

UNIVERSITÀ DEGLI STUDI DI MILANO
Scuola di Scienze della Mediazione Linguistica e Culturale
Corso di Laurea Triennale in Mediazione Linguistica e Culturale

UNIVERSIDAD DE VALLADOLID
Facultad de Filosofía y Letras
Grado en Estudios Ingleses



**CONTRASTIVE STUDY AND TRANSLATION OF A
LEGISLATIVE ACT FROM ENGLISH TO SPANISH: THE
*EUROPEAN UNION (WITHDRAWAL) ACT, 2018***

Elaborato finale di / Trabajo Fin de Grado de:
Colella Ilenia

Relatori / Tutores:
Calvi Maria Vittoria y López Arroyo María Belén

Milano – Valladolid, 2019

Ai miei genitori,
pilastri della mia esistenza.
Grazie per il vostro sostegno,
il vostro incoraggiamento
e i vostri consigli.
Ma soprattutto,
grazie per aver creduto in me.

A mis tutoras,
Prof.ras M. V. Calvi y M. B. López Arroyo.
Gracias por vuestra dedicación,
disponibilidad
y paciencia.

Index

Abstracts.....	3
1. Introduction	5
1.1. Objectives	5
1.2. Justification of work	5
1.2.1. Double Degree	5
1.2.2. Competences acquired	6
1.2.3. Relevance of the theme chosen	6
1.3. Theoretical Framework	8
1.4. Structure	9
2. Contrastive Study	11
2.1. Approval process of English and Spanish Acts	11
2.2. Structure of English and Spanish Acts	14
3. Legal Language in Acts	23
3.1. Legal English in Acts of Parliament	23
3.1.1. Textual characteristics	23
3.1.2. Stylistic characteristics	26
3.1.3. Syntactical and Grammatical characteristics	27
3.1.4. Lexical characteristics	32
3.2. Legal Spanish in Acts of Parliament	35
3.2.1. Textual characteristics	35
3.2.2. Stylistic characteristics	36
3.2.3. Syntactical and Grammatical characteristics	37
3.2.4. Lexical characteristics	39
4. The European Union (Withdrawal) Act, 2018	43
4.1. Context.....	43

4.2. Translation.....	44
5. Translation Analysis.....	55
5.1. Translation strategy.....	55
5.2. Translation problems and solutions provided.....	57
6. Conclusions.....	63
Annexes.....	65
Terminological Tables.....	65
Parallel Texts.....	74
Resumen	77
Riassunto	81
Bibliography.....	83
Sitography	87

Abstracts

English Abstract:

This dissertation is a commented translation of an English Act, the *European Union (Withdrawal) Act, 2018*. The main objective is to carry out a translation of that Act in Spanish remaining faithful to the original text, but at the same time making it sound natural to Spanish speakers. Then, a contrastive study of English and Spanish Acts is carried out highlighting similarities and differences between both. Finally, the most important linguistic hardships are analyzed, as well as the problems that a legal translator may encounter in translating an Act.

Key words: translation, legal translator, Act, contrastive study, analysis, linguistic differences.

Spanish Abstract:

El presente Trabajo fin de grado (TFG) es una traducción comentada de una ley inglesa, la *European Union (Withdrawal) Act, 2018*. El objetivo principal es traducir la mencionada ley al español tratando de ser fiel al texto original, pero al mismo tiempo adaptándolo a la gramática española para que suene natural a los hispanohablantes. En el trabajo, se hace también un estudio contrastivo de las leyes inglesas y españolas, destacando las similitudes y diferencias entre ellas. Al final, se analizan las dificultades lingüísticas más importantes y se evidencian los problemas que puede encontrar un traductor jurídico al traducir una ley.

Palabras claves: traducción, traductor jurídico, ley, estudio contrastivo, análisis, diferencias lingüísticas.

1. Introduction

1.1. Objectives

The main objective of this paper is to offer a translation into Spanish of an English Act of Parliament trying to achieve an adequate correlation in the target language reflecting the original meaning of the Act.

Secondly, another objective is to make a contrastive analysis between English and Spanish Acts, looking for similarities and differences by examining the structure of parliamentary Act and the approval process of both legal systems.

The third objective is to analyze in more detail the textual, stylistic, grammatical, syntactical and lexical characteristics used in English and Spanish Acts of Parliament.

The last objective is identifying these characteristics in the text chosen for the analysis and discussing how it is then translated into Spanish, what kind of difficulties a translator can find and how he/she can overcome them.

Overall, this research shows the complexity of legal translation, which is shaped by specific factors strictly depending on the cultural, historical, political and legal contexts of both source and target languages. In order to do this, we have chosen an extract from a recent parliamentary Act, the *European Union (Withdrawal) Act, 2018*, which importance is underlined in the next section.

1.2. Justification of work

1.2.1. Double Degree

The present research paper is carried out within the framework of the Double Degree program signed by the grade in *Mediazione Linguistica e Culturale* of the *Università di Milano* and the one in *Estudios Ingleses* of the *Universidad de Valladolid*.

It allows the student to study the second academic year abroad and, after having successfully passed all the exams in the curriculum, the program provides the achievement of both degrees, through the defense of the dissertation in both Universities, written under the guidance of the supervisors Maria Vittoria Calvi and Belén López Arroyo.

1.2.2. Competences acquired

Although they are two different degrees, the degree in *Mediazione Linguistica e Culturale* and the one in *Estudios Ingleses* offer a similar curriculum ranging from the study of Spanish and English languages, to the study of culture, sociology, history, economy and law.

In particular, the degree in *Mediazione Linguistica e Culturale* offers an excellent preparation in both the foreign languages chosen, paying particular attention to the specialized languages and to the cultures of the linguistic areas of correspondence, while the degree in *Estudios Ingleses* focuses mainly on English language, whose mastery in international relations is undisputed. There, almost all the courses are taught in English and that allows the student to achieve an advanced level of English in writing, reading, speaking and listening.

So, although they are different degrees, they have a common goal: to offer linguistic competences which will allow the student to act as mediator in the different legal, economic and social spheres.

Thanks to both curriculums that cover several subjects, I have developed a specific interest in the translation of the legal language that will be the main object of study in this work. But, in addition of being a factor of preference, the choice of legal sphere is also the result of a careful consideration with respect to market demand. In fact, in recent decades, the legal translator has acquired more and more relevance and has become an indispensable figure in the international community (Alcaraz and Hughes, 2002b: 2).

1.2.3. Relevance of the theme chosen

The theme chosen for this paper is the exit of the United Kingdom from the European Union, the impact it has and will have, once it is fully in force, upon the EU's society and the reconfiguration of several aspects which affect trade, the free movement of people and many another important issues.

The exit of the United Kingdom has implied several changes and several opinions as well. It is a well-known fact that English society was divided in opinion because not everybody believed it was the right call and others were firmly convinced that it was a change for the better. To exemplify the former, the words of Shaheen, director of the Centre of

Labour and Social Studies, show clearly the discontent of many in her article for the Guardian:

We've been living in a Brexiteers fantasy and, worse, paying for it

There's a deal! I mean not a "deal" deal, but some draft text on a withdrawal agreement that defines the terms of the interim arrangements while we work out our future relationship with Europe and everyone else. We will hear a lot about how this agreement is in the "national interest", about the technicalities of leaving the customs union and about the political fallout of a deal that fudges it on Northern Ireland, but nothing about how this agreement will fix a divided and unequal UK (Shaheen, 2018).

On the other hand, there is the British population that favors the separation of their community from the European Union, like a Pro-Brexit Labour MP Kate Hoey who said once that the EU is "an attempt to replace the democratic power of the people with a permanent administration in the interests of big business." (Hoey in "Brexit: the pros and cons of leaving the EU", 2018). Furthermore, many experts of the matter believed that this move was a very unfortunate one: "Twelve months of Brexit negotiations have shown it is impossible to leave the EU without harming yourself. That is why it is clearly time to turn back." said Riegert, a DW Brussels correspondent.

Moreover, it is quite interesting to pinpoint the fact that language has also taken part into this popular debate, since terms which later became popular were coined and related to this scenario; some examples of this are the concepts of *Brexit*, *Leavers*, *Remainers*, *Brexiteers*, etc. which are considered to have played an important role within this whole process by their use any the media and even MPs in several occasions.

The final decision of Britain's separation was decided by a referendum on Thursday 23rd of June of 2016, in which nearly most of the population voted supporting the exit or stay in the European Union. Unfortunately, "leave" won by 51.9%.

The scheduled time for the official exit is on the 29th of March of 2019, however if all the members agree, this time lapse can be extended.

With this hot topic, this paper shows the process of translation, the difficulties the translator goes through due to the lack of an absolute correspondence between the source and target language.

1.3. Theoretical Framework

It is a well-known fact that legal translation is considered a tough task. When working on a legal task the translator should always take into consideration the cultural and legal backgrounds for linguistic interests. Regarding the legal aspects, there are different types of texts rooted in particular legal frames with the aim of fulfilling their duty within a specific branch of the law, and this is why finding a high degree of correlation among different legal systems is in various cases rather challenging for the translator (Stolze, 2013: 1).

Moreover, the legal translator should excel in legal style writing because the combination of the abstraction of legal terms plus the challenging task of dotting the target language with the original text's value, is quite arduous.

See how the words in the abstract of the article "Lexical ambiguity and legal translation: A discussion" summarizes this vision:

Over the years, translation theorists have spent much time and effort discussing the degree of freedom the translator has in representing the meaning of the source text in her translation. When it comes to legal texts it is generally agreed by both lawyers and linguists that because of the special nature of legal texts the translator will have to stay close to the source text by representing the exact or near exact meaning in her translation. There is, however, one point which is not taken into consideration, namely that legal texts, just like other texts, contain a great number of ambiguous lexemes. It is therefore on the face of it not always obvious to the translator what a given lexeme or sentence in a legal text actually means. So some way or other she will have to appeal to the wider context in order to specify appropriate meaning (Pedersen and Dorri, 2001: 379).

Now, the following important step is to explore the difficulties of legal translations more deeply. Law, as it is, is supposed to provide societies with a system that guarantees an orderly way of living within a culture, therefore, all aspects of life are contemplated by law and legislation of each community.

Since law and language are culture bound, legal translation "is far from being a mere technical issue" (Šarčević, 2016: 73). According to Matulewska (2013: 13):

Legal translation is considered one of the most difficult task as far as translation of texts formulated in language for special purposes is concerned. This is due to the fact that legal texts are rarely

formulated in legal language only. Moreover, there is a wide variety of branches of law genres functioning in them. Finally, legal system of different countries vary. Consequently, some language pairs are easier to translate from and into, whereas others are more difficult and challenging. It happens so especially when the translation deals with, e.g. law/civil law language pair (Matulewska, 2013: 13).

So, complexity in legal translation is due to the differences between legal systems, and as a consequence, to the fact that equivalents may correspond to different concepts in each of the jurisdictions, the meaning of the notion can vary a lot from a legal system to another, and finally, “the interconnections within legal system as well as the legal culture in general influence the meaning and the practical impact of legal concepts” (Olsen, Lorz and Stein, 2009: 7).

Thus, the translator must approach the text with a double vision, regarding both legal and linguistic features, because in spite of the obstacles presented by this dichotomy, satisfactory legal translation is possible.

1.4. Structure

The present paper is structured in six main chapters:

1. The introduction.
2. The second chapter in which it is carried out a contrastive study between English Acts of Parliament and Spanish ones. It focuses on the approval process and on the structure of both Acts.
3. The third chapter in which linguistic characteristics of both Acts of Parliament are analyzed.
4. The fourth chapter that introduces the context in which the *European Union Withdrawal Act 2018* is located. Then, an excerpt of the original text of the Act is translated into Spanish.
5. The fifth chapter in which the strategy used in translation, the problems encountered when translating and the solutions provided for each problem are clarified.
6. The sixth chapter in which a conclusion of the paper is drawn.

At the end of the paper, a terminological table will be added, as well as some parallel texts that have helped us to translate the text.

Finally, the work ends with two summaries, one in Spanish and the other in Italian in which the main steps of the work will be highlighted.

2. Contrastive Study

In this chapter, we will carried out a contrastive study between English Acts of Parliament and Spanish ones in order to clarify the most important differences and similarities of them. We will focus on the approval process of English and Spanish Acts and on their structure.

2.1. Approval process of English and Spanish Acts

In this section, the different processes of approval of English and Spanish Acts will be analysed and then similarities and differences will be highlighted.

- **English Acts**

The process of law-making and law-approval in the UK starts with the process of Law enactment carried out by Parliament. Acts of Parliament apply in all four countries of the UK and there are three types of bills (the drafted version of a law) to be placed before the Parliament:

- Public Bills, which are those aimed at reforming national interests. Most of them are introduced from the Government and in this case they are known as “Government Bill” (Jayapalan, 1999: 53), others introduced by MP’s or Lords take the name of “Private Member’s Bill” (Smartt, 2014: 114).
- Private Bills, which are drafted by individuals, institutions, local authorities, and its concerns are individual and local matters. As opposed to public bills, they are rare. Usually these bills that are proposed by people outside the Houses, go against the general law and are made by individual organizations to gain power for themselves. (Smartt, 2014: 114).
- Hybrid Bills are a cross between Public and Private Bills. They are bills that have a national importance but only concern one area. (Finch and Fafinski, 2015: 7).

Bills can be proposed by either of the Houses and they must be approved by both of them, as well. Once approved, the bill gains the title of Act of Parliament. The procedure to earn this label, as it is reported in the official web site of the UK Parliament, is the following:

- First reading:

The title of the bill is read and it is then published (formal phase);

- Second reading:

The House of Commons discusses on the general principles of the bill;

- Committee stage:

Examination of the bill in detail and possible modifications can be made;

- Report stage:

In the case of alterations to the bill in committee there must be a report written so that the House vote;

- Third reading:

This is the last opportunity for MPs to vote on the bill in the House of Commons;

- Proceedings in the House of Lords:

If the Lords have to modify to the bill, it must be sent back to the Commons;

- Royal Assent:

When the bills receives the Royal Assent it becomes law and is called an Act.

- **Spanish Acts**

Now, the Spanish legislation proceeds in a similar way but its houses are grouped differently (the Senate and the Congress).

The Spanish legislative process is managed by the *CE (Constitución Española)* and can be divided into three major phases.

Initial Phase:

The initial phase corresponds to the legislative initiative that under the Article 87 (*CE*) can come from:

- The government who draws a “*Proyecto de Ley*”. It has to be accepted firstly by the Council of Ministers and then, it can be sent to the Congress. The project must be presented with annotations of the reasons and antecedents that may aid them to accept it (Iglesias Báñez, 2011: 70).

