facoltà*, *è ammesso/a*, *sono ammessi/e* are underrepresented in EU legal language. If we consider this data from the point of view of research into universals of translation, these results would suggest that the normalisation hypothesis (Baker 1996) according to which translations tend to conform to the typical target language patterns is not fully confirmed in the case of EU translated legislation.

6.

CONCLUDING REMARKS

6.1. THREE TENDENCIES OF TRANSLATIONAL BEHAVIOUR AND NORMS

The objective of the present study was to formulate hypotheses as regards the norms governing the translation of EU legislative texts. For this purpose, the «multilingually comparable corpus» (Hansen-Schirra - Teich 2009, 1162) EURO-CoL was compiled. This corpus comprises a bilingual parallel corpus of EU legislation in English and in Italian, and a monolingual comparable corpus of original non-translated Italian laws. A reference corpus of UK secondary legislation was also compiled. Munday's (2002) Systemic Model for Descriptive Translation Studies was adopted for the present study and led to the choice of the most frequent expressions of modality in the corpus (i.e. the modal verbs *shall*, *should*, *may*, *must*, *can*, *will* and the modal idiom *be to*) as units of analysis. The quantitative and qualitative analysis carried out on the bilingual parallel corpus revealed several translation strategies for these expressions of modality. The recurrent strategies can be grouped into three tendencies of translational behaviour.

First, there is a tendency to reproduce as closely as possible the patterns of the source language. Differences in quantitative and qualitative terms between ITALEX, i.e. the subcorpus of Italian translated laws, compared to LEGITALIA, i.e. the reference corpus of national non-translated Italian laws, provide evidence of this tendency. For example, the analysis revealed a different distribution of the linguistic features expressing 'weak' obligation that are used to translate *should* in ITALEX, compared to the frequency of the same features in LEGITALIA. A different distribution of the linguistic features translating *may* in ITALEX compared to the reference corpus also emerged from the quantitative analysis. Qualitatively, this tendency was observed, for example, in the use of the verb *dovere* to translate the prescriptive meaning expressed

by *must* in the enacting terms of a law, where, according to the Italian national guidelines on legal drafting, the lexical verb in the present indicative form would be required instead of *deve/devono*.

Considering the context of EU translation, an explanation for this tendency can be found, in particular, in two factors that act as constraints for the work of the translators. Firstly, this tendency ensures a safer course of action in view of the principle of equal authenticity, whereby all language versions are considered originals with equal legal force. Secondly, it ensures that the various language versions can be easily aligned for comparison, as is required by the EU institutions. Moreover, this similarity between source and target texts at surface-level also helps to convey an illusion of equivalence between all language versions to the recipients (cf. Koskinen 2000, 54).

The second tendency that was observed points in the opposite direction, as it involves strategies whereby the translated text tends to comply with the conventions of the target culture. Evidence of this was found in the translational patterns revealing similarities between ITALEX and LEGITALIA. For example, the qualitative analysis showed that the present indicative of the lexical verb is used to translate most instances of *shall*, in compliance with the norms that apply to national legislative texts. Evidence was also provided by the translational choices concerning the modal *should* expressing a prescriptive rather than a conditional meaning in the source text. In these cases, the translator often uses the present indicative of the lexical verb in place of the conditional *dovrebbe*, which is in line with the conventions of legal drafting in Italy. Evidence of this tendency can also be seen in certain changes introduced in the target texts, such as the frequent use of the impersonal form (e.g. *è nell'interesse*) and of the present participle (e.g. *indicanti*) to translate the expressions of modality, since both these features are typical of Italian legal language (cf. Caterina - Rossi 2008, 187). According to the *DGT Translation Quality Guidelines* (European Commission Directorate-General for Translation 2015, 2), «naturalness» in translation is something that should be sought after «as far as possible», in EU institutions, as well as being an indication of quality in translation. It can therefore be hypothesised that the reason behind the translators' compliance with the target language conventions is that it brings target texts closer to the recipients' expectations and, consequently, contributes to achieving the aim of «naturalness». It is plain to see that the EU institutions' requirement of what is appropriate in translation acts as a constraint imposed on the translators and governs their behaviour (cf. Ulrych 2014).

Thirdly, the analysis revealed a strong tendency to opt for strategies that improve the clarity and readability of the target texts, even if this means introducing changes at a morphosyntactic and syntactic level in the target texts. Evidence of this was found in the strategies used to translate all the expressions of modality, for example in the frequent change from the passive voice of the source text to the active voice of the target text and in the use of the affirmative in place of the negative form. At a syntactic level, evidence of this tendency was found, for example, in the changes involving the theme/rheme relation in order to put the important information in the second part of the sentence. Another example are the cases where the sentence structure in the target text is changed so as to avoid the syntactic discontinuity of the source text.

As regards the reasons behind the translators' effort in improving the readability of the laws when translating, it is possible to hypothesise that, in this case as well, the tendency is a result of the pressures exercised by EU institutions (cf. Ulrych 2014). As illustrated in Chapter 2, the quality of the legislative texts is a key priority, something that can be seen clearly from the number of EU documents and initiatives bringing attention to this issue. As a matter of fact, many of the changes introduced by the translators in the target texts comply with the recommendations put forward by the institutional guidelines for the sake of clarity.

The first and the second tendencies illustrated above, i.e., respectively, the tendency to reproduce the patterns of the source text and the tendency to comply with the conventions of the target culture, determine what has been defined in Toury's (2012 [1995]) conceptual schema the «initial norm». This is the fundamental norm governing the choice between an «adequate» target text – i.e. a text that complies with the norms of the source text – and an «acceptable» target text – i.e. a text that complies with the norms of the target culture. As Toury (2012 [1995]) points out, however, no translation is either totally adequate or totally acceptable, but rather a compromise between the two. The results of the analysis in the present research show, in line with Toury's (2012 [1995]) assertion, a continuous oscillation between one extreme and the other.

The third tendency observed in the analysis – i.e. the tendency to opt for strategies that improve the clarity and readability of the target texts – constitutes, in Toury's (2012 [1995]) classification, an «operational norm». This is a norm that determines the type of relationship existing between source and target text with regard to transformations, replacements or omissions.

The analysis revealed that the translation of EU legislation is strictly regulated by the institutions and that these restrict the range of choices

available to the translators in their work and influence the norms that are applied. In spite of this, evidence has also shown that the translators still enjoy a certain degree of freedom in their translational choices. Three fundamental aspects are, however, always taken into account: firstly, the principle of equal authenticity; secondly, the ‘sentence rule’ whereby the different language versions can be easily aligned; and thirdly, the clarity and readability of the texts.

6.2. EVIDENCE OF TRANSLATION UNIVERSALS

The study provided evidence in support of the theories concerning the existence of universal features in translation, i.e. features that typically characterise translated texts as a result of the translation process itself (cf. Baker 1996; Chesterman 2004a). On the basis of Chesterman’s (2004a) classification of universals (see Chapter 3), the two S-universals that emerged more distinctly from the analysis are explicitation and the law of interference.

Evidence in support of the explicitation hypothesis (Baker 1996) was seen in the translators’ tendency to explicite and disambiguate the meaning expressed in a more implicit or ambiguous way in the source text, thus reducing the risk of a wrong interpretation on the part of the recipients. One case in point is the translation of *should* with Italian expressions conveying different degrees of obligation and necessity depending on the meaning implied in the source text.

Data supporting the law of interference posited by Toury (2012 [1995]) was found, for example, in the higher frequency of the Italian *dovere* in ITALEX compared to LEGITALIA. This may be seen as evidence of the translators’ tendency to use this verb to convey the prescriptive meaning expressed in English by *shall* and *must*, as a result of interference from the source text. As the present indicative of the lexical verb is the verb form that is instead typically used in Italian legislative texts, this can be considered as an example of «negative transfer» (Toury 2012 [1995]), i.e. of deviation from the conventional patterns of the target language as a result of the influence of the source language. As Toury (2012 [1995]) points out, the degree of tolerance of interference in a translated text depends on the socio-cultural conditions in which a translation is produced and received. In the case of EU translation, the analysis revealed that avoidance of interference from the source text is not one of the translators’ main concerns, since other factors are given priority.

As regards T-universals (Chesterman 2004a), evidence in support of the simplification hypothesis (Baker 1996) emerged from the analysis. As illustrated above, particular attention to the quality of translated texts is due to the requirements of the EU institutions. However, from the analysis it emerged that the translated version of the laws in the EURO-CoL corpus tend to be even clearer and more simplified than the source texts, as a result of the changes introduced during the translation process. Since not only translators, but the drafters of the original texts as well, are subjected to the same EU guidelines, the evidence of improved quality in the translated texts compared to the source texts acquires particular significance. The findings support the hypothesis of simplification as a universal feature of translation, as well as the view that each rewriting process that a text undergoes makes it simpler and more readable (Koskinen 2008; Ulrych - Murphy 2008; Stefaniak 2013).

