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Explicitation in legal translation — a study of Spanish-into-Danish translation of judgments

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ABSTRACT

This article reports on the findings of an empirical study on Danish translators' use of explicitation in their translations of an excerpt from a Spanish judgment. The aim of the study was to examine: (1) whether Danish translators use explicitations in their translations of a judgment from Spanish into Danish, and (2) whether differences can be observed in relation to the participants' expertise in translation. To fulfil the purpose of the study, an experiment involving translation from Spanish into Danish was performed. The data — a Spanish source text and 10 translations into Danish by five experts and five non-experts — were analysed using qualitative methods followed by a quantitative synthesis. The analyses focussed on explicitations in relation to the items of nominalisations, passives, system-bound terms, and elliptical phrases. The results of the study showed that explicitations did occur in the target texts and that experts explicitated more than non-experts. In addition, the results revealed differences between experts and non-experts in the units they explicitated. While experts opted for explicitations in relation to all of the focal points, non-experts only explicitated system-bound terms and elliptical phrases.

KEYWORDS

Explicitation, explicitation hypothesis, translation universals, legal translation, judgments.

1. Introduction

In the field of Translation Studies, explicitation refers to the tendency to spell things out which are implicit in the source text. Explicitation is generally considered to be one of the universals of translation (i.e. linguistic features which are typical of translations in comparison with non-translated texts), and, as we shall see in the literature review below, research into explicitation is a productive area in Translation Studies (e.g. Blum-Kulka 1986; Englund Dimitrova 1993, 2005; Klaudy and Károly 2005; Olohan and Baker 2000; Pápai 2004; Séguinot 1988; Øverås 1998, etc.). However, in the field of legal translation, few empirical studies on explicitation have been conducted so far. Notable exceptions are the studies by Faber and Hjort-Pedersen (2009a, 2009b) and Hjort-Pedersen and Faber (2010) in which the authors examine trainee and professional translators' use of explicitation (among other things) in their translations into English of a Danish excerpt from a law report.

So far, no similar studies have been conducted in relation to the translation of legal texts between Danish and Spanish. In an attempt to start filling this gap in the research, the study reported on in this article examines, on the one hand, whether Danish translators use explicitations in their translations of a judgment from Spanish into Danish, and, on the other hand, whether

differences can be observed in relation to the participants' expertise in translation.

2. The literature on explicitation

The paper draws on theory and empirical research from the fields of Translation Studies and legal translation, focusing, more specifically, on: the explicitation hypothesis, explicitation in legal translation, and explicitation in relation to expertise. In the subsequent sections, each of these topics will be considered.

2.1. The explicitation hypothesis

Explicitation as a concept and term was first introduced by Vinay and Darbelnet (1958/1995: 342) to describe "a stylistic translation technique which consists of making explicit in the target language what remains implicit in the source language because it is apparent from either the context or the situation." In the following years, the concept of explicitation attracted a lot of interest among translation scholars, and the phenomenon was the object of study in a number of contributions (e.g. Nida 1964; Séguinot 1985; Toury 1980). However, Blum-Kulka (1986) was the first to conduct a systematic study of explicitation. On the basis of her study, Blum-Kulka formulated her famous explicitation hypothesis, which suggests that explicitation may be inherent in the process of translation regardless of the two languages involved. Since then, numerous studies have claimed to provide evidence for the explicitation hypothesis, especially after scholars have adopted the tools of corpus linguistics in their investigations of explicitation.

One of the first corpus-based studies to support the explicitation hypothesis was carried out by Øverås (1998) who examines textual cohesion in translations of fiction in the bi-directional English-Norwegian Parallel Corpus (ENPC). Her findings reveal that both translated English and translated Norwegian show a higher level of textual cohesion compared to the source text. Olohan and Baker (2000) examine the occurrence of the optional *that* after the reporting verbs *say* and *tell* in translated English texts in comparison with non-translated English texts. Their results show a significantly higher frequency of *that* in translated texts. Olohan (2001) pursues the same line of research with the verb *promise* and obtains similar results. Using a combination of parallel (i.e. a corpus of translations and their source texts) and comparable corpora (i.e. a corpus of translated and non-translated target language texts), Pápai (2004) examines explicitation strategies in English and Hungarian literary and non-literary texts. Her findings show that translations are more explicit than both their source texts and non-translated texts in the target language. Klaudy and Károly (2005) examine explicitation in the translation of reporting verbs in a parallel bi-directional corpus of English and Hungarian novels. Their findings show that

translators in both directions tend to prefer more explicit verbs than those used in the source text.