- The Congress, the Senate, the Autonomous Communities¹ or population² can also draw a proposal of law that in those cases is called “*Proposición de Ley*” (Iglesias Báñez, 2011: 70)

Central Phase:

- All legislative initiatives first pass by the Congress and then arrive at the *Mesa del Congreso* which can admit them to be processed and then send them to the Commission of reference (Iglesias Báñez, 2011: 71). However, drafts³ (*Proposiciones de ley*) first have to pass by the Government which can eliminate some parts (Bahillo Marcos and Pérez Bravo, 2014: 19).
- A small group of Deputies is commissioned to study and modify the text. This body writes a brief about the text (*Dictamen*) which is then discussed and voted on in the plenary session (*Pleno*). However, in some cases the Commission approves the text without passing from the *Pleno* (Iglesias Báñez, 2011: 71).
- In the plenary session, the text is discussed and modified. Once it is approved, it passes from the President of the Congress to the Senate (Iglesias Báñez, 2011: 71).
- The Senate can approve vetoes or amendments to the text. In both cases, the text is submitted to the Congress that have the last decision on the legislative text (Bahillo Marcos and Pérez Bravo, 2014: 19).

Final Phase

Once the Congress gives its definitive answer, the text will be signed by the king and then it is published in the *Boletín Oficial del Estado (BOE)* (Iglesias Báñez, 2011: 72).

¹ The legislative assemblies of the Autonomous Communities can urge the government to adopt a legislative proposal. The Autonomous Parliament will delegate before the Congress a maximum of 3 parliamentarians who will be able to defend the proposal.

² It is the “popular initiative” and it requires at least 500.000 signatures.

³ Source: IATE

Similarities and differences

After examining both approval processes, we can point up similarities and differences:

- The English legal system limits the source of creation of bills, in the Spanish system many bodies can make a proposal of the Act.
- The process of passing of the bills is quite similar even if the structure of the Houses is not exactly the same (the Senate and the Congress for Spain, the House of Lords and the House of Commons for UK).
- The Spanish system of approval is more concrete, with fewer stages and more straight forward.
- The process of approval by each body of the Parliament (Congress for Spain) goes under the same proceedings to pass the bill to the next stage.
- The final Royal Assent (or *sanción real* for Spain) is present in both processes because of their governmental structure.

2.2. Structure of English and Spanish Acts

According to Borja Albi (2017), a translator, when working on a legal text, needs to frame the text of origin in the typology of belonging and to reflect the same typology in the target language so that the speakers of this language are able to recognize it and in turn categorize it (Borja Albi, 2017: 79). There are different types of classification: they could be based on the function of the text, on some branches of law, on the text genre and on the communicative situation. Borja Albi (2017: 85) classifies legal texts according to the genre: normative texts, judicial texts, law texts, reference books, doctrinal texts and texts of law application.

The text chosen for this paper is an Act of Parliament, so it belongs to the normative genre. Acts of Parliament have the main function of organizing the order of a society and for this reason they have to be clear and unequivocal (Borja Albi, 2017: 86).

Both, English and Spanish Acts, have a well-structured legislation: Spanish normative texts are grouped in *Códigos*, while English ones in Statutes (Borja Albi, 2017: 86). Both Acts also follow a fixed structure in the drafting of an Act.

Now, we will analyse closely the two structures to find differences and similarities. At the end of the chapter, we will draw a conclusion about the comparison of the elements in common and the differences between the two structures.

- **English Acts**

All English Acts are composed by:

- Coat of arms

The first element common to all English Acts of the Parliament is the coat of arms. There is not a rule that imposes the insertion of the emblem, but it is a tradition that still today continues to be followed (Gifford and Salter, 1996: 15). On the contrary, this tradition does not exist in Spain.

- Short Title

Under the coat of arms, the first element that appears in Acts of Parliament is the short title. It summarizes the content of the Act in few words.

Someone thinks that it indicates the most convenient way to refer to an Act of Parliament, so it is as Lord Moulton says, “a statuesque nickname” that have only an identifying function.

Contrarily, Lord Selbourne thinks that it corresponds to a “a general description of all that was done by the Act”, so it has also a descriptive function.

On his side, Maxwell states:

I agree that the court should give less importance to the title than to the enacting part, and less to the short title than to the full title, for the short title being a label, accuracy may be sacrificed to brevity, but I do not understand on what principle of construction I am not to look at the words of the Act itself to help me to understand its scope in order to interpret the words Parliament has used by the circumstances in respect of which they were legislating (Maxwell cited in Gifford and Salter, 1996: 25).

Therefore, since the judges are in disagreement and it is not clear what position the court adopts, the middle way would be to take the short title into account even if it has a lower value than the long title. It is assumed that they are due to be compatible, but if they are not, only the long title needs to be considered (Gifford and Salter, 1996: 23-25).

However, as Gifford and Salter (1996: 23) affirm:

There is much less chance of a mistake if an Act of Parliament is referred to by its short title than there is if it is referred to by its number, since the possibility of an error in the printing, or of misrecollection, can more readily arise in the case of a number than in the case of a title (Gifford and Salter, 1996: 23)

To overcome this problem, a strategy adopted by Spanish is to write both the number and the short title. We will see it later.

- Year and chapter of the Act

The short title is followed by the year and the number of the chapter of the Act, like in the following example:

2018 CHAPTER 16

It is meant to explain that it was the 16th Act passed in the year 2018.

The number of the chapter (16) has no legal value, but it is written to facilitate the search of the Act: in fact when the Acts are linked to a volume, they receive a number usually printed in their chronological order.

Regarding the year, nowadays the calendar year is indicated, but in the past, it was an interesting tradition to indicate the year of the kingdom rather than the calendar one (Gifford and Salter, 1996: 15-17).

- Long title

Then, the long title comes, which is, by definition, longer than the short title. It corresponds to a brief description of the Act (Alcaraz, 1996: 10).

On the contrary of the items mentioned before that have no legal value, the long title is part of the Act, in fact it “can be used to find the meaning of the Act, and generally its

scope” (Gifford and Salter, 1996: 20), but, as *R v Galvin* [1987] QB 862 (CA) 869B–C (Lord Lane CJ) say:

One can have regard to the title of a statute to help resolve an ambiguity in the body of it, but it is not, we consider, open to a court to use the title to restrict what is otherwise the plain meaning of the words of the statute simply because they seem to be unduly wide (*R v Galvin* [1987] QB 862 (CA) 869B–C (Lord Lane CJ) cited in McLeod, 1999: 288).

Thus, the title can be useful in cases of ambiguity in a section, but if the meaning of the section is clear, it should not be altered by reading the long title (Gifford and Salter, 1996: 19-20).

- Date of enactment

On the right corner beneath the long title, the following item that appears within an Act is the date of enactment, that is, the specific date when the Act comes into force.

In some Acts, the date of enactment is not specified, so, as a general rule it enters into force on the day it receives the royal assent. However, Parliament can also establish that the Act enters into force on a day different from the one in which it receives the royal assent: for example, it can come into force the day after receiving the royal assent or it can be read as if it had come into force even before was approved by the Parliament (it is known as retrospective Act). The parliament may also decide to bring into force some parts on a date, and others on another date (Gifford and Salter, 1996: 27, 28, 29).

Moreover, a detail that occur in some Acts that only affects a specific geographical area of the kingdom is that underneath the date of enactment, the geographical extent of interest of the Act appears.

- Preamble

Furthermore, some Acts also have a preamble, which includes its “whereas clauses” describing the political and social reasons that push to the approval of the Act (Alcaraz, 1996: 11). It is a useful guide to the interpretation of the Act, but in our days it is no longer widely used in English Acts. However, as we will see later, this element is necessary in Spanish Acts.

- Enacting words

Next comes the enacting formula. As Alcaraz (1996: 11) states: “La fórmula promulgatoria (enacting words) da fuerza de ley al documento que sigue”. The following are the most used enacting words:

BE IT ENACTED by the Queen’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:— .

The wording may be different and sometimes it may happen that an Act is published without the approval of the House of Lords. In that case, for example, the composition is almost the same but the House of Lords is not mentioned (Gifford and Salter, 1996: 21-22). Moreover, the archaic form in which it is written that will be analyzed in the next chapter does not go unnoticed.

- Section, subsection, paragraphs, subparagraphs

Regarding the structure of an Act, normally it is divided into numbered sections in turn divided in subsections with numbers in brackets. These subsections are then divided in paragraphs indicated with letters in brackets as well and a further subdivision is achieved by marking subparagraphs with Roman numbers.

Finally, the last part of an Act of Parliament is composed by Schedules which contain headings, definitions, provisions, repeals, amendments and explanations.

▪ **Spanish Acts**

The structure of an Act in the Spanish legal system is quite similar to that of the English Act. The following are the most important items that appears in Spanish Acts:

- Title and date

First of all, Spanish Acts display the title and the date. See the example below:

Ley 6/2018, de 3 de julio, de Presupuestos Generales del Estado para el año 2018.

It follows a fixed schema: first of all, it is indicated the type of the Act (*Ley Orgánica*, *Ley Ordinaria*, *Real Decreto-Ley*), so it is followed by the corresponding number and a

dash separating the year. Then, after a comma, it appears the date of the approval of the Act (not the enforcement date) and then a short title of the Act which briefly describes the content. In particular, the example taken corresponds to a temporal Act because, in the title, “*para el año 2018*” means that it is valid only in that year (Martínez González and Vicente Blanco, 2014: 3).

- Enacting Words

Also the Spanish Act presents an enacting formula. But, unlike the English Act, it is divided into two parts (Alcaraz, 1996: 11):

1) FELIPE VI

REY DE ESPAÑA

A todos los que la presente vieren y entendieren.

Sabed: Que las Cortes Generales han aprobado y Yo vengo en sancionar la siguiente ley:

2) Por tanto, mando a todos los españoles, particulares y autoridades que guarden y hagan guardar esta Ley

The second part appears at the end of the Act and it is followed by the king's signature. It does not appear in English Acts.

As De Carreras and Alberti Rovira (2002: 57) highlight:

De esta fórmula y su dicción literal se puede deducir que la voluntad de esta práctica es configurar la promulgación como el otorgamiento de fuerza normativa a la ley por parte de quien simboliza la unidad de los poderes del Estado. En cualquier otro caso, de acuerdo con el artículo 91 CE, el acto es puramente formal, pero necesario para pasar a la siguiente fase, la publicación (De Carreras and Alberti Rovira 2002: 57)

- Preamble

The next item in structure is the preamble. Concretely, this section is used to explain the context and the antecedents of the Act, and to describe the reasons and aims of it. Contrary to English Acts, it continues to be used in Spanish ones and it has also a normative value, so it can help to a better understanding of the Act itself (Martínez González and Vicente Blanco, 2014: 3).

- Dispositive Section

The following element of an Act is the dispositive section which is divided in books, titles, chapters, articles (Martínez González and Vicente Blanco, 2014: 3).

However, as regards the division into Books, it is used only in the case of very long Acts. Not even the division in Titles is always used, but only in Acts that have very differentiated parts. Both, books and titles, are ordered with roman numbers (García-Escudero Márquez, 2005: 148).

As regards chapters, they display a specific topic and are ordered with roman numbers and bearing titles. They are later subdivided into sections (*Artículos*), which are organized in ordinal numbers and titles. For example: “Artículo 1. Objeto y ámbito de aplicación.” (Ley 30/2015). As stated by García-Escudero Márquez (2005: 148): “cada artículo, un tema; cada párrafo, una oración; cada oración, una idea”.

So, each article deals with a unique normative concept of the Act. If there is only one article, it is called “*Artículo único*”. Articles are divided into numbered paragraphs. In the case of the single article, there is no number. Paragraphs can be subdivided into smaller paragraphs and they are indicated by the lower-case letter (Martínez González and Vicente Blanco, 2014: 3)

Finally, the Provisions of the Final Part are divided into Additional Provisions, Transitory Provisions, Repealing Provisions and Final Provisions (Martínez González and Vicente Blanco, 2014: 4)

Similarities and differences

Then, after having examined in more detail the two structures of the respective Acts of Parliament, we can draw the conclusion that their structure is rather similar, the way in which they are organized is almost the same, but they present some differences that is worth summarizing:

- Regarding the short title, in English Acts, numbers or codes are not used, because, as we have said before, they can lead to errors in printing or in referring to an Act rather than to another. However, those errors are avoided in Spanish Acts adding a title to the number and date of publication.

- Spanish Acts do not have a long title which is of fundamental importance in English Acts as it has legal value and therefore can be used in the interpretation of the Act itself.
- On the contrary, the preamble, which is almost never used in English Acts, is necessary in Spanish ones because it explains the context in which the Act is set and it can be used in the interpretation of the Act itself.
- Both Acts have an enactment formula that presents an archaic form. However, it should be noted that the Spanish formula is more complete, in fact it is divided into two parts, the first one is inserted before the articles, the second one is inserted at the end of the Act and it is followed by the signature of the king.

3. Legal Language in Acts

In this chapter, it will be carried out a contrastive study of the main linguistic features that stand out in English and Spanish Acts of Parliament. Each feature is followed by an example taken from Acts. In particular, the examples given in the section “Legal English in Acts of Parliament” are taken from the fragment of the Act we have chosen for this paper.

3.1. Legal English in Acts of Parliament

3.1.1. Textual characteristics

Since, as Šarčević (2000: 5) states: “the basic unit of legal translation is the text, not the word”, in this section we will analyze the textual characteristics of Acts of Parliament in order to understand how the text is organized before working on translation.

Coherence

The most important textual feature that could be found in Acts of Parliament is the coherence. Coherence corresponds to the continuity that exists between the different parts of the text. It can be found in a macrostructural level, therefore looking at the text as a whole. It is what gives logic to the text and it has different types of abstraction. In the case of Acts, which are generally long texts, the title of each section is the highest level of abstraction (Borja Albi, 2017: 46-47).

Coherence could be found also in the superstructure. Superstructure corresponds to a set of texts written according to the same scheme, as in the case of Acts. In our Act, it corresponds to the elements analyzed in the first chapter (see “Structure of English and Spanish Acts”) (Borja Albi, 2017: 47).

However, coherence also emerges from the linguistic point of view, through thematic progression and thanks to a wise use of lexical repetitions (Borja Albi, 2017: 48).

Thematic Progression

To talk about thematic progression, we need to consider two elements of which a sentence is formed: the Theme (T) that corresponds to the known information, and the Rheme (R) that corresponds to the new information.

In the fragment of the text that we have chosen for the translation, there are two types of thematic progression: linear progression and constant theme progression (Borja Albi, 2017: 58).

To study both types of thematic progression, we have extracted two paragraphs from our text and we have explained them:

- Linear progression

In the linear progression, the Theme of the second sentence corresponds to the Rheme of the first one (Borja Albi, 2017: 58).

This is exactly what happens in the example below taken from our Act:

1 Repeal (T1) of the European Communities Act 1972 (R1)

The European Communities Act 1972 (T2) is repealed on exit day (R2).

“The European Communities Act 1972” is the Theme (T) of the second sentence which derives from the Rheme (R) of the first sentence. So, it happens that the new information of the first sentence became the known information of the second sentence. This is a typical strategy used in legal texts where everything has to be unequivocal and is clarified step by step. The information that was previously unknown, becomes known in the second sentence to which another new information is added.

- Constant theme progression

In the constant theme progression, the theme (T) remains the same, while rhemes (R) are added to the theme (Borja Albi, 2017: 58).