Although the focus of the present research is on translation, the analysis also provided empirical data concerning the different distribution of the expressions of modality in EU and UK legislative texts. In particular, it emerged from the analysis that EU laws are more strongly characterised by the modals *shall*, *should* and *can* compared to UK legislation. On the contrary, the modal expressions *may*, *must*, *will* and *be to* occur more frequently in British laws. Such findings confirm that EU legal English is characterised by specific features that distinguish it from legal English in the UK, which is in line with previous research into EU language (cf. Garzone 2000; Koskinen 2000; Caliendo 2004; Robertson 2010; Sandrelli 2018). In particular, the data showing a much higher frequency of the modal *shall* in EU legislative texts compared to UK original laws is a confirmation of the dramatic drop in the use of this modal in British legislation reported in previous studies (cf. Garzone 2013; Williams 2013; Anselmi - Seracini 2015).

6.3. IMPLICATIONS, LIMITATIONS AND FUTURE DIRECTIONS

The present study sheds light on the translation relation between source and target EU legislative texts and on the norms governing EU translation. The findings partly confirm previous research into the field, which holds that EU translators tend to adopt a conciliatory approach between translating literally and complying with the conventions of the target culture (Kjør 2007, 83). As a result of this study, however, it also emerged that translators tend to opt for a somewhat freer approach to the texts for

the sake of clarity and readability. This work is also a contribution to the studies concerning translation universals, in that it provides evidence in support of the existence of universal features in an area, legal translation, where this aspect has not yet been extensively investigated. From a legal perspective, the study sheds light on the role of the translators' work in achieving the EU's objective of legal harmonisation and on the effect of the translation strategies adopted on the quality of the translated laws. Finally, this work contributes empirical data to research into EU legal language as a distinct language variety.

One of the limits of the present research lies in the fact that, due to the high number of occurrences of the expressions of modality considered, it was necessary to base the analysis of the translational patterns on a restricted number of occurrences. However, in order to offset this drawback and to proceed, nonetheless, scientifically, the «hypothesis testing» method developed by Hunston (2002, 52) and based on the method first suggested by Sinclair (1999) was adapted in the present research to the study of translation. Though it was not possible to calculate the frequency with which the translational patterns occur, this method allowed the findings to be grounded on empirical evidence.

Another limitation concerns the representativeness of the corpus. The corpus includes EU laws translated from English into Italian and adopted in the 2005-2015 timeframe in the area of consumer protection law and these elements may have influenced the analysis. For example, it may be hypothesised that older legislation is less affected by issues of quality since this has become a priority in the agenda of EU institutions in more recent years. Nonetheless, this study is a useful starting point for future research into translated EU law, which could produce additional evidence to support a generalisation of the findings. Moreover, the analysis could be extended to other significant linguistic elements, such as functional language, specialised terms and the passive voice. Finally, a further development of the present research could be methodological: the adaptation of the «hypothesis testing» method (Hunston 2002) to the study of translation applied in the present research could also be tested in other areas of Translation Studies.

APPENDICES

APPENDIX 1. ENGLISH – WORDLIST
(TOP 300 WORDS)

RANK	OCCURRENCES	WORD	RANK	OCCURRENCES	WORD
1	198,280	the	37	6,695	test
2	131,224	of	38	6,609	commission
3	73,905	and	39	6,525	official
4	70,553	to	40	6,396	referred
5	65,589	in	41	6,212	journal
6	33,927	be	42	6,077	accordance
7	32,669	or	43	5,995	if
8	32,171	for	44	5,993	states
9	27,299	shall	45	5,820	annex
10	23,306	with	46	5,804	such
11	22,310	article	47	5,742	any
12	21,828	by	48	5,497	its
13	20,263	is	49	5,462	state
14	18,766	on	50	5,275	information
15	16,564	as	51	5,256	more
16	16,231	that	52	5,103	following
17	14,608	not	53	4,974	used
18	13,601	this	54	4,766	acute
19	11,794	no	55	4,707	products
20	11,012	are	56	4,617	those
21	10,902	which	57	4,549	out
22	10,752	european	58	4,486	all
23	10,493	from	59	4,477	must
24	10,249	an	60	4,454	use
25	9,832	should	61	4,386	requirements
26	9,640	member	62	4,231	under
27	9,532	ec	63	4,185	paragraph
28	9,458	it	64	4,135	council
29	9,287	at	65	4,095	their
30	8,871	directive	66	3,969	measures
31	8,826	may	67	3,956	ensure
32	8,731	regulation	68	3,949	have
33	8,430	union	69	3,887	code
34	7,938	than	70	3,886	appropriate
35	7,038	where	71	3,832	aquatic
36	7,012	other	72	3,748	hazard

RANK	OCCURRENCES	WORD	RANK	OCCURRENCES	WORD
73	3,679	has	111	2,826	chemical
74	3,654	provided	112	2,811	safety
75	3,645	point	113	2,807	acid
76	3,615	when	114	2,751	technical
77	3,477	substance	115	2,743	take
78	3,475	procedure	116	2,706	down
79	3,414	conditions	117	2,705	order
80	3,336	national	118	2,691	category
81	3,302	one	119	2,671	water
82	3,294	food	120	2,656	time
83	3,291	they	121	2,650	chronic
84	3,255	hydrocarbons	122	2,648	petroleum
85	3,226	into	123	2,647	parliament
86	3,182	product	124	2,580	part
87	3,108	specific	125	2,562	available
88	3,104	having	126	2,511	community
89	3,100	authority	127	2,506	particular
90	3,097	necessary	128	2,455	competent
91	3,060	including	129	2,446	required
92	3,054	provisions	130	2,439	type
93	3,039	means	131	2,417	after
94	3,030	skin	132	2,411	classification
95	3,024	flight	133	2,406	authorities
96	3,023	substances	134	2,401	applicable
97	3,005	market	135	2,388	rules
98	2,983	each	136	2,320	credit
99	2,982	decision	137	2,319	payment
100	2,955	gas	138	2,311	adopted
101	2,955	within	139	2,307	made
102	2,939	relevant	140	2,297	only
103	2,934	been	141	2,295	period
104	2,924	data	142	2,282	procedures
105	2,919	system	143	2,277	kg
106	2,916	non	144	2,252	application
107	2,903	set	145	2,244	through
108	2,882	operator	146	2,221	identification
109	2,868	apply	147	2,213	can
110	2,849	range	148	2,185	section

Appendix 1. ENGLISH – Wordlist

RANK	OCCURRENCES	WORD	RANK	OCCURRENCES	WORD
149	2,166	least	187	1,782	quality
150	2,157	labelling	188	1,779	name
151	2,156	control	189	1,756	basis
152	2,142	obtained	190	1,745	subparagraph
153	2,116	conformity	191	1,734	consists
154	2,112	body	192	1,718	up
155	2,098	assessment	193	1,715	animals
156	2,095	combination	194	1,712	regard
157	2,092	account	195	1,709	international
158	2,085	carbon	196	1,707	general
159	2,085	reference	197	1,695	boiling
160	2,083	first	198	1,656	essential
161	2,070	method	199	1,639	notified
162	2,061	without	200	1,633	criteria
163	2,058	between	201	1,633	numbers
164	2,052	level	202	1,603	before
165	2,051	number	203	1,600	regulatory
166	2,050	consumer	204	1,599	during
167	2,050	eu	205	1,597	muta
168	2,042	also	206	1,594	operations
169	2,042	eec	207	1,586	energy
170	2,033	less	208	1,585	content
171	2,024	case	209	1,567	maximum
172	2,005	aeroplane	210	1,562	these
173	1,986	class	211	1,559	methy
174	1,977	articles	212	1,558	standards
175	1,960	crew	213	1,554	production
176	1,957	service	214	1,553	concerned
177	1,934	replaced	215	1,553	manufacturer
178	1,910	complex	216	1,527	subject
179	1,910	mass	217	1,527	weight
180	1,896	equipment	218	1,516	specified
181	1,871	concentration	219	1,507	amended
182	1,865	services	220	1,505	elements
183	1,864	predominantly	221	1,503	established
184	1,863	provide	222	1,468	based
185	1,837	laid	223	1,468	new
186	1,782	oil	224	1,457	risk

Appendix 1. ENGLISH – Wordlist

RANK	OCCURRENCES	WORD	RANK	OCCURRENCES	WORD
225	1,455	taken	263	1,219	compliance
226	1,450	off	264	1,218	given
227	1,447	naphtha	265	1,216	public
228	1,436	carried	266	1,200	produced
229	1,413	third	267	1,200	wine
230	1,408	certain	268	1,196	light
231	1,405	health	269	1,193	notes
232	1,380	possible	270	1,190	but
233	1,372	list	271	1,187	description
234	1,366	two	272	1,186	mixture
235	1,363	include	273	1,177	financial
236	1,359	protection	274	1,177	purposes
237	1,352	date	275	1,174	request
238	1,344	will	276	1,169	organic
239	1,342	minimum	277	1,169	temperature
240	1,341	intended	278	1,161	committee
241	1,337	training	279	1,159	does
242	1,335	eye	280	1,153	above
243	1,329	concerning	281	1,148	effects
244	1,328	relating	282	1,142	methods
245	1,317	designed	283	1,137	waste
246	1,310	low	284	1,130	whether
247	1,309	iso	285	1,126	approved
248	1,304	results	286	1,125	operation
249	1,301	law	287	1,112	unless
250	1,295	same	288	1,108	bodies
251	1,289	table	289	1,108	form
252	1,282	sodium	290	1,108	implementing
253	1,278	limits	291	1,099	persons
254	1,265	total	292	1,093	authorised
255	1,263	process	293	1,093	treatment
256	1,256	using	294	1,082	high
257	1,253	so	295	1,076	materials
258	1,251	index	296	1,074	additional
259	1,245	adopt	297	1,073	thereof
260	1,237	containing	298	1,062	solution
261	1,228	report	299	1,060	see
262	1,228	toxicity	300	1,059	defined

