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Překlad ve výuce odborné angličtiny pro nefilology

Translation in Teaching English for Specific Purposes at the Tertiary Level

Disertační práce

Vedoucí práce – Prof. PhDr. Jana Králová, CSc.
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Abstract

Translation in Teaching English for Specific Purposes at the Tertiary Level

The purpose of this thesis is to explore translation as an aid to language teaching from various perspectives relevant to English for Specific Purposes (ESP) classes at the tertiary level of education. Our intention is to offer the option of incorporating translation activities within ESP courses at universities. The research presented in the thesis is relevant to the context of English as a foreign language, taught in a linguistically homogeneous environment to adult learners of ESP at a tertiary level, with a particular focus on English for legal purposes.

The research questions dealt with in this thesis are as follows:

1. Can translation contribute to effective learning of English for Specific Purposes?

2. If the answer to the first question is 'yes,' what forms of translation activities are best suited to make such a contribution?

3. Is translation currently used in courses of English for Specific Purposes, and, more specifically, in courses of English for law taught in the Czech Republic? If so, how is it used?

4. What are learners' perceptions of translation activities?

The first two questions are answered through a review of the relevant literature. The third question is answered through semi-structured interviews with Czech teachers of ESP and through a questionnaire survey distributed among Czech (and some Slovak) teachers of foreign languages for law. The last question is explored through semi-structured interviews with learners who participated on a two-semester elective course of Business English for Lawyers in which translation activities were used. These interviews were also supported by a small questionnaire survey. The nature of the research presented in this thesis is primarily qualitative, as we aimed to find out how translation is used - if it is used at all - in ESP courses, how it relates to language learning, and mainly what the views of learners and teachers are regarding translation activities.

The literature review shows that a conflict between indirect and direct methods of language instruction has had a long-lasting effect on the attitude of language teaching experts toward using translation in language classes. Proponents of the communicative language teaching approach are less prescriptive, however their attitude is still reserved to say the least, especially in ESL contexts, where translation is much harder to use. Those experts who mentioned translation as an optional technique in class showed divergent opinions as to how it should be used, starting

from simple pedagogical use at the beginner stages (A1-A2), up to a communicative language learning activity involving translation designed for more advanced learners (B2-C1-C2).

Looking at the traditional classification of the four language skills, translation plays the most important role in teaching reading and writing. Translation is seen as a natural companion of reading, and some authors point out that mental translation, use of bilingual dictionaries, cognate vocabulary and glosses are strategies that are unique to learners of a second or foreign language. Teaching vocabulary is another area where the use of translation is uncontroversial as there is no faster way of explaining the meaning of a foreign word than by translation.

Experts in translation are in agreement that translation is a useful activity for both beginners and advanced learners as a close-to real-life communicative activity. Translation can certainly enhance the learning of ESP if used in line with modern translation practice which requires the translator to take into account the purpose of the target text and the target audience. This is in our opinion particularly pertinent to the needs of learners in English for Legal Purposes classes. The results of the case study show that translation is currently used in courses of English for Specific Purposes and especially in courses of English for law in the Czech Republic. The most frequently used translation activities included oral translation by the student of written text into the mother tongue, which is followed by the teacher providing translation equivalents for terms and then oral translation of a written text by the learner into the foreign language.

All teachers participating in the questionnaire survey considered translation to be a useful skill for law graduates. All the learners interviewed considered translation activities to be useful for their careers. The students in general considered translation from Czech into English to be more useful than translation in the other direction. The questionnaire survey further showed that written translation of legal text from Czech into English received the highest utility rating.

In our opinion there are several important principles that should be taken into consideration when incorporating legal translation in ESP classes: (1) translation activities should always approximate as much as possible real-life assignments; (2) students should never be asked to translate without being provided information about the context, and preferably should be allowed to use reference material; and (3) the teacher should keep in mind that in many cases there will be no single correct solution.

Abstrakt

Překlad ve výuce odborné angličtiny pro nefilology

Hlavním cílem této disertační práce je prozkoumat možnosti využití překladu pro účely výuky odborného cizího jazyka z různých hledisek relevantních pro výuku odborné angličtiny na vysokoškolské úrovni v nefilologických oborech. Naším záměrem je nabídnout možnost zapojit překladové aktivity do kurzů odborného cizího jazyka na vysokých školách. Výzkum, který prezentujeme v této disertační práci je zaměřen na výuku angličtiny jako cizího jazyka probíhající v homogenním prostředí z hlediska mateřského jazyka; práce se zaměřuje na výuku odborného cizího jazyka pro dospělé studenty na univerzitní úrovni v nefilologických oborech se zvláštním důrazem na anglický jazyk pro právníky.

V rámci výzkumu jsme si položili následující otázky:

1. Může překlad přispět k efektivnímu učení se odborné angličtině?
2. Pokud odpověď na první otázku zní ,ano', jaké formy překladových aktivity nejlépe splňují potřeby výuky odborné angličtiny?
3. Používá se překlad v současné době ve výuce odborné angličtiny a konkrétně v kurzech angličtiny pro právníky vyučovaných v České republice? Pokud ano, jak se používá?
4. Jaký je názor studentů na překladové aktivity?

Na první dvě otázky jsme odpověděli na základě odborné literatury. Odpověď na třetí otázku jsme získali pomocí částečně strukturovaných rozhovorů s českými učiteli odborné angličtiny a s využitím dotazníkového šetření mezi českými (a několika slovenskými) učiteli cizího jazyka pro právníky. Na poslední otázku odpovídáme na základě částečně strukturovaných rozhovorů se studenty, kteří se účastnili dvousemestrálního volitelného předmětu Právnická angličtina v ekonomickém kontextu, ve kterém jsme využívali různé překladové aktivity. Tyto rozhovory byly doplněny o malé dotazníkové šetření mezi těmito studenty. Charakter výzkumu, který představujeme v této disertační práci je primárně kvalitativní, protože jsme se zaměřili na zjištění, jak se překlad využívá – pokud se vůbec využívá – v kurzech odborné angličtiny, jaký má vztah k učení se cizímu jazyku a zejména jaký mají přístup k překladovým aktivitám studenti a učitelé.

Přehled odborné literatury ukazuje, že střet mezi nepřímými a přímými metodami výuky cizích jazyků měl dlouhodobý vliv na přístup didaktiky k využívání překladu ve výuce cizího jazyka. Zastánci komunikativní metody zaujímají méně preskriptivní přístup, nicméně jejich přístup je stále přinejmenším rezervovaný. To platí dvojnásob pro autory zabývající se výukou angličtiny jako druhého jazyka v anglicky mluvících zemích, kde je využívání překladu ve výuce mnohem

obtížnější. Odborníci, kteří zmiňovali překlad jako možnou techniku ve výuce zastávají odlišné názory od využití překladu jako velmi jednoduché pedagogické pomůcky zejména ve skupinách začátečníků (A1-A2), až po komunikativní aktivitu ve výuce cizího jazyka s prvky překladu pro pokročilejší studenty (B2 – C1 – C2).