See the example below taken from our Act:

- (1) The principle of the supremacy of EU law (T1) does not apply to any enactment or rule of law passed or made on or after exit day (R1).

- (2) Accordingly, the principle of the supremacy of EU law (T1) continues to apply on or after exit day so far as relevant to the interpretation, disapplication or quashing of any enactment or rule of law passed or made before exit day (R2).
[...]

In this example, the Theme is “the principle of the supremacy of EU law”, the others information that are not underlined correspond to the Rhemes, so to the new information. The Theme, e.g. the known information remains the same, information not yet known are added to the theme. Also this technique is particularly used in legal texts in which it is preferred to repeat the theme, rather than using linguistic strategies that could lead to a misunderstanding of the concept.

Lexical repetition

A particular characteristic of legal texts, which gives coherence to the text, is the lexical repetition that consists on repeating several times in a row the term, the expression or the syntactic structure, rather than using pronouns or some kind of anaphora (Williams, 2007: 34). That process that in some register may seem inappropriate, in the legal field is necessary in order to avoid ambiguity (Borja Albi, 2017: 54).

See the example below taken from the *European Union (Withdrawal) Act, 2018*:

- (1) The principle of the supremacy of EU law does not apply to any enactment or rule of law passed or made on or after exit day.
- (2) Accordingly, the principle of the supremacy of EU law continues to apply on or after exit day so far as relevant to the interpretation, disapplication or quashing of any enactment or rule of law passed or made before exit day.
- (3) Subsection (1) does not prevent the principle of the supremacy of EU law from applying to a modification made on or after exit day of any enactment or rule of law passed or made before exit day if the application of the principle is consistent with the intention of the modification.

The structure underlined (The principle of the supremacy of EU law) is an example of “lexical repetition”. As it demonstrates, the lexical structure already present in the Subsection 1, is repeated in the Subsections (2), (3).

Lexical repetition gives the text accuracy and has the function of eliminating any ambiguity with reference to the repeated word or structure in question. In fact, rather than using a synonym or pronoun or any other strategy that could compromise the meaning given to the lexical structure or word in question, it is preferable to repeat the aforesaid word or structure to which a single meaning is conferred in the context.

Doublets and triplets

A type of lexical repetitions is the use of doublets and triplets. It corresponds to a succession of two or three words that belong to the same grammatical category and have the same meaning (Borja Albi, 2017: 54). In Acts of Parliament, it is a normal practice to use them.

See the example below taken from the *European Union (Withdrawal) Act, 2018*:

[...] if in force or effective immediately before exit day, continues to be in force or effective on and after exit day. [...]

The underlined terms “force or effective” is an example of doublets used in our Act of Parliament. On one side, the use of this technique can facilitate the work of the translator if the same construction exists in the target language, but on another side, if it is not so, it may represent a challenge to find the exact synonyms for each term in the target language, especially because in the most cases each term of the doublets or triplets has the same identical meaning. However, translators have two possibilities: they can either reproduce the message exactly or choose the least general term (Alcaraz and Hughes, 2002b: 10).

3.1.2. Stylistic characteristics

In this section, we will analyze the stylistic characteristics of English Acts of Parliament.

Archaic and Formal diction

Due to the register expected from an Act of Parliament, it is natural to presume that the style is formal and enriched with archaic expressions and old-fashioned syntax. One of the reasons for this to be so, it is because of the enormous inheritance of terms and structures from previous centuries and their incorporation as normal coinage within this type of discourse. Moreover, lawyers do not want to eliminate them from the legal context

because these words are not used in everyday language so they are less subject to change of meaning (Alcaraz and Hughes, 2002b: 7).

However, the formal register is not only indebted to the use of archaic terms but also to politeness. A clear display of this aspect in an Act of Parliament is the way in which royal consent is addressed.

See the enacting formula taken from the *European Union (Withdrawal) Act, 2018*:

BE IT ENACTED by the Queen’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

In this formula, the archaic style used and the kindness in referring to the great entities do not go unnoticed.

Moreover, within this Act, adverbs like “hereby”, “whereby” or “hereinafter” are not used, but there is a propositional phrase that is repeated more than once: it is “is subject to”.

See the example below taken from the *European Union (Withdrawal) Act, 2018*:

This section is subject to section 5 and Schedule 1 (exceptions to savings and incorporation).

Neither the adverbs mentioned afore nor the prepositional phrases like “notwithstanding” or “subject to” are used in ordinary language nowadays, but remain amid this sort of legal discourse.

3.1.3. Syntactical and Grammatical characteristics

Taking into account that, as stated by Tiersma and Solan (2012: 46), “the complexities of legal syntax are due to the communicative purposes of the law, coupled with the sentence as the basic syntactic unit of expression”, now we will do a syntactical analysis of Acts of Parliament, taking the examples from the Act chosen for this paper.

First of all we will focus on the structure of the sentence, how it is arranged and composed, and then we will analyze in a more specific way the morphosyntactic aspects of Acts such as verbs, prepositions and collocations.

Sentences structure

According to Tiersma and Solan (2012: 42), sometimes short sentences can be even more difficult to understand than long sentences. Sentences that present many interruptions are more difficult to understand than those which recur to syntactic strategies to remove such interruptions. Where these strategies cannot be used, a solution could be to separate graphically the parts of the sentences into sections and subsections (Tiersma and Solan, 2012: 42).

See the example below taken from the *European Union (Withdrawal) Act (2018)*:

- (4) This section—
 - (b) brings into domestic law any direct EU legislation only in the form of the English language version of that legislation, and
 - (c) does not apply to any such legislation for which there is no such version, but paragraph (a) does not affect the use of the other language versions of that legislation for the purposes of interpreting it.

The example shows a type of long sentence that is broken down graphically. It facilitates the reading and the comprehension of the text by readers and allows writers to draft a legal text consisting of long sentences without compromising their comprehension (Tiersma and Solan, 2012: 42).

Taking into account that there are four ways to formulate the sentences according to whether or not there are one or more principal and subordinate clauses, in our Act and in English Acts in general, the majority of sentences are complex, this means that they are characterized by one main clause and one or more subordinate clauses.

See the example below taken from the *European Union (Withdrawal) Act, 2018*:

(1) Direct EU legislation, so far as operative immediately before exit day, forms part of domestic law on and after exit day. [...]

This is an example of a complex sentence present in the fragment of our Act: the main clause is the underlined part of the sentence, while the subordinate clause is introduced by the preposition “so far as”.

Hypotaxis and parataxis

Moreover, as suggested by Tiersma and Solan (2012: 46), “sentences may be broken down into its clausal elements by analyzing it in terms of parataxis (coordination) and hypotaxis (subordination)”. In legal texts, hypotaxis predominates on parataxis. Focusing on hypotaxis, it is interesting to highlight the possible arrangements of subordinates within the legal sentence (Tiersma and Solan, 2012: 43). They can occur in three different positions: at the beginning (left-branching), at the end (right-branching) and at the center (center-embedded) of the sentence. The center-embedded sentences are the least used in legal texts because it can confuse readers in the interpretation of Acts. Conversely, left-branching and right-branching sentences are the most used in legal texts.

See the examples below taken from the *European Union (Withdrawal Act), 2018*:

1- Left-branching sentence:

(2) For the purposes of this Act, any direct EU legislation is operative immediately before exit day if—

2- Right-branching sentence:

(3) Subsection (1) does not prevent the principle of the supremacy of EU law from applying to a modification made on or after exit day of any enactment or rule of law passed or made before exit day if the application of the principle is consistent with the intention of the modification.

As we can see in the examples, the difference between the two sentences lies in the fact that in the first example, the subordinate clause is placed on the left of the sentence (hence

the name “left-branching sentence”), while the main clause is placed on the right of it. Contrarywise, in the second example, the subordinate clause is placed at the end, so on the right of the sentence (hence the name “right-branching sentence”), while the main clause is placed at the beginning.

It can be deduced that these are the two sentence templates that can cause less problems of interpretation rather than a center-embedded sentence which requires a more careful study in the syntactical analysis of the sentence.

Understood how sentences can be structured, now we will dig deeper and analyze the most important morphosyntactic aspects that could be found in English Acts of Parliament, such as verbs, prepositional locutions and collocations.

Verbs

As regards verbs, it must be pointed out the predominance of the passive voice which emphasizes the element that is considered the most important in the sentence (Borja Albi, 2017: 40) .

See the example below taken from the *European Union (Withdrawal) Act, 2018*:

- (1) Any rights, powers, liabilities, obligations, restrictions, remedies and procedures which, immediately before exit day—
 - (a) are recognized and available in domestic law by virtue of section 2(1) of the European Communities Act 1972, [...]

This is an example of passive voice in which, as Alcaraz and Hughes (2002b: 19) state, the effect is “to suppress the identity of the agent responsible for the performance of the act [...]”. However, in our excerpt, the passive voice is not the one that predominates.

Analyzing other verbal aspects, it is important to underline the use of performative verbs due to their effectiveness in transforming words into actions (Alcaraz and Hughes, 2002b: 11). To exemplify what has just been said, we can mention the verb of the enacting formula:

BE IT ENACTED by [...],

This verb does not describe the action of enacting, on the contrary, when the action is mentioned, the act takes place. We can say that performative verbs realize the act when they mention it (Austin, 1962).

Prepositional locutions

In English Acts of Parliament, it can be noted a certain frequency in the use of particular prepositional locutions. As indicated by Borja Albi (2017: 41), these locutions follow a fixed pattern: preposition + noun + preposition.

See the following examples of particular locutions extracted from our Act:

Subsection (1) does not apply to any rights, powers, liabilities, obligations, restrictions, remedies or procedures so far as they— form part of domestic law by virtue of section 3, [...]

Subsection (4) does not affect the retention in domestic law on or after exit day in accordance with this Act of any fundamental rights or principles which exist irrespective of the Charter

In the first example, the preposition “by virtue of” was used instead of the preposition “by”, while in the second example, the use of “in accordance with” substitutes the preposition “according to”.

According to Borja Albi (2017: 41), “el uso de estas cláusulas preposicionales [...] se justificaría [...] por la idea de que las preposiciones simples conllevan un cierto grado de ambigüedad y se prestan a distintas interpretaciones”. Once again, therefore, the aim is to avoid ambiguity.

Collocations

In the case of the English legal language, the use of idioms, collocations or compounds bear the mark of special structures because they rarely have a correlative in other languages. In this particular case, due to the official nature of the discourse that is being discussed in this paper, the most likely structures to be found are collocations.

An example taken from the *European Union (Withdrawal) Act, 2018*, could be:

(2) A court or tribunal—

(b) is not bound by any principles laid down, or any decisions made, [...]

“Decisions made” is a typical collocation of English, which has no correspondence in Spanish language. In fact, it is a hard task to find fitting words in other languages for the idioms, phrasal verbs or collocations. In this case, the expert may also be puzzled by the inability of clarity because the individual meaning of each of its components may not help to clarify the meaning of the whole construction.

3.1.4. Lexical characteristics

The meaning of the text proceeds especially from the terms used which importance is underlined by Maley (1987) who says: “Controlling actions by words; here is the key to the understanding of legislative language. When the legislature enacts a statute, it is performing speech acts in the classic, performative, Austinian sense” (Maley, 1987: 27). So, the analysis of the lexical characteristics of Acts of Parliament helps us to understand what kind of terms we may encounter. It is an important step to do before translating a text, in fact, as stated by Alcaraz and Hughes (2002b: 16), “probably the greatest single difficulty encountered initially by legal translators is the unfamiliarity of the vocabulary characteristic of this type of discourse”.

So, in this section, first we will focus on the origin of some terms used in Acts and then on the different meaning of others terms.

Latinisms

In spite of the nature and origin of the English legal system, the incorporation of Latin words within its discourse has been unavoidable due to the importance of Latin as international language throughout the Middle Ages. In fact, in this period, Latin became the “*lingua franca*” of the European Society (Alcaraz and Hughes, 2002b: 5).

Another point to take into account is that, according to Alcaraz and Hughes (2002b: 5):

Roman law was a coherent written system that, for centuries, had been developing over a wide area of Europe and had the force of an institution. It was inevitable, therefore, that some of its precepts and formulations should become enshrined in the texts and the professional speech of English lawgivers who shared a common culture with their colleagues elsewhere. (Alcaraz and Hughes, 2002b: 5)

These lines prove the inevitability of the exclusion of the usage of certain words deriving from Latin. Moreover, the use of Latinisms has always made precious the English language by making sure that, “the language of the law in English continued to borrow hundreds of terms and expressions” from Latin (Williams, 2007: 30).

Nevertheless, in translation, the presence of Latinisms in an English Act does not exclude the fact that in some cases certain words deriving from Latin must be translated into the target language because not all legal systems approve their usage (Alcaraz and Hughes, 2002b: 5).

However, within the Act of Parliament chosen for this paper, there are no Latinisms that have kept their original Latin form, but there are many words which derive directly from Latin, such as “exit” or “exempt” (which derive respectively from the Latin forms “*exitus*” and “*exemptus*”).

French and Normans loans

In addition to Latinisms, there are also terms deriving from the periods in which Great Britain was invaded by the French and Normans. They brought their customs in England and justice was done in their language. (Alcaraz and Hughes, 2002b: 6-7). Therefore, some terms entered into the English vocabulary and still persist to such an extent that they are inserted in a legal context such as that of Acts of Parliament.

An example taken from the *European Union (Withdrawal) Act, 2018* could be the term “Annex” which derives from Old French term “*annexer*”:

“[...] any Annex to the EEA agreement, as it has effect in EU law immediately before exit day and so far as [...]”

Another example taken from our Act could be “purpose” which derives from the Old French term “*purposer*”.

For the purposes of this Act, any direct EU legislation is operative immediately before exit day [...]

However, relying on the source of Alcaraz and Hughes, it is important to highlight that many words which have survived from French and Norman origins end in “-age” and are related to a particular “right, service or duty”; like in “damage”, or “salvage” (Alcaraz and Hughes, 2002b: 6-7).

Now, we will study some terms that could have just one meaning or several ones.

Technical, semi-technical and common vocabulary.

It is necessary to make a distinction between “purely technical vocabulary, semi-technical vocabulary and common or “unmarked” vocabulary” (Alcaraz and Hughes 2002b: 16).

According to Alcaraz and Hughes (2002b: 16-18), the purely technical terms are those which belong to the legal sector only. They are monosemic, which means that to each term corresponds only one meaning.

For example, the term “Parliament” is one of the technical terms used in the European Union (Withdrawal) Act, 2018. In the *English Oxford Living Dictionaries*, it is defined as “(in the UK) the highest legislature, consisting of the sovereign, the House of Lords, and the House of Commons.”. It is a monosemic term, in fact it has only that meaning.

Then, the semi-technical terms (or mixed terms) are those of daily use that when they are inserted into a specific field, take on a different meaning from the everyday one, so they are polysemic terms.

An example could be the term “Act” taken from the *European Union (Withdrawal) Act, 2018*. It is a polysemic noun, in fact it has several meanings. According to the *English Oxford Living Dictionaries*, it means:

1. “A thing done; a deed.”.
2. “A pretense”.