APPENDIX 2. ITALEX – WORDLIST
(TOP 300 WORDS)

RANK	OCCURRENCES	WORD	RANK	OCCURRENCES	WORD
1	154,889	di	37	9,616	si
2	81,792	e	38	9,473	se
3	52,588	a	39	8,800	direttiva
4	46,547	l	40	8,617	regolamento
5	43,884	del	41	8,492	unione
6	43,223	la	42	7,801	it
7	41,935	in	43	7,559	nel
8	38,590	o	44	7,291	europea
9	36,655	i	45	7,127	degli
10	36,483	il	46	6,921	alle
11	36,311	per	47	6,910	membri
12	28,640	della	48	6,806	stati
13	26,609	le	49	6,700	dal
14	26,191	un	50	6,427	ufficiale
15	25,361	che	51	6,424	commissione
16	23,162	dell	52	6,262	più
17	22,462	articolo	53	6,231	gazzetta
18	20,252	non	54	5,757	allegato
19	19,331	è	55	5,697	ad
20	18,162	al	56	5,649	autorità
21	16,591	dei	57	5,609	prodotti
22	16,524	delle	58	5,433	numero
23	15,718	all	59	5,431	tali
24	15,717	cui	60	5,413	deve
25	15,268	da	61	5,390	nella
26	14,163	essere	62	5,259	può
27	14,021	una	63	5,206	the
28	13,251	con	64	4,965	sostanza
29	12,110	alla	65	4,784	caso
30	12,004	gli	66	4,629	dati
31	11,582	paragrafo	67	4,577	stato
32	11,552	of	68	4,555	sia
33	9,934	ai	69	4,551	punto
34	9,900	sono	70	4,443	tale
35	9,819	ce	71	4,418	come
36	9,717	presente	72	4,389	dalla

RANK	OCCURRENCES	WORD	RANK	OCCURRENCES	WORD
73	4,366	informazioni	111	2,885	conto
74	4,287	consiglio	112	2,857	requisiti
75	4,281	possono	113	2,827	mercato
76	4,264	acute	114	2,820	decisione
77	4,164	nell	115	2,810	cat
78	4,158	su	116	2,786	valutazione
79	4,075	devono	117	2,772	dall
80	3,988	parte	118	2,769	operatore
81	3,970	sostanze	119	2,764	tra
82	3,809	sul	120	2,761	dovrebbe
83	3,789	and	121	2,755	prodotto
84	3,782	misure	122	2,651	mg
85	3,730	condizioni	123	2,641	categoria
86	3,696	disposizioni	124	2,628	to
87	3,578	aquatic	125	2,614	quanto
88	3,556	loro	126	2,599	sistema
89	3,541	secondo	127	2,567	parlamento
90	3,465	membro	128	2,553	applicazione
91	3,464	codici	129	2,533	ogni
92	3,455	base	130	2,515	tipo
93	3,408	conformità	131	2,498	volo
94	3,395	lettera	132	2,484	prima
95	3,263	pericolo	133	2,395	classificazione
96	3,263	sicurezza	134	2,388	particolare
97	3,262	controllo	135	2,383	tutti
98	3,257	procedura	136	2,335	lo
99	3,243	siano	137	2,316	riferimento
100	3,231	gas	138	2,306	operazioni
101	3,227	ed	139	2,306	range
102	3,209	sulla	140	2,290	uno
103	3,185	norme	141	2,285	kg
104	3,167	hydrocarbons	142	2,262	modo
105	3,092	altri	143	2,258	skin
106	3,076	europeo	144	2,256	petroleum
107	3,038	nei	145	2,249	uso
108	3,020	norma	146	2,231	animali
109	2,938	servizi	147	2,209	dello
110	2,893	agli	148	2,195	pagamento

Appendix 2. ITALEX – Wordlist

RANK	OCCURRENCES	WORD	RANK	OCCURRENCES	WORD
149	2,194	quando	187	1,830	predominantly
150	2,182	dovrebbero	188	1,830	ue
151	2,173	indicazioni	189	1,826	limiti
152	2,167	acqua	190	1,801	sull
154	2,161	seguenti	191	1,781	complex
153	2,161	anche	192	1,765	equipaggio
155	2,158	almeno	193	1,764	from
156	2,154	quali	194	1,761	sensi
157	2,142	fine	195	1,758	materia
158	2,141	procedure	196	1,756	comma
159	2,135	necessario	197	1,701	qualora
160	2,126	identificazione	198	1,701	relazione
161	2,102	prova	199	1,699	meno
162	2,101	velivolo	200	1,697	combination
163	2,088	periodo	201	1,681	quale
164	2,063	elementi	202	1,673	test
165	2,063	seguente	203	1,671	qualsiasi
166	2,058	cee	204	1,663	casi
167	2,057	metodo	205	1,658	produzione
168	2,018	esame	206	1,647	mediante
169	2,018	relative	207	1,645	criteri
170	2,010	livello	208	1,643	sulle
171	2,003	ops	209	1,621	carbon
172	1,997	bis	210	1,617	data
173	1,986	etichettatura	211	1,611	alimenti
174	1,975	altre	212	1,608	nazionali
175	1,953	nelle	213	1,598	classe
176	1,937	entro	214	1,597	muta
177	1,931	conformemente	215	1,591	opportuno
178	1,917	organismo	216	1,579	consumatori
179	1,916	fini	217	1,565	consists
180	1,912	tutte	218	1,555	boiling
181	1,908	concentrazione	219	1,552	nazionale
182	1,898	no	220	1,547	nonché
183	1,883	attività	221	1,533	vigilanza
184	1,871	dopo	222	1,530	adottate
185	1,860	ha	223	1,510	having
186	1,853	qualità	224	1,491	sotto

RANK	OCCURRENCES	WORD	RANK	OCCURRENCES	WORD
225	1,488	garantire	263	1,312	fino
226	1,487	acido	264	1,309	methy
227	1,486	essenziali	265	1,309	parti
228	1,484	due	266	1,308	tossicità
229	1,484	superiore	267	1,307	dalle
230	1,479	passaggeri	268	1,306	iso
231	1,471	durante	269	1,297	inferiore
232	1,462	senza	270	1,295	paragrafi
233	1,459	relativa	271	1,292	specifici
234	1,451	alimentari	272	1,288	elenco
235	1,451	articoli	273	1,286	origine
236	1,448	fabbricante	274	1,285	specifiche
237	1,444	diritto	275	1,284	trasporto
238	1,434	risultati	276	1,280	applica
239	1,422	relativi	277	1,266	note
240	1,416	naphtha	278	1,263	massa
241	1,407	by	279	1,242	sua
242	1,401	regolamentazione	280	1,234	obtained
243	1,400	numbers	281	1,224	comitato
244	1,395	primo	282	1,223	persone
245	1,394	altro	283	1,222	contenuto
246	1,389	peso	284	1,222	tempo
247	1,388	possibile	285	1,221	atti
248	1,381	sui	286	1,217	pertinenti
249	1,378	internazionale	287	1,215	chimica
250	1,378	solo	288	1,214	termine
251	1,372	competenti	289	1,212	applicano
252	1,370	effetti	290	1,207	oil
253	1,362	credito	291	1,202	ma
254	1,356	richiesta	292	1,191	capo
255	1,355	esempio	293	1,191	consumatore
256	1,345	servizio	294	1,191	denominazione
257	1,344	necessarie	295	1,186	modificare
258	1,336	fatto	296	1,184	esecuzione
259	1,336	tecniche	297	1,184	prove
260	1,331	through	298	1,179	interno
261	1,329	organismi	299	1,178	misura
262	1,319	sostituito	300	1,178	quantità

APPENDIX 3. ITALEX/LEGITALIA – KEYWORD LIST
(TOP 300 WORDS)

RANK	OCCURRENCES	WORD	RANK	OCCURRENCES	WORD
1	19,331	è	37	1,830	predominantly
2	11,552	of	38	1,781	complex
3	7,801	it	39	1,986	etichettatura
4	11,582	paragrafo	40	1,764	from
5	6,262	più	41	1,853	qualità
6	5,649	autorità	42	2,769	operatore
7	8,492	unione	43	1,697	combination
8	8,800	direttiva	44	6,424	commissione
9	5,259	può	45	1,597	muta
10	5,206	the	46	1,565	consists
11	9,819	ce	47	2,285	kg
12	4,264	acute	48	1,555	boiling
13	4,965	sostanza	49	1,621	carbon
14	3,578	aquatic	50	2,231	animali
15	6,231	gazzetta	51	1,673	test
16	3,789	and	52	1,510	having
17	3,408	conformità	53	1,898	no
18	6,910	membri	54	1,765	equipaggio
19	7,291	europea	55	3,465	membro
20	3,314	gu	56	5,433	numero
21	3,167	hydrocarbons	57	1,416	naphtha
22	8,617	regolamento	58	14,163	essere
23	3,464	codici	59	1,400	numbers
24	2,810	cat	60	6,806	stati
25	2,761	dovrebbe	61	1,407	by
26	2,628	to	62	1,611	alimenti
27	3,263	pericolo	63	1,448	fabbricante
28	2,306	range	64	5,609	prodotti
29	26,191	un	65	1,331	through
30	2,258	skin	66	1,309	methyl
31	2,256	petroleum	67	1,308	tossicità
32	4,551	punto	68	2,651	mg
33	2,101	velivolo	69	3,970	sostanze
34	2,182	dovrebbero	70	3,076	europeo
35	6,427	ufficiale	71	1,883	attività
36	2,498	volo	72	1,479	passaggeri