Since the term explicitation was first introduced by Vinay and Darbelnet in 1958, it has been used as an umbrella term in Translation Studies to describe the differences between the source text and target text, on the one hand, and the choices made by translators during the translation process, on the other hand. Among the various usages of the term, Shuttleworth and Cowie (1997: 55) define explicitation as "the phenomenon which frequently leads to TT [target text] stating ST [source text] information in a more explicit form than the original." Delisle et al. (1999: 139) define explicitation as a translation procedure, where "the translator introduces precise semantic details into the target text." Pápai (2004), in turn, distinguishes between translation process and translation product. In terms of process, Pápai (2004: 145) defines explicitation as "a translation technique involving a shift from the source text (ST) concerning structure or content." In terms of product, explicitation is defined as "a text feature contributing to a higher level of explicitness…" (Pápai 2004: 145). Saldanha (2008: 32) describes explicitation as a "translation strategy whereby translators spell out interpersonal, ideational or textual meanings in the target text."

As is clear from the definitions, the term explicitation seems to encompass different translation procedures. In an often cited encyclopedia article, Klaudy (2009) distinguishes between four types of explicitation: obligatory explicitations caused by structural differences between the source language and the target language (e.g. in grammar or semantics), optional explicitations resulting from differences in stylistic preferences between the two languages (e.g. in cohesive patterns), pragmatic explicitations motivated by cultural differences (e.g. culture-specific concepts, geographic names), and, finally, translation-inherent explicitations. While the first three explicitation types are motivated by diffences between the source and target language, Klaudy's fourth type consists of explicitations which are "attributed to the nature of the translation process itself" (Klaudy 2009: 107).

In recent years, serious objections to the explicitation hypothesis have been raised (e.g. by House 2008; Pym 2005; Tirkkonen-Condit 2011). The strongest criticism has been raised by Becher (2010a, 2010b) who questions the very existence of translation-inherent explicitation, and suggests that we abandon the explicitation hypothesis. In addition, Becher argues that studies of explicitation generally suffer from methodological shortcomings. First of all, explicitation studies fail to control for interfering factors such as source language interference, other translation universals, and other explicitation types. Second, many studies of explicitation either fail to properly define the concept or apply inconsistent definitions, and, as a result, the validity of their results is difficult to interpret. In response to Becher's criticism, Titik Murtisari (2014) argues that the existence of

translation-inherent explicitation is theoretically plausible, and, therefore, it is still worth pursuing. However, like Becher, she calls for more clarity in the definition of the concept, arguing that the use of different definitions makes it difficult to compare studies on explicitation (Titik Murtisari 2014: 279). Chesterman (2010: 46), in turn, suggests that we search for "less-than-universal patterns in translation profiles, under different sets of conditions, and thus make more modest claims." The present study seeks to make a contribution in this regard.

2.2. Explicitation in legal translation

Because legal texts may produce legal effects, they have usually been accorded the status of *sacred* (or *sensitive*) texts, and, consequently, approaches to legal translation have historically centred on literal translation (for a historical overview of legal translation see Šarčević 2000: 23 ff.). Due to the "sanctity" of legal texts, literal translation dominated the area of legal translation much longer than other areas of translation. In legal translation, the principle of fidelity to the source text was not challenged until the 1980s, when Canadian and Swiss legal translators were assigned an active role in the drafting of federal legislation. Not only did the introduction of new bilingual drafting techniques impact the role of the legal translator in Canada and Switzerland, it also revolutionised the entire field of legal translation (Šarčević 2000: 16). In recent years, some legal translation scholars have argued that authoritative translations (i.e. legally binding translations) — for instance, contracts, prenuptial agreements and wills — must be literal, while non-authoritative translations (i.e. translations intended for information), such as national laws and court orders, may be freer (Borja Albi 2007: 32; Didier 1990: 280, 285; Garzone 2000: 400). The argument in favour of a freer approach in relation to the latter is that because literal translations use words and structures similar to those of the source language they may require an additional reading effort in the target language, or they may even be incomprehensible to the target language recipient and fail to fulfil their purpose as sources of information. If the purpose is information, the translation should be comprehensible to the recipient.

