

**Osiejewicz J. Education of Translators and Interpreters as a
Determinant of Access to Court - A European and Polish Perspective**

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PERSPECTIVE**

1. Introduction

The right to a court is subjective and entity-oriented, and it provides a fundamental guarantee for human beings to exercise other subjective rights. It consists of elements such as access to a court and a minimum standard of court proceedings as well as a broadly interpreted right to obtain a substantive and binding resolution of a case and its execution. The right to a court is exercised as a result of the will manifested by a party through a procedural action initiating the proceedings. In more detail, the entitled party obliges a court to grant them legal protection by firstly examining the case in proceedings in which procedural safeguards are complied with and in accordance with the substantive law that is decisive on the content of legal protection, and secondly by ensuring the

enforcement of the ruling. Moreover, the right to a court implies the broader duty of the state to organize such a judicial system that effectively ensures proper legal protection. In the case of people who do not speak the language of the court proceedings in which they are participants, a qualified interpreter (who translates orally) or translator (who interprets written text) providing quality assurance assistance is a key element in accessing a court.

The aim of the article is to briefly discuss European and Polish legal regulations concerning the right to a court, to explain the role of the translator and interpreter as the guarantors of this right, and next, on the basis of the corpus transliteration, to propose a new method¹ to train court translators and interpreters, which will allow for the optimization of the training process in terms of both time efficiency and quality.

2. The right to a court and the right to a court translator / interpreter

The first modern guarantees of the right to a court were formulated in the Universal Declaration of Human Rights adopted by the United Nations General Assembly on December 10, 1948. The Universal Declaration of Human Rights provides for the equal right of every person to a fair and public trial ruling on their rights and duties or on legitimacy of accusation of committing a crime². The Universal Declaration of Human Rights used to be a non-binding act, and it merely defined the standards. However, it entered into the customary law. The foundations for common legal solutions laid down in it were subsequently included in the European Convention for the Protection of Human Rights and Fundamental Freedoms (hereinafter referred to as the ECHR), drawn up in Rome on 4

¹ Direct impulse to these considerations was a conversation with Professor Pasquale Policastro (University of Szczecin, Poland) on his innovative method of legal education. I am very grateful for this inspiration.

² Art. 10, Universal Declaration of Human Rights adopted by the United Nations General Assembly on December 10, 1948, 217 A (III).

November 1950³. According to Article 6 paragraph 1 of the Convention, everyone has the right to a fair and public hearing of their case within a reasonable time by an independent and impartial tribunal established by law in settling their civil rights and obligations or the merits of any charge against them in criminal proceedings. The International Covenant on Civil and Political Rights of 14 December 1966⁴ is another international legal instrument covering the right to a court. Both acts provide a guarantee of the individual's right to an impartial court, but only the former directly points to the right to the assistance of the interpreter as part of the right to a court. According to the ECHR, the right to a fair trial consists of the following principles: the right of an individual to have a legal dispute dissolved by an impartial and independent court acting under the Act; the individual's right to have their case considered without undue delay; the principle of equality of parties in the process; the principle of active participation of parties in proceedings; the right to appeal from a judgment to a higher court; the prohibition of re-trial and punishment for the same act; the right to legal information, including — explicitly — the right to employ a free interpreter / translator if the accused does not speak the language used in the proceedings. The international acts referred to have been ratified by Poland, and in accordance with the provisions of Article 91 paragraph 1 of the 1997 Constitution of the Republic of Poland (hereinafter referred to as the CoRP)⁵, they are part of the Polish legal order.

³ Art. 6, Convention for the Protection of Human Rights and Fundamental Freedoms as amended by Protocols No. 11 and No. 14. Rome, 4.11.1950, http://www.echr.coe.int/Documents/Convention_ENG.pdf (2017-04-14).

⁴ Art. 9, International Covenant on Civil and Political Rights, adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966, entry into force 23 March 1976, in accordance with Article 49; <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CCPR.aspx> (2017-04-14).

⁵ Constitution of the Republic of Poland of 2 April 1997 adopted by the National Assembly on 2 April 1997, adopted by the Nation in a constitutional referendum on 25 May 1997, signed by the President of the Republic of Poland on 16 July 1997, Polish Journal of Laws 1997 No. 78 Pos. 483.

The Charter of Fundamental Rights of the European Union (hereinafter referred to as CFR)⁶ also established the right to an effective remedy and access to impartial courts in Title VI “Justice”. According to Article 47 CFR, everyone has the right to a fair and public hearing of their case within a reasonable time by an independent and impartial tribunal previously established by law, as well as the opportunity to seek legal advice, assistance from a counsel and a representative. The content of this provision (sentence 2) basically corresponds with the content of Article 6 paragraph 1 ECHR. Additionally, according to Article 47 CoRP, legal aid is provided to those who do not have sufficient funds to the extent that is necessary to ensure effective access to justice (sentence 3).