RANK	OCCURRENCES	WORD	RANK	OCCURRENCES	WORD
73	2,126	identificazione	111	881	decollo
74	1,234	obtained	112	5,413	deve
75	3,231	gas	113	1,908	concentrazione
76	2,395	classificazione	114	2,102	prova
77	2,057	metodo	115	4,629	dati
78	5,757	allegato	116	816	hydrogen
79	1,178	quantità	117	800	coal
80	14,021	una	118	9,473	se
81	2,820	decisione	119	774	approximately
82	1,157	saggio	120	769	reaction
83	1,830	ue	121	755	low
84	1,099	sì	122	753	chronic
85	1,089	eye	123	764	amino
86	2,058	cee	124	1,486	essenziali
87	1,073	acid	125	1,266	note
88	1,207	oil	126	739	catalytic
89	1,082	bce	127	759	dose
90	2,173	indicazioni	128	38,590	o
91	1,591	opportuno	129	718	pittogrammi
92	1,112	comunità	130	801	responsabilità
93	2,567	parlamento	131	741	velivoli
94	1,487	acido	132	1,019	notificato
95	2,641	categoria	133	2,018	esame
96	1,547	nonché	134	1,058	addestramento
97	3,020	norma	135	1,295	paragrafi
98	1,065	miscela	136	2,515	tipo
99	970	with	137	751	vino
100	1,917	organismo	138	859	ml
101	5,431	tali	139	673	pista
102	1,401	regolamentazione	140	838	unità
103	2,827	mercato	141	1,186	modificare
104	46,547	l	142	685	atterraggio
105	36,655	i	143	1,355	esempio
106	1,389	peso	144	713	aeroporto
107	2,755	prodotto	145	635	point
108	998	cabina	146	657	mangimi
109	1,215	chimica	147	1,109	soluzione
110	908	distillation	148	1,263	massa

RANK	OCCURRENCES	WORD	RANK	OCCURRENCES	WORD
149	689	sodio	187	532	etichetta
150	625	light	188	475	products
151	625	purezza	189	535	possibilità
152	1,931	conformemente	190	576	sali
153	674	né	191	468	solvent
154	1,062	temperatura	192	555	così
155	615	ethyl	193	539	proprietà
156	2,135	necessario	194	460	dimethyl
157	719	or	195	460	distillate
158	584	cracked	196	492	zucchero
159	591	fat	197	475	purché
160	608	mass	198	747	modificata
161	566	velocità	199	1,101	tenore
162	585	ciò	200	1,598	classe
163	1,191	denominazione	201	741	pressione
164	1,579	consumatori	202	447	fraction
165	554	aromatic	203	516	vini
166	550	gases	204	443	phenyl
167	548	chloro	205	437	naphthalene
168	584	avvicinamento	206	559	riscaldamento
169	860	contatto	207	2,306	operazioni
170	542	process	208	797	bordo
171	2,167	acqua	209	467	pelle
172	533	press	210	416	produced
173	764	miscela	211	682	occorre
174	698	manuale	212	660	appendice
175	1,451	alimentari	213	930	dispositivi
176	853	pertanto	214	583	for
177	20,252	non	215	837	modalità
178	1,184	prove	216	925	condotta
179	520	affinché	217	478	additivi
180	553	capacità	218	595	macchine
181	493	sodium	219	418	entità
182	828	istruzioni	220	518	cellule
183	486	distillates	221	396	sinonimi
184	486	unspecified	222	809	comunitario
185	546	molecolare	223	855	alimentare
186	908	esposizione	224	4,075	devono

RANK	OCCURRENCES	WORD	RANK	OCCURRENCES	WORD
225	404	alimento	263	2,063	elementi
226	384	extract	264	982	tuttavia
227	384	primarily	265	1,491	sotto
228	881	segue	266	453	polvere
229	1,699	meno	267	1,102	descrizione
230	518	grassi	268	394	equipaggiamenti
231	1,530	adottate	269	456	altezza
232	378	anidra	270	397	geneticamente
233	3,262	controllo	271	314	triazin
234	788	emergenza	272	477	omologazione
235	427	ingredienti	273	309	oils
236	1,217	pertinenti	274	309	refinery
237	434	necessità	275	471	prestatore
238	387	validità	276	787	potere
239	529	già	277	4,366	informazioni
240	407	recipiente	278	2,262	modo
241	1,286	origine	279	318	nickel
242	493	macchina	280	417	crediti
243	553	animale	281	3,263	sicurezza
244	3,257	procedura	282	652	fabbricazione
245	428	armonizzate	283	385	potassio
246	356	solubilità	284	1,434	risultati
247	1,222	contenuto	285	296	poiché
248	355	heavy	286	296	treated
249	25,361	che	287	1,292	specifici
250	394	acuta	288	320	rotta
251	684	regola	289	337	cutanea
252	472	marcatura	290	1,202	ma
253	473	calcio	291	321	vedi
254	389	ascensori	292	287	saturated
255	2,195	pagamento	293	297	lattanti
256	1,362	credito	294	461	latte
257	833	intese	295	286	dihydro
258	338	vol	296	426	usare
259	355	cracking	297	568	dispositivo
260	344	hydro	298	282	butyl
261	343	visibilità	299	393	incendio
262	425	as	300	520	positivo

REFERENCES

- B. Aarts - J. Close - G. Leech - S. Wallis (eds.), *The Verb Phrase in English: Investigating Recent Language Change with Corpora*, Cambridge, Cambridge University Press, 2013.
- G. Ajani, - P. Rossi, «Coerenza del diritto privato europeo e multilinguismo», in V. Jacometti - B. Pozzo (eds.), *Le politiche linguistiche delle istituzioni comunitarie dopo l'allargamento*, Milano, Giuffrè, 2006, 119-139.
- M. Andenas - C. Baasch Andersen (eds.), *Theory and Practice of Harmonisation*, Cheltenham, Edward Elgar, 2012.
- G.M. Anderman - M. Rogers (eds.), *Incorporating Corpora: The Linguist and the Translator*, Clevedon, Multilingual Matters, 2007.
- S. Anselmi - F. Seracini, «The Transposition of EU Directives into British Legislation as Intralingual Translation: A Corpus-based Analysis of the Rewriting Process», *Textus* 28, 2 (2015), 39-62.
- I.A. Araguás - J. Baigorri Jalón - H.J.L. Campbell (eds.), *Translating Justice*, Granada, Comeras, 2010.
- J.L. Austin, *How to Do Things with Words*, Oxford, Oxford University Press, 1975 (1962).
- G. Azzaro - M. Ulrych (eds.), *Anglistica e... Metodi e percorsi comparatistici nelle lingue, culture e letterature di origine europea*, Trieste, Edizioni Università di Trieste, 1999.
- C.J.W. Baaij, «Preface», in C.J.W. Baaij (ed.), *The Role of Legal Translation in Legal Harmonization*, Alphen aan den Rijn, Kluwer Law International, 2012a, xvii-xviii.
- C.J.W. Baaij, «The Significance of Legal Translation for Legal Harmonization», in C.J.W. Baaij (ed.), *The Role of Legal Translation in Legal Harmonization*, Alphen aan den Rijn, Kluwer Law International, 2012b, 1-24.
- C.J.W. Baaij (ed.), *The Role of Legal Translation in Legal Harmonization*, Alphen aan den Rijn, Kluwer Law International, 2012c.
- M. Baker, «Corpus Linguistics and Translation Studies: Implications and Applications», in M. Baker - G. Francis - E. Tognini-Bonelli (eds.),