Translated strictly for information purposes, judgments are one example of non-authoritative translations (with the exception of judgments in countries with two or more official languages and judgments from supranational — e.g. EU — or international institutions). While the judgment is an authoritative text (i.e. legally binding) in the source language culture, it functions as a metatext in the target language culture, enabling the recipient (i.e. the judge) to understand the foreign judgment. For example, if a Danish company enters into a contract with a Spanish company and the latter violates the contract, the Danish company will typically bring the matter before a Danish court (unless the contract prescribes otherwise) which then issues a judgment in favour of the plaintiff. However, unless the Spanish company has assets in Denmark upon which the Danish company

may distrain, this judgment is of little benefit. Therefore, the Danish company must bring the matter before a Spanish court in order to attain an enforced judgment (i.e. a judgment that may be enforced through the bailiff). To do so, the Danish judgment must be translated, thus enabling the Spanish judge to understand the legal reasoning of the Danish court. Only when the Spanish court has issued an enforced judgment may the Danish company distrain upon the assets of the Spanish company (see also Engberg 1999: 84).

Thus, when dealing with non-authoritative translations, such as a judgment, the focus is on catering for the information needs of the target-text recipient rather than on conveying the exact content and form of the source text. This is where explicitations may be relevant, and, consequently, it is a reasonable assumption that explicitations will occur in translations of judgments.

As has already been stated, few empirical studies on explicitation in legal translation have been conducted. Notable exceptions are the studies by Faber and Hjort-Pedersen (2009a, 2009b) and Hjort-Pedersen and Faber (2010) (for a description of the 2009a and 2010 studies see section 2.3.). Focusing on legal translation between Danish and English, Faber and Hjort-Pedersen (2009b) examine explicitation in translations produced by translators, on the one hand, and lawyers, on the other hand. Their results show that overall, the lawyer group explicitates more than the translator group.

2.3. Explicitation and expertise

Important for the purposes of this study, explicitation has been correlated with translation expertise. Several scholars have tried to establish a link between explicitation and expertise in translation, but the studies conducted so far show no clear patterns - and even offer conflicting evidence.

Some scholars suggest that explicitation is characteristic of translations produced by translation trainees. In her article from 1986, Blum-Kulka, for instance, argues that explicitation is more frequent in the performances of trainees than in those of professional translators. At the same time, though, Blum-Kulka notes that explicitation is also found in professional translations and thus may be a translation universal (1986: 20-21). Similarly, Laviosa-Braithwaite (1996: 153) finds that translation universals, including explicitation, are evidenced more clearly in translations produced by trainees. The assumption that explicitation is characteristic of trainee performances is supported by Pym's (2005: 39) hypothesis that "the harder the source text, the harder the translator works, and the more likely they are to make their renditions explicit."

Others suggest that explicitation is a translation norm, and, as such, it is presumably a feature of expertise (Weissbrod 1992; Øverås 1998). In a

study on explicitation in translations produced by advanced translation trainees, Denver (2002) finds that the more general and linguistic knowledge the trainees possess, the more likely they are to explicitate implicit logical links. Englund Dimitrova (2005: 236) suggests that there are two different types of explicitation, norm-governed explicitations and strategic explicitations. The first type refers to explicitations which occur with such a frequency and regularity that they may be claimed to be norm-governed. According to the study, the norm-governed nature of the explicitations is evidenced not only by the frequency with which they appear in the target texts, but also by the participants' non-problematic processing of the explicitations during the translation process. In her study, Englund Dimitrova finds that explicitations of certain implicit additive coordinative links within the sentence and implicit contrasts between sentences are norm-governed in both trainee and professional performances. Contrastive links between sentences, on the other hand, were found to be norm-governed only in translations produced by professionals, which suggests that this norm has not yet been internalised by the trainees. As for strategic explicitations, this type of explicitation occurs to solve a particular translation problem and is thus of an ad hoc nature. The findings show that strategic explicitation is found in translations produced by trainees and professionals alike.