The European Court of Human Rights (hereinafter the ECtHR) plays an important role in the interpretation of the fundamental rights in the CFR, including the right to a court. Recognition of the importance of the ECHR by the European Union (hereinafter referred to as EU) is provided by the relevant provisions of the Treaty on European Union of 1992 (hereinafter TEU)⁷. The TEU contains references to the ECHR according to which, inter alia, the EU respects the fundamental rights guaranteed by the ECHR, and the rights conferred by the constitutional traditions common to the Member States are the principles of the law of the Communities. As explained by the Presidium of the Convention in its comment on Article 52 of the CFR “Scope and interpretation of rights and principles”, it is necessary to ensure coherence between the CFR and the ECHR (including their protocols). It is worth adding that the importance and scope of the rights guaranteed by the ECHR are contained not only in these two instruments, but also in the rulings of the ECtHR and the Court of Justice of the European Union (hereinafter referred to as the CJEU)⁸. According to the case law of the ECtHR, legal aid should be provided where, in the absence of such assistance, it is

⁶ Charter of Fundamental Rights of the European Union, OJ C 326, 26.10.2012, pp. 391-407.

⁷ Treaty on European Union (TEU), consolidated version, OJ C 83, 30.03.2010, p. 13.

⁸ Explanations relating to the Charter of Fundamental Rights. Explanation to Art. 52 CFR “Scope and interpretation of rights and principles”, OJ 2007/C 303/02, p. 33.

hardly possible to provide an effective remedy⁹. The scope of the right to a court specified in the CFR is close to the Polish constitutional standard, which consists in particular of the right of access to an independent, impartial, and independent court, the right to form a judicial process in accordance with the requirements of justice and publicity, and the right to a judicial decision, i.e. to obtain a court's binding resolution of the case in question¹⁰.

The analysis of the content of the provisions of the aforementioned legal acts allows one to draw conclusions as to how the right to a court is perceived and defined from an international perspective. Over the years, not only has the definition of this right changed, but also the interpretation of its content. Its essence was not only to ensure efficient mechanisms at the stage of judicial proceedings, but also to provide a commitment of the state to guarantee the effectiveness of access to this right. In the case of those who do not have a good command of the language of the adjudicating court, the presence of a qualified interpreter is the condition of the efficiency mentioned.

According to the regulations of the CFR and the ECHR, the process without the interpreter's involvement in the case of an accused who does not know the language of criminal proceedings constitutes a manifest violation of European Union law and international law. The protection of the rights of persons accused in criminal proceedings has thus been identified as a fundamental right in the EU. The Directive 2010/64/EU of the European Parliament and of the Council of 20 October 2010 on the right to interpretation and translation in criminal proceedings¹¹ is the first act of EU secondary law dealing directly with translation in criminal proceedings. The Directive was adopted to improve the protection of individuals' rights by establishing common minimum rules on the right to a fair trial and the right of defense. According to point 33 of its preamble, the provisions

⁹ Judgment of the European Court of Human Rights, *Airey v Ireland*, Merits, App No 6289/73 (A/32), [1979] ECHR 3, (1980) 2 EHRR 305, IHRL 23 (ECHR 1979), 9th October 1979, p. 11.

¹⁰ Judgment of the Polish Constitutional Tribunal, 9th July 2002 r., P 4/01, Polish Journal of Laws 2002 No. 114 Pos. 993.

¹¹ OJ L 280, 26.10.2010, p. 1–7.

of this Directive that correspond with the rights guaranteed by the ECHR or the CFR should be interpreted and implemented together with these rights in a coherent manner.

According to Article 17 of Directive 2010/64/EU, the Member States should provide free and appropriate language assistance to enable suspects or accused persons who do not speak or understand the language of criminal proceedings to fully exercise their right of defense and to guarantee the fairness of the proceedings. Furthermore, it is important to provide adequate quality of interpretation and translation for the suspect or the accused in order to ensure the accuracy of the procedure, in particular by ensuring that the suspect or the accused is aware of the case pending against them and is able to exercise their right of defense (Article 2 (8) and Article 3 (9) of Directive 2010/64/EU). Moreover, the quality of interpretation or translation of the documents provided may be subject to a specific control procedure, in accordance with Article 2 paragraph 5 and Article 3 paragraph 5 of Directive 2010/64/EU.