3. “A written ordinance of Congress, or another legislative body; a statute.”
4. “A main division of a play, ballet, or opera.”

In a legal discourse, both the first and the third meanings can be considered valid depending on the context, but when it comes to Acts and laws, we should take on the third meaning.

The last category is the one of common vocabulary which refers to words that maintain the daily meaning without assuming a legal connotation even if used in that field. A simple example could be the term “section” which has always the same meaning.

3.2. Legal Spanish in Acts of Parliament

Also the Spanish legal discourse has its own features that distinguish the way in which it crafts its Acts. In this section, we will analyze the linguistic features present in Spanish Acts of Parliament and we will see the differences and similarities in relation to English Acts of Parliament.

3.2.1. Textual characteristics

First of all, we will analyze the textual characteristics of Spanish Acts of Parliament.

Coherence and cohesion

The principles of coherence and cohesion are at the base of Spanish Acts of Parliament. As Bordonaba Zalbalza (2009: 156) states: “la armonía cohesiva se establece a partir de una rigurosa estructuración de los contenidos y unos enlaces temáticos que van de lo general a lo particular”.

Coherence can be achieved through some strategies such as lexical redundancy or through a frequent use of discourse markers that we will now analyze closely (Bordonaba Zalbalza, 2009: 157).

Doublets and triplets

Lexical redundancy corresponds to the concepts of doublets and triplets, in fact, it is defined by Bordonaba Zalbalza (2009: 157) as “la tendencia a precisar el significado de una palabra haciéndola acompañar de otra de significado cercano”.

The use that is made in the Spanish language is obviously the same as that in the English language: a word that has a clear meaning is followed by another or more words with an approximate meaning. If it deals with a couple of words, they are called doublets (or in Spanish “*pareja*”), instead, if they are three words, they are called triplets (or in Spanish “*tríos*”) (Alcaraz and Hughes, 2002a: 28).

An example could be taken from the *Ley 1/2000*:

Pero, sobre todo, es necesaria una Ley de Enjuiciamiento Civil nueva, que, respetando principios, [...] exprese y materialice, con autenticidad, el profundo cambio de mentalidad que entraña el compromiso por la efectividad de la tutela judicial, [...]

In that example, “*exprese y materialice*” is a clear example of doublet compound by two terms deriving from the same grammatical category and which belong to the same semantic field (Alcaraz and Hughes, 2002a: 28).

Discourse markers

As regards the discourse markers, they are very used in Spanish Acts, especially organizers such as “*primero*”, “*segundo*”, etc, and some verbal forms like “*CONSIDERANDO: que*”. They give coherence and orderliness to the text.

3.2.2. Stylistic characteristics

In this section, we will analyze the stylistic characteristics of Spanish Acts of Parliament.

Archaic and Formal diction

Also the style adopted in Spanish laws is archaic, formal and so elaborate that it might even seem exaggerated. Moreover, the use of fancy words often leads to misunderstandings in the comprehension of the legal text. However, the archaic style is underlined by the use of certain prepositional locutions (Alcaraz and Hughes, 2002a: 24).

See the examples below taken from a Spanish Act known as *Ley 23/2014*:

3. La sanción pecuniaria a los efectos de esta Ley no podrá comprender órdenes de confiscación de instrumentos [...].

2. Las comunicaciones a la autoridad de emisión que deban hacerse en virtud de lo establecido en esta Ley [...].

d) O que pueden ser decomisados a tenor de cualesquiera otras disposiciones [...].

The expressions “*a los efectos de esta Ley*”, “*en virtud de*” y “*a tenor de*” are some examples of prepositional locutions which can be regularly found in Spanish Acts. Their use emphasizes the archaic style used in Acts.

In particular, in the last example, there is also a pronoun less used in everyday language, that is “*cualquiera*” (Alcaraz and Hughes, 2002a: 24).

Furthermore, in the same way as English legal language, even Spanish legal language does not escape the cordiality and kindness in the way of exposing itself and, above all, in referring to the institutions of one's own country.

An example of politeness could be the enacting formula:

A todos los que la presente vieren y entendieren.

Sabed: Que las Cortes Generales han aprobado y Yo vengo en sancionar la siguiente ley: (...)

3.2.3. Syntactical and Grammatical characteristics

As regards the syntactic and grammatical features, Spanish Acts of Parliament are different from the English ones. In this section, we will analyze the most important syntactical and grammatical characteristics of Spanish Acts.

Nominalization

It is very common for this sort of discourse the tendency towards nominalization. It implies a frequent use of nouns and adjectives and the substitution of verbs through nominal construction (Bordonaba Zabalza, 2009: 152).

See the example below taken from the *Ley 23/2014*:

4. En primer lugar, se oirá a la persona detenida sobre la prestación de su consentimiento irrevocable a la entrega.

This sentence has two examples of nominalization. The first one, “*prestación*” derives from the verb “*prestar*”, and the second one, “*consentimiento*”, derives from the verb “*consentir*”.

Peripheral constructions

In Spanish Acts of Parliament, it must be noted a wide use of peripheral constructions in which, as Bordonaba Zabalza (2009: 152) says, “el verbo se presenta desemantizado y toda la fuerza recae en el sustantivo que lo acompaña”.

See the example below taken from the *Ley 39/2015*:

Cuando la resolución sea ejecutiva, se podrá suspender cautelarmente, si el interesado manifiesta a la Administración su intención de interponer recurso contencioso-administrativo contra la resolución firme en vía administrativa.

In this fragment, “*interponer recurso*” is an example of peripheral construction. Instead of writing “*recurir*”, jurists have preferred to emphasize the expression by using this strategy which gives importance to the substantive.

Adverbs

In Spanish Acts of Parliament, there is a frequent use of adverbs that end with “*-mente*”. See the example below taken from the *Ley 39/2015*:

[...] las Administraciones Públicas no requerirán a los interesados datos o documentos no exigidos por la normativa reguladora aplicable o que hayan sido aportados anteriormente por el interesado a cualquier Administración. A estos efectos, el interesado deberá indicar en qué momento y ante qué órgano administrativo presentó los citados documentos, debiendo las Administraciones Públicas recabarlos electrónicamente a través de sus redes corporativas o de una consulta a las plataformas de intermediación de datos u otros sistemas electrónicos habilitados al efecto, salvo que conste en el procedimiento la oposición expresa del interesado o la ley especial aplicable requiera su consentimiento expreso.

Excepcionalmente, si las Administraciones Públicas no pudieran recabar los citados documentos, podrán solicitar nuevamente al interesado su aportación.

This frequent use, even if it aims to clarify the meaning, slows down the reading of the text (Bordonaba Zabalza, 2009: 153).

Verbs

As for verbs, an impersonal style is preferred, especially thanks to a wise use of the gerund.

See the example below taken from the *Ley 39/2015*:

La Constitución recoge en su título IV, bajo la rúbrica «Del Gobierno y la Administración», los rasgos propios que diferencian al Gobierno de la Nación de la Administración, definiendo al primero como un órgano eminentemente político al que se reserva la función de gobernar, el ejercicio de la potestad reglamentaria y la dirección de la Administración y estableciendo la subordinación de ésta a la dirección de aquel.

Also the present indicative is frequent in Acts and it ensures the fulfillment of the law.

See the example below taken from the second part of the enacting formula:

[...] Mando a todos los españoles, particulares y autoridades, que guarden y hagan guardar esta ley.

3.2.4. Lexical characteristics

In this section, we will analyze some lexical characteristics that we have already seen in the English Acts and therefore that both Acts share. Plus, we will study a specific characteristic of Spanish Acts, that is the creation of new legal terms.

Regarding the origin of words, there are words that derive from classical sources (Latinisms, Hellenisms and Arabisms) and words that derive from modern sources (Anglicisms and Gallicisms).

Latinisms, Hellenisms and Arabisms

In addition to the English legal language, Latinisms are also part of the Spanish legal language. The reasons are even stronger in Spanish than in English because Spain, besides adopt a law based on Roman one, use a language that comes directly from Latin (Alcaraz and Hughes, 2002a: 32).

Alcaraz and Hughes (2002a: 32-33) make a distinction between three types of Latinisms:

1. Pure Latinisms: Latin words that are inserted into the English lexicon in its original form such as, “*ad referendum*”, “*sine die*”, “*ut supra*”, and so on.
2. Words which derives directly from Latin. For example: “*abogado*” derives from “*advocatus*”, “*abolir*” from “*abolere*” or “*heredar*” from “*hereditare*”.
3. Latin prefixes that are added to Spanish words, such as “*(ab)dicar*” or “*(sub)sidio*”

As regards classical sources, Spanish legal language also includes the use of Hellenisms and Arabisms in Acts of Parliament. Some examples for Hellenisms could be the terms “*hipoteca*” or “*democracia*” and for Arabisms “*albarán*”, “*alguacil*” or “*alquiler*” (Alcaraz and Hughes, 2002a: 36-37).

Anglicisms and Gallicisms

In the twentieth century, legal Spanish was also enriched with loans or calques of the English and French languages, which are called respectively Anglicisms and Gallicisms. Some examples of the former could be “*trust*” or “*caso*”, for the latter “*a fondo perdido*” or “*a título oneroso*” (Alcaraz and Hughes, 2002a: 38-39).

As regards the meanings of the terms used, we can refer back to the classification of technical terms, semi-technical and common vocabulary done before for English Acts.

Technical, semi-technical and common vocabulary.

Even in Spanish Acts of Parliament, technical, sub-technical and common vocabulary terms are used. Definitions are the same (See “Legal English in Acts of Parliament”), so we will not repeat them, but we will give an example for each group.

An example of technical terms that often appear in Acts of Parliament, especially in the Enacting Formula, could be the term “*Cortes Generales*”. According to the *Real Academia Española*, it has only one meaning that is “cámaras que ejercen el poder legislativo”.

As regards the semi-technical terms, an example could be the term “*Artículo*”. According to the *RAE*, it has several meanings:

1. “Artejo”.
2. “Una de las partes en que suelen dividirse los escritos”.
3. “Cada una de las divisiones de un diccionario o una enciclopedia encabezada con distinta palabra”.
4. “Cada uno de los escritos de mayor extensión que se insertan en los periódicos u otras publicaciones análogas”.
5. “Mercancía, cosa con que se comercia”.
6. “Cada una de las disposiciones numeradas de un tratado, de una ley, de un reglamento, etc”.

[...]

Generally, in Acts of Parliament, the sixth meaning must be taken into account.

Finally, “*conservación*” could be an example of common vocabulary that do not change its meaning if inserted in legal discourses.

Creation of new legal words

A particular characteristic of Legal Spanish is that sometimes new legal words are created by Spanish jurists who know about the subject and look for a more precise word to express a certain concept. However, it may seem strange because, as stated by Alcaraz and Hughes (2002a: 26), there are some Spanish words that sound bad and Spaniards are struggling to accept them. Nevertheless, legal Spanish operators do not think about it, in fact if they need a term, they create it.

There are different strategies to create new words, Bordonaba Zabalza (2009: 151) stands out that, as regards the derivation process, neologisms formed with the addition of prefixes like “*ante-*”, “*para-*”, “*sobre-*”, etc, and suffixies like “*-al*”, “*-ario*”, “*-ista*”

are very common in Spanish legal language as well as terms created through the processes of parasynthesis (for example, “*improrrogable*”), disjunctions (“*bienes comunales*”) or juxtapositions (“*litispendencia*”) (Bordonaba Zabalza, 2009: 151).

Even if the aim is to avoid ambiguity, new words do not always have a clear meaning, in fact, people often ask the true meaning of the words that Spanish jurists create and jurists are surprised because they think that the meaning is rather transparent (Alcaraz and Hughes, 2002a: 27).

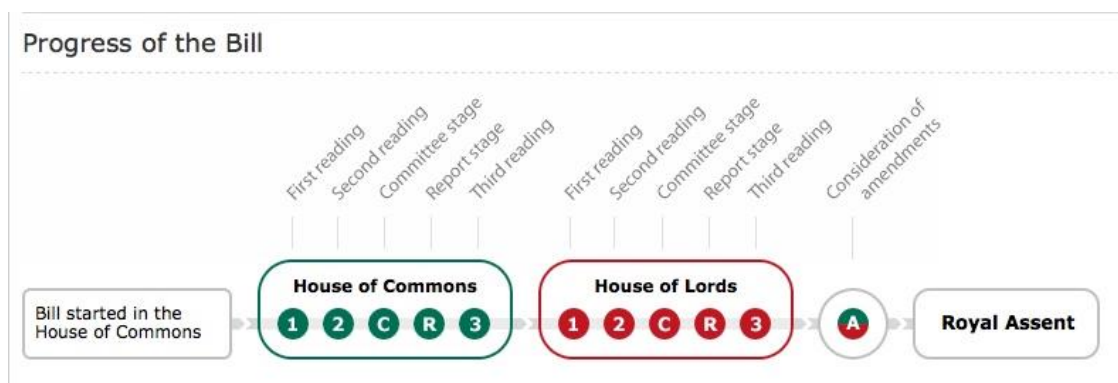
4. The European Union (Withdrawal) Act, 2018

4.1. Context

The *European Union (Withdrawal) Act, 2018* has been gone through a lengthy and complicated process before its passing by Parliament chambers, due to the multiple proposals and rejections of House of Lords and the corresponding amendments. The impact of this Act has a major effect because it has meant the revision of the current UK supranational law and all the forthcoming consequences derived from the exit of the EU. Within the extract that has been translated for this research, it can be seen the outlines of this division between the European Law and the legislative system of the UK. In other words, the first pages shall show how this Act repeals the introduction of EU laws within their domestic legislation.

However, the exit of the UK from the EU does not mean an absolute breach. That is why this document adopts certain aspects from the EU legislation into its domestic legislation and other aspects are revoked completely, as it shall be seen in the following section. All this process means a meticulous revision and analysis of every single section and statute because they do no longer recognize the supremacy of the EU law after the exit day. There exist several inconveniences due to the forthcoming incompatibilities regarding a reciprocity that shall no longer be.