- Text and Technology*, Philadelphia - Amsterdam, John Benjamins, 1993, 233-250.
- M. Baker, «Corpora in Translation Studies: An Overview and Some Suggestions for Future Research», *Target* 7, 2 (1995), 223-245.
- M. Baker, «Corpus-based Translation Studies: The Challenges That Lie Ahead», in H.L. Somers (ed.), *Terminology, LSP and Translation. Studies in Language Engineering in Honour of Juan C. Sager*, Amsterdam, John Benjamins, 1996, 175-186.
- M. Baker - G. Francis - E. Tognini-Bonelli (eds.), *Text and Technology*, Philadelphia - Amsterdam, John Benjamins, 1993.
- M. Baker - G. Saldanha (eds.), *Routledge Encyclopedia of Translation Studies*, London - New York, Routledge, 1998.
- S. Bassnett - A. Lefevere, *Constructing Cultures*, Clevedon - Philadelphia - Toronto - Sydney - Johannesburg, Multilingual Matters, 1998.
- V.K. Bhatia - C.N. Candlin - M. Gotti (eds.), *Legal Discourse in Multilingual and Multicultural Contexts*, Bern, Peter Lang, 2003.
- D. Biber - S. Conrad - R. Reppen, *Corpus Linguistics*, Cambridge, Cambridge University Press, 1998.
- D. Biber - S. Johansson - G. Leech - S. Conrad - E. Finegan, *Longman Grammar of Spoken and Written English*, Harlow, Longman, 1999.
- Ł. Biel, «Corpus-based Studies of Legal Language for Translation Purposes: Methodological and Practical Potential», in C. Heine - J. Engberg (eds.), *Reconceptualizing LSP: Online Proceedings of the XVII European LSP Symposium 2009*, Aarhus, Aarhus School of Business - Aarhus University, 2010a, 1-15, [http://pure.au.dk/portal/en/publications/reconceptualizing-lsp\(0ec3d550-f243-11df-8ec7-000ea68e967b\).html](http://pure.au.dk/portal/en/publications/reconceptualizing-lsp(0ec3d550-f243-11df-8ec7-000ea68e967b).html).
- Ł. Biel, «The Textual Fit of Legal Translations: Focus on Collocations in Translator Training», in Ł. Bogucki (ed.), *Teaching Translation and Interpreting: Challenges and Practices*, Newcastle upon Tyne, Cambridge Scholars Publishing, 2010b, 25-39.
- Ł. Biel, «The Textual Fit of Translated EU Law: A Corpus-based Study of Deontic Modality», *The Translator* 20, 2 (2014a), 1-23.
- Ł. Biel, «Phraseology in Legal Translation: A Corpus-based Analysis of Textual Mapping in EU Law», in L. Cheng - K. Kui Sin - A. Wagner (eds.), *The Ashgate Handbook of Legal Translation*, Farnham, Ashgate, 2014b, 177-192.
- Ł. Biel, *Lost in the Eurofog: The Textual Fit of Translated Law*, Frankfurt am Main, Peter Lang, 2014c.
- Ł. Biel, «Quality in Institutional EU Translation: Parameters, Policies and Practices», in T. Svoboda - Ł. Biel - K. Łoboda (eds.), *Quality Aspects in Institutional Translation*, Berlin, Language Science Press, 2017, 31-57.

- Ł. Biel - J. Engberg, «Research Models and Methods in Legal Translation», *Linguistica Antverpiensia, New Series: Themes in Translation Studies* 12 (2013), 1-11.
- Ł. Bogucki (ed.), *Teaching Translation and Interpreting: Challenges and Practices*, Newcastle upon Tyne, Cambridge Scholars Publishing, 2010.
- K.-D. Borchardt, *The ABC of European Union Law*, Luxembourg, Publications Office of the European Union, 2010.
- E. Brems - R. Meylaerts - L. van Doorslaer (eds.), *The Known Unknowns of Translation Studies*, Amsterdam - Philadelphia, John Benjamins, 2014a.
- E. Brems - R. Meylaerts - L. van Doorslaer, «Translation Studies Looking Back and Looking Forward: A Discipline's Meta-Reflection», in E. Brems - R. Meylaerts - L. van Doorslaer (eds.), *The Known Unknowns of Translation Studies*, Amsterdam - Philadelphia, John Benjamins, 2014b, 1-16.
- R.A. Brower (ed.), *On Translation*, Cambridge (MA), Harvard University Press, 1959.
- G. Caliendo, «EU Language in Cross-Boundary Communication», *Textus* 17, 1 (2004), 159-178.
- G. Caliendo, «Modality and Communicative Interaction in EU Law», in C.N. Candlin - M. Gotti (eds.), *Intercultural Aspects of Specialized Communication*, Bern, Peter Lang, 2007, 241-259.
- G. Caliendo - G. Di Martino - M. Venuti, «Language and Discourse Features of EU Secondary Legislation», in G. Cortese - A. Duszak (eds.), *Identity, Community, Discourse: English in Intercultural Settings*, Bern, Peter Lang, 2005, 381-404.
- C.N. Candlin - M. Gotti (eds.), *Intercultural Aspects of Specialized Communication*, Bern, Peter Lang, 2007.
- D. Cao, *Translating Law*, Clevedon, Multilingual Matters, 2007.
- G. Carcaterra, «Norme Costitutive», in U. Scarpelli - P. Di Lucia (eds.), *Il linguaggio del diritto*, Milano, LED Edizioni Universitarie di Lettere Economia Diritto, 1994, 219-231.
- P. Catenaccio, «Aspetti linguistici e discorsivi del recepimento nel diritto inglese della Direttiva 1993/13/CE del Consiglio concernente le clausole abusive nei contratti stipulati con i consumatori», in G. Garzone - F. Santulli (eds.), *Il linguaggio giuridico*, Milano, Giuffrè, 2008, 139-170.
- R. Caterina - P. Rossi, «L'italiano giuridico», in B. Pozzo - M. Timoteo (eds.), *Europa e linguaggi giuridici*, Milano, Giuffrè, 2008, 185-208.
- L. Cheng - K. Kui Sin - A. Wagner (eds.), *The Ashgate Handbook of Legal Translation*, Farnham, Ashgate, 2014.
- A. Chesterman, «Beyond the Particular», in A. Mauranen - P. Kujamäki (eds.), *Translation Universals: Do They Exist?*, Amsterdam - Philadelphia, John Benjamins, 2004a, 33-49.

- A. Chesterman, «Hypotheses about Translation Universals», in G. Hansen - K. Malmkjær - D. Gile (eds.), *Claims, Changes and Challenges in Translation Studies*, Amsterdam - Philadelphia, John Benjamins, 2004b, 1-14.
- A. Chesterman, *Memes of Translation*, Amsterdam - Philadelphia, John Benjamins, 2016.
- A. Chesterman - R. Arrojo, «Shared Grounds in Translation Studies», *Target* 12, 1 (2000), 151-160.
- A.G. Conte, «Performativo vs. normativo», in U. Scarpelli - P. Di Lucia (eds.), *Il linguaggio del diritto*, Milano, LED Edizioni Universitarie di Lettere Economia Diritto, 1994, 247-263.
- M.A. Cortellazzo, «L'italiano giuridico sta davvero cambiando?», in B. Pozzo - F. Bambi (eds.), *L'italiano giuridico che cambia*, Firenze, Accademia della Crusca, 2012, 179-183.
- G. Cortese - A. Duszak (eds.), *Identity, Community, Discourse: English in Intercultural Settings*, Bern, Peter Lang, 2005.
- D. Cosmai, *Tradurre per l'Unione Europea*, Milano, Hoepli, 2007.
- M. Cutts, *Oxford Guide to Plain English*, Oxford, Oxford University Press, 2013.
- G. Diani, «Modality and Speech Acts in English Acts of Parliament», in M. Gotti - M. Dossena (eds.), *Modality in Specialized Texts*, Bern, Peter Lang, 2001, 175-191.
- Dipartimento per gli Affari Giuridici e Legislativi, *Guida alla redazione dei testi normativi*, 2001, <https://www.gazzettaufficiale.it/eli/gu/2001/05/03/101/so/105/sg/pdf>.
- E.A. Driedger, «Legislative Drafting», *Meta: Journal des Traducteurs / Meta: Translators' Journal* 25 (1980), 316-324, <https://www.erudit.org/fr/revues/meta/1980-v25-n3-meta289/002589ar/>.
- European Commission, *Manual on Legislative Drafting*, 1996, http://ec.europa.eu/smart-regulation/better_regulation/documents/legis_draft_comm_en.pdf.
- European Commission, *White Paper on European Governance*, 2001, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2001:0428:FIN:EN:PDF>.
- European Commission, *Green Paper from the Commission of 1 July 2010 on Policy Options for Progress towards a European Contract Law for Consumers and Businesses*, 2010, <http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52010DC0348&from=EN>.
- European Commission, *Smart Regulation Agenda*, 2010, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2010:0543:FIN:EN:PDF>.
- European Commission, *How to Write Clearly*, Luxembourg, Publications Office of the European Union, 2011, <http://bookshop.europa.eu/en/how-to-write-clearly-pbHC3010536/>.