Article 5 of Directive 2010/64/EU also addresses the practical availability of qualified legal translators. According to this provision, the Member States should take concrete measures to ensure the quality of interpretation and translation and, as a means of achieving the necessary quality, establish and make available a register or registers of independent translators and interpreters who are qualified. If it turns out that in a particular case the quality of translation or interpretation is insufficient to ensure the reliability of the proceedings, the competent authorities must be able to replace the appointed interpreter or translator in accordance with recital 26 of Directive 2010/64/EU. Recital 32 states, however, that the level of protection intended to be ensured by the Directive is not to fall below the standards set out in the ECHR and in the CFR. According to Article 6 of Directive 2010/64/EU, without prejudice to the independence of the judiciary, the Member States should invite bodies responsible for the training of judges, prosecutors, and judicial staff to pay attention to the specificity of communication

through the interpreter/translator so that such communication is efficient and effective. This recommendation is intended to motivate prosecutors, police officers, and judges to deliberately consider factors that may affect the quality of translation/interpretation, such as the pace of the speech or the highlighting of relevant information. This recommendation is an abstraction from the long-year treatment of interpreters/translators as translation tools, however it requires reinforcement by appropriate education.

Under the Polish law, the right to a court has been expressed in Article 45 paragraph 1 CoRP according to which everyone has the right to a fair and public hearing of the case without undue delay by a competent, independent, impartial, and independent court. This formula is supplemented by Article 77 paragraph 2 expressing a prohibition on the closing of the judicial process of investigating infringements of freedoms or rights, and Article 78 CoRP, introducing the procedural principle of instances of judicial decision-making. The form of the court's right includes: Article 173 CoRP establishing the independence of courts and tribunals, Article 177 CoRP introducing the presumption of jurisdiction of common courts in all matters except for the matters reserved by law to the jurisdiction of other courts, and Article 178 CoRP establishing the principle of independence of judges, whose guarantees are included in Article 178 paragraph 2 and 3, and Articles 180 and 181 CoRP.

Article 45 paragraph 1 CoRP, placed in the chapter devoted to the freedoms and rights of man and the citizen, is the source of a subjective right to a court of the individual, whereas Article 45 CoRP indicates the autonomous character of this right in the constitutional system¹². The right to a court is not merely an instrument permitting the exercise of other constitutional rights or freedoms, but is inherent and protected regardless of the violation of other subjective rights. This right includes the right of access to a court, i.e. the right to initiate a procedure before a court as an impartial and independent body, the right to a proper judicial process,

¹² Judgment of the Polish Constitutional Tribunal, 13th May 2002, SK 32/01, Polish Journal of Laws 2002 No 68 Pos. 632.

according to the requirements of justice and disclosure, and the right to a judicial decision, i.e. the right to a court's binding resolution of a case¹³.

At the legislative level, the issue of the translator and interpreter as an element of the right to a court is regulated in Article 197 paragraph 1 of the Polish Code of Criminal Procedure of June 6, 1997¹⁴, according to which sworn translators and interpreters must perform their duties impartially and in accordance with their conscience. The same rule applies when an interpreter or a translator is appointed ad hoc. If the translation or interpretation quality is poor, the judge has the right to appoint another translator or interpreter.

3. Judicial translation and interpretation

Text translation or interpretation is an attempt to replace a text prepared by its producer in the original language with a text prepared by an interpreter or a translator in the target language in such a way that the target text: can be understood by the recipient according to the intent of the sender; awakes objectively similar feelings both in the sender and the receiver; satisfies the recipient's communicative needs¹⁵. The output text is generated by the initial sender in the default language and is received by the translator or interpreter as an intermediate. The translator or interpreter acting as the intermediate sender then sends the final text formulated in the target language to the final recipient. The translator or interpreter thus acts as an intermediary between the sender and the receiver of the text, fulfilling the dual function of the intermediate receiver and the intermediate sender, and occupying a central position in the translation or interpretation process. Both the reception and the production of the text by the

¹³ Judgment of the Polish Constitutional Tribunal, 9th June 1999, K 28/97, OTK ZU No 4/1998, Pos. 50, p. 299.

¹⁴ Polish Act of 6th June 1997 - Code of Criminal Procedure, Polish Journal of Laws 1997 No 89 Pos. 555.

¹⁵ More: J. Osiejewicz, *Polnisch-deutsche Terminologie der Personenschäden in der Kfz-Haftpflichtversicherung*, Warszawa 2013; <http://portal.uw.edu.pl/documents/7732735/0/Joanna+Osiejewicz+-+Polnisch-deutsche+Terminologie.pdf> (2017-04-14), s. 115.

translator or interpreter serve to ensure that the final recipient is able to reconstruct the proper meaning of the text and to behave appropriately in a given communicative situation.