The following chart shows all the steps of process that the Bill went through before being enacted. In other words, it summarizes the proceedings that have been already explained in the second chapter, but it is useful as a visual aid:



(Image taken from the official site of the UK Parliament <https://services.parliament.uk/bills/2017-19/europeanunionwithdrawal.html>)

4.2. Translation

Source Text	Target Text
<p style="text-align: center;">ELIZABETH II European Union (Withdrawal) Act 2018 2018 CHAPTER 16</p>	<p style="text-align: center;">ISABEL II Ley de la Unión Europea (Revocación) 2018 CAPÍTULO 16, 2018</p>
<p>An Act to repeal the European Communities Act 1972 and make other provision in connection with the withdrawal of the United Kingdom from the EU.</p> <p style="text-align: right;">[26th June 2018]</p>	<p>Una ley para derogar la <i>European Communities Act 1972</i> (Ley de las Comunidades Europeas, 1972) y establecer otras disposiciones en relación a la salida del Reino Unido de la Unión Europea.</p> <p style="text-align: right;">[26 de junio de 2018]</p>
<p>BE IT ENACTED by the Queen’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—</p>	<p>Queda promulgada por su Majestad, la Reina, la siguiente ley, que cuenta con la recomendación y el consentimiento de la Cámara de los Comunes y la Cámara de los Lores reunidos en el Parlamento, y por la autoridad que se les ha conferido, como sigue.</p>
<p style="text-align: center;"><i>Repeal of the ECA</i></p> <p style="text-align: center;">1. Repeal of the European Communities Act 1972</p> <p>The European Communities Act 1972 is repealed on exit day.</p>	<p style="text-align: center;"><i>Derogación de la ECA</i> (Ley de las Comunidades Europeas, 1972)</p> <p style="text-align: center;">1. Derogación de la <i>European Communities Act 1972</i> (Ley de las Comunidades Europeas, 1972)</p> <p>La <i>European Communities Act 1972</i> (Ley de las Comunidades Europeas, 1972) se deroga en la fecha de salida.</p>

<p><i>Retention of existing EU law</i></p> <p>2. Saving for EU-derived domestic legislation</p>	<p><i>Retención de leyes de la Unión Europea</i></p> <p>2. Excepciones de leyes de la Unión Europea que siguen vigentes a nivel de legislación nacional</p>
<p>(1) EU-derived domestic legislation, as it has effect in domestic law immediately before exit day, continues to have effect in domestic law on and after exit day.</p>	<p>(1) Las leyes derivadas del marco Europeo a nivel de legislación nacional, como tienen efecto en la legislación nacional antes de la fecha de salida, mantienen su vigencia durante y después de la fecha de salida.</p>
<p>(2) In this section “EU-derived domestic legislation” means any enactment so far as—</p>	<p>(2) Dentro del presente artículo, “Leyes del marco Europeo a nivel de legislación nacional”, implica cualquier promulgación siempre que la misma:</p>
<p>(a) made under section 2(2) of, or paragraph 1A of Schedule 2 to, the European Communities Act 1972,</p>	<p>(a) esté redactada en virtud del artículo 2(2), o al párrafo 1A del Anexo 2, de la <i>European Communities Act 1972</i> (Ley de las Comunidades Europeas, 1972),</p>
<p>(b) passed or made, or operating, for a purpose mentioned in section 2(2)(a) or (b) of that Act,</p>	<p>(b) esté aprobada o redactada, o esté en vigor para el propósito mencionado en el artículo 2(2)(a) o (b) de la misma Ley,</p>
<p>(c) relating to anything—</p>	<p>(c) esté relacionada con todo aquello—</p>

(i) which falls within paragraph (a) or (b), or	(i) que esté contemplado dentro del párrafo (a) o (b), o que
(ii) to which section 3(1) or 4(1) applies, or	(ii) esté sujeto a la aplicación del artículo 3(1) o 4(1), o
(d) relating otherwise to the EU or the EEA, but does not include any enactment contained in the European Communities Act 1972.	(d) esté, de otro modo, relacionada con la UE o el EEE pero no incluya ninguna promulgación que se haya incluido en la <i>European Communities Act 1972</i> (Ley de las Comunidades Europeas, 1972).
(3) This section is subject to section 5 and Schedule 1 (exceptions to savings and incorporation).	(3) Este artículo está sujeto al artículo 5 y al Anexo 1 (excepciones a las conservaciones y a la incorporación).
3. Incorporation of direct EU legislation	3. Incorporación de la legislación directa de la UE
(1) Direct EU legislation, so far as operative immediately before exit day, forms part of domestic law on and after exit day.	(1) La legislación directa de la UE, tal y como esté operativa antes de la fecha de salida, forma parte de la legislación nacional durante y después de la fecha de salida.
(2) In this Act “direct EU legislation” means—	(2) Dentro de la presente Ley, “legislación directa de la UE”, se considera—

<p>(a) any EU regulation, EU decision or EU tertiary legislation, as it has effect in EU law immediately before exit day and so far as—</p>	<p>(a) cualquier reglamento, decisión o legislación terciaria de la UE, del mismo modo que afecte a la ley de la UE, antes de la fecha de salida, y después de la misma siempre que—</p>
<p>(i) it is not an exempt EU instrument (for which see section 20(1) and Schedule 6),</p>	<p>(i) no sea un instrumento exonerado de la UE (para el cual véase el artículo 20(1) y el Anexo 6),</p>
<p>(ii) it is not an EU decision addressed only to a member State other than the United Kingdom, and</p>	<p>(ii) no sea una decisión de la UE dirigida solo a un Estado Miembro que no sea el Reino Unido, y</p>
<p>(iii) its effect is not reproduced in an enactment to which section 2(1) applies,</p>	<p>(iii) su efecto no se reproduzca en la promulgación en la cual el artículo 2(1) se aplica,</p>
<p>(b) any Annex to the EEA agreement, as it has effect in EU law immediately before exit day and so far as—</p>	<p>(b) cualquier anexo del acuerdo del EEE, que tenga efecto en la legislación del marco de la UE inmediatamente antes de la fecha de salida, y después de la misma, siempre que —</p>
<p>(i) it refers to, or contains adaptations of, anything</p>	<p>(i) se refiera a, o contenga adaptaciones de, cualquier</p>

<p>falling within paragraph (a), and</p>	<p>aspecto incluido en el párrafo (a), y</p>
<p>(ii) its effect is not reproduced in an enactment to which section 2(1) applies, or</p>	<p>(ii) su efecto no se reproduzca en la promulgación en la cual el artículo 2(1) se aplica, o</p>
<p>(c) Protocol 1 to the EEA agreement (which contains horizontal adaptations that apply in relation to EU instruments referred to in the Annexes to that agreement), as it has effect in EU law immediately before exit day.</p>	<p>(c) El Protocolo 1 al acuerdo del EEE (que contiene adaptaciones horizontales que se aplican en relación con los instrumentos de la UE a los que se hace referencia en los Anexos de ese acuerdo), tenga el mismo efecto que tiene en la legislación de la UE inmediatamente antes de la fecha de salida.</p>
<p>(3) For the purposes of this Act, any direct EU legislation is operative immediately before exit day if—</p>	<p>(3) A efectos de la presente Ley, cualquier legislación directa de la UE está vigente inmediatamente antes de la fecha de salida:</p>
<p>(a) in the case of anything which comes into force at a particular time and is stated to apply from a later time, it is in force and applies immediately before exit day,</p>	<p>(a) en el caso de que cualquier parte entre en vigor en un momento determinado y que se indique que se aplica a partir de un momento posterior, estará vigente y se aplicará inmediatamente antes de la fecha de salida,</p>

<p>(b) in the case of a decision which specifies to whom it is addressed, it has been notified to that person before exit day, and</p>	<p>(b) en el caso de la decisión que se especifique a quien se dirige, deberá notificarse al sujeto en cuestión antes de la fecha de salida, y</p>
<p>(c) in any other case, it is in force immediately before exit day.</p>	<p>(c) en cualquier otro caso, estará vigente inmediatamente antes de la fecha de salida.</p>
<p>(5) This section—</p>	<p>(4) Este artículo—</p>
<p>(a) brings into domestic law any direct EU legislation only in the form of the English language version of that legislation, and</p>	<p>(a) será de aplicación a la ley nacional cualquier legislación directa del marco de la UE, únicamente la versión en inglés de dicha legislación,</p>
<p>(b) does not apply to any such legislation for which there is no such version, but paragraph (a) does not affect the use of the other language versions of that legislation for the purposes of interpreting it.</p>	<p>(b) no se aplicará a ninguna legislación de este tipo para la que no exista dicha versión, pero el párrafo (a) no afecta al uso de versiones en otros idiomas de la legislación con el propósito de interpretarla.</p>
<p>(5) This section is subject to section 5 and Schedule 1 (exceptions to savings and incorporation).</p>	<p>(5) Este artículo está sujeto al artículo 5 y al Anexo 1 (excepciones a las conservaciones y a la incorporación).</p>
<p>4. Saving for rights etc. under section 2(1) of the ECA</p>	<p>4. Excepciones para los derechos etc. según el artículo 2(1) de la ECA (Ley de las Comunidades Europeas)</p>

<p>(1) Any rights, powers, liabilities, obligations, restrictions, remedies and procedures which, immediately before exit day—</p>	<p>(1) Cualquier derecho, poder, responsabilidad, obligaciones, restricciones, remedios y procedimientos que, inmediatamente antes de la fecha de salida—</p>
<p>(a) are recognized and available in domestic law by virtue of section 2(1) of the European Communities Act 1972, and</p>	<p>(a) sean reconocidos y estén disponibles en la ley nacional en virtud del artículo 2(1) de la <i>European Communities Act 1972</i> (Ley de las Comunidades Europeas, 1972), y</p>
<p>(b) are enforced, allowed and followed accordingly,</p> <p>continue on and after exit day to be recognized and available in domestic law (and to be enforced, allowed and followed accordingly).</p>	<p>(b) sean ejecutados, permitidos y en consecuencia cumplimentados,</p> <p>continúan siendo reconocidos y disponibles en la legislación nacional (y consecuentemente, se ejecutarán, permitirán y cumplimentarán) durante y después de la fecha de salida,</p>
<p>(2) Subsection (1) does not apply to any rights, powers, liabilities, obligations, restrictions, remedies or procedures so far as they—</p>	<p>(2) El Párrafo (1) no se aplica a ningún derecho, poder, responsabilidad, obligaciones, restricciones, remedios y procedimientos que—</p>
<p>(a) form part of domestic law by virtue of section 3, or</p>	<p>(a) formen parte de la ley nacional en virtud del artículo 3, o</p>

<p>(b) arise under an EU directive (including as applied by the EEA agreement) and are not of a kind recognized by the European Court or any court or tribunal in the United Kingdom in a case decided before exit day (whether or not as an essential part of the decision in the case).</p>	<p>(b) surjan conforme a una directiva de la UE (incluida la aplicada por el acuerdo del EEE) y que no sean reconocidas por el Tribunal Europeo o cualquier otro órgano jurisdiccional o tribunal del Reino Unido, en el caso decidido antes de la fecha de salida (siendo o no una parte esencial de la decisión en el caso).</p>
<p>(3) This section is subject to section 5 and Schedule 1 (exceptions to savings and incorporation).</p>	<p>(3) Este artículo está sujeto al artículo 5 y el Anexo 1 (Excepciones a las conservaciones y a la incorporación)</p>
<p>5. Exceptions to savings and incorporation</p>	<p>1. Excepciones a las conservaciones y a la incorporación</p>
<p>(1) The principle of the supremacy of EU law does not apply to any enactment or rule of law passed or made on or after exit day.</p>	<p>(1) El principio de supremacía de la ley del marco de la UE no se aplica a ninguna promulgación o norma, aprobada o redactada una vez efectuada la salida.</p>

<p>(2) Accordingly, the principle of the supremacy of EU law continues to apply on or after exit day so far as relevant to the interpretation, disapplication or quashing of any enactment or rule of law passed or made before exit day.</p>	<p>(2) Consecuentemente, el principio de supremacía de la ley del marco de la UE continúa vigente durante y después de la fecha de salida siempre que sea relevante para la interpretación, revocación o anulación de cualquiera promulgación o norma aprobada o redactada antes de la fecha de salida.</p>
<p>(3) Subsection (1) does not prevent the principle of the supremacy of EU law from applying to a modification made on or after exit day of any enactment or rule of law passed or made before exit day if the application of the principle is consistent with the intention of the modification.</p>	<p>(3) El Párrafo (1) no impide que el principio de supremacía de la ley del marco de la UE sea modificado después de la fecha de salida por ninguna promulgación o norma aprobada o redactada antes de la fecha de salida, siempre que el principio sea consistente con la intención de modificación.</p>
<p>(4) The Charter of Fundamental Rights is not part of domestic law on or after exit day.</p>	<p>(4) El <i>Charter of Fundamental Rights</i> (La Carta de los Derechos Fundamentales) no forma parte de la legislación nacional en la presente una vez efectuada la salida.</p>

<p>(5) Subsection (4) does not affect the retention in domestic law on or after exit day in accordance with this Act of any fundamental rights or principles which exist irrespective of the Charter (and references to the Charter in any case law are, so far as necessary for this purpose, to be read as if they were references to any corresponding retained fundamental rights or principles).</p>	<p>(5) De conformidad con esta Ley, el Párrafo (4) no afecta a la permanencia de legislación nacional durante y una vez efectuada la salida de ningún derecho o principio fundamental existentes independientemente de la Carta (y las referencias a la Carta en cualquier caso de leyes que, por lo tanto, en la medida en que sea necesario para este propósito, deben ser interpretadas como referencias a cualquier derecho o principio fundamental correspondiente que se haya mantenido).</p>
<p>(6) Schedule 1 (which makes further provision about exceptions to savings and incorporation) has effect.</p>	<p>(6) El Anexo 1 (que hace ulteriores disposiciones sobre las excepciones a las conservaciones y a la incorporación) tiene efecto.</p>
<p>6. Interpretation of retained EU law</p>	<p>6. Interpretación de las leyes vigentes de la UE</p>
<p>(1) A court or tribunal—</p>	<p>(1) El órgano jurisdiccional o tribunal —</p>
<p>(a) is not bound by any principles laid down, or any decisions made, on or after exit day by the European Court, and</p>	<p>(a) no está vinculado por ningún principio establecido, por ninguna decisión tomada, durante o después de la fecha de salida por el Tribunal Europeo, y</p>

<p>(b) cannot refer any matter to the European Court on or after exit day</p>	<p>(b) no puede remitir ningún asunto al Tribunal Europeo durante o después de la fecha de salida.</p>
<p>(2) Subject to this and subsections (3) to (6), a court or tribunal may have regard to anything done on or after exit day by the European Court, another EU entity or the EU so far as it is relevant to any matter before the court or tribunal.</p>	<p>(4) Sujeto a lo presente y a los párrafos (3) y (6), el órgano jurisdiccional o tribunal puede considerar todo aquello realizado durante o después de la fecha de salida por el Tribunal Europeo, por otra entidad de la UE o por la UE, tanto que sea relevante en cualquier materia ante el órgano jurisdiccional o tribunal.</p>

5. Translation Analysis

In this chapter, we will analyse the translation we have carried out, we will clarify the strategy of the translation we have used and we will explain the problems encountered in translation and the solutions provided for each problem.

5.1. Translation strategy

Before translating our legislative Act, we sought answers to our question: Are there any rules to translate a legal text? According to Mayoral Asesio (2002: 10), “los parámetros que nos llevan a escoger la forma de traducir de un texto susceptible de ser considerado como jurídico no encuentran correspondencia biunívoca en un concepto único de traducción jurídica”. So, there are no rules, there is no outline of principles and solutions to be followed in a legal translation. It depends on several factors: the function the translation performs, on whether it is an official translation or not, on the preferences of the translator (Mayoral Asesio, 2002: 10).

As for its function, we can make a reference to Šarčević (2000: 11) who distinguishes three types of functions:

1. “Primarily prescriptive” (statutes, contracts, codes, treaties, etc.);
2. “Primarily prescriptive but also descriptive” (judicial decisions);
3. “Purely descriptive” (law textbooks, legal academic documents, etc.).