- European Commission, *Scrivere Chiaro*, Luxembourg, Publications Office of the European Union, 2013, <http://bookshop.europa.eu/it/scrivere-chiaro-pbHC3212148/>.
- European Commission, *Better Regulation for Better Results: An EU Agenda*, 2015, <http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1451989021436&uri=CELEX:52015DC0215>.
- European Commission, *Better Regulation Guidelines*, 2015, http://ec.europa.eu/smart-regulation/guidelines/docs/swd_br_guidelines_en.pdf.
- European Commission, *Better Regulation 'Toolbox'*, 2015, http://ec.europa.eu/smart-regulation/guidelines/docs/br_toolbox_en.pdf.
- European Commission, *Translation Tools and Workflow*, Luxembourg, Publications Office of the European Union, 2016, http://ec.europa.eu/smart-regulation/guidelines/docs/br_toolbox_en.pdf.
- European Commission, Council of the European Union and European Parliament, *Interinstitutional Agreement on Better Law-Making*, 2003, [http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32003Q1231\(01\):EN:HTML](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32003Q1231(01):EN:HTML).
- European Commission Directorate-General for Interpretation, *Interpreting and Translating for Europe*, Bruxelles - Luxembourg, 2010, http://www.eesc.europa.eu/resources/docs/citi-brochure_EN.pdf.
- European Commission Directorate-General for Translation, *Programme for Quality Management in Translation: 22 Quality Actions*, 2009, http://ec.europa.eu/dgs/translation/publications/studies/quality_management_translation_en.pdf.
- European Commission Directorate-General for Translation, *Lawmaking in the EU Multilingual Environment*, Luxembourg, Publications Office of the European Union, 2010, http://bookshop.europa.eu/is-bin/INTERSHOP.enfinity/WFS/EU-Bookshop-Site/en_GB/-/EUR/ViewPublication-Start?PublicationKey=HC3110678.
- European Commission Directorate-General for Translation, *DGT Translation Quality Guidelines*, 2015, http://ec.europa.eu/translation/maltese/guidelines/documents/dgt_translation_quality_guidelines_en.pdf.
- European Commission Directorate-General for Translation, *English Style Guide*, 2016, https://ec.europa.eu/info/files/english-resources-english-style-guide_en.
- European Union, *Quality Assurance at the Council's Translation Department*, Bruxelles, 2011a, <https://publications.europa.eu/en/publication-detail/-/publication/af889468-04a9-4c94-af40-7b4235c523e0>.
- European Union, *Interinstitutional Style Guide*, Luxembourg, Publications Office of the European Union, 2011b, <http://publications.europa.eu/code/en/en-000100.htm>.
- European Union, *Translation and Multilingualism*, Luxembourg, Publications Office of the European Union, 2014, <https://publications.europa>.

- eu/en/publication-detail/-/publication/74b279b3-8d21-4bdd-93e8-457340a6afb0.
- European Union, *Guida pratica comune del Parlamento europeo, del Consiglio e della Commissione per la redazione dei testi legislativi dell'Unione europea*, Luxembourg, Publications Office of the European Union, 2015, <http://bookshop.europa.eu/en/joint-practical-guide-of-the-european-parliament-the-council-and-the-commission-for-persons-involved-in-the-drafting-of-european-union-legislation-pbKKB0213228/?CatalogCategoryID=oDoKABstRQgAAAEj1JEY4e5L>.
- European Union, *Joint Practical Guide of the European Parliament, the Council and the Commission for Persons Involved in the Drafting of European Union Legislation*, Luxembourg, Publications Office of the European Union, 2015, <https://publications.europa.eu/en/publication-detail/-/publication/3879747d-7a3c-411b-a3a0-55c14e2ba732>.
- I. Even-Zohar, «The Position of Translated Literature within the Literary Polysystem», in L. Venuti (ed.), *The Translation Studies Reader*, London - New York, Routledge, 2004 (1978), 199-204.
- A. Felici, «Translating EU Law: Legal Issues and Multiple Dynamics», *Perspectives: Studies in Translatology* 18, 2 (2010), 100-106.
- A. Felici, «Translating EU Legislation from a Lingua Franca: Advantages and Disadvantages», in S. Šarčević (ed.), *Language and Culture in EU Law*, Farnham, Ashgate, 2015, 123-140.
- S. Ferreri, «Comunicare in un contesto internazionale», in V. Jacometti - B. Pozzo (eds.), *Le politiche linguistiche delle istituzioni comunitarie dopo l'allargamento*, Milano, Giuffrè, 2006, 45-63.
- S. Ferreri, «Il linguaggio giuridico inglese», in B. Pozzo - M. Timoteo (eds.), *Europa e linguaggi giuridici*, Milano, Giuffrè, 2008, 259-300.
- W. Frawley, «Prolegomenon to a Theory of Translation», in W. Frawley (ed.), *Translation: Literary, Linguistic and Philosophical Perspectives*, Newark - London - Toronto, Associated University Presses, 1984a, 159-175.
- W. Frawley (ed.), *Translation: Literary, Linguistic and Philosophical Perspectives*, Newark - London - Toronto, Associated University Presses, 1984b.
- G. Garzone, «Espressione della performatività nel testo giuridico» in G. Az-zaro - M. Ulrych (eds.), *Anglistica e... Metodi e percorsi comparatistici nelle lingue, culture e letterature di origine Europea*, Trieste, Edizioni Università di Trieste, 1999, 127-144.
- G. Garzone, «Legal Translation and Functional Approaches: A Contradiction in Terms?», in *Actes du Colloque International «La traduction juridique. Histoire, théorie(s) et pratique»*, Genève, École de Traduction et d'Interprétation - Université de Genève, 2000, 395-414.
- G. Garzone, «Deontic Modality and Performativity in English Legal Texts», in M. Gotti - M. Dossena (eds.), *Modality in Specialized Texts*, Bern, Peter Lang, 2001, 153-173.

- G. Garzone, «Arbitration Rules across Legal Cultures: An Intercultural Approach», in V.K. Bhatia - C.N. Candlin - M. Gotti (eds.), *Legal Discourse in Multilingual and Multicultural Contexts*, Bern, Peter Lang, 2003, 177-220.
- G. Garzone, «Gli enunciati performativi nel testo giuridico inglese. La prospettiva linguistica», in G. Garzone - F. Santulli (eds.), *Il linguaggio giuridico*, Milano, Giuffrè, 2008, 57-87.
- G. Garzone, «Variation in the Use of Modality in Legislative Texts: Focus on 'Shall'», *Journal of Pragmatics* 57 (2013), 68-81.
- G. Garzone - F. Santulli (eds.), *Il linguaggio giuridico. Prospettive interdisciplinari*, Milano, Giuffrè, 2008.
- J.-C. G  mar, «R  flexions sur le langage du droit. Probl  mes de langue et de style», *Meta: Journal des Traducteurs / Meta: Translators' Journal* 26, 4 (1981), 338-349, <https://www.erudit.org/fr/revues/meta/1981-v26-n4-meta294/002846ar/>.
- J.-C. G  mar, «Seven Pillars for the Legal Translator: Knowledge, Know-How and Art», in S.   ar  evi   (ed.), *Legal Translation*, Rijeka, Faculty of Law, University of Rijeka, 2001, 111-138.
- J.-C. G  mar, «Ci   che la traduzione giuridica    o non   . All'interno e al di fuori dall'Unione europea», in V. Jacometti - B. Pozzo (eds.), *Le politiche linguistiche delle istituzioni comunitarie dopo l'allargamento*, Milano, Giuffr  , 2006, 105-118.
- J.-C. G  mar, «Catching the Spirit of the Law: From Translation to Co-Drafting», in S. Glanert (ed.), *Comparative Law: Engaging Translation*, Abingdon - New York, Routledge, 2014, 67-84.
- General Secretariat of the Council, *Manual of Precedents for Acts Established within the Council of the European Union*, 2002, <https://op.europa.eu/en/publication-detail/-/publication/431ccffd-00c2-491a-b423-ce709af0d6c3>.
- K. Gibov  , «On Modality in EU Institutional-Legal Documents», in A. Ka  marov   (ed.), *English Matters II*, Pre  ov, Pre  ovsk   univerzita, 2011, 6-12, http://www.pulib.sk/elpub2/FF/Kacmarova2/pdf_doc/gibova.pdf.
- P. Giuggioli, «Lingua e diritto. Problemi e prospettive della traduzione», in G. Garzone - F. Santulli (eds.), *Il linguaggio giuridico*, Milano, Giuffr  , 2008, 171-177.
- S. Glanert (ed.), *Comparative Law: Engaging Translation*, Abingdon - New York, Routledge, 2014.
- M. Gotti, «Globalizzazione e localizzazione nel discorso giuridico. Il caso dell'arbitrato commerciale internazionale», in G. Garzone - F. Santulli (eds.), *Il linguaggio giuridico*, Milano, Giuffr  , 2008, 179-203.
- M. Gotti - M. Dossena (eds.), *Modality in Specialized Texts*, Bern, Peter Lang, 2001.