When translating or interpreting a text into a target language, the translator or interpreter replaces the appropriate legal institutions functioning in the initial language system with the legal institutions in the target language system. The proper replacement of legal institutions in the domestic legal system of the initial language with legal institutions in the domestic legal system of the target language requires not only that an interpreter or translator has appropriate knowledge of the legal language, which complements and extends their language competence in relation to the respective initial language and target language, but also that they have relevant legal knowledge. Only a translator or interpreter with such in-depth knowledge is able to design a product that fully takes into account both the intent of the producer of the output text and the interests of the recipient of the target text¹⁶.

The role of an interpreter in the courtroom is not limited to the mechanical delivery in the target text of what was said in the initial language. Court interpreters are bound to show the meaning of hidden speech and sometimes even go beyond the text of the original language to fully reflect its content. They are obliged to enable a person who does not know the language of the process to fully understand the course of the proceedings by explaining the culture of the institution and the judicial language, explaining the legal terminology or the rules governing the operation of the legal system, as it is done in a monolingual situation by a judge or a plenipotentiary. In mediated communication, the judge is deprived of this opportunity, and the plenipotentiary is limited in this role, so interference and assistance of the interpreter is necessary in such a case. The activities of an interpreter serve on the one hand to provide the court with the necessary

¹⁶ More on this topic: J. Osiejewicz, *Legal education of court interpreters and sworn translators upon the Directive 2010/64/EU*, "International Journal on New Trends in Education and Their Implications" (IJONTE), Vol. 6, No. 1 (2015), pp. 151-162, <http://www.ijonte.org/FileUpload/ks63207/File/19.osiejewicz.pdf> (2017-04-14).

information to establish the truth and to restore the legal order and, on the other hand, to ensure that the foreigner comprehensively understands the contents of the procedure in order to be able to properly represent their own interests¹⁷.

4. Language of the European Union

The translation of the multilingual EU law differs significantly from traditional legal translation, mainly because most translated texts are already translated and they retain the authenticity of the original texts. While this is not a completely unique situation, as it is true for multilingual countries, the scale of this phenomenon, due to the number of languages, in addition to the relationship between national and international regulations, are already unique to the EU. The 24 official languages are used in 28 Member States, and according to the teleological interpretation of the CJEU, all these languages are equivalent and none of them is decisive. Article 55 TEU contains a clause defining authentic language versions, which should be taken into account in the interpretation of the EU Treaties. Similarly, Article 7 of the Final Provisions of the Treaty of Lisbon¹⁸ enumerates authentic languages. The language of each Member State is simultaneously the authentic language of the Treaties, which is the consequence of the intention of ensuring the formal equality of the Member States.

This pluralism of authentic languages is important for the interpretation of the EU Treaties. According to the Vienna Convention on the Law of Treaties¹⁹, the

¹⁷ K. Nartowska, *Thumacz i dzialanie translatorskie w sędzie*, “Comparative Legilinguistics. International Journal for Legal Communication” 13/2013, p. 117.

¹⁸ Treaty of Lisbon amending the Treaty on European Union and the Treaty establishing the European Community, signed at Lisbon, 13 December 2007, OJ C 306, 17.12.2007, pp. 1–271, Art. 7: This Treaty, referred to as the Treaty of Lisbon, 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.

¹⁹ Vienna Convention on the Law of Treaties, done at Vienna on 23 May 1969, entered into force on 27 January 1980. United Nations, Treaty Series, Vol. 1155, p. 331.

terms used in a multilingual treaty are assumed to have the same meaning in each of the authentic languages used²⁰. This is, however, a rebuttable presumption. In the event of incompatibility of the meanings adopted in the languages being compared, it is important to adopt the meaning that best satisfies the texts, taking into account the object and purpose of the given treaty²¹. On the other hand, the principle of linguistic comparability excludes the interpretation of the TEU only on the basis of one language, and the linguistic interpretation is not and cannot be regarded as the only method of interpretation in this case²². As explained by the CJEU in the CILFIT²³ judgment, first of all it should be borne in mind that the Community law acts in several languages and that the different languages are equally authentic. This implies that the interpretation of a provision of the Community law requires a comparison of various language versions. Moreover, even in the case of exact language versions, the EU law applies the terminology itself. Legal concepts do not always have the same content in the Community law and in particular systems of national law. Finally, any provision of the Community law should be understood in its context and interpreted in the light of all the provisions of that law, its objectives, and its state of development at the time when the provision is to be applied.

The CJEU starts its interpretation by comparing different language versions, and this comparison rarely leads to the elimination of exponential doubts, since the terms are different enough so that the content of the provisions gains slightly different conceptual levels depending on the expressions used in a given language²⁴. In the case of differences between different language versions, it is

²⁰ Ibidem, Art. 33 para. 3.