Faber and Hjort-Pedersen (2009a) and Hjort-Pedersen and Faber (2010) point out that studies on explicitation in legal translation differ from those carried out in other areas of translation because of the specific function of legal texts. Because legal texts may produce legal consequences, adding or specifying information is a high-risk procedure in legal translation. Consequently, Faber and Hjort-Pedersen hypothesise that explicitation will be a rare phenomenon in legal translation, especially in translations produced by trainee translators due to their limited level of legal expertise. At the same time, however, because legal texts are notoriously complex, the authors also hypothesise that the effort involved in the process of trying to make sense of the source text will leave traces in the target text in the form of explicitations. The assumption is that these traces (i.e. explicitations) will be particularly evident in translations produced by trainees because of the presumed greater effort undertaken by them than by professional translators (this would support Pym's hypothesis, see above). In their study from 2009, Faber and Hjort-Pedersen set out to test these two contradictory hypotheses by comparing translations produced by eight trainee translators and two professional translators while the translators were thinking aloud (Faber and Hjort-Pedersen 2009a). Their analysis focuses on the elements of nominalisations, passives, culture-bound terms (referred to as system-bound terms in this study, see also Šarčević 2000), and elliptical phrases. Their findings show that both trainee and professional translators use explicitations in the form of additions, whereas specification is only used in translations produced by trainees (for a definition of addition and specification see section 3). In their study from 2010, Hjort-Pedersen and Faber further explore the use of explicitations in

translations produced by eight trainee translators, using the same data as in the 2009 study. The findings show that most additions are based on preceding mental explicitations in the target texts, as hypothesised by Pym. However, in connection with system-bound terms, all of the participants opt for explicitation although there is no evidence of mental explicitation in the think-aloud protocols. Thus, explicitations of system-bound terms are not results of prior mental explicitations, but rather an automatic process. According to the analyses, specifications, on the other hand, result from extensive dictionary consulting.

3. Central concepts and definitions

For the purposes of this study, and following Becher (2010a: 3), explicitness may be defined as the verbalisation of information which the recipient may be able to infer from the context, his or her world knowledge, etc. Explicitation, then, occurs when a given target text is more explicit than the corresponding source text. Thus, the definition of explicitation provided here only includes the *product* of translation, not the *process*.

In addition, based on Klaudy and Károly (2005), Perego (2003) and Øverås (1998), explicitations can take two forms in this study: *addition* of new elements (quantitative in nature), or *specification*, that is, a translation which gives more specific information (qualitative in nature). Moreover, for our purposes, the term explicitation refers to additions and specifications that belong to the categories of optional explicitation and pragmatic explicitation. As Becher (2010a: 23) points out, the two are interrelated in the sense that optional explicitation is `pragmatic´ in nature because it depends on the pragmatic norms of the target language community, and pragmatic explicitation is `optional´ in nature because it usually does not have to be performed. In other words, this study focuses on language-pair specific explicitations (i.e. Spanish and Danish), which are optional in the sense that a translator may opt for a translation which is closer to the structure and words of the source text (i.e. a literal translation) rather than performing explicitations (see also Englund Dimitrova 2005: 51). To sum up, the present study is not concerned with translation-inherent explicitation or with confirming the explicitation hypothesis, but with examining whether translators, when they have a choice, opt for literal translations or explicitations.

In Translation Studies, expertise is often referred to as `professionalism´. For the purposes of my study, however, professionalism does not equal expert performance (see Enríquez Raído 2014). While the former refers to the translators' ability to earn their living by translating, the latter concerns translation processes "that are observed to result in good performance" (Tirkkonen-Condit 2005: 406). This distinction is based on two premises: (1) translation is a skill, and, as such, it can be learned through formal instruction and practice (Chesterman 2000; Montalt Resurrecció et al. 2008), and (2) not all professionals are able to reach expert level

(Jääskeläinen 1990; Séguinot 2000). We must keep in mind that there is wide individual variation between translators. Moreover, no translator can be an expert in all areas (Shreve 2002). During the course of a career, translators not only specialise their translation abilities, but also their knowledge of particular subject areas and domain-specific terminologies.

To operationalise expertise in translation, the concept is, in this study, defined as 10 years of experience or more combined with specialisation in a particular area of translation (see Englund Dimitrova 2005; Shreve 2002). For the purposes of the study, the participants were divided into two groups based on their practical experience in legal translation: 1) experts, consisting of translators with 10 years of experience or more who specialise in the translation of legal texts, and 2) non-experts, or translators with less than 10 years of experience and/or translators who do not specialise in legal translation.

4. Introduction to the study: aim, methods, and data

As has already been indicated in the introduction, the aim of the present study is to examine: (1) whether Danish translators use explicitations in their translation of a judgment from Spanish into Danish, and (2) whether differences can be observed in relation to the participants' expertise. To that end, this study compares the performances of experts with those of non-experts. As stated in the literature review, other scholars have also tried to establish a link between explicitation and translation expertise, but studies conducted until now show contradictory evidence (see section 2.2.).