- M. Gotti - D.S. Giannoni (eds.), *New Trends in Specialized Discourse Analysis*, Bern, Peter Lang, 2006.
- M. Graziadei, «Law, Language and Multilingualism in Europe: The Call for a New Legal Culture», in S. Šarčević (ed.), *Language and Culture in EU Law*, Farnham, Ashgate, 2015, 17-32.
- G.-R. de Groot, «The Point of View of a Comparative Lawyer», *Les Cahiers de droit* 28, 4 (1987), 793-812.
- M. Guggeis, «L'influenza dell'Unione europea e le novità introdotte dal trattato di Lisbona», in B. Pozzo - F. Bambi (eds.), *L'italiano giuridico che cambia*, Firenze, Accademia della Crusca, 2012, 207-214.
- G. Hansen - K. Malmkjær - D. Gile (eds.), *Claims, Changes and Challenges in Translation Studies*, Amsterdam - Philadelphia, John Benjamins, 2004.
- S. Hansen-Schirra - E. Teich, «Corpora in Human Translation», in A. Lüdeling - M. Kytö (eds.), *Corpus Linguistics: An International Handbook*, Vol. 2, Berlin, de Gruyter, 2009, 1159-1175.
- M. Harvey, «What's so Special about Legal Translation?», *Meta: Journal des Traducteurs / Meta: Translators' Journal* 47, 2 (2002), 177-185, <https://www.erudit.org/fr/revues/meta/2002-v47-n2-meta692/008007ar/>.
- H. Hasselgård - S. Oksefjell (eds.), *Out of Corpora: Studies in Honour of Stig Johansson*, Amsterdam, Rodopi, 1999.
- C. Heine - J. Engberg (eds.), *Reconceptualizing LSP: Online Proceedings of the XVII European LSP Symposium 2009*, Aarhus, Aarhus School of Business - Aarhus University, 2010.
- T. Hermans (ed.), *The Manipulation of Literature*, Beckenham, Croom Helm, 1985a.
- T. Hermans, «Translation Studies and a New Paradigm», in T. Hermans (ed.), *The Manipulation of Literature*, Beckenham, Croom Helm, 1985b, 7-15.
- T. Hermans, *Translation in Systems: Descriptive and System-Oriented Approaches Explained*, Manchester, St. Jerome, 1999.
- T. Hermans (ed.), *Crosscultural Transgressions. Research Models in Translation Studies II: Historical and Ideological Issues*, Manchester, St. Jerome, 2002.
- M. Hjort-Pedersen - D. Faber, «Explicitation and Implication in Legal Translation: A Process Study of Trainee Translators», *Meta: Journal des Traducteurs / Meta: Translators' Journal* 55, 2 (2010), 237-250, <https://www.erudit.org/fr/revues/meta/2010-v55-n2-meta3880/044237ar/>.
- J.S. Holmes, «The Name and Nature of Translation Studies», in L. Venuti (ed.), *The Translation Studies Reader*, New York - London, Routledge, 2004 (1972), 180-192.
- J. House, «Beyond Intervention: Universals in Translation», *Trans-kom* 1, 1 (2008), 6-19.

- S. Hunston, *Corpora in Applied Linguistics*, Cambridge, Cambridge University Press, 2002.
- V. Jacometti - B. Pozzo (eds.), *Le politiche linguistiche delle istituzioni comunitarie dopo l'allargamento*, Milano, Giuffrè, 2006.
- R. Jakobson, «On Linguistic Aspects of Translation», in R.A. Brower (ed.), *On Translation*, Cambridge (MA), Harvard University Press, 1959, 232-239.
- A. Kačmárová (ed.), *English Matters II*, Prešov, Prešovská Univerzita, 2011.
- G. Kennedy, *An Introduction to Corpus Linguistics*, Amsterdam, Rodopi, 1998.
- D. Kenny, «Corpora», in M. Baker - G. Saldanha (eds.), *Routledge Encyclopedia of Translation Studies*, London - New York, Routledge, 1998, 56-60.
- D. Kenny, *Lexis and Creativity in Translation: A Corpus-based Study*, Manchester, St. Jerome, 2001.
- J. Kimble, «The Many Misuses of 'Shall'», *Scribes Journal of Legal Writing* 3 (1992), 61-67.
- A.L. Kjær, «Legal Translation in the European Union: A Research Field in Need of a New Approach», in K. Kredens - S. Goźdz-Roszkowski (eds.), *Language and the Law: International Outlooks*, Frankfurt am Main, Peter Lang, 2007, 69-95.
- K. Klaudy, «Explicitation», in M. Baker - G. Saldanha (eds.), *Routledge Encyclopedia of Translation Studies*, London - New York, Routledge, 1998, 80-84.
- K. Koskinen, «Institutional Illusions: Translating in the EU Commission», *The Translator* 6, 1 (2000), 49-65.
- K. Koskinen, «How to Research EU Translation», *Perspectives: Studies in Translatology* 9, 4 (2001), 293-300.
- K. Koskinen, *Translating Institutions: An Ethnographic Study of EU Translation*, Manchester, St. Jerome, 2008.
- K. Kredens - S. Goźdz-Roszkowski (eds.), *Language and the Law: International Outlooks*, Frankfurt am Main, Peter Lang, 2007.
- A. Lefevere, *Translation, Rewriting and the Manipulation of Literary Fame*, London - New York, Routledge, 1992.
- J. Leung, «Translation Equivalence as a Legal Fiction», in L. Cheng - K. Kui Sin - A. Wagner (eds.), *The Ashgate Handbook of Legal Translation*, Farnham, Ashgate, 2014, 57-69.
- E.J. Lohse, «The Meaning of Harmonisation in the Context of European Union Law: A Process in Need of Definition», in M. Andenas - C. Baasch Andersen (eds.), *Theory and Practice of Harmonisation*, Cheltenham, Edward Elgar, 2012, 282-313.
- W. Lörscher, *Translation Performance, Translation Process, and Translation Strategies*, Tübingen, Gunter Narr, 1991.

- A. Lüdeling - M. Kytö (eds.), *Corpus Linguistics: An International Handbook*, Vol. 2, Berlin, de Gruyter, 2009.
- J.L. Malone, *The Science of Linguistics in the Art of Translation*, Albany, SUNY Press, 1988.
- D. Mantovani, «Lingua e diritto. Prospettive di ricerca fra sociolinguistica e pragmatica», in G. Garzone - F. Santulli (eds.), *Il linguaggio giuridico*, Milano, Giuffrè, 2008, 17-56.
- H.E.S. Mattila, *Comparative Legal Linguistics*, Farnham, Ashgate, 2013.
- A. Mauranen, «Universal Tendencies in Translation», in G. Anderman - M. Rogers (eds.), *Incorporating Corpora: The Linguist and the Translator*, Clevedon, Multilingual Matters, 2008, 32-48.
- L. Mori (ed.), *Observing Eurolects*, Amsterdam - Philadelphia, John Benjamins, 2018a.
- L. Mori, «Observing Eurolects: The Case of Italian», in L. Mori (ed.), *Observing Eurolects*, Amsterdam - Philadelphia, John Benjamins, 2018b, 199-242.
- J. Munday, «Systems in Translation: A Systemic Model for Descriptive Translation Studies», in T. Hermans (ed.), *Crosscultural Transgressions. Research Models in Translation Studies II: Historical and Ideological Issues*, Manchester, St. Jerome, 2002, 76-92.
- Office of the Parliamentary Counsel, *Drafting Guidance*, 2015, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/454628/guidancebook_August_2015.pdf.
- M. Olohan, *Introducing Corpora in Translation Studies*, London - New York, Routledge, 2004.
- F.R. Palmer, *Mood and Modality*, Cambridge - New York - New Rochelle - Melbourne - Sidney, Cambridge University Press, 1986.
- F.R. Palmer, *Modality and the English Modals*, London - New York, Longman, 1990 (1979).
- E. Paunio, *Legal Certainty in Multilingual EU Law*, Abingdon - New York, Routledge, 2016.
- A. Piehl, «The Influence of EU Legislation on Finnish Legal Discourse», in M. Gotti - D.S. Giannoni (eds.), *New Trends in Specialized Discourse Analysis*, Bern, Peter Lang, 2006, 183-194.
- A. Piehl, «Fine Tuning Style and Precision: Adapting Directive Citations to Finnish Statutes», *Linguistica Antverpiensia, New Series: Themes in Translation Studies* 12 (2013), 161-181.
- S.E. Pommer, «Interpreting Multilingual EU Law: What Role for Legal Translation?», *European Review of Private Law* 20, 5/6 (2012), 1241-1254.
- B. Pozzo, «Multilinguismo, terminologie giuridiche e problemi di armonizzazione del diritto privato europeo», in V. Jacometti - B. Pozzo (eds.), *Le politiche linguistiche delle istituzioni comunitarie dopo l'allargamento*, Milano, Giuffrè, 2006, 3-26.

- B. Pozzo, «L'interpretazione della Corte del Lussemburgo del testo multilingue. Una rassegna giurisprudenziale», in B. Pozzo - M. Timoteo, *Europa e linguaggi giuridici*, Milano, Giuffrè, 2008, 383-432.
- B. Pozzo, «La traduzione dall'inglese come lingua giuridica nel contesto del multilinguismo europeo. Problemi e prospettive», *Diritto pubblico comparato ed europeo* 3 (2011), 651-660.
- B. Pozzo, «Lingua e diritto. Oltre l'Europa», in B. Pozzo (ed.), *Lingua e diritto. Oltre l'Europa*, Milano, Giuffrè, 2014a, 1-35.
- B. Pozzo (ed.), *Lingua e diritto. Oltre l'Europa*, Milano, Giuffrè, 2014b.
- B. Pozzo, «Comparative Law and the New Frontiers of Legal Translation», in S. Šarčević (ed.), *Language and Culture in EU Law*, Farnham, Ashgate, 2015, 73-87.
- B. Pozzo - F. Bambi (eds.), *L'italiano giuridico che cambia*, Firenze, Accademia della Crusca, 2012.
- B. Pozzo - M. Timoteo (eds.), *Europa e linguaggi giuridici*, Milano, Giuffrè, 2008.
- M. Prandi - C. De Santis, *Le regole e le scelte*, Novara, UTET, 2011.
- F. Prieto Ramos, «Legal Translation Studies as Interdiscipline: Scope and Evolution», *Meta: Journal des Traducteurs / Meta: Translators' Journal* 59, 2 (2014), 260-277, <https://www.erudit.org/fr/revues/meta/2014-v59-n2-meta01604/1027475ar/>.
- R. Quirk - S. Greenbaum - G. Leech - J. Svartvik, *A Grammar of Contemporary English*, London, Longman, 1972.
- R. Quirk - S. Greenbaum - G. Leech - J. Svartvik, *A Comprehensive Grammar of the English Language*, London - New York, Longman, 1985.
- C. Robertson, «LSP and EU Legal Language», in C. Heine - J. Engberg (eds.), *Reconceptualizing LSP: Online Proceedings of the XVII European LSP Symposium 2009*, Aarhus, Aarhus School of Business - Aarhus University, 2010, 1-7.
- C. Robertson, «Multilingual EU Law: Interfaces of Law, Language and Culture», in S. Šarčević (ed.), *Language and Culture in EU Law*, Farnham, Ashgate, 2015, 33-52.
- P. Rossi, «L'impatto del multilinguismo sull'armonizzazione del diritto privato europeo», in B. Pozzo - M. Timoteo (eds.), *Europa e linguaggi giuridici*, Milano, Giuffrè, 2008, 361-382.
- R. Sacco, «Un point de vue italien», *Les Cahiers de droit* 28, 4 (1987), 845-859.
- G. Saldanha - S. O'Brien, *Research Methodologies in Translation Studies*, Manchester, St. Jerome, 2013.
- A. Sandrelli, «Observing Eurolects: The Case of English», in L. Mori (ed.), *Observing Eurolects*, Amsterdam - Philadelphia, John Benjamins, 2018, 63-92.