²¹ Ibidem, Art. 33 para 4.

²² C. Mik, *Art. 53 TUE*, in: W. Czapliński, C. Mik, *Traktat o Unii Europejskiej. Komentarz*, Warszawa 2005, para. 1–4.

²³ Judgment of the CJEU of 6 October 1982, C-283/81, Srl CILFIT and Lanificio di Gavardo SpA v Ministry of Health, European Court Reports 1982 -03415, ECLI:EU:C:1982:335, para. 18.

²⁴ Judgment of the CJEU of 12 November 1969, C-29/69, Erich Stauder v City of Ulm, Reports of Cases 1969 00419, ECLI:EU:C:1969:57, para 425.

necessary to follow other exponential criteria²⁵. In fact, such a need arises even when such differences are not found²⁶. Just as divergences at the expression level result in the emergence of legitimate concerns about the substantive consistency of the acts in question, the apparent lack of these differences may be indicative of the heterogeneity of the expressions. Sometimes deceptive terminological conformity should not dispel doubts about the scope of meaning of these terms and their functioning in the languages of the peoples of the Member States in their legal systems²⁷. Hence, it is necessary to undertake an interpretation independent of the legal systems of the Member States in order to shape a unified EU terminology.

In the light of the above, the translation of EU texts is a very special translation. It is difficult to indicate what the source text and the target text are. In the same vein, the concept of equivalence acquires a new meaning in the context of the CJEU interpretation, since it must occur between all language versions of a document, i.e. between the source text and the target text but also between translations into other languages. Just as the EU law is a hybrid of national legal systems, the EU language is in fact a multilingual language, which forces constant interaction between national and transnational elements in the translation process. It is characterized by simplified syntax and a transnational grid of concepts, and the translation is present at all stages of the legislative process. The EU language is seen as “different”, and often it is referred to as Eurolect, Eurospeak, Eurojargon, eurolanguage, Euro-rhetoric, Euro-legalese, Union legalese, Euese, Eurofog²⁸.

5. The training of a court translator or interpreter by means of corpus summaries

²⁵ S. Grundmann, *Die Auslegung des Gemeinschaftsrechts durch den Europäischen Gerichtshof*, Hartung-Gorre Verlag, Konstanz 1997, p. 236.

²⁶ Compare: J. Anweiler, *Die Auslegungsmethoden des Gerichtshofs der Europäischen Gemeinschaften*, Frankfurt am Main, Berlin, Bern, New York, Paris, Wien 1997, p. 168.

²⁷ Compare: J. Osiejewicz, *Irrwege der bisherigen Klassifizierungen von Fachsprachen. Klassifizierungen der Versicherungssprache*, „Studia Niemcoznawcze” 2009/43, p. 473.

²⁸ Ł. Biel, *The textual fit of translated EU law: a corpus-based study of deontic modality*, “The Translator”, Vol. 20, No. 3, p. 337, <http://dx.doi.org/10.1080/13556509.2014.909675> (2017-04-14).

Translation studies are a separate field of science, also known as translatology or traductology. Thanks to the use of translational methods of corpus linguistics and IT tools, a separate interdisciplinary specialty called corpus translatology has been developed²⁹. The transliteration of the corpus was developed in the mid-1990s on the basis of Mona Baker's research³⁰. Baker proposed the use of the methodology of corpus linguistics to study translation qualities, known as translational universals. The theoretical background for this was a descriptive research into translation undertaken by Toury, the polysystem theory, and the skopos theory. Thanks to Baker's research, translations and interpretations began to be regarded as independent texts functioning in the target culture. Michael Stubbs formulated two principles that underpin corpus translation research. First, the observer must not interfere with what they observe. This implies the need to work with authentic linguistic data. Second, recurring events are important. This, in turn, means that the frequency and distribution of linguistic data provides the researcher with important information and demonstrate that the language provides numerous "prefabs" that can be used in the translation process³¹.

Corpuscularism is an empirical and inductive approach. It formulates theories based on the observation of real language usage. Linguistic corps are, in general, set of terms, collections of texts representing spoken and/or written language, in proportions defined by the corps' creators. They may contain different types of texts, such as press releases, fragments of fine literature, utility texts, scripts, transcripts of radio or television broadcasts, university lectures, and even

²⁹ More: Ł. Biel, *Translatoryka korpusowa*, "Rocznik Przekładoznawczy" 2015/10, pp. 15-40.