To fulfil the purpose of the study, an experiment involving translation from Spanish into Danish was performed. The data — a Spanish source text and 10 translations into Danish by five experts and five non-experts — were analysed using qualitative methods, based on which a quantitative synthesis was made. In line with Faber and Hjort-Pedersen (2009a) and Hjort-Pedersen and Faber (2010), the analyses focussed on explicitations in relation to the items of nominalisations, passives, system-bound terms, and elliptical phrases because they reflect characteristics of legal language. In the following, these items will be referred to as focal points.

The data on which the present study is based stem from a PhD thesis by Krogsgaard Vesterager (2011). The purpose of that thesis was different from the one pursued in this article in that the former focussed on the participants' preferences for a literal or free translation rather than on explicitation. As stated, the data consist of a Spanish source text and 10 translations into Danish, five of which have been produced by experts, and the remaining five by non-experts. The source text is an excerpt from the grounds of a Spanish judgment, which consists of a total of 221 words (the source text is appendixed in section 7). The topic of the source text is that of dismissal on conduct grounds, that is, dismissal due to misconduct or non-compliance on the part of the employee. The source text is an appeal,

and in the text reference is made to the judgment of the first instance court. With regard to focal points, the source text contains 11 nominalisations, two passives, 15 system-bound terms, and three elliptical phrases.

The present study may be characterised as naturalistic, albeit with two reservations. First, the translation task is constructed. Second, in two cases the translation agencies referred me directly to the translator. Thus, two of the translators (no. 8 and 10) were aware that they were participating in a research project, but they were not informed of the purpose of the study. The participants were given two weeks to solve the translation task. They were also provided with background information in the form of the source text in its full length. No translation instructions (i.e. brief) were elaborated for the translation task, but it was possible for the participants to obtain a brief on request. However, none of the participants requested further information about the translation task.

The participants are all professional translators — that is, translators who earn their living by translating, but who differ in terms of translation experience and area of specialisation. As has already been stated, the participants are divided into two groups based on their practical experience in legal translation: (1) experts (i.e. translators with 10 years of experience or more who specialise in the translation of legal texts), and (2) non-experts (i.e. translators with less than 10 years of experience and/or translators who do not specialise in legal translation). More specifically, the first group consists of translators 1, 3, 4, 5, and 8, whereas the second group consists of translators 2, 6, 7, 9, and 10, as detailed in table 1.

Table 1: Background information on participants.

Experts/non-experts	Translator no. (corresponds to translation number)	Experience	Area of specialisation
Experts	1	24 years	Legal texts
	3	15 years	Legal texts
	4	21 years	Legal and technical texts
	5	12 years	Legal texts
	8	31 years	Legal and medical texts
Non-experts	2	2 years	None
	6	20 years	Medicine and EU texts
	7	15 years	EU texts
	9	3 years	None
	10	5 years	None

Bernardini (2001) discusses the problem of comparing the performance of experts with that of non-experts and thus trying to determine what expertise is on the basis of external criteria, such as years of experience and official certifications. In my study, I am not concerned with defining expertise as such, or with translation quality. My interest lies in examining the explicitations in the translation products of experts as compared to those of non-experts.

5. Analyses and results

In this section, the results of the analyses of the translations are described. The results of the qualitative analyses are described in section 5.1., and the quantitative synthesis is presented in section 5.2.

5.1. Analyses of focal points

The 10 target texts were analysed to determine how the focal points (i.e. nominalisations, passives, system-bound terms, and elliptical phrases) were transferred from the source text to the target text. In the following, the results of the analyses of each of the four focal points are presented.

5.1.1. Nominalisations

The analyses show that most of the nominalisations of the source text are translated literally by the participants, and, consequently, explicitations of nominalisations are very rare. All of the explicitations are in the form of addition, as exemplified in 1[1].

Example 1 (translation 8, my emphasis)
ST: "[…] la tolerancia del empresario no genera un derecho al *incumplimiento* del trabajador […]"
EN: … the employer's tolerance does not justify *non-compliance* on the part of the employee … (my translation)
TT: "[…] tolerance fra arbejdsgiverens side ikke berettiger den ansatte til at *misligholde aftalen* […]"
EN: … the employer's tolerance does not give the employee the right to *not comply with the contract*… (my translation)

In example 1, the translator has replaced the nominalisation of the source text (*incumplimiento*, i.e. `non-compliance´) with the finite verb *misligholde* (i.e. `to not comply with´) in Danish followed by the noun *aftalen* (i.e. `contract´), the latter of which has been added to the target text. By choosing the verb *to not comply* plus the noun *contract* and not the nominal equivalent *non-compliance*, the translator has opted for explicitation rather than a literal translation. Thus, the translator has adapted the target text to comply with the stylistic preferences of Danish, which is less prone to linguistic nominalisations than Spanish, as is typical

of Germanic languages (i.e. Danish) in comparison with Romance languages (i.e. Spanish) (e.g. Korzen 2005).