Podíváme-li se na tradiční klasifikaci čtyř jazykových dovedností, překlad jako nástroj výuky hraje nejvýznamnější roli ve výuce čtení a psaní. Na překlad se nahlíží jako na přirozeného partnera čtení a někteří autoři zdůrazňují, že vnitřní překládání, využívání překladových slovníků, příbuzná slovní zásoba mezi mateřským a cizím jazykem a glosy jsou strategie, které jsou jedinečné pro čtení v cizím jazyce. Výuka slovní zásoby je další oblastí, kde využívání překladu prakticky není zpochybňováno, protože neexistuje rychlejší způsob seznámení studenta s významem cizího slova než překlad.

Odborníci v oboru translatologie soudí, že překlad je užitečná aktivita jak pro začátečníky tak i pro pokročilé studenty jako komunikativní aktivita blížící se co nejvíc skutečnému životu. Překlad může přispět k učení se odborné angličtiny zejména, pokud se používá v souladu s moderní překladovou praxí, která vyžaduje, aby překladatel bral v úvahu účel cílového textu a adresáta cílového textu, což podle našeho názoru odpovídá potřebám kurzů angličtiny pro právníky. Výsledky případové studie ukazují, že se překlad v současné době využívá v kurzech odborné angličtiny a rozhodně se v České republice využívá v kurzech angličtiny pro právníky. Nejčastěji učitelé užívají ústní překlad psaného textu studentem do mateřštiny, prezentování překladových ekvivalentů pro odborné termíny vyučujícím a ústní překlad psaného textu studentem do cizího jazyka. Všichni učitelé, kteří odevzdali vyplněný dotazník, uvedli, že považují překlad za užitečnou dovednost pro absolventa právnické fakulty. Všichni studenti, se kterými jsme nahráli rozhovor, považují překladové aktivity za užitečné pro jejich profesní kariéru. Studenti obecně považují překlad z češtiny do angličtiny za užitečnější než opačný směr překladu. V dotazníkovém šetření získal písemný překlad právnického textu z češtiny do angličtiny nevyšší hodnocení užitečnosti.

Podle našeho názoru pro začlenění překladových aktivit do kurzů odborné angličtiny existuje několik důležitých principů: (1) překladové aktivity by se měly vždy co nejvíce blížit reálným zadáním; (2) studenti by nikdy neměli být nuceni překládat bez kontextu a pokud možno by měli přitom mít přístup k referenčním materiálům; a (3) učitel by měl mít na paměti, že v mnoha případech neexistuje jediné *správné* řešení.

Klíčová slova: překlad, překlad právnického textu, výuka odborné angličtiny, angličtina pro právníky, mediace

Table of Contents

Abbreviations

A1-A2 – basic user; a level of learner proficiency according to CEFR

B1-B2 – independent user; a level of learner proficiency according to CEFR

C1-C2 – proficient user; a level of learner proficiency according to CEFR

CEFR – Common European Framework of Reference for Languages

CLT – communicative language teaching

EAP – English for Academic Purposes

EFL – English as a Foreign Language

EIL – English as an International Language

ELP – English for Legal Purposes

ELT – English language teaching

EOP – English for Occupational Purposes

ESL – English as a Second Language

ESP – English for Specific Purposes

EST – English for Science and Technology

GTM – grammar translation method

L1 – mother tongue

L2 – foreign language

SL – source language

SLA – second language acquisition

ST – source text

TL – target language

TT – target text

Chapter 1: Introduction

Being a teacher is a life-long experiment. There is never one single approach that works for all teachers and for all learners. The main purpose of this thesis is to explore translation as an aid to language teaching from various perspectives relevant to English for Specific Purposes (ESP) classes at the tertiary level of education. Our intention is to offer the option of incorporating translation activities within ESP courses at universities. We certainly do not wish to propose that translation is the only technique that should be used in a language class and we fully understand that, just as some more introverted language teachers may be opposed to acting in front of a class in order to introduce the meaning of new vocabulary, other teachers may feel uncomfortable using translation in class. The other purpose of this thesis is to present to an international audience the views of Czech and Slovak language instruction experts and language teachers regarding the use of translation in language classes.

My background is in translation and interpreting. When I started teaching at the Charles University Faulty of Law I began with a very simple - and for the students extremely boring - approach of "read and translate," well-known to many of us who started learning a foreign language many decades ago. Quite understandably, a change in my approach to teaching legal English classes was badly needed. I was convinced that translation as one of the techniques used in class must retain some value for learning a foreign language and so I started experimenting with various translation activities, reaching the point of simulating a real-life translation assignment. At some points this work felt like reinventing the wheel, so I decided to apply for a PhD programme focusing on the theory of English language instruction, and selected the topic of translation in language teaching, at that time completely ignorant of the fact that the word *translation* was taboo in the language teaching community.

A further logical step was to try to find out how translation was used in foreign language instruction in the past and how the current approaches to language learning suggest using it today. In this phase of research I discovered not only that the word *translation* was rarely used in language teaching literature, but also that most of the literature focuses on the context of

English taught to foreigners living in an English speaking country. It took considerable time before I found the first articles by Henry Widdowson (1979), who was not only willing to mention translation but also to suggest that it can be useful, particularly for advanced learners of ESP. Later on I found many other experts who shared the view that translation, and the mother tongue in general, are a useful resource in language teaching – for example Malmkjær (1998), Butzkamm and Caldwell (2009), and, most recently, Cook (2010), and Pym and Malmkjær (2013). Translation has been recognised as a legitimate foreign language teaching technique by Czech and Slovak language teaching researchers including Beneš (1970), Repka and Gavora (1987) and Hendrich (1988). There are, of course, others, such as Choděra (2006), who see translation in the language classroom as a danger rather than as an aid, and who are only prepared to accept translation exclusively as a solution to presenting new vocabulary.

In this thesis we take a functional approach to teaching English for Specific Purposes at the tertiary level of education, drawing on the tradition of the Prague School, because the function of the language is the key factor in deciding whether a particular element of language or skill should be taught within an ESP course. The purpose of these language courses is not to teach general language, but rather to choose on a functional basis the language required for communication within the particular professional community, including for example terminology, abstract words or complex syntactic structures. The functional approach is also relevant to selection of the relevant culture (realia) for the courses. "Such an approach consists in taking function as a starting point and proceeding towards form that expresses such function not the other way round […]" (Choděra 1988: 14).

1.1   Notes on terminology

The literature review also pointed to the importance of drawing a distinction between learning **English as a foreign language** (EFL) (for example learning English while living in the Czech Republic), and learning **English as a second language** (ESL), while living in an English speaking country and having to use the language on an everyday basis. Important consequences flow from these two different settings with regard to the use of translation in language teaching.

The circumstances of teaching as well as the attitudes of teachers differ considerably. While Péter Medgyes (1999) or Anthony Pym and Kirsten Malmkjær (2013) provide the point of view of non-native language teachers in various countries where English is not the mother tongue, Ellis (2003) focuses on the perspective of bilingual teachers of English as a second language in Australia. English language classes organised in countries where English is a foreign language are more likely to be homogeneous in terms of the mother tongue of the students, and are more likely to be taught by a teacher who shares the mother tongue with the students. When the students leave the classroom it is then up to them to find opportunities to use the foreign language, to read journals, books, watch movies in the foreign language, provide assistance to international students, and so on. In other words, they are not automatically exposed to the language, but must actively seek opportunities to apply their knowledge. If they do not learn to do so before they graduate, they run the risk of language attrition and of becoming a 'false beginner' for the rest of their life. Even though this risk is much lower for contemporary students compared with graduates 20 years ago, it remains something to be taken into account (Bahenská 2014: in press).