- S. Šarčević, «Translation and the Law: An Interdisciplinary Approach», in M. Snell-Hornby - F. Pöchhacker - K. Kaindl (eds.), *Translation Studies: An Interdiscipline*, Amsterdam - Philadelphia, John Benjamins, 1994, 301-307.
- S. Šarčević, *New Approach to Legal Translation*, The Hague: Kluwer Law International, 1997.
- S. Šarčević (ed.), *Legal Translation*, Rijeka, Faculty of Law, University of Rijeka, 2001a.
- S. Šarčević, «Translation Procedures for Legal Translators», in S. Šarčević (ed.), *Legal Translation*, Rijeka, Faculty of Law, University of Rijeka, 2001b, 75-109.
- S. Šarčević, «Making Multilingualism Work in the Enlarged European Union», in K. Kredens - S. Goźdz-Roszkowski (eds.), *Language and the Law: International Outlooks*, Frankfurt am Main, Peter Lang, 2007, 35-56.
- S. Šarčević, «Legal Translation in Multilingual Settings», in I.A. Araguás - J. Baigorri Jalón - H.J.L. Campbell (eds.), *Translating Justice*, Granada, Comares, 2010, 19-45.
- S. Šarčević, «Language and Culture in EU Law: Introduction and Overview», in S. Šarčević (ed.), *Language and Culture in EU Law*, Farnham, Ashgate, 2015a, 1-14.
- S. Šarčević (ed.), *Language and Culture in EU Law*, Farnham, Ashgate, 2015b.
- U. Scarpelli - P. Di Lucia (eds.), *Il linguaggio del diritto*, Milano, LED Edizioni Universitarie di Lettere Economia Diritto, 1994.
- Senato della Repubblica, *Regole e raccomandazioni per la formulazione tecnica dei testi legislativi*, 2001, https://www.senato.it/1057?testo_generico=-29&voce_sommario=62.
- J. Sinclair, *Corpus, Concordance, Collocation*, Oxford, Oxford University Press, 1991.
- J. Sinclair, «A Way with Common Words», in H. Hasselgård - S. Oksefjell (eds.), *Out of Corpora: Studies in Honour of Stig Johansson*, Amsterdam, Rodopi, 1999, 157-179.
- M. Snell-Hornby - F. Pöchhacker - K. Kaindl (eds.), *Translation Studies: An Interdiscipline*, Amsterdam - Philadelphia, John Benjamins, 1994.
- H. Somers (ed.), *Terminology, LSP and Translation: Studies in Language Engineering in Honour of Juan C. Sager*, Amsterdam, John Benjamins, 1996.
- K. Stefaniak, «Multilingual Legal Drafting, Translators' Choices and the Principle of Lesser Evil», *Meta: Journal des Traducteurs / Meta: Translators' Journal* 58, 1 (2013), 58-65, <https://www.erudit.org/fr/revues/meta/2013-v58-n1-meta01275/1023809ar/>.
- I. Strandvik, «Legal Harmonization through Legal Translation: Texts That Say the Same Thing?», in C.J.W. Baaij (ed.), *The Role of Legal Translation in Legal Harmonization*, Alphen aan den Rijn, Kluwer Law International, 2012, 25-49.

- M. Tabory, *Multilingualism in International Law and Institutions*, Alphen aan den Rijn, Sijthoff & Noordhoff, 1980.
- C. Taylor Torsello - K. Ackerley - E. Castello (eds.), *Corpora for University Language Teachers*, Bern, Peter Lang, 2008.
- G. Tessuto, «Legislative Discourse in Arbitration Language: The English 1996 Arbitration Act and the UNCITRAL Model Law», in V.K. Bhatia - C.N. Candlin - M. Gotti (eds.), *Legal Discourse in Multilingual and Multicultural Contexts*, Bern, Peter Lang, 2003, 337-380.
- G. Tessuto, «La formazione alla traduzione giuridica per giuristi linguisti dell'UE. Percorsi scientifici e formativi nella Facoltà di Giurisprudenza», in A. Lamarra - F. Venuta (eds.), *Lingue e linguaggi tecnico-specialistici*, Napoli, Edizioni Scientifiche Italiane, 2012, 15-40.
- G. Tessuto, *English for Law*, Torino, Giappichelli, 2016.
- P.M. Tiersma, *Legal Language*, Chicago, Chicago University Press, 1999.
- E. Tognini-Bonelli, *Corpus Linguistics at Work*, Amsterdam - Philadelphia, John Benjamins, 2001.
- G. Toury, «Interlanguage and Its Manifestations in Translation», *Meta: Journal des Traducteurs / Meta: Translators' Journal* 24, 2 (1979), 223-231, <https://www.erudit.org/fr/revues/meta/1979-v24-n2-meta284/004502ar/>.
- G. Toury, *Descriptive Translation Studies – and beyond*, Amsterdam - Philadelphia, John Benjamins, 2012 (1995).
- Translation Centre for the Bodies of the European Union, *Writing for Translation*, 2009, <http://cdt.europa.eu/en/documentation/writing-translation>.
- G. Tron, «Alcune postille sulla traduzione del Modale Should nei 'considerando' degli atti normativi», *Inter@lia* 46 (2010), 18-22.
- A. Trosborg, *Rhetorical Strategies in Legal Language*, Tübingen, Gunter Narr, 1997.
- M. Tymoczko, «Computerized Corpora and the Future of Translation Studies», *Meta: Journal des Traducteurs / Meta: Translators' Journal* 43, 4 (1998), 652-660, <http://id.erudit.org/iderudit/004515ar>.
- M. Ulrych, *Traces of Mediation in Rewriting and Translation*, Milano, EDUCatt, 2014.
- M. Ulrych - A.C. Murphy, «Descriptive Translation Studies and the Use of Corpora: Investigating Mediation Universals», in C. Taylor Torsello - K. Ackerley - E. Castello (eds.), *Corpora for University Language Teachers*, Bern, Peter Lang, 2008, 141-166.
- A. Venchiarutti, «Il multilinguismo come valore Europeo», in B. Pozzo - M. Timoteo (eds.), *Europa e linguaggi giuridici*, Milano, Giuffrè, 2008, 303-359.
- L. Venuti (ed.), *The Translation Studies Reader*, New York - London, Routledge, 2004.

- A. Wagner - S. Cacciaguidi-Fahy (eds.), *Legal Language and the Search for Clarity*, Bern, Peter Lang, 2006.
- E. Wagner, «Translation of Multilingual Instruments in the European Union», in Susan Šarčević (ed.), *Legal Translation*, Rijeka, Faculty of Law, University of Rijeka, 2001, 65-74.
- E. Wagner, «Fighting the FOG in EU Institutions», *Clarity* 47 (2002), 28-30.
- E. Wagner, «Fighting Eurofog», in *Twenty-Five Years of Battling Gobbledygook, Words at Work*, High Peak, Plain Language Commission, 2004, 7, <https://irp-cdn.multiscreensite.com/aaf9e928/files/uploaded/25thAnnivBook.pdf>.
- E. Wagner - S. Bech - J.M. Martínez, *Translating for the European Union Institutions: Translation Practices Explained*, Manchester, St. Jerome, 2012.
- C. Williams, *Tradition and Change in Legal English*, Bern, Peter Lang, 2005.
- C. Williams, «Fuzziness in Legal English: What Shall We Do with ‘Shall?’», in A. Wagner - S. Cacciaguidi-Fahy (eds.), *Legal Language and the Search for Clarity*, Bern, Peter Lang, 2006, 237-264.
- C. Williams, «Legal English and Plain Language: An Update», *ESP Across Cultures* 8 (2011), 139-151.
- C. Williams, «Changes in the Verb Phrase in Legislative Language in English», in B. Aarts - J. Close - G. Leech - S. Wallis (eds.), *The Verb Phrase in English: Investigating Recent Language Change with Corpora*, Cambridge, Cambridge University Press, 2013, 353-370.
- F. Zanettin, *Translation-Driven Corpora*, Manchester, St. Jerome, 2012.