5.1.2. Passives

According to the analyses, explicitations of passives are also rare. More specifically, only one of the participants (no. 5) has opted for explicitation (in the form of addition), as exemplified in 2.

Example 2 (translation 5, my emphasis)
ST: "[…] no se justifica la sanción de despido apoyada en actos *realizados* en el clima de tolerancia […]"
EN: …the sanction of dismissal is not legitimate for actions *carried out* in a climate of tolerance… (my translation)
TT: "[…] afskedigelse som sanktion ikke retfærdiggøres, når denne hviler på handlinger, *der er foretaget* af den ansatte i et tolerant klima […]"
EN: … dismissal as a sanction is not justified when it is based on actions *carried out* by the employee in a tolerant climate… (my translation)

In example 2, the translator adds to the target text extra linguistic material in the form of information about who performs the action described by the passive of the source text *realizados* (i.e. `carried out´). Thus, the translator adds the prepositional phrase *af den ansatte* (i.e. `by the employee´) indicating that the employee is the agent in connection with the passive past participle *realizados*, as may be seen from my underlining.

5.1.3. System-bound terms

While explicitations of nominalisations and passives are rare, the findings show that system-bound terms are explicitated in all the target texts. Most of the explicitations are in the form of addition, as exemplified in 3.

Example 3 (translation 1, my emphasis)
ST: "[…] Código Civil […]"
EN: … Civil Code … (my translation)
TT: "[…] den *spanske* civillovbog […]"
EN: …the *Spanish* Civil Code … (my translation)

In example 3, the translator adds the localising generic adjective *spansk* (i.e. `Spanish´) to the target text to explicitate to the Danish recipient that we are dealing with the Spanish Labour Law Act.
Some translators opt for a solution including both the localising generic expression and the Spanish term (in brackets), as exemplified in 4.

Example 4 (translation 3, my emphasis)
ST: "[…] Código Civil […]"
EN: … Civil Code… (my translation)
TT: "[…] den *spanske* civillovbog (*Código Civil*) […]"

EN: … the *Spanish* Civil Code (*Código Civil*)… (my translation)

What is particularly interesting to notice about examples 3 and 4 is that the translators in question have both opted for descriptive equivalents in their translations of the Spanish term c*ódigo* (i.e. `code´) which does not have a comparable counterpart in the Danish legal system. Whereas the Spanish legal system is codified (i.e. the laws concerning a specific area are collected systematically thus forming a legal code), the Danish legal system is non-codified (i.e. it consists of separate laws). Thus, by translating *código* with *lovbog* (i.e. `code´) rather than *lov* (i.e. `law´), the translator informs the recipient that the Spanish legal system is codified and that we have no equivalent in Danish.

Other explicitations involve specification, as exemplified in 5.

Example 5 (translation 5, my emphasis)
ST: "[…] para que resulte lícita *aquella sanción* […]"
EN: … for *such a sanction* to be legitimate… (my translation)
TT: "[…] for at en *afskedigelse* er lovlig […]"
EN: … for a *dismissal* to be legitimate … (my translation)

In example 5, the Spanish noun *sanción* (i.e. `sanction´) modified by the demonstrative pronoun *aquella* (i.e. `such´) refers back to the sanction of dismissal mentioned previously in the source text. Rather than opting for a literal translation, the translator specifies that the sanction we are actually dealing with in this context is dismissal, as may be seen from my translation.

5.1.4. Elliptical phrases

The analyses show that, as was the case with system-bound terms, the elliptical phrases of the source text are explicitated in most target texts (no. 1, 3, 4, 5, 6, 7, and 8). All of the explicitations are in the form of addition, as exemplified in 6.

Example 6 (translation 3, my emphasis)
ST: "[…] la sanción de despido *apoyada en* actos […]"
EN: … the sanction of dismissal *based on* actions … (my translation)
TT: "[…] en afskedigelsessanktion, <u>der er</u> *baseret på* handlinger […]"
EN: … a sanction of dismissal <u>which is</u> *based on* actions … (my translation)

In example 6, the Spanish reduced relative clause *apoyada en actos* (i.e. `based on actions´) which modifies the noun phrase *sanción de despido* (i.e. `sanction of dismissal´) constitutes an elliptical phrase. In the target text, the relative clause is marked by an explicit relative pronoun *der* (i.e. `which´) followed by the finite verb *er* (i.e. `is´), both of which have been added to the text, as can be seen from my emphasis.

5.2. Quantification

Table 2 below shows how the 10 participants' explicitations are distributed over the focal points and the types of explicitations described in section 5.1.

Table 2: Representation of explicitations by number and type.

Linguistic unit	No. of occurren-ces in the ST	Possible no. of explicita-tions (in 10 TTs)	Total no. of addition s (A)	Total no. of specifica-tions (S)	Total no. of explicita-tions
Nominalisa-tions	11	110	4	0	4
Passives	2	20	1	0	1
System-bound terms	15	150	21	3	24
Ellipsis	3	30	15	0	15
Total	**31**	**310**	**41**	**3**	**44**

As we can see in table 2, the source text includes a total of 31 occurrences within the categories of the four focal points, making the total possible number of explicitations in the 10 target texts 310. Table 2 also shows us that the total number of explicitations actually performed in the target texts is 44. This means that in 14 percent (44 of 310) of the cases, the participants opt for explicitations in relation to the focal points. It is interesting to notice that with nominalisations and passives, explicitations are very rare. In the case of nominalisations, only 4 percent (4 of 110) are explicitated, and for passives the number is only 5 percent (1 of 20). In contrast, the findings show that the participants use explicitations more frequently when it comes to system-bound terms and elliptical phrases with 16 percent (24 of 150) and 50 percent (15 of 30) being explicitated, respectively. As for types of explicitation undertaken by the ten participants, addition accounts for 93 percent (41 of 44) of all explicitations, whereas specification only constitutes 7 percent (3 of 44) of the explicitations.

Now, let us have a closer look at the distribution of the results according to the participants' expertise. Table 3 below details the explicitations undertaken by experts, on the one hand, and non-experts, on the other.

Table 3. Distribution of explicitations according to expertise.

Linguistic Unit	Explicitations undertaken by experts	Explicitations undertaken by non-experts	Total no. of explicitations
Nominalisations	4	0	4

Passives	1	0	1
System-bound terms	13	11	24
Elliptical phrases	9	6	15
Total	**27**	**17**	**44**

According to table 3, 61 percent (27 of 44) of all explicitations are undertaken by experts, whereas non-experts account for 39 percent (17 of 44). Thus, experts explicitate more than non-experts. In addition, the findings reveal differences in explicitation patterns between the two groups. While experts opt for explicitations in relation to all of the focal points, non-experts only explicitate system-bound terms and elliptical phrases. More specifically, experts account for 100 percent (4 of 4) of the explicitations of nominalisations, for 100 percent (1 of 1) of the explicitations of passives, for 54 percent (13 of 24) of all explicitations of system-bound terms, and for 60 percent (9 of 15) of all explicitations of elliptical phrases. Conversely, non-experts account for 46 percent (11 of 24) of the explicitations of system-bound terms and for 40 percent (6 of 15) of all explicitations of elliptical phrases.

6. Conclusion and discussion

The aim of this study was to examine: 1) whether Danish translators used explicitations in their translations of a judgment from Spanish into Danish, and 2) whether differences could be observed between experts, on the one hand, and non-experts, on the other hand. To that end, the study compared the performances of experts with those of non-experts.

To fulfil the purpose of the study, an experiment involving translation from Spanish into Danish was performed. The data — a Spanish source text and 10 translations into Danish by five experts and five non-experts —were analysed using qualitative methods followed by a quantitative synthesis. The analyses focussed on explicitations in relation to nominalisations, passives, system-bound terms, and elliptical phrases.

The analyses revealed that most of the focal points were translated literally by the 10 participants, and, consequently, explicitations were relatively rare. More specifically, the quantitative analyses showed that 14 percent of the focal points were explicitated by the participants. Of these, explicitations of system-bound terms and elliptical phrases were by far predominant with 16 and 50 percent of the focal points being explicitated, respectively. In contrast, only 4 percent of the nominalisations and 5 percent of the passives were explicitated. As for types of explicitation undertaken by the participants, the findings revealed that addition accounted for 93 percent of all explicitations, whereas specification only constituted 7 percent. All in all, the results of the study showed that although Danish translators mainly

opted for literal translations of the focal points, explicitations did occur in the target texts. Thus, the findings are consistent with evidence from previous studies on explicitations in legal translation (Faber and Hjort-Pedersen 2009a; Hjort-Pedersen and Faber 2010).

In addition, the findings showed that experts explicitated more than non-experts. More specifically, 61 percent of all explicitations were undertaken by experts, whereas non-experts accounted for 39 percent. Thus, the results of the study are consistent, to a large extent, with previous studies suggesting that explicitation is a feature of expertise (Denver 2002; Englund Dimitrova 2005; Weissbrod 1992; Øverås 1998). Moreover, the results revealed clear differences between the two groups in the units they explicitated. While experts opted for explicitations in relation to all of the focal points, non-experts only explicitated system-bound terms and elliptical phrases. Drawing on the studies by Englund Dimitrova (2005) and Hjort-Pedersen and Faber (2010), a tentative explanation for this finding may be that system-bound terms seem to be norm-governed in performances of both experts and non-experts, and, as such, they are characterised by non-problematic processing. In contrast, nominalisations, passives, and to some extent elliptical phrases seem to be norm-governed in performances of experts only, which suggests that this norm has not yet been internalised by all of the non-experts.

The present study can be faulted for involving a relatively limited number of participants, for focusing on translation between Spanish and Danish, and for centring on four focal points rather than analysing all instances of explicitations. Consequently, the results of the study are, of course, only indicative, and further research is needed to confirm them. Be that as it may, the present study contributes with empirical evidence of translators' explicitations to the field of legal translation where empirical research on this topic is scarce.

Acknowledgement

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Appendix

The source text used for the translation task and my very close translation of it into English.

Source text:

[…] De forma que si bien la trasgresión de la buena fe contractual supone un incumplimiento, ello queda sometido a la exigencia gradualista, tipificado en el artículo 54.1 del Estatuto de los Trabajadores, siendo cuestión empírica el identificar las circunstancias desgravadoras de la

reprochabilidad, tanto atinentes al elemento subjetivo de la culpabilidad (o sea, como ignorancia más o menos excusable, según el artículo 433 del Código Civil, o como creencia errónea más o menos vencible, según el artículo 1950 del citado Código), cuanto al elemento objetivo de la gravedad.

De suerte que, con arreglo a dicho criterio gradualista, tendente a establecer una adecuada proporción y correspondencia entre conductas y sanciones, y con criterio individualizador conforme a las peculiaridades del caso concreto, resulta justificado el despido para las conductas que supongan una violación trascendente de la buena fe contractual, con lo que no cualquier transgresión de ella, sino solamente la de carácter grave y culpable, es la que tiene entidad bastante para que resulte lícita aquella sanción, habiendo establecido la jurisprudencia incluso que si es cierto que la tolerancia del empresario no genera un derecho al incumplimiento del trabajador, también lo es que no se justifica la sanción de despido apoyada en actos realizados en el clima de tolerancia y dentro del margen de la misma (Sª T.S de 24-9-1990 , entre otras). […]

My translation:

[…] Thus, while a breach of good contractual faith constitutes a non-compliance, this is subject to the gradualistic requirement defined in Article 54, section 1 of the Labour Law Act whereby it is an empirical question to identify the extenuating circumstances of the violation, both as regards the subjective element of culpability (i.e. as more or less excusable ignorance, according to Article 433 of the Civil Code, or as more or less overcomable erroneous belief, according to Article 1950 of the aforementioned Code), and the objective element, the seriousness of the violation.

Thus, according to the gradualist criterion aimed at establishing an appropriate proportion and correspondence between conducts and sanctions, and with an individualizing criterion according to the peculiarities of the specific case, dismissal is justified for actions that constitute a gross violation of the good contractual faith, and thus not every violation thereof but only one which is serious and culpable justifies such a sanction, with case law even having established that although it is true that the employer's tolerance does not give the employee the right to non-compliance, it is also true that dismissal is not a viable sanction for actions performed in a tolerant work environment (Supreme Court judgment of 24-9-1990, among others) […]

Biography

Anja Krogsgaard Vesterager, PhD, is Assistant Professor at Aarhus University, Denmark, where she teaches translation of specialised texts between Danish and Spanish. Her main areas of research are legal texts and legal translation. Her current research focuses on the translation of judgments.
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Notes

[1] All examples include the source and target texts with my translations into English and my emphasis.