If it is certain that the source text, the *European Union (Withdrawal) Act, 2018*, has a prescriptive function, because it is an Act of Parliament that like others “prescribe” the rule of conduct, it is more difficult to establish the function of the target text. That is because a translation of an English Act have no legal value in Spain.

Moreover, according to Nord (2005: 11), “the function of a text is not arrived at automatically from an analysis of the source text, but it is pragmatically defined by the purpose of the intercultural text transfer”, consequently, our translation has not a prescriptive function, but we can attribute it an informative function which has no legal value but the only aim of analyzing it.

As regards translation strategies, Mayoral Asesio (2002: 10) distinguishes three types of translation: faithful translation, integral or complete translation, translation for functional equivalent.

Faithful translation

When it comes to a faithful translation, it is necessary to clarify what kind of fidelity is considered: there is fidelity to form, to style, to meaning, grammatical fidelity, and so on. If on one hand it can be considered an effective method of translation because it shows equally what is written in the source text, on the other hand it happens that the translation is so faithful to the source text that the naturalness of the language is compromised, as well as the understanding of the translated text for the speakers of that language (Mayoral Asesio, 2002: 12);

Integral translation

Since the recipients of the language of origin are never the same as those of the target language, it may happen that some parts of the source text are cut off in the translation process and therefore they are not translated, or on the contrary, the translation may present additional explanations with respect to the original text (Mayoral Asesio, 2002: 12);

Translation for functional equivalence

If for some legal texts, the most convenient choice is that of literal translation, for other legal texts it is more difficult to apply this type of translation because the inequivalence of legal concepts is so explicit, that the most effective solution would be to adopt a functional equivalence. A translation based on the principle of functional equivalence, it is a translation in which attention is not paid on style or form of the source text, contrarywise, the priority is to transfer the perfect meaning from the source text to the target text. At the end, the target text has the same meaning of the source text. However, on one hand, this type of translation facilitates the understanding of the target text by the recipients of that language, but on the other hand it is very difficult to find an exact equivalent in the target language (Mayoral Asesio, 2002: 10).

That being said, in our translation, the functional equivalent predominates, but at the same time we have tried to remain faithful to the source text in order to express the concept with the same emphasis and precision as in the source text. This decision is supported by Newmark (1988: 5) who states that “translation is rendering the meaning of a text into another language in the way that the author intended the text”.

However, our aim was to make the text comprehensible to the Spanish people, then through translation by functional equivalent, we have given the same meaning to the target text, but we have adapted it to the grammatical and syntactical structures of the target language giving the text naturalness and accuracy. This choice of translation is shared by Pommer (2012: 283) who states that “the translator of a legal text aims at introducing foreign legal world views into a different legal life-world. His task is to make the foreign legal text accessible for recipients with a different (legal) background.” (Pommer, 2012: 283 cited in Stolze, 2013: 60).

5.2. Translation problems and solutions provided

The translator may encounter various problems when approaching texts in general, and if legal texts are in question, the hardships are even worse. Olsen, Lorz and Stein suggest that these problems of legal translations derive mainly from the fact that “linguistically equivalent legal notions will frequently have different contents in different jurisdictions.” (Olsen, Lorz and Stein, 2009: 7).

Thus, the first problem the translator encounters is reaching in the target version a faithful reflection of the source text. In the particular case of legal texts, the translator must prove to have a contextual knowledge and a total and adequate understanding of the text, that means to recognize the technicalities and reflect them in the target text.

So, the translation for this paper was made with this idea on mind, that is, trying to reflect in the output, the original meaning and appearance, but some problems have arisen at lexical level, due to the lack of equivalents, false friends, lexical contrasts, and at grammatical level, due to the difference in word order and to the passive voice.

Lack of equivalents

The lack of equivalents in the target language is one of the biggest problems in translation. There is a lack of equivalence when it comes to terms that exist only in the source language, but do not match in the target language. This vision is also supported by Garzone (2000: 3) who states that:

(...) legal discourse (...) determines profound differences in categories and concepts between legal systems, and in particular between English law and its Roman-Germanic continental counterparts, suggesting some degree of incommensurability between texts produced within the framework of common law and civil law systems respectively. As a matter of fact, there are juridical concepts in Roman law that simply do not exist in common law legal systems (...) and viceversa (...) (Garzone, 2000: 3).

See the example below taken from the enacting formula of our Act and the translation we have carried out:

<p>BE IT ENACTED by the <u>Queen</u>'s most Excellent Majesty, by and with the advice and consent of the <u>Lords Spiritual and Temporal, and Commons</u>, in this present <u>Parliament</u> assembled, and by the authority of the same, as follows:—</p>	<p>Queda promulgada por su <u>Majestad</u>, la Reina, la siguiente ley, que cuenta con la recomendación y el consentimiento de la <u>Cámara de los Comunes y la Cámara de los Lores</u> reunidos en el <u>Parlamento</u>, y por la autoridad que se les ha conferido, como sigue.</p>
--	---

In this example, there are some terms that are specific of the English legal system and which does not exist in Spanish legal system.

The lack of equivalents has been studied by many founders of Translation Studies, one of them is Nida (1964: 159) who states that, since there are no two perfect equivalents between two languages, “one must in translating seek to find the closest possible equivalent”. And that is what we have tried to do in our translation by adapting the English institutions to the Spanish institutions, matching Lords Spiritual and Temporals, and Commons to the “*Cámaras*” of the Spanish legal system.

Contrarywise, it was not a problem to translate the terms “Queen”, “Majesty”, “Parliament” since they have a perfect equivalent in the Spanish legal system (“*Reina*”, “*Majestad*”, “*Parlamento*”).

False friends

In the particular case of legal translation, there are plenty of false friends which may lead the translator to make mistakes. An example of false friend of our text that can confuse the Spanish translator could be the term “provision” that in our translation is correctly translated into “*disposiciones*” and not into “*previsiones*” (the action of predicting something) or “*provisiones*” (the action of providing something). The same happens with the expression “domestic legislation” which should be translated into “*legislación nacional*” and not into “*legislación domestica*”, or the term “section” which mislead the translator into using the word “*sección*”, while it should use the term “*artículo*” as correct.

To avoid those errors, it is necessary to consult dictionaries, not taking for granted the meaning of homophonic or homographic words. The capability to recognize all of these, may assure a righteous way of pursuing the task.

Lexical contrasts

Another typical error that a legal translator could commit is the translation of the term “under”. It is a term that regularly recur in Acts so it is necessary to take note of it.

See the example taken from the *European Union (Withdrawal) Act, 2018*:

(b) made <u>under</u> section 2(2) of, or paragraph 1A of Schedule 2 to, the European Communities Act 1972,	(b) esté redactada <u>en virtud del</u> artículo 2(2), o al párrafo 1A del Anexo 2, de la <i>European Communities Act 1972</i> (Ley de las Comunidades Europeas, 1972),
---	---

In this fragment, we have translated the term “under” into “*en virtud de*”. As Alcaraz suggests (1996: 87), it could be also translated into “*según*”, “*de conformidad con lo dispuesto en*”, etc., but not into “*bajo*” that is a common error among legal translators.

To translate these types of terms, a help could be to consult parallel texts that in most cases give us the answer we are looking for.

Word order

Another element that can lead to a translation error is the difference in word order. English has a fixed word order, while Spanish is much freer in the position of syntactic constituents in a sentence. As a consequence, when translations are carried out, translators must pay attention because the word order can vary greatly.

See the example below taken from the *European Union (Withdrawal) Act, 2018*:

<p>(6) Subsection (4) does not affect the retention in <u>domestic law</u> on or after exit day <u>in accordance with</u> this Act of any <u>fundamental rights</u> or <u>principles</u> which exist irrespective of the Charter (and references to the Charter in any case law are, so far as necessary for this purpose, to be read as if they were references to any corresponding retained <u>fundamental rights or principles</u>).</p>	<p>(5) <u>De conformidad con esta Ley</u>, el Párrafo (4) no afecta a la permanencia de <u>legislación nacional</u> durante y una vez efectuada la salida de ningún <u>derecho o principio fundamental</u> existentes independientemente de la Carta Magna (y las referencias a la Carta Magna en cualquier caso de leyes que, por lo tanto, en la medida en que sea necesario para este propósito, deben ser interpretadas como referencias a cualquier <u>derecho o principio fundamental</u> correspondiente que se haya mantenido).</p>
--	---

This is a fragment of our translation in which it is evident how the word order changes. First of all, it can be pointed out that the prepositional locution “in accordance with” in the source text has a central position, while its translation “*de conformidad con esta Ley*” occupies the initial position to make the understanding of the text more accessible and because, its translation in central position, in this case, would have made the translation

less natural. Obviously, the word order of the others underlined term are changed: “domestic law” and “fundamental rights or principles” have been translated into “*legislación nacional*” and “*derecho o principio fundamental*”. In these last two examples, the adjective that precedes the noun in the English form, follows the noun in the Spanish translation.

In order to solve any word order problems, it is imperative for the translator to pay special attention to the syntactic functions of the words in order to insert them in the correct order in the target text.

However, it must be pointed out that this is only one of the possible translations and not necessarily the correct one. So, in this case, we have tried to do what the experts do by changing the word order.

Passive voice

Another problem that we had to face is that of the passive voice widely used in English, but less in Spanish. See the example below taken from the translation we have made:

The European Communities Act 1972 <u>is repealed</u> on exit day.	La <i>European Communities Act 1972</i> (Ley de las Comunidades Europeas, 1972) <u>se deroga</u> en la fecha de salida.
---	---

As the example shows, we have preferred to transform the English passive voice “is repealed” into the Spanish active voice “*se deroga*” because it sounds more natural and, as we have said before, our aim is to make a translation faithful to the source text, but at the same time to adapt it syntactically and grammatically to the target language so that it does not sound forced to the speakers of this language.

6. Conclusions

The main objective of this work was to translate an English Act, the *European Union (Withdrawal) Act, 2018* into Spanish. It has not been an easy task because legal translation is so difficult to the point that some researchers talk about the untranslatability of legal texts. However, as Garzone (2000: 4) states: “since in actual practice legal translations are produced and used every day, for a translator this suggestion of untranslatability is only an abstract concept that serves to highlight the remarkable degree of difficulty of her/his work”. In our paper, this difficulty has been remarked by the fact that the languages involved in the translation belong to different legal systems and because neither of the two languages is our mother tongue. However, despite the difficulties of the task, we have solved the problems of correct usage of legal terms, we have reproduced the original meaning of the text within the target text providing a clear translation devoid of any kind of ambiguity, and finally, we have respected the coherence of the source text and the correct use of syntactic patterns and structures of the target language in order to make the text as natural and accurate as possible for Spanish speakers.

However, it is necessary to clarify that the translation we have carried out is one of the multiple possible translations, so it does not correspond necessarily to the only correct possibility of translation. In fact, as Mayoral Asesio (2002: 9) states: “la práctica evidencia que la traducción en general y la jurídica en particular ofrecen una gran «variación» en sus soluciones que convierte a cualquier traducción no en «correcta» o «incorrecta» sino en mejor o peor”. Obviously, there are incorrect translations, but this is mainly due to a lack of full understanding of the source text and not to the way a text is translated (Mayoral Asesio, 2009: 11).

That being said, our choice to translate the text using the functional approach is supported by Garzone (2000: 9) who says:

There can be no doubt, however, that on the whole in legal translation a functional approach is not only viable, but recommendable as well as effective in consideration of its comprehensiveness and flexibility. All the more so since an examination of translators' behaviour in the legal field (...) shows that actual translating practice is routinely based on functional criteria. Thus, if one single unifying principle to guide the choices of legal translators is to be set out, a functional model seems to be the only viable alternative, mainly on account of its high level of abstraction.

Finally, this work shows that the knowledge of the two languages is not enough to translate a legal text, in fact, translators should be highly acquainted with cultural, political, historical and legal contexts of both languages in order to recognize the different concepts to which the various terms refer. In fact, as Calvi (2009: 33) states:

La lengua del derecho (...), no puede prescindir de los elementos culturales; tampoco pueden establecerse con facilidad relaciones de equivalencia entre términos aparentemente homólogos de lenguas distintas (...), puesto que su contenido semántico está fuertemente arraigado en una determinada tradición cultural (Calvi, 2009: 33).

Therefore, brilliant linguistic skills are not sufficient to carry out a valid translation and it is for this reason that, in the two universities that I have studied, we do not study only the language per se, but we also study culture, history, law and economy whose knowledge is of fundamental importance for specialized translation.

Annexes

Terminological Tables

All the steps that the translator does before choosing the target term are summarized in the tables below in which some key terms taken from our Act are analyzed closely.

Table 1.

SOURCE TERM - ST	Act	Enactment	Incorporation	Interpretation
TARGET TERM - TT	Ley	Promulgación	Incorporación	Interpretación

DEFINITION ST	A law or formal decision made by a parliament or other group of people who make the laws for their country	The act of passing an rule or statute by a legislature.	<p>(...)</p> <p>The method of making one document of any kind become a part of another separate document by referring to the former in the latter, and declaring that the former shall be taken and considered as a part of the latter the same as if it fully set out therein.</p>	The art or process of discovering and expounding the intended signification of the language used in a statute, will, contract, or any other written document, that is, the meaning which the author designed it to convey to others.
SOURCE ST	https://dictionary.cambridge.org/it/dizionario/inglese/act	https://thelawdictionary.org/enactment/	https://thelawdictionary.org/incorporation/	https://thelawdictionary.org/interpretation/

DEFINITION TT	<p>Norma dictada por el Parlamento o Cortes, aprobada con ese nombre y siguiendo el procedimiento legislativo establecido en los Reglamentos de las Cámaras que contiene mandatos y ocupa una posición jerárquica inmediatamente inferior a la Constitución y superior a las demás normas.</p>	<p>Publicación formal de una ley</p>	<p>(...) El método de preparación de un documento de cualquier tipo que se convierte en una parte de otro documento separado haciendo referencia al primero en el segundo, y declarando que el primero será considerado como una parte de este último lo mismo que si estuviera plenamente establecido en el mismo.</p>	<p>Determinación del sentido de una norma o regla del derecho con ocasión de aplicarla al caso concreto. Constituye una de las facultades básicas de los jueces y tribunales, si bien la interpretación vinculante de la Constitución está reservada al Tribunal Constitucional.</p>
SOURCE TT	<p>http://dej.rae.es/lema/ley</p>	<p>http://dej.rae.es/lema/promulgación-de-la-ley</p>	<p>https://espanol.thelawdictionary.org/incorporacion/</p>	<p>http://dej.rae.es/lema/interpretación</p>

CONTEXT ST	Section 2(2) of the European Communities Act 1972 (this is a United Kingdom Act empowering Ministers to implement European regulations within the United Kingdom).	(...) Similarly, the enactment of strong anti-corruption legislation is not sufficient; laws must be consistently enforced. To that end, the existence of a strong and independent judiciary is essential.	(...) However, the evaluation does not have sufficient evidence to attribute the incorporation into legislation of these principles to the work of UNESCO.	The unutilized balance is attributable mainly to lower requirements for freight and other costs relating to the deployment of United Nations-owned equipment as well as lower requirements for translation and interpretation services, (...)
SOURCE ST	https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2008:108:0008:0012:EN:PDF	https://documents-dds-ny.un.org/doc/UNDOC/GEN/N07/213/70/PDF/N0721370.pdf?OpenElement	https://unesdoc.unesco.org/ark:/48223/pf0000188659	https://documents-dds-ny.un.org/doc/UNDOC/GEN/N06/681/95/PDF/N0668195.pdf?OpenElement

CONTEXT TT	<p>Sección 2, apartado 2, de la Ley de las Comunidades Europeas (European Communities Act) de 1972 (se trata de la ley británica que habilita a los ministros para aplicar las normas europeas en el Reino Unido).</p>	<p>(...) Además, no basta con promulgar leyes severas contra la corrupción, hay que aplicarlas sistemáticamente. Con ese fin, es imprescindible que exista un poder judicial fuerte e independiente.</p>	<p>Pero los autores de la evaluación no disponen de pruebas suficientes para atribuir a la labor de la UNESCO la incorporación de esos principios a las legislaciones nacionales.</p>	<p>El saldo no utilizado se debió principalmente a que las necesidades para el flete y otros gastos relacionados con el despliegue del equipo de propiedad de las Naciones Unidas fueron menores de las previstas y a que también fueron menores las necesidades de servicios de traducción e interpretación</p>
SOURCE TT	<p>https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2008:108:0008:0012:ES:PDF</p>	<p>https://documents-dds-ny.un.org/doc/UNDOC/GEN/N07/213/73/PDF/N0721373.pdf?OpenElement</p>	<p>https://unesdoc.unesco.org/ark:/48223/pf0000188659_spa</p>	<p>https://documents-dds-ny.un.org/doc/UNDOC/GEN/N06/681/98/PDF/N0668198.pdf?OpenElement</p>

Table 2.