³⁰ M. Baker, *Corpus Linguistics and Translation Studies. Implications and Applications*, in: M. Baker et al. (ed.), *Text and Technology: In Honour of John Sinclair*, Amsterdam–Philadelphia 1993, pp. 233–250; M. Baker, *Corpora in Translation Studies: An Overview and Some Suggestions for Future Research*, in: "Target", 1995 No 7(2), pp. 223–243; 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–Philadelphia 1996, pp. 175–186.

³¹ M. Stubbs, M. *Language Corpora*, in: A. Davies, C. Elder (ed.) *Handbook of Applied Linguistics*, Oxford 2004, p. 111.

private conversations³². From the perspective of linguistic research, a linguistic corpus is a collection of texts in which we are looking for typical words and structures and further information about their meaning and function³³. The representativeness and balance of the corpus, i.e. the presence of all the elements to be analyzed, and the proper proportion of the representation of the individual elements to be analyzed, are essential³⁴. Corpses contain objective, authentic linguistic data and enable one to verify hypotheses in a systematic and credible way, based on extensive linguistic material. The only limitation of the methodology may be the availability of corps, but this issue does not apply to EU legislation³⁵.

The establishment of a corps of judgments of the CJEU will meet the criteria of authenticity and reliability, and will not be affected by lack of availability. Due to the large number of judgments, it is easy to build a corps that is representative and balanced.

In corps translation, three types of corpses are applied: comparative, parallel, and comparative-parallel. The comparative corps is a two- or multi-lingual body used in contrastive linguistics to study differences and similarities between languages. The parallel corps is also a bilingual or multilingual body that includes an integrated translation body and a body of source texts whose translated sentences are related to the corresponding sentences in the source texts. The comparative-parallel corps connects the parallel corps with the comparative corps. In other words, it contains at least three sets of texts: translations, source texts, and texts that are not translated in the target language. The corps consisting of judgments of the CJEU will be a multi-lingual corps capable of being worked on in

³² See more in: M. Fabiszak, B. Konat, *Zastosowanie korpusów językowych w językoznawstwie kognitywnym*, in: P. Stalmaszczyk (ed.), *Metodologie językoznawstwa 1. Ewolucja języka. Ewolucja teorii językoznawczych*, Łódź 2013.

³³ See: Narodowy Korpus Języka Polskiego, <http://nkjp.pl/> (11.04.2017).

³⁴ V. Kamasa, *Techniki językoznawstwa korpusowego wykorzystywane w krytycznej analizie dyskursu*, „Przegląd Socjologii Jakościowej” 2014, Vol. X, No. 2, p. 101.

³⁵ Ł. Biel, *Translatoryka ...*, *op. cit.*, p. 20.

any pair of languages³⁶. The Joint Research Center at the European Commission makes available in the public domain a comprehensive parallel corpus of the JRC Acquis communautaire³⁷ in order to support the development of multi-lingual text analysis.

The basic corpuscular techniques used in critical discourse analysis are: frequency list analysis, i.e. the list of all words appearing in the corpus, along with the frequency of their occurrence and percentage of corpus, automatically generated by corpus analysis programs, keywords analysis, collocation analysis, and concordance analysis. These activities are carried out using special computer software. The corpus transliteration allows for a broader interpretation of the translation and is primarily a quantitative method that requires data triangulation (from comparative and parallel corpus) and methodological eclecticism. It is further pointed out that further development of corpus transliteration requires software development and the refinement of parallel corpus investigation methods, in addition to the creation and sharing of corpus resources for languages of limited scope of territorial usage³⁸.

With the new method, these constraints can be eliminated while using experience gained from research into corpus translation. The assumptions of the new method that may be used in the process of educating court translators or interpreters are as follows:

i. The legal translator/interpreter is a lawyer who is knowledgeable in a given foreign language and trained in legal translation.

As indicated above, the expertise of a court interpreter/translator is essential to ensure the quality of legal interpretation/translation and thus proper access to court. By educating lawyers (or law students) to become legal interpreters/translators, one can eliminate the problem of lack of legal expertise

³⁶ Ibidem, p. 21.

³⁷ Overview of Linguistic Resources and Tools (multilingual software, parallel corpora, and more) that are available for download from the webpages of the JRC's Competence Centre on Text Mining and Analysis: <http://optima.jrc.it/Acquis> (2017-04-14).

³⁸ Ł. Biel, *Translatoryka ...*, op. cit., p. 37.

and the need for a long-term training program in this field, which occurs in the case of translators without legal education. It is recommended that this method is applied in legal education.

ii. The training material is a parallel corpus constructed from CJEU judgments.