On the other hand, English classes in English speaking countries are more likely to be mixed classes, in terms of the mother tongues of the learners, and are likely to be taught by a native English speaker. In addition, such courses have the advantage of immersion in the English speaking environment. It is quite clear that such classes have numerous advantages over language classes held in non-English speaking countries. However, there are at least two advantages that could be exploited in homogeneous classes where teachers of English share the mother tongue with their students, and that, in our opinion, is the teacher's own experience of learning a foreign language, and the ability to use translation activities as a close to real-life element in class, fostering the motivation and creative skills of the learner (Bahenská 2014: in press).

Another crucial distinction that we must make is between **written translation and interpreting** (or oral translation) as a technique or possible activity in a language class on the one hand, and translation and interpreting as a professional activity on the other hand. Clearly there are substantial differences between the two. When using translation as an activity in class, the most beneficial part of the activity is the process rather than the result. The result is necessarily

imperfect, however the process of arriving at one's own solution to a translation problem represents an important psychological impetus for the learner as well as a replicable experience for any future similar activities. There are important differences between the proportion of time a student in an ESP class may devote to translation activities compared with a student of translation. While we agree that the fields of study are different, we however believe that there are professional translation skills that are useful for language learners and that there are also language learning skills and activities that are useful to translation students. In addition to this, we wish to suggest, in agreement with the authors of the Common European Framework of Reference (CEFR), that as the majority of language learners will be required to translate or interpret informally for colleagues at work, friends or family, it therefore makes sense for language learners to become acquainted at least with the basics of translation skills. We hope that language teachers will not hold against us that we use the terms *translation* and *interpreting* rather than *mediation*, which is used in the CEFR. One of the recommendations of a recent study on the role of translation in the teaching of languages in the European Union (Pym and Malmkær 2003: 139) is to use *mediation* as a "term for all communicative activities, including translation, that involve more than one language," in those contexts where the term *translation* "is locked into a narrow, non-communicative view." However, we prefer to be open and precise in what we suggest and we hope that readers will appreciate our approach.

As the use of translation in the language classroom necessarily involves at least some use of **the mother tongue** we will touch on that aspect of foreign language instruction both in the literature review and in the survey results. We believe that the topic of translation cannot be clearly separated from the topic of using the mother tongue in class. However, the main focus of the thesis remains the use of translation activities in advanced ESP courses. In the context of the mother tongue we wish to point out the pedagogical principles proposed by Comenius, of (i) proceeding from the known to the unknown - that is from the mother tongue to the learning of a foreign language - and (ii) improving the knowledge of one's mother tongue through learning a foreign language.

We have consciously almost excluded **translation in testing** even though this was discussed as a marginal topic in the interviews and included in the teachers' questionnaire (we will present

these responses in the survey results). We believe that the main role of translation in class should subsist in motivating students and providing creative activities during the class or at home. As it turned out in the translation experiment presented within this thesis, simple presentation of translation equivalents of legal terms in source and target language often results in learners blindly using those equivalents, often irrespective of the context and without thinking about the communicative consequences (i.e. without having in mind the recipient of the message or any potential misunderstandings their translation may cause). Using translation as a test usually involves not allowing the learners to consult a dictionary or other reference material and often requires the learners to provide one particular answer. This therefore goes against all the useful skills the learner may acquire while carrying out translation exercises. Language tests are often based on the principle that there is only one correct answer, while translation always has several correct solutions depending on the purpose of translation or the type of recipients of the target text, and no professional translators would ever be willing to work without proper access to the required reference material.

1.2   The context of the thesis and the research questions

The research presented in this thesis was carried out in the following context: courses of English as a foreign language, taught (i) in a linguistically homogeneous environment (in non-English speaking countries where the teacher speaks the language of the learners and the learners share the same mother tongue); (ii) to adult learners of English for specific purposes at tertiary level; and (iii) with a particular focus on English for legal purposes.

The research questions dealt with in this thesis are as follows:

1. Can translation contribute to effective learning of English for Specific Purposes?

2. If the answer to the first question is 'yes,' what forms of translation activities are best suited to contribute to such learning?

3. Is translation currently used in courses of English for Specific Purposes and specifically in courses of English for law taught in the Czech Republic? If so, how is it used?

4. What is the learner's perception of the translation activities?

The first two questions are answered through the literature review. The third question is answered through semi-structured interviews with Czech teachers of English for Specific Purposes and through a questionnaire survey carried out among Czech and Slovak teachers of foreign languages for law. The last question is answered by means of semi-structured interviews with learners who participated in a two-semester elective course of English for law in which translation activities were used, and supported by a small questionnaire survey asking the learners to rate the utility of the translation activities compared with other language learning activities.

1.3 Methodological issues

The nature of the research presented in this thesis is primarily *qualitative,* as we aimed to find out how translation is used - if it is used at all - in ESP courses, how it relates to language learning, and mainly what the attitudes of learners and teachers are toward translation activities. We included a small questionnaire survey, however the number of respondents in the case of the students was very low, so the statistical results are purely indicative.

The research is based on both survey and non-survey types of information. The survey information includes interviews (individual and group) as well as questionnaires. The non-survey information includes observation of translations and other activities involving some aspect of translation worked out by students during the period of research.

The survey research started with a series of individual semi-structured interviews with ESP teachers, followed by a questionnaire survey among teachers. At the same time, students participating in an elective course were exposed to various uses of translation activities in class, including one translation project per semester. The course was an elective subject which attracts a particular type of students with ambitions of working in international law firms or companies, therefore we are aware of the fact that the views of the students in this particular group may not be representative of the views of Czech law students in general, let alone ESP learners. In addition to this, the course participants may have chosen to participate because they were aware of the fact that the course teacher likes to experiment with translation activities. There may therefore be a considerable learner bias. However, we are convinced that there is no point in asking for opinions

on translation activities where the learner has no experience of such activities. The same group of students was asked to complete a questionnaire comparing the utility of various language learning activities (see Appendix 3), to support the findings of the interviews. Participation in the research study was voluntary, both on the part of teachers and of students. Interviews and questionnaires were all administered in the Czech language in order to preserve as much authenticity of views as possible and to avoid any stress, particularly on the part of the students, from having to express themselves in English and being recorded at the same time.

The interviews with ESP teachers cover a much wider scope as they are supported by a questionnaire survey among teachers of foreign languages for legal purposes from the Czech Republic and Slovakia, and considering the overall numbers of ESP teachers, the research has greater value than in the case of the learners (for the questionnaire see Appendix 4). The total number of full-time modern foreign language teachers at the law faculties of Prague, Brno and Olomouc is 39. This number does not include Plzeň law school as it does not have a separate department of foreign languages and the university has a foreign language centre providing general language courses for all students. Of the 39 legal foreign language teachers we have covered 18 through questionnaires (the remaining questionnaires were from Slovak teachers), four of whom were also interviewed. This represents approximately 45 percent. These results are expanded with additional six interviews with ESP teachers specialising in fields other than law.

Of course, we must also admit some level of researcher bias. The research was started with the hypothesis that there must be some elements of the translation process, as well as some translation skills, that are useful to the language learner in general. This hypothesis, combined with our background in translation and interpreting, is bound to have had some effect. However, we have been aware of this since the very beginning and have tried not to influence the respondents one way or another. We believe that the teacher questionnaire survey, at least, indicates majority and minority opinions.

1.4   *The structure of the thesis*

Chapter 2 covers the literature review with particular regard being paid to translation in the advanced foreign language classroom at a tertiary level. We look at translation in language

learning and teaching from various perspectives, including the point of view of different methods of language teaching, different ways contemporary theory of language instruction suggest translation should be used in developing learners' language skills, the perspective of the Common European Framework of Reference, the views of experts in translation studies, as well as from the point of view of psychology. After this review of the literature, Chapter 3 proceeds with the particular matter of English for Specific Purposes, looking at practical ways of using translation in a legal English class, and how translation may contribute to improving the language skills of students and make classes more creative and thus more motivational. The legal translation experiment is included in this chapter. Chapter 4 presents our case study, including some background notes and information on foreign language instruction in the Czech Republic, the use of translation in legal English textbooks, the course which formed the empirical basis for the case study, and the translation activity that was used on the course. Then, most importantly, the learner views and the teacher views of translation in the legal foreign language classroom shall be presented.

Chapter 2: Literature Review

In this chapter we will first review the traditional ways of using translation in teaching foreign languages and language skills in particular. As the use or lack of use of translation has traditionally been one of the distinctive features of direct and indirect language teaching methods we will look at some examples of methods which took a radical stance toward translation. Then we will discuss the suggested ways of using translation and the mother tongue within the current communicative approach to language teaching, including some specific uses suggested by ELT literature from the Czech Republic and elsewhere relevant to the four skills of listening, speaking, reading and writing. We reviewed Czech ELT literature relevant to the topic of the thesis irrespective of the period when the works were published. Section 2.3 is devoted to the Common European Framework of Reference for Languages and its approach to translation, or *mediation* - under which translation is subsumed. The subsequent section introduces the process of translation from the point of view of a professional translator, and discusses how its individual phases may be useful to learners of languages for specific purposes at the tertiary level of education. Finally, the last section of this chapter deals with selected psychological aspects concerning translation, such as the use of the mother tongue in class, positive and negative transfer, the learner's age and the correlation between the need to refer to the mother tongue and the age of the learner, and motivation, including the role of the teacher as mediator, rather than the source of the only correct answer, the potential of translation activities as motivating real-life activities, and the importance of providing informative feedback rather than using translation activities as a test.

2.1 Translation and methods

Before discussing current views regarding translation in language teaching, let us briefly look at the historical background of the use of translation in teaching English as a foreign language in Europe. In the modern history of language teaching, translation and the use of the mother tongue in foreign language classes have been subject to contrasting approaches. Differing approaches to translation and the use of the mother tongue are also distinctive features of the "indirect" and "direct" methods - using here these two terms in a more general sense. These two groups of methods differ depending on whether they draw systematically on linguistic

confrontation between the learner's mother tongue and the foreign language when choosing, organising and presenting language content. Another feature that differs between the methods is the means of overcoming interference of the mother tongue. Some methods encourage learners to consciously compare both languages in order to overcome interference, while other methods hold that interference is best overcome by creating in learners an awareness of the foreign language that will be as independent as possible of the mother tongue (Beneš 1970: 12). While traditional teaching methods focusing on written language and translation were used purely as an exercise in teaching the system of language and as a means of testing, the direct method in its radical forms excluded the native language from teaching altogether.

2.1.1   *The burden of the grammar translation method*

Before 1800, modern languages were learned in Europe primarily by individual scholars using grammar and dictionaries to read literary works. In the 19th century, however, the need emerged to teach modern languages at secondary schools (Howatt and Widdowson 2004). To satisfy this need a method that suited group courses was required. The method that found favour was called by its later critics the *grammar translation method* (GTM). It originated in Germany in the 1780s as a method suitable for young learners at secondary schools, aiming to develop sufficient reading comprehension skills for pupils to be able to read literary texts in a foreign language. The spoken language was completely neglected. The role of translation was over-emphasised to such an extent that translation was the main, if not the only means of practice in foreign language courses (Beneš 1970: 187). With structured textbooks, the method was also easier for teachers to implement (Howatt and Widdowson 2004: 132). The main features of the method included sentences exemplifying grammar points in a graded manner, as well as vocabulary lists, numerous exercises involving mainly translation of individual sentences into and out of the foreign language, and a high priority ascribed to accuracy, which enabled students to pass an increasing number of formal written examinations (Howatt and Widdowson 2004:152).

> The method is so ordinary that it is sometimes difficult to see what all the fuss was about. Each new lesson had one or two grammar rules, a short vocabulary list, and some practise examples to translate. Boring, maybe, but hardly the horror story we are sometimes asked to believe. However, it also contained seeds which eventually grew into a jungle of obscure rules [...] and a total loss of genuine feeling for living language (Howatt and Widdowson 2004:156).

The GTM dominated European and foreign language teaching from the 1840s to the 1940s (Richards and Rodgers 2001: 6) and was officially used in the then Czechoslovakia in the 1950s and the beginning of the 1960s (Repka and Gavora 1987:51; Choděra 1988 Vol. I specifically referring to tertiary education: 7). In reality, as we will see later in the Findings section, many of the teachers interviewed for the purposes of this thesis said that the GTM, or at least some components of it, was how they learned English during the 1970s and 1980s. It is also clear from the above description that the GTM was not designed to teach people to communicate with each other; rather, it was intended for students to be able to read literature, and not academic, scientific or technical texts. In spite of that, many textbooks that were adopted prior to 1989 for the teaching of English in the Czech Republic used some features of the GTM. For example, *Moderní učebnice angličtiny* (Gottheinerová and Tryml, first published in the 1980s; the latest 13th edition was issued in 2003) used both extensive pattern practice and long lists of sentences for translation from Czech into English for the purpose of practicing the grammar presented in its units, as well as separate translation exercises focusing on vocabulary (Bahenská 2014: in press).

The GTM provoked a reaction in the form of the *reform movement*, which was related to the formation of the International Phonetic Association and the intellectual leader of which was Henry Sweet. The movement was founded upon three main principles: the primacy of speech, the centrality of the connected text, and the absolute priority of an oral classroom methodology (Howatt and Widdowson 2004: 189). The reform movement did not reject translation altogether, as demonstrated by a whole chapter devoted to translation in the famous *Practical Study of Languages* by H. Sweet, first published in 1899. Sweet speaks about three stages in the use of translation:

> In the first stage translation is used only as a means of conveying information to the learner: we translate the foreign words and phrases into our language simply because this is the most convenient and at the same time the most efficient guide to their meaning. In the second stage translation is reduced to a minimum, the meaning being gathered mainly from the context – with, perhaps occasional explanations in the foreign language itself. In the third stage the divergences between the two languages will be brought face to face by means of free idiomatic translation (Sweet 1972: 201).

This model was therefore based on using the mother tongue to gloss the meaning of foreign language words and phrases at beginner and lower intermediate stages, avoiding translation

at intermediate stages and introducing free translation at advanced stages. The only form of translation that was considered educationally unsustainable was the translation of isolated sentences (mainly into the foreign language), purely for the sake of grammar and vocabulary as they appeared in the textbooks of the time. Sweet, as well as, much later, many other applied linguists (including C.J. Dodson, H. Widdowson, W. Butzkamm, A.W. Caldwell, G. Cook), accepted that the mother tongue cannot be excluded from the process of learning a foreign language: "The first preparation for the study of a foreign language is the acquisition of a thorough knowledge [...] of one's own language" (Sweet 1972: 193).

2.1.2   Direct method

Let us now look at the method which took the most radical stance toward translation. The *direct method* developed as a reaction to the GTM and took the opposite extreme approach: the use of the mother tongue and translation were discouraged in their milder forms and banned in their more extreme forms, one example being the approach of the Berlitz network of language schools, where using the mother tongue was strictly prohibited and the supervision of teachers was so rigorous that "microphones were used in classrooms to monitor what teachers were doing and to stamp out any use of translation by making it a dismissible offence" (Cook 2010:6). The direct method was based upon four main pillars: monolingualism (language use is predominantly monolingual, translation is peripheral), naturalism (the classroom should imitate the process of an infant acquiring a language), native-speakerism (a native speaker is the best model), and absolutism (absolute confidence that the direct method is the one true path to success) (Cook 2010: 7). The reasons for rejecting the use of the mother tongue and translation were based mainly on the naturalism pillar. In principle, only such activities as would be available to a child learning the mother tongue were allowed. In an explanation of his methods, Berlitz gave three reasons for avoiding translation:

> (i) translation wastes valuable language learning time which should be devoted entirely to the foreign language; (ii) translation encourages mother-tongue interference; and (iii) all languages are different ('every langue has its peculiarities, its idiomatic expressions and turns, which cannot possibly be rendered by translation') (Howatt and Widdowson 2004: 224).

The main practical application of the direct method was in adult courses at language schools, taught predominantly by native speakers of the language. The Berlitz empire was built at the end of the 19th century and the beginning of the 20th century in the United States and Europe. There are still some language schools striving to duplicate the Berlitz success, claiming that "[d]irect method is the *new* effective way of teaching languages"[1]. In the UK, as early as 1967, C.J. Dodson, a strong believer in bilingual teaching, provided a very constructive criticism of the naturalism pillar and explained why it could not work through comparing a first language learner and a foreign language learner. He concluded that the only similarity between the two is the need for a high number of contact hours with the language (Dodson 1967: 60).

Malmkjaer (1998: 6) lists the main objections cited by proponents of the direct method to using translation in language classes: translation is independent of the four skills of listening, reading, writing and speaking and is in fact radically different from them; translation takes up valuable time that could be spent on the four skills; it is unnatural; it suggests to students that there is one-to-one correspondence of expressions in two languages; it prevents students from thinking in the foreign language; it promotes negative transfer; and it is a bad test of language skill and only appropriate for training translators.

> These arguments have survived with a doggedness which suggests that there must be some truth in them. I think, though, that the degree to which they are true depends radically on the kind of 'translation' experience students are exposed to […] (Malmkjaer 1998:6).

Malmkjaer states that the above objections do not apply if the translation exercises used in language teaching resemble the assignments employed in training programmes for translators (also suggested by Hendrich 1988: 255) (Bahenská 2014: in press).

To conclude our mention of GTM and the direct method from the point of view of the use of translation, we must make at least a brief reference to Hruška's *mediating method* (in Czech "zprostředkovací"), which attempted to strike a harmony between the procedures employed by the direct method and those used in the GTM. The description of the mediating method was published at the beginning of the twentieth century as the suggested method for teaching

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[1] Retrieved from http://www.direct-english.cz on 9th October 2012, translation and emphasis added by the author.

French and German as a foreign language to Czech students. It is interesting that, after pointing out that the direct method is "fundamentally wrong" (Hruška 1916: 13) because the process of learning the mother tongue by a child cannot be repeated, Hruška also notes that the method is particularly popular with "native teachers of French as it offers the advantage of not having to learn the language of their pupils" (Hruška 1916: 14). The method acknowledged translation as one possible means of foreign language practice and testing. Translation from the mother tongue into a foreign language was however used, only in later phases of instruction. Translation from the foreign language into the mother tongue could be used particularly for comprehension purposes, while instruction was given in the foreign language as much as possible. The creator of the method suggested that the translation of longer literary texts from the foreign language into the mother tongue should form part of the mother tongue classes (Beneš 1970:11, 16). He was very modern in pointing out that learning vocabulary is an integral part of learning reading and speaking skills as the vocabulary had to be learned in the context of an article (Hruška 1916: 55).

2.1.3   Translation and mother tongue in other methods of language teaching

The use of the mother tongue and translation continued to be an area of controversy also in later methods that followed. One of the principles as expressed by American structural linguists (L. Bloomfield) with respect to teaching foreign languages was that "[l]anguages are different" (Richards and Rodgers 2001: 55). Thinking on structural differences between languages raised strong doubt about the benefits of translation and translation exercises for teaching foreign languages (Beneš 1970: 22). In the *audio-lingual method* the foreign language was to be used as much as possible as the medium of instruction and the use of translation and the mother tongue was discouraged. However there were numerous alternative methods which accepted the value of translation and some even made it a central feature, such as the *community language learning* based on language alternation. Using this method the learner presents a message in the mother tongue, then the message is interpreted into the foreign language by the teacher. The learner then repeats the message in the foreign language, addressing it to another learner, and so on. This is basically an interpreted conversation among the learners in the group. The *Suggestopedia* placed the emphasis on memorising vocabulary pairs, while dialogues were presented in the foreign language together with their translation into the mother tongue. In the *whole language* method, which originated in the USA in the 1980s, one of the techniques used was *parallel translations* of a short story into

English. The students could compare the translation solutions adopted by the individual translators, discuss the translations from their point of view as readers, or organise a role-play where, in pairs, the students would act as presenters/interpreters of the translations (Richards and Rodgers 2001).

2.2   Contemporary thinking on the use of translation in language teaching

Communicative approaches allow a judicious use of the mother tongue, and translation may be used where students need or benefit from it (Richards and Rodgers 2001: 156). Z. Dörnyei describes the current state of instructed second language acquisition as follows:

> ... contemporary SLA researchers no longer believe in the existence or desirability of pure teaching methods ... and, therefore, in the current 'post-method' era of language instruction the main question is not 'which method is the best?' but rather 'which combination of ingredients is the best?' It has been widely recognised that different learning environments require different mixtures of various teaching components to achieve maximum effectiveness (Dörnyei 2009: 280).

If the use of the mother tongue and translation is accepted, at least to some extent, on what grounds do the language teaching experts advocate the reintroduction of translation activities to language classes and what is the modern thinking about how these should be used? There are not many specialists in language teaching theory who go into any depth on this topic.

2.2.1   Bilingual reform

During the 1960s C.J. Dodson published his *bilingual method,* suggesting an improvement of the then highly advocated audio-lingual method. He was clearly ahead of his time. Dodson suggested replacing picture strips, typical for the audio-visual method, with oral translation into the mother tongue at sentence level, sandwiched between foreign language sentences repeated by the teacher twice. The main feature of this method is constant fluctuation between a focus on the linguistic form and its practical application in conveying messages. This is a process referred to by Butzkamm and Caldwell as *dual focus,* i.e. listening or reading for content and at the same time noticing the form of what was said or written (Butzkamm and Caldwell 2009: 44).

Let us begin the overview of the bilingual pedagogy as suggested by Butzkamm and Caldwell with at least several arguments in favour of the reintroduction of the mother tongue to language

classes, as we believe that the use of the mother tongue in the classroom cannot be completely separated from the use of translation. The first principle, as stated by Butzkamm and Caldwell, is: "The foreign language learner must build upon existing skills and knowledge acquired in and through the mother tongue" (Butzkamm and Caldwell 2009: 73). This is the well-known Comenian principle of progress from the known to the unknown. Learners will refer to their mother tongue anyway, irrespective of what the teacher intends (also in Widdowson 2003: 152). Such a principle necessarily requires designing a pedagogy

> [that] would involve bringing contrastive analysis into classroom methodology in the form of translation and other activities which engage the learners in the exploration of the relationship between the two languages as alternative encodings of meaning (Widdowson 2003: 159).

"Limited, incomplete understanding and blank incomprehension are a frequent source of frustration in the foreign language classes because monolingual ersatz-techniques of meaning conveyance function less well than the mother tongue" (Butzkamm and Caldwell 2009:75). This is particularly true of terminology, as, for example, it is simply not sufficient to know the approximate meaning of a legal term when using the language of law. A lawyer needs to know the meaning of the term in the source jurisdiction and the translation equivalent in the target language that would convey the same meaning to a lawyer in the target jurisdiction. This is where the above-mentioned sandwich technique comes into play. This also works the other way around: if the teacher lifts the ban on the mother tongue, students are more willing to take a risk and speak during class, and the teacher can provide the foreign language equivalent using the sandwich technique. This is completely in line with our experience in both student and adult classes, where learners tend to be afraid to speak because they are not sure whether they know all the required expressions and are accustomed to the rules of previous English classes they attended, in which they were often not allowed to say a single word in Czech (the obvious solution is not to say anything). "It is not possible to avoid interference, but it can be greatly reduced" (Butzkamm and Caldwell 2009: 84). Without contrasting the false cognates with the mother tongue they might remain unnoticed. "All newly-acquired foreign language items have to sink roots in our minds which are eventually deep enough for the items to function independently of the mother tongue" (Butzkamm and Caldwell 2009: 86). This principle is related to the often-mentioned argument that using the mother tongue and translation in class will promote students forming a habit of mental translation. Dodson uses in this

context the purely common-sense example of a tourist on a foreign holiday. When the tourist buys a souvenir he needs to convert the foreign currency into his home currency. It is only after a large number of 'buying contacts' that he will eventually stop referring to his home currency (Dodson 1967: 54). Beneš also pointed out that eliminating translation does not prevent learners from translating in their minds. According to him, the stage when mental translation disappears cannot be reached in school instruction (Beneš 1970: 188) - although, in modern times when learners' contact with the foreign language is greatly enhanced by modern technologies it is, in our opinion, reachable at tertiary level by learners of a foreign language for specific purposes (Bahenská 2014: in press).

The main arguments given by Butzkamm and Caldwell (2009: 196-197) for the reintroduction of translation as a language class activity include the fact that translation, in its essence, is a cultural activity, allowing the learner to travel between languages and cultures. It is the best test of understanding because it requires precision and very attentive reading. It draws on the creative skills of learners for example when translating text that involves deep cultural differences. Translating and thinking of various translation options raises the language awareness of the learner. Translation is a useful skill in real life, where the learner may be required to act as translator or interpreter or to critically evaluate a mistranslation.

2.2.2 Translation and language skills

Bilingual reform opens more space for the discussion of EFL teaching contexts and translation used in such contexts. In this section we will look at traditional ways of using translation in language classes, focusing on those that are relevant to advanced learners. A comprehensive overview of contemporary literature on translation in language teaching can be found in Guy Cook's *Translation in Language Teaching*. We will add from the perspective of Czech and Slovak language teaching theory, although the vast majority of the Czech language teaching literature reviewed focuses on teaching EFL at primary and secondary schools.

Before looking in detail at individual skills we must note that there are various classifications of skills in language teaching theory. Authors taking a primarily ESL point of view do not mention

translation as being among language skills (e.g. Celce-Murcia 2001). The *Oxford Handbook of Applied Linguistics* (Kaplan 2010) deals with the four skills of listening, speaking, reading and writing and translation and interpretation are covered separately from skills. H.H. Stern (1983: 347) mentions the classification of skills into the 'intralingual,' including listening, speaking, reading and writing, and the 'crosslingual' or 'mediating' skills of interpreting and translating. Translation is sometimes mentioned among special skills (e.g. Beneš 1970; Hendrich 1988: 186). Repka and Gavora (1987:162) mention translation and interpreting as a skill in a footnote with the remark that at basic and secondary schools translation is only used as means of practice or testing reading comprehension. As a skill on its own it is only applicable in the training of translators and interpreters, they claim. Beneš (1970: 117-120) distinguishes three groups of language skills: (i) basic skills further divided into receptive – listening comprehension and reading comprehension - and active (or productive) skills – speaking and writing; (ii) combined skills (reading aloud, writing down a dictation) and (iii) special skills (translation and interpreting defined as conscious transposition of communicated content from one language into another). Sometimes listening and reading skills are classified as "passive" and speaking and writing are classified as "active" skills. We disagree with the term "passive skills", as we believe that when reading or listening we must be very active. Therefore we will use the term "receptive" instead of "passive" and "productive" instead of "active". He points out that it is necessary to differentiate translation as the aim of language instruction and translation as means of language practise. Beneš (1970: 183) sees the main role of translation as being in the field of grammar and vocabulary practice. Other authors suggest that translation should be included among language skills as the fifth skill because in the current world it would be really hard for bilingual people to completely avoid situations where they are required to mediate between people who do not share a common language (e.g. Cook 2007: 397, Butzkamm and Caldwell 2009: 196 or Council of Europe 2001). Malmkjaer (1998: 7-9) shows that in fact it is impossible to produce good translation without employing all four traditional language skills, and that "students who are translating will be forced to practise them" (Malmkjaer 1998: 8). We will now look at the role translation may play in practising the traditional four skills.

The mother tongue is generally mentioned as a source of negative transfer in listening primarily at beginner and intermediate levels. Tony Lynch (2010: 76) states that "[t]here is now a substantial body of evidence that, as we try to identify words in the stream of L2 speech, our early experiences of L1 listening exert a very powerful influence on the recognition of what is being said in the other language." He further comments that "it is only at relatively advanced levels of L2 proficiency that we are able to inhibit our misapplication in L2 of our native language strategies" (Lynch 2010: 77). Lynch sees L1 translation within the framework of computer-enhanced language learning as an area worth researching in more detail in the future (2010: 86). The role of translation in subtitles as a visual support to the learner may be considered primarily as part of their targeted effort to practice listening in a foreign language on a regular basis, for example watching movies at home. However, in the case of advanced learners, we believe that the use of subtitles in the foreign language, if at all, is a more beneficial listening support as subtitles in the mother tongue pose the same risk as stories published in two languages (the original on one page and translation on the opposite page). The learner is liable to become involved in the story and stop reading or listening to the original, and focus only on the translation (Cook 2010: 150). Another modern activity involving listening and translation is presented by Gonzales-Davies (2004: 178-179) as practice for pre-interpreting skills and oral translation. The activity consists of playing a film or documentary chunked into 5-10 minute sections, where the students first watch the film and silently repeat exactly what is being said. They then proceed to interpret silently, and finally the teacher turns up the sound and the students try to interpret aloud.

When discussing the skills that learners should acquire for the practical application of listening, Beneš (1970: 125) states that learners should be able to (i) understand the message of the spoken text and react to it; (ii) reproduce the content; (iii) summarize the content in writing; and (iv) interpret the main points into the mother tongue either consecutively or simultaneously, with various levels of precision. However, similarly to Mothejzíková (1988), Beneš does not propose the extensive use of translation into the mother tongue in teaching listening comprehension, as oral communication in a foreign language requires immediate understanding of the communication partner. So for checking the understanding of lectures, for example, the preferred manner would

be questions and reproduction in the foreign language, although reproduction in the mother tongue and consecutive interpretation into the mother tongue may also be used (Beneš 1970: 191). Written translation into the mother tongue of a recording that includes pauses is mentioned by Beneš (1970: 133) as well as by Repka and Gavora (1987:183) as one way of testing listening comprehension. Choděra (2006: 80), whose approach to translation is rather reserved, states that translation and interpreting as target skills cannot form part of "mass" schooling, however he concedes that certain elements of simultaneous or consecutive interpreting may be used to liven up foreign language classes. Hendrich (1988: 200) mentions the requirement that students in the higher years of secondary schools should be able to interpret consecutively a short spoken text into the mother tongue, providing that the text is suitable in terms of its speed to the proficiency of the students. He accepts translation as a resource in testing listening in the form of dictation in the foreign language combined with written translation into the mother tongue (Hendrich 1988: 210).

2.2.4   *Speaking*

As in the case of listening, most language teaching theory does not assign any role to translation or interpreting in teaching and learning to speak a foreign language (e.g. Mothejzíková 1988; Celce-Murcia 2001), with the exception of the negative impact that mental translation from the mother tongue into a foreign language may have on the learner's speaking skill (e.g. Hendrich 1988: 2012 or Beneš 1970: 137). Beneš mentions mental translation and a constant focus on grammatical correctness as significant sources of difficulties in learning to speak a foreign language. Mental translation may stem from an inappropriate manner of instruction, he states, however, he does not specify what manner he considers to be inappropriate. The result according to Beneš is slow, if not impossible, production (Beneš 1970: 137).

The adverse effects of translation on fluency have been often cited. However Butzkamm and Caldwell (2009) show that a principled use of translation on the part of the teacher may in fact improve the fluency of communication in class. The proposed technique of "sandwiching," used only in justified cases, aids fluent communication in the foreign language. The teacher gives for example an instruction in the foreign language, then repeats it in the mother tongue, and then reiterates the same instruction in the foreign language (Butzkamm and Caldweel 2009: 33). At the same time the teacher may allow the students to use a word in the mother tongue

the translation of which into the foreign language they are not familiar with, and the teacher provides the translation or a workaround for the time being in order for the student to be able to proceed with speech. Beneš (1970:150) seems to be generally in agreement in this respect. He suggests that students should not be prohibited from using a word in their mother tongue if they forget how to say something or if they wish to say something they have not yet learned. Butzkamm and Caldweel (2009: 35), however, limit this option to only words the students have not yet learned and suggest that learners write down the new expressions in an exercise book and learn them, and that the teacher as well as the students should keep track of all the words the translation of which into the foreign language was provided during the students' spoken production so that the teacher can insist on providing the translation into the mother tongue and the translation of the unknown words into the foreign language only once.

Beneš also argues that teachers should be prohibited from giving lectures in response to students' difficulties in expressing something in the foreign language. The teacher should simply assist the student by providing the missing expression or grammatical structure as well as a possible workaround until the time that the word or the grammatical structure appears in the regular programme of the class, as the purpose of the speaking sessions is not to learn new vocabulary but is rather to practice the application of the known language. Similarly to Butzkamm and Caldwell, Beneš (1970: 155) suggests that if learners are supposed to start speaking a foreign language then the teacher himself must speak the language as much as possible in the first place and should resort to the mother tongue only if absolutely necessary. He stresses the need to introduce learners to the strategies of overcoming any difficulties by using a synonym, description, a more general expression instead of an unknown foreign word, or using various phrases when they need to buy time such as 'Let me think...' and so on. "Literal translation and interpreting is a skill substantially different to speaking. Nevertheless at a certain stage of practice free interpretation of the message may contribute to learning to speak. Such activity develops the learners' ability to work around missing expressions when they speak" - Beneš (1970: 155). In learning to speak in the foreign language Beneš proposes proceeding from reproduction practice toward free production. The reproduction exercises start with guided reproduction based on the teacher's questions and proceed with reproduction as a learner's monologue where the difficulty is further graded from the reproduction of known written text

through to the reproduction of a text immediately after reading or hearing it, to the most difficult stage of reproducing a text written in the mother tongue in the foreign language, which is basically free interpretation from the mother tongue into the foreign language (Beneš 1970: 149). A similar role is assigned also by Repka and Gavora to free translation or interpretation in speaking instruction (1987: 209-210), suggesting that the most frequent translation exercise in speaking practice is a free interpretation of a monologue in the mother tongue in oral or written form into the foreign language orally. The authors state that consecutive interpreting may be used as speaking practice at all stages of learning a foreign language and that "pupils usually enjoy such practice" (Repka and Gavora 1987: 210).

Ann Lazaraton (2001: 105) writes that the activities that academic ESL students need most include taking part in discussions, interacting with peers and professors, and asking and answering questions. It is hard to imagine that none of the questions foreign students may need to answer while studying in an English speaking environment would involve aspects of culture, history or for example the legal system of their home country, depending on the field of study. If and when they are confronted with such questions they will necessarily have to go through the process of expressing in the foreign language things they learned in the mother tongue. Lazaraton admits that teaching oral skills in an EFL context presents "certain additional challenges" (2001: 110) such as "lack of motivation, getting students to speak [...], and the use of the first language," as well as the fact that the teacher, being a non-native speaker of English, "may not be competent or confident in speaking English." The solutions to these challenges however are not covered by Lazaraton. We believe that the occasional interpreting of role play or communicative meaning-focused activities with an interpretation element simulating the above-described situations which students may face when studying abroad would be appropriate.

2.2.5   Reading

Reading and translation are traditional companions. While the purpose of professional translation is to convey the meaning of a text in the source language to readers who do not understand the language of the original, the purpose of translation as used in classrooms was often historically to test the learners' understanding of the source text. We believe that such a use of translation, where the students were asked to translate orally into their mother tongue, where the teacher

was a final arbiter of right or wrong, where regard was not given to the wider context or to the creative abilities of the learners, could well be one of the aspects of the grammar-translation method that provoked such a strong reaction in various direct methods. The communicative approach to teaching foreign languages took a more liberal stance toward translation, however it is only seldom mentioned as a technique that could assist in promoting reading in the foreign language.

In Beneš' opinion the primary focus in class should be on listening and speaking, while writing and reading should be practiced at home. The classroom offers the only opportunity for learners to communicate with the benefit of the teacher's feedback (Beneš 1970: 170). However, Beneš also emphasises the role of regular reading as a means to maintain the other skills so long as they are not being practiced – as a measure against attrition (Beneš 1970: 160). Hendrich (1988: 222) also points out that reading in the foreign language indirectly influences all the other three basic skills. Therefore, learners need to develop their reading skills and the custom of reading on a regular basis. This is twice as true for students at a tertiary level, who are required to follow the journals and other publications of their profession.

Beneš (1970: 165) differentiates the approach to presenting a new text depending on how advanced the learners are. While at the beginners stage he accepts that translation into the mother tongue may be used for subsequent checking comprehension (not as a means of understanding the text), at the intermediate stage new vocabulary may be explained while reading the text, using the context, synonyms or - "if there is no other option" - using translation. At this stage, checking comprehension by translation is not necessary as it may be verified by questions in the foreign language. At the advanced stage intensive reading becomes the main focus. According to Beneš (1970: 166), at this stage there may be considerable differences among the levels achieved in individual skills, so a learner who is able to comprehend a very difficult specialised text of his area of expertise may be completely incapable of discussing the text in the foreign language. This is why, Beneš suggests, at this stage translation into the mother tongue may be used as a subsequent reading comprehension check especially in the case of scientific or specialised text. We believe that such substantial differences in proficiency in individual skills may currently occur in life-long-learning courses of ESP, however these are relatively

uncommon in groups of students at a tertiary level of education. According to Beneš (1970: 191), **translation into the mother tongue** is the fastest, safest and the most precise manner of checking **reading comprehension,** especially in case of technical, academic or scientific texts. In such texts it is almost impossible to verify precise understanding in ways other than by translation of at least the most difficult passages, which becomes the most important tool for developing reading comprehension skills. Grabe and Stoller (2001: 191-192), in their chapter on reading for academic purposes, structure the process into pre-reading, during-reading and post-reading instruction. While the pre-reading may include previewing the text to identify the general topic, skimming the text to find out what the main ideas are, and discussing the key vocabulary, the during-reading instruction should focus on detailed understanding of the text. Here the understanding of difficult terms may include an explanation in the foreign language and, we suggest, a translation into the native language. Complex sentences are a typical feature in academic literature and oral translation into the native language may assist in making sense of them. Post-reading activities should encourage students to use the information from the text in other tasks, such as completing a mind-map covering the terms used in the text, answering questions that demonstrate comprehension of the text, or comparing the information from the text with the same or similar topics the students learned about in their native language. Repka and Gavora (1987: 189) suggest a more general approach intended primarily for basic and secondary schools, including listening to a spoken text without the support of a written text, followed by listening to the text alongside with a transcript. The teacher would then verify comprehension using questions in the foreign language and request students to translate orally into the mother tongue. This stage is followed by the learners reading aloud. At more advanced stages the learners start reading on their own, in pairs or at home using dictionaries.

Many authors emphasize the importance of analytic reading for developing reading skills at advanced levels (Beneš 1970, Repka and Gavora 1987, Hendrich 1988). The main distinction is made between *analytic* and *synthetic* (also called *cursoric*) reading. While in analytic reading the reader understands the text only after previously analysing it, usually by means of translating it into the mother tongue, in synthetic reading the reader understands the text directly as if he was reading in his mother tongue, without translation or analysis. In Beneš' opinion, analytic reading is used primarily at advanced stages of language study where more complex reading material

is presented, whereas at beginners' stages the material should be so simple that it should not require any analysis and oral presentation by teacher should be sufficient for understanding the texts (Beneš 1970: 167). Repka and Gavora, on the other hand, claim that analytic reading has a higher proportion at beginners' stages whereas synthetic reading should be the overall goal of instruction. They suggest that the teacher should instruct the learners to apply a combination of analytic and synthetic reading, using analytic reading only for passages that present difficulties (Repka and Gavora 1987: 188). Both Repka and Gavora (1987: 203) and Beneš (1970: 139) state that reading aloud is an important step to prepare the learner for longer production in the foreign language and that silent reading forms the foundations of translation-free inner speech. In addition to this, reading aloud promotes fluency (Grabe and Stoller 2001: 196).

Beneš (1970: 158) (as well as Repka and Gavora 1987, Hendrich 1988: 227) is concerned with the effect of silent (or mental) translation on reading in foreign language. While he does not consider it an issue if the learner needs to use a dictionary from time to time, he warns against the learner using constant mental translation in order to understand the text. Such a practice, in Beneš's opinion, makes reading in the foreign language almost impossible. Hendrich (1988: 227) suggests that reading without mental translation is a goal that is well beyond the scope of learners at secondary schools. While the proficiency of secondary school learners may have changed slightly since then it seems that entering tertiary education requires a leap in the improvement of learners' reading skills in the foreign language.

Could such a leap of improvement be supported by using "reading strategies unique to L2 learners" (Grabe and Stoller 2010: 94)? What are they? William Grabe and Fredericka Stoller list among such strategies bilingual dictionaries, cognates, and interestingly also mental translation or glosses. As opposed to the Czech authors mentioned above, Grabe and Stoller (2010:95) state that "mental translation (a uniquely L2 learners' strategy) is not necessarily a 'poor habit' but can be a useful early L2 reading strategy for students who are dealing with difficult texts." The author further suggests that

Even though the use of bilingual dictionaries has been an ongoing issue for many teachers, recent research over the past decade suggests that dictionaries can be useful supports for L2 reading. However, students should be trained in the effective use of dictionaries (Grabe and Stoller 2010: 95).

Cognates and glosses were the other two strategies unique to L2 readers mentioned by Grabe and Stoller. In order to make use of cognates, learners require explicit instruction in recognising and using them. Glosses included in the foreign language reading texts "can provide benefits for comprehension and do not seem to interfere with reading comprehension tasks" (Grabe 2010: 95). Glosses are proposed for uncommon, specialised words that are unimportant for the text or future use by the students. Alternatives to glosses include good synonyms or practice in guessing word meaning from context (Grabe and Stoller 2001: 193).

Hendrich (1988: 235) mentions selective translation into the mother tongue as a means of checking reading comprehension and suggests that learners should be assessed both in terms of their ability to guess the meaning of words using context and their skill in using dictionaries. Mothejzíková (1988: 180) states that students need to be instructed in using dictionaries and