SOURCE TERM - ST	Legislation	Provision	Quashing	Schedule
TARGET TERM - TT	Legislación	Disposición	Anulación	Anexo
DEFINITION ST	Rules or laws relating to a particular activity that are made by a government.	A statement within an agreement or a law that a particular thing must happen or be done, especially before another can happen or be done.	To state officially that something, especially an earlier official decision, is no longer to be accepted.	A sheet of paper or parchment annexed to a statute, deed, answer in equity, deposition, or other instrument, exhibiting in detail the matters mentioned or referred to in the principal document.

SOURCE ST	https://dictionary.cambridge.org/it/dizionario/inglese/legislation	https://dictionary.cambridge.org/dictionary/english/provision	https://dictionary.cambridge.org/dictionary/english/quash	https://thelawdictionary.org/schedule/
DEFINITION TT	Conjunto de leyes y otras normas.	Precepto legal o reglamentario, deliberación, orden y mandato de la autoridad.	Acto y procedimiento por el que se declara que un acto jurídico carece de validez, por estar afectado por un vicio en su proceso de formación.	Pieza unida a un acto principal a fin de completarlo (ej., anexo de un tratado, de un decreto, etc.) o de justificarlo (ej., anexos depositados en el registro de comercio, que justifican las inscripciones referentes a una sociedad comercial).
SOURCE TT	http://dej.rae.es/lema/legislación	https://dle.rae.es/?id=DxgWzK0	http://dej.rae.es/lema/anulación	http://www.encyclopedia-juridica.biz14.com/d/anexo/anexo.htm

CONTEXT ST	Certain rights are also protected by legislation and the common law.	Article 18(1) of the Finance Law 1996 shall be repealed. Germany shall recover all aid which was granted pursuant to this provision.	(...) Minor progress has also been made with the recent release and quashing of cases involving two underage recruits who were imprisoned for desertion.	Full details are provided in Schedule 1 attached.
SOURCE ST	https://documents-dds-ny.un.org/doc/UNDOC/GEN/G08/426/92/PDF/G0842692.pdf?OpenElement	https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:1998:073:0038:0041:EN:PDF	https://documents-dds-ny.un.org/doc/UNDOC/GEN/N09/282/44/PDF/N0928244.pdf?OpenElement	https://unesdoc.unesco.org/ark:/48223/pf0000140197
CONTEXT TT	Algunos derechos también están protegidos por la legislación y el common law.	Deberá derogarse el apartado 1 del artículo 18 de la Jahressteuergesetz. Alemania exigirá la devolución de todas las ayudas concedidas en aplicación de esa disposición.	(...) También se han logrado pequeños avances con la reciente liberación de dos reclutas menores de edad que habían sido encarcelados por deserción y la anulación de sus causas.	En el Cuadro 1 anexo (Schedule 1) se proporciona información detallada al respecto.

SOURCE TT	https://documents-dds-ny.un.org/doc/UNDOC/GEN/G08/426/94/PDF/G0842694.pdf?OpenElement	https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:1998:073:0038:0041:ES:PDF	https://documents-dds-ny.un.org/doc/UNDOC/GEN/N09/282/47/PDF/N0928247.pdf?OpenElement	https://unesdoc.unesco.org/ark:/48223/pf000140197_spa
------------------	---	---	---	---

Parallel Texts

Exit day – Fecha de salida

4. Por lo que respecta a los desplazamientos de animales vivos o de productos reproductivos entre un Estado miembro y el Reino Unido, o viceversa, se aplicarán las disposiciones del Derecho de la Unión que figuran en el anexo II siempre que la **fecha de salida** sea anterior al final del período transitorio.

Source: <https://eur-lex.europa.eu/legal-content/ES/TXT/?uri=CELEX:52018PC0833>

EEA – EEE

6. The majority of the Advisory Committee reserves their position as to the fact that, subject to full compliance with the submitted commitments, the proposed concentration can be declared compatible with the common market and the functioning of **EEA** Agreement and will give their opinion in writing. A minority agrees with the Commission that, subject to full compliance with the submitted commitments, the proposed concentration can be declared compatible with the common market and the functioning of **EEA** Agreement. Another minority does not agree because the commitments were submitted past the deadline of Article 18(2) of Regulation (EC) No 447/98.

Source: <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2002:053:0014:0014:EN:PDF>

6. La mayoría de los miembros del Comité se reserva su posición en cuanto al hecho de que, a condición de que se cumplan por completo los compromisos presentados, la concentración propuesta puede declararse compatible con el mercado común y con el funcionamiento del Acuerdo del **EEE** y expresará su opinión por escrito. Una minoría coincide con la Comisión en que, a condición de que se cumplan por completo los compromisos presentados, la concentración propuesta puede declararse compatible con el mercado común y con el funcionamiento del Acuerdo **EEE**. Otra minoría no está de acuerdo porque los compromisos se presentaron fuera del plazo establecido en el apartado 2 del artículo 18 del Reglamento (CE) no 447/98 de la Comisión.

Source: <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2002:053:0014:0014:ES:PDF>

To repeal - Derogar

The Constitutional Court may be requested **to repeal** an act, in whole or in part, if the party presenting the complaint believes that application of the act has led to the violations described in the complaint, or that the act is inconsistent with constitutional legislation (the Constitutional Court may also be requested **to repeal** a regulation that is considered inconsistent with an ordinary law).

Source: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G08/112/58/PDF/G0811258.pdf?OpenElement>

Se puede requerir al Tribunal Constitucional a que **derogue**, en todo o en parte, un acto si la parte que presenta la denuncia cree que la aplicación del acto se ha traducido en las violaciones descritas en la queja, o que el acto no se compadece con la legislación constitucional (también puede solicitarse al Tribunal Constitucional que **derogue** una normativa que se considere incompatible con el derecho común).

Source: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G08/112/61/PDF/G0811261.pdf?OpenElement>

European Court – Tribunal Europeo

However, the jurisprudence of the Human Rights Committee does not provide much assistance as to how the concept of “criminal charge” should be autonomously interpreted. It is generally assumed that the essence of the case law of the **European Court** of Human Rights (ECtHR) on Article 6 of the ECHR applies equally in the context of Article 14 of the ICCPR (see below) since the exact same words are in both provisions.

Source: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N06/391/10/PDF/N0639110.pdf?OpenElement>

Sin embargo, la jurisprudencia del Comité de Derechos Humanos no ilustra mucho en cuanto a la forma en que debe interpretarse autónomamente el concepto de “acusación de carácter penal”. Se supone en general que lo esencial de la jurisprudencia del **Tribunal Europeo** de Justicia sobre el artículo 6 del Convenio Europeo de Derechos Humanos se aplica de igual modo al artículo 14 del PIDCP (véase infra), puesto que en una y otra disposición figuran exactamente las mismas palabras.

Source: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N06/391/13/PDF/N0639113.pdf?OpenElement>

Resumen

El presente Trabajo de Fin de Grado se realiza en el marco del programa de Doble Título que ha sido estipulado entre el grado en Mediación Lingüística y Cultural de la Universidad de Milán y el grado en Estudios Ingleses de la Universidad de Valladolid. Este programa permite estudiar el segundo curso académico en el extranjero y, después de haber aprobado todos los exámenes establecidos por el convenio, contempla la obtención de ambos grados, tras la defensa del Trabajo de Fin de Grado en las dos Universidades.

Aunque se trata de dos titulaciones distintas, el grado en Mediación Lingüística y Cultural y el grado en Estudios Ingleses ofrecen un plan de estudios muy similar que abarca desde el estudio de idiomas, en el caso concreto español e inglés, hasta el estudio de la cultura, de la sociología, de la historia, de la economía y del derecho. En particular, el grado en Mediación Lingüística y Cultural ofrece una excelente preparación tanto en las lenguas extranjeras elegidas, prestando especial atención a las lenguas de especialidad, como en las culturas de las áreas lingüísticas correspondientes, mientras que el grado en Estudios Ingleses se centra en la lengua inglesa, cuyo dominio en las relaciones internacionales es indiscutible. En este grado, casi todos los cursos se imparten en inglés y eso permite al estudiante aprender a hablar, escribir y leer en inglés con gran desenvoltura. Por lo tanto, aunque son grados diferentes, tienen un objetivo común: ofrecer competencias lingüísticas que permitan al estudiante actuar como mediador en los diferentes ámbitos jurídicos, económicos y sociales.

Gracias a estos planes de estudio que abarcan varias asignaturas, se ha desarrollado en mí un interés específico por la traducción del lenguaje jurídico, que es el principal objeto de estudio en este trabajo. Pero, además de ser un factor de preferencia, la elección del ámbito jurídico es el resultado de una cuidadosa consideración con respecto a la demanda del mercado. De hecho, en las últimas décadas, el traductor jurídico ha adquirido cada vez más relevancia y se ha convertido en una figura indispensable en la comunidad internacional (Alcaraz y Hughes, 2002b: 2). Sin embargo, la traducción jurídica es considerada una de las tareas más difíciles porque el sistema jurídico varía desde un país a otro y consecuentemente, si las lenguas implicadas en la traducción pertenecen a dos sistemas jurídicos opuestos, como en el caso de *Common Law* y *Civil Law*, la tarea resulta

aún más difícil (Matulewska, 2013: 13). La dificultad se debe sobre todo a las diferencias entre los sistemas jurídicos, y consecuentemente, al hecho de que los equivalentes pueden corresponder a diferentes conceptos en cada una de las jurisdicciones, a la variación de las distintas nociones desde un sistema jurídico al otro, y finalmente, según Olsen, Lorz y Stein (2009: 7), a que “las interconexiones dentro de un sistema jurídico así como la cultura jurídica, influyen, en general, en el significado y en el impacto práctico de los conceptos legales”. A partir de lo dicho, el traductor debe abordar el texto con una doble visión, con respecto a las características tanto lingüísticas como jurídicas, porque, como afirma Šarčević (2016: 73), la traducción jurídica no es solo un problema técnico, sino que se deben tomar en consideración unos factores específicos que dependen estrictamente de los contextos culturales, históricos, políticos y jurídicos de los idiomas de origen y de destino.

De todos modos, no hay reglas o principios establecidos que deban seguirse para traducir un texto jurídico, sino que esto depende de la función de la traducción y de las preferencias del traductor (Mayoral Asesio, 2002: 10). Sin embargo, durante muchos años, el grado de libertad del que dispone un traductor ha sido objeto de muchos debates: por ejemplo, es opinión ampliamente compartida por lingüistas y abogados que una traducción jurídica tenga que representar el significado exacto del texto de origen tratando de ser lo más fiel posible al texto original. De todos modos, en el caso de términos ambiguos, el traductor debe considerar el contexto más amplio para darle un significado apropiado (Pedersen y Dorri, 2001: 379). En cualquier caso, dado que un sistema legal forma parte de una cultura existente, para reflejar adecuadamente los contenidos del texto fuente, el traductor tiene que actualizar su vocabulario jurídico y estudiar las diferencias culturales entre las dos lenguas.

En este trabajo, para abordar la traducción jurídica, hemos elegido una ley que trata un tema candente, es decir, la retirada del Reino Unido de la Unión Europea. En particular, dentro del extracto seleccionado, se pueden ver los márgenes de la división entre la legislación europea y la legislación del Reino Unido. Sin embargo, la salida del Reino Unido de la Unión Europea no implica una ruptura absoluta, de hecho este documento prueba que se adoptan unos aspectos de la legislación de la UE en su legislación nacional, pero también que otros se revocan completamente.

El presente trabajo tiene como objetivo principal el de traducir al español una ley inglesa, la *European Union (Withdrawal) Act, 2018* tratando de alcanzar una correlación adecuada en la lengua de llegada y conservando el significado original de la ley. En cuanto al segundo objetivo, se hace un estudio contrastivo entre las leyes inglesas y españolas, buscando similitudes y diferencias entre las estructuras de las dos leyes parlamentarias y el proceso legislativo de los dos sistemas jurídicos. El tercer objetivo es el de analizar en detalle las características textuales, estilísticas, gramaticales, sintácticas y léxicas de las leyes inglesas y españolas. El último objetivo es el de identificar las características de las leyes inglesas en el fragmento elegido para el análisis y explicar cómo este ha sido traducido al español, cuáles son los problemas que el traductor ha encontrado y cómo los ha solucionado.

Para alcanzar estos objetivos, se ha decidido seguir un esquema que, ante todo, compara el proceso legislativo inglés y español; luego se estudian las leyes inglesas y españolas tanto a nivel estructural, como a nivel lingüístico, y al final se lleva a cabo una traducción que será analizada en sus características principales. Más precisamente:

- el primer capítulo se corresponde con la introducción del trabajo, en la cual se trazan los objetivos, se pone de relieve la importancia del tema elegido y se encuadra la traducción de la ley en su marco teórico de la traducción jurídica;
- en el segundo capítulo se hace un análisis contrastivo entre el proceso legislativo inglés y español, así como entre la estructura de las leyes inglesas y las españolas, resaltando similitudes y diferencias;
- en el tercer capítulo se señalan las características lingüísticas de las leyes inglesas y españolas y, en particular, se analizan las características textuales, estilísticas, sintácticas, gramaticales y léxicas del fragmento de la ley elegida para el estudio;
- el cuarto capítulo introduce el contexto en el que se encuentra la ley elegida, esto es, la *European Union (Withdrawal) Act, 2018* y se ofrece la traducción al español del texto de la mencionada ley;

- el quinto capítulo ofrece un análisis detallado de la traducción: se explica la estrategia que se ha utilizado para traducir la ley, se ponen de relieve los problemas encontrados al traducir y las soluciones aportadas para llevar a cabo la traducción;
- el sexto capítulo concluye el trabajo con unas reflexiones sobre el papel del traductor, que no necesita solo de brillantes habilidades lingüísticas, sino que también debe tener conocimientos culturales, jurídicos, económicos y sociales para poder realizar una traducción especializada.