The case law of the CJEU is rich in subject matter and already applies to all branches of law, which allows efficient and effective preparation of a representative and balanced corpus with little effort. For teaching purposes, it is possible to use ready-made bases available through the efforts of the European Commission or, where appropriate, construct separate parallel body using the databases available on the website of the CJEU.

iii. The work is conducted in groups. Students receive individual tasks to prepare summaries of CJEU judgments in language pairs. The students then summarize the judgment in the group forum and distribute them among themselves in writing. The knowledge check covers all the summaries prepared in the groups.

Summaries contain key terminology with concise technical expertise. Key terms occur in an authentic communicative situation in order that students effectively remember and associate them. Due to the form of CJEU rulings, the way of expressing knowledge remains irrelevant, which simplifies the didactic process. The individual preparation of summaries of judgments, and then making them available to the group, allows for the multiplication of the teaching effect, without any substantive or formal loss. The work on rulings is a work on ready translations, prepared by professional translators (lawyers-linguists). By applying this method, students do not learn from their own mistakes, but they are already getting a high quality product at the beginning, offering proven, correct solutions that must actively be localized in parallel texts.

6. Conclusions

The state is obliged to organize the justice system so that people have access to a court. This implies the need to ensure the presence of a qualified interpreter or translator for anyone who does not sufficiently speak the language of court proceedings. Interpreter and translator qualifications have a fundamental importance in order to gain access to a court. During the translation or interpretation process, the task of a court translator or interpreter is to replace legal institutions in the originating language system with legal institutions in the target language system, which requires not only language skills, but also extensive legal knowledge. Only if the translator/interpreter has both types of knowledge can they perform properly the function of a court translator/interpreter. Therefore if one asks the question whether it is more economical and efficient to train linguists in law, or to train lawyers who speak a foreign language fluently in the field of translation practice, the answer seems to be obvious.

Legal translation courses should be introduced into the program of legal studies. In particular, this will be a chance for rare languages that are poorly represented both in terms of linguistic schools and interpreters themselves. Working on parallel corps constructed from judgments of the CJEU is not a novelty as such, but the technique has been used so far only with regard to quantitative methods. The proposed method of summaries of the already translated texts refers to the assumptions of the classic translation theory, while offering the optimization of the translation process of court interpreters and translators. The education process will be much faster, and court interpreters and translators, trained in respect of these assumptions, will meet the quality requirements of court translation and interpretation, which in turn will improve the exercise of the right of access to a court as a subjective right.

References:

Charter of Fundamental Rights of the European Union, OJ C 326, 26.10.2012, p. 391-407.

Constitution of the Republic of Poland of 2 April 1997 adopted by the National Assembly on 2 April 1997, adopted by the Nation in a constitutional referendum on 25 May 1997, signed by the President of the Republic of Poland on 16 July 1997, Polish Journal of Laws 1997 No 78 Pos. 483.

Convention for the Protection of Human Rights and Fundamental Freedoms as amended by Protocols No. 11 and No. 14. Rome, 4.XI.1950, http://www.echr.coe.int/Documents/Convention_ENG.pdf (217-04-14).

Directive 2010/64/EU of the European Parliament and of the Council of 20 October 2010 on the right to interpretation and translation in criminal proceedings, OJ L 280, 26.10.2010, p. 1–7.

Explanations relating to the Charter of Fundamental Rights. Explanation to Art. 52 CFR "Scope and interpretation of rights and principles", OJ 2007/C 303/02, p. 33.

International Covenant on Civil and Political Rights, adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966, entry into force 23 March 1976, in accordance with Article 49; <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CCPR.aspx> (2017-04-14).

Polish Act of 6th June 1997 - Code of Criminal Procedure, Polish Journal of Laws 1997 No 89 Pos. 555.

Treaty of Lisbon amending the Treaty on European Union and the Treaty establishing the European Community, signed at Lisbon, 13 December 2007, OJ C 306, 17.12.2007, p. 1–271,

Treaty on European Union (consolidated version), OJ C 83, 30.03.2010, p. 13.

Universal Declaration of Human Rights adopted by the United Nations

General Assembly on December 10, 1948, 217 A (III).

Vienna Convention on the Law of Treaties, Done at Vienna on 23 May 1969. Entered into force on 27 January 1980. United Nations, Treaty Series, vol. 1155, p. 331.

Anweiler J., *Die Auslegungsmethoden des Gerichtshofs der Europäischen Gemeinschaften*, Frankfurt am Main, Berlin, Bern, New York, Paris, Wien 1997, p. 168.

Baker M., *Corpora in Translation Studies: An Overview and Some Suggestions for Future Research*, in: "Target", 1995 No 7(2), p. 223–243

Baker M., *Corpus Linguistics and Translation Studies. Implications and Applications*, in: M. Baker et al. (ed.), *Text and Technology: In Honour of John Sinclair*, Amsterdam–Philadelphia 1993, p. 233–250

Baker M., *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–Philadelphia 1996, p. 175–186.

Biel Ł., *The textual fit of translated EU law: a corpus-based study of deontic modality*, "The Translator", Vol. 20, No. 3, p. 337, <http://dx.doi.org/10.1080/13556509.2014.909675> (2017-04-14).

Biel Ł., *Translatoryka korpusowa*, „Rocznik Przekładoznawczy” 2015/10, p. 15-40.

Fabiszak M., Konat B., *Zastosowanie korpusów językowych w językoznawstwie kognitywnym*, in: P. Stalmaszczyk (ed.), *Metodologie językoznawstwa 1. Ewolucja języka. Ewolucja teorii językoznawczych*, Łódź 2013.

Grundmann S., *Die Auslegung des Gemeinschaftsrechts durch den Europäischen Gerichtshof*, Hartung-Gorre Verlag, Konstanz 1997, p. 236.

Kamasa V., *Techniki językoznawstwa korpusowego wykorzystywane w krytycznej analizie dyskursu*, „Przegląd Socjologii Jakościowej” 2014, vol. X, No 2, p. 101.

Mik C., *Art. 53 TUE*, in: W. Czapliński, C. Mik, *Traktat o Unii Europejskiej. Komentarz*, Warszawa 2005, para. 1–4.

Nartowska K., *Tłumacz i działanie translatorskie w sądzie*, “Comparative Legilinguistics. International Journal for Legal Communication” 13/2013, p. 117.

Osiejewicz J., *Irrwege der bisherigen Klassifizierungen von Fachsprachen. Klassifizierungen der Versicherungssprache*, „Studia Niemcoznawcze” 2009/43, p. 473.

Osiejewicz J., *Legal education of court interpreters and sworn translators upon the Directive 2010/64/EU*, “International Journal on New Trends in Education and Their Implications” (IJONTE), vol. 6 No 1 (2015), p. 151-162, <http://www.ijonte.org/FileUpload/ks63207/File/19.osiejewicz.pdf> (2017-04-14).

Osiejewicz J., *Polnisch-deutsche Terminologie der Personenschäden in der Kfz-Haftpflichtversicherung*, Warszawa 2013; <http://portal.uw.edu.pl/documents/7732735/0/Joanna+Osiejewicz+-+Polnisch-deutsche+Terminologie.pdf> (2017-04-14).

Stubbs M., *Language Corpora*, in: A. Davies, C. Elder (ed.) *Handbook of Applied Linguistics*, Oxford 2004, p. 111.

Judgment of the CJEU of 12 November 1969, C-29/69, Erich Stauder v City of Ulm, Reports of Cases 1969 00419, ECLI:EU:C:1969:57, para 425.

Judgment of the CJEU of 6 October 1982, C-283/81, Srl CILFIT and Lanificio di Gavardo SpA v Ministry of Health, European Court Reports 1982 - 03415, ECLI:EU:C:1982:335, para. 18.

Judgment of the European Court of Human Rights, Airey v Ireland, Merits, App No 6289/73 (A/32), [1979] ECHR 3, (1980) 2 EHRR 305, IHRL 23 (ECHR

1979), 9th October 1979, p. 11.

Judgment of the Polish Constitutional Tribunal, 13th May 2002, SK 32/01, Polish Journal of Laws 2002 No 68 Pos. 632.

Judgment of the Polish Constitutional Tribunal, 9th July 2002 r., P 4/01, Polish Journal of Laws 2002 No 114 Pos. 993.

Judgment of the Polish Constitutional Tribunal, 9th June 19998, K 28/97, OTK ZU No 4/1998, Pos. 50, p. 299.

JRC's Competence Centre on Text Mining and Analysis

<http://optima.jrc.it/Acquis> (2017-04-14).

Narodowy Korpus Języka Polskiego, <http://nkjp.pl/> (2017-04-14).

Key words:

right to a court, court interpretation, court translation, corpus-based translator and interpreter training

Abstract:

The right to a court is a subjective right focused on an entity, which is the basic guarantee of the realization of other rights. It implies an obligation of the state to organize the judiciary in order to ensure effective legal protection. In the case of persons who do not speak the language of the proceedings that they participate in, the key element for the realization of their access to a court is a properly qualified translator or interpreter providing good quality assistance.

This article aims to discuss European legal regulations concerning the right to a court as well as respective regulations of the Polish national law, to present the role of an interpreter as a guarantor of this right. Next, on the basis of the guidelines of corpus-based translation, this paper proposes a new method of training court translators and interpreters. The application of the new method may optimize court interpreter training process in terms of time efficiency and quality.