En general, este trabajo muestra los pasos que da el traductor antes de trabajar en la traducción de una ley, o sea, descompone el texto en diferentes partes, lo analiza y luego intenta encontrar equivalentes funcionales en el idioma de destino. Todo este proceso no es fácil, hasta el punto de que algunos estudiosos hablan de la imposibilidad de traducir el texto jurídico. Sin embargo, como dice Garzone (2000: 4), dado que la traducción jurídica aún persiste en la actualidad, significa que la intraducibilidad es sólo un concepto abstracto que resalta su dificultad.

Riassunto

Questo elaborato finale è stato progettato nell'ambito del programma di Doppio Titolo sottoscritto tra il corso di laurea in *Mediazione Linguistica e Culturale* dell'Università di Milano e quello in *Estudios Ingleses* dell'Università di Valladolid. Il programma permette all'alunno di studiare il secondo anno accademico nell'Università ospitante e di scrivere una tesi che sarà poi discussa in entrambe le università, facendo sì che lo studente, a fine percorso, ottenga entrambi i titoli di studio.

Sebbene i due corsi di laurea possano sembrare diversi, hanno in realtà un obiettivo comune, che è quello di offrire delle competenze linguistiche, culturali, giuridiche ed economiche, tali da permettere allo studente di diventare un mediatore linguistico e culturale capace di lavorare nei vari settori sociali.

Grazie a questo percorso formativo, è nato in me un interesse specifico per la traduzione giuridica che è il principale oggetto di studio in questo lavoro. Al di là della personale preferenza verso questo tipo di linguaggio specialistico, la scelta dell'ambito giuridico è il risultato di un'attenta considerazione rispetto alla domanda di mercato. Infatti, nelle ultime decadi, il traduttore giuridico è diventato una figura indispensabile nella comunità internazionale (Alcaraz e Hughes, 2002b: 2). Tuttavia, la traduzione giuridica, oltre ad essere molto richiesta, è anche considerata una delle più difficili, soprattutto se le lingue implicate nella traduzione appartengono a due sistemi giuridici opposti, come nel caso specifico del *Common Law* e del *Civil Law* (Matulewska, 2013: 13).

Inoltre, per tradurre un testo giuridico, bisogna considerare che non ci sono regole o principi stabili da seguire. La traduzione dipende, infatti, sia dalla funzione che essa stessa svolge, sia dalle preferenze del traduttore (Mayoral Asesio, 2002: 10). Possiamo affermare, quindi, che il traduttore è libero di tradurre nel modo che ritiene più opportuno, scegliendo la strategia che gli sembra più adeguata alla funzione che la traduzione deve svolgere. Tuttavia, la libertà del traduttore è sempre stata oggetto di numerosi dibattiti tra traduttori che al giorno d'oggi sembrano essere d'accordo sul fatto che la traduzione debba rimanere fedele al testo originale (Pedersen e Dorri, 2001: 379).

Questo lavoro mostra, quindi, la complessità della traduzione giuridica, caratterizzata da diversi fattori strettamente legati ai contesti legali, politici, storici e culturali di entrambe le lingue coinvolte. In particolare, il lavoro si articola in sei capitoli: nel primo capitolo si spiegano gli obiettivi della tesi, si sottolinea l'importanza del tema scelto e si introduce

il quadro teorico della traduzione giuridica; nel secondo capitolo si fa un'analisi contrastiva tra il processo legislativo spagnolo e quello inglese e, in seguito, si analizzano le strutture delle due leggi che appartengono a due diversi sistemi giuridici; nel terzo capitolo, si fa un ulteriore studio contrastivo tra le due leggi, in questo caso, da un punto di vista linguistico, quindi vengono analizzate le caratteristiche testuali, stilistiche, sintattiche, grammaticali e lessicali più rilevanti delle leggi inglesi e spagnole. In particolare, in questo capitolo, vengono identificate suddette caratteristiche nella legge scelta per la traduzione, ovvero la *European Union (Withdrawal) Act, 2018*; nel quarto capitolo, viene spiegato il contesto che ha portato alla promulgazione della legge, ma soprattutto, si raggiunge il principale obiettivo del lavoro, che è quello di eseguire una traduzione giuridica dall'inglese allo spagnolo del frammento scelto, che conservi il significato del testo di origine e che, al tempo stesso, risulti naturale ai parlanti della lingua spagnola; nel quinto capitolo, viene chiarita la strategia di traduzione scelta, vengono spiegati i problemi di traduzione che abbiamo incontrato nel tradurre e le soluzioni a cui siamo ricorsi. Il lavoro si conclude con delle riflessioni sulla difficoltà della traduzione giuridica e sul ruolo del traduttore, a cui non è sufficiente avere delle brillanti competenze linguistiche, ma deve avere anche delle conoscenze culturali, giuridiche, economiche e sociali per poter realizzare una traduzione specializzata.

Bibliography

- Alcaraz Varó, E. (1996) [1994], *El Inglés Jurídico*. Barcelona: Ariel Derecho.
- Alcaraz Varó, E. / Hughes, B. (2002a), *El Español Jurídico*. Barcelona: Ariel Derecho.
- Alcaraz Varó, E. / Hughes, B. (2002b), *Legal Translation Explained*. Manchester: St. Jerome Publishing.
- Austin, J. L. (1962), *How Do Things With Words*. London: Oxford University Press.
- Bahillo Marcos, M. E., Pérez Bravo, M. C. (2014), *Gestión de la Documentación Jurídica y Empresarial*. Madrid: Ediciones Paraninfo S.A.
- Bordonaba Zabalza, C. (2009), “El Lenguaje Jurídico” in Calvi, M. V. / Bordonaba Zabalza, C. / Mapelli, G. / Santos López, J. (2009), *Las Lenguas de Especialidad en Español*. Roma: Carocci, pp. 147-170.
- Borja Albi, A. [2000] (2017), *El Texto Inglés y su Traducción al Español*. Barcelona: Ariel Lenguas Modernas.
- Calvi, M. V. (2009), “Las Lenguas de Especialidad”, in Calvi, M. V. / Bordonaba Zabalza, C. / Mapelli, G. / Santos López, J. (2009), *Las Lenguas de Especialidad en Español*. Roma: Carocci Editore, pp. 15-38.
- Calvi, M. V. / Bordonaba Zabalza, C. / Mapelli, G. / Santos López, J. (2009), *Las Lenguas de Especialidad en Español*. Roma: Carocci Editore.
- De Carreras Serra, F. / Alberti Rovira, H. (2002), *Fuentes del Derecho*. Universitat Oberta de Catalunya: UOC La Universidad Virtual.
- Finch, E. / Fafinski, S. (2015), *Legal Skills*. Oxford: Oxford University Press.
- García-Escudero Márquez, P. (2005), “Nociones de Técnica Legislativa Para Uso Parlamentario”, *Asamblea: Revista Parlamentaria de la Asamblea de Madrid*, 13, pp. 121-164.
- Garzone, G. (2000), “Legal Translation and Functionalist Approaches: a Contradiction in Terms?”, *Actes du Colloque International “La Traduction Juridique. Histoire, Théorie(s) et Pratique”*, pp. 1-14.

(available online: <http://www.tradulex.com/Actes2000/Garzone.pdf>; date of access: 13/03/2019).

- Gifford, D. J. / Salter, J. R. (1996), *How to Understand an Act of Parliament*. Great Britain: Cavendish Publishing.
- Iglesias Báñez, M. (2011) [2010], *Estructura Orgánica y Derechos Fundamentales en la Constitución Española de 1978*. Salamanca: Ediciones Universidad de Salamanca.
- Jayapalan, N. (1999), *Modern Governments*. New Delhi: Vishal Enclave.
- Maley, Y. (1987), “The Language of Legislation”, *Language in Society*, Cambridge University Press, 16:1, pp. 25-48.
- Martínez González, M. M. / Vicente Blanco, D. J. (2014), “Estructura de los Documentos Jurídicos y XML”, in Martínez González, M. M. (2014), *Derecho y Sistemas de Datos. El Uso del XML Jurídico*. Valencia: Tirant Lo Blanch, pp. 63-92.
- Matulewska, A. (2013), *Legilinguistic Translatology*. Bern: Peter Lang.
- Mayoral Asesio, E. (2002), “¿Cómo se Hace la Traducción Jurídica?”, *Puentes*, 2, pp. 9-12.
(available online: <http://wpd.ugr.es/~greti/revista-puentes/pub2/02-articulo.pdf>, date of access: 21/12/2018).
- McLeod, I. T. (1999) [1993], *Legal Method*. London: Macmillan Press LTD.
- Nida, E. A. (1964), *Towards a Science of Translating*. Netherlands: Leiden E. J. Brill.
- Newmark, P. (1987), *A Textbook of Translation*. New York: Prentice Hall.
- Nord, C. (2005), *Text Analysis in Translation*. New York: Rodopi.
- Olsen, F. / Lorz, A. / Stein, D. (eds.) (2009), *Translation Issues in Language and Law*, Basingstoke, Palgrave Macmillan.
- Pedersen, M. H. / Dorri, F. (2001), “Lexical Ambiguity and Legal Translation: A Discussion”, *Multilingua-Journal of Cross-Cultural and Interlanguage Communication*, 20, pp. 379-392.
- Šarčević, S. (2000) [1997], *New Approach to Legal Translation*. The Hague: Kluwer Law International.

- Šarčević, S. (ed.) (2016), *Language and Culture in EU Law, Multidisciplinary Perspectives*. Law, Language and Communication. New York: Routledge.
- Smartt, U. (2014), *Optimizing Public Law*. New York: Routledge.
- Stolze, R. (2013), “The Legal Translator’s Approach to Texts”, *Humanities*, 2, pp. 56-71.
- Tiersma, P. M. / Solan, L. M. (2012) (eds.), *The Oxford Handbook of Language and Law*. New York: Oxford University Press.
- Williams, C. (2007), *Tradition and Change in Legal English*. Bern: Peter Lang.

Sitography

- Bodeleian Library Spanish Law
<https://libguides.bodleian.ox.ac.uk/law-spain>
- Boletín Oficial del Estado
<https://www.boe.es>
- Cambridge Dictionary
<https://dictionary.cambridge.org/es/>
- Collins Dictionary
<https://www.collinsdictionary.com/es/>
- English Oxford Living Dictionaries
<https://en.oxforddictionaries.com>
- Eur-Lex
<https://eur-lex.europa.eu/>
- European Union (Withdrawal) Act, 2018
<http://www.legislation.gov.uk/ukpga/2018/16/contents/enacted>
<https://services.parliament.uk/bills/2017-19/europeanunionwithdrawal.html>
(date of access: 20/07/2018)
- Gobierno de España – BOE (Boletín Oficial del Estado)
<http://www.boe.es/>
- IATE – European Union Terminology
<https://iate.europa.eu/home>
- Law – Dictionary

- <http://dictionary.law.com/>
- Legislation Gov. UK
<http://www.legislation.gov.uk>
 - Linguee
<https://www.linguee.es>
 - Official Document System
<https://documents.un.org/>
 - Real Academia Española
<http://www.rae.es>
 - Real Academia Española - Diccionario del Español Jurídico
<http://dej.rae.es>
 - Senado de España – Diccionario de Términos
<http://www.senado.es/web/diccionarioterminosparlamentarios/index.html>
 - Shaheen Faiza “Theresa May’s Brexit deal – What Will It Mean?”
<https://www.theguardian.com/commentisfree/2018/nov/14/theresa-may-brexit-deal-panel-verdict> (date of access: 1/11/2018)
 - UK Parliament – Glossary
<https://www.parliament.uk/site-information/glossary/>
 - UNESDOC – United Nations Educational Scientific and Cultural Organization – Digital Library
<https://unesdoc.unesco.org/>
 - Unknown, “Brexit: the Pros and Cons of Leaving the EU”
<https://www.theweek.co.uk/brexit-0> (date of access: 1/11/2018)

DICHIARAZIONE DI ORIGINALITÀ DEL TESTO

Premessa

Elaborato finale e tesi magistrale devono risultare dal lavoro autonomo del/la candidato/a. L'utilizzo delle fonti primarie e secondarie, in formato cartaceo e/o elettronico, deve essere chiaramente indicato secondo le modalità correnti, distinguendo le citazioni, dirette e indirette, dalle osservazioni e considerazioni del/la candidato/a. Si intendono come citazioni anche le traduzioni da testi pubblicati non in lingua italiana e vanno adeguatamente indicate anche le parafrasi. Dare per propria l'opera di altri, anche con riferimento a parte di opera che venga inserita nella propria senza indicazione della fonte, costituisce plagio.

Dichiarazione

Dichiaro sotto la mia responsabilità che quanto scritto nell'elaborato finale o nella tesi magistrale risulta da elaborazione personale e che, citazioni escluse, nessuna parte è stata copiata da pubblicazioni scientifiche o divulgative in formato cartaceo, elettronico o in lavori prodotti da altri studenti, né tradotta da testi fonte in lingua straniera.

Nel caso di materiale tratto da pubblicazioni scientifiche, da Internet o da altri documenti di cui non sono l'autore, dichiaro sotto la mia responsabilità di averne espressamente e direttamente indicato la fonte alla fine della citazione o a piè di pagina.

Mi assumo questo impegno fino al termine e alla consegna finale del lavoro.

Consapevolezza della sanzione

Sono consapevole che in caso di plagio sono passibile di sanzioni che possono comportare l'impossibilità di laurearmi.

Nome e cognome: Ilenia Colella

Numero di matricola: 877280

Milano il 26/03/2019

Firma



DECLARATION OF ACADEMIC HONESTY

I, the undersigned, hereby declare that I am the author of the present paper and that, except where specifically acknowledged, no parts have been copied from other authors or sources, or from papers previously submitted for assessment by myself or other students.

Any paragraph or portion of text that I have excerpted from a scientific publication, the Internet, or other sources of information has been duly placed in quotation marks and explicitly cited in a clear footnote reference.

Additionally, I declare that I have read and understood the Faculty's provisions with regard to student plagiarism, and am aware of the penalties outlined under the appropriate articles of the current (December 2007) *Student Regulations*.

Student's Name and Surname: Ilenia Colella

Student ID card no.: 877280

Milan the 26/03/2019

Signature:

A handwritten signature in cursive script that reads "Ilenia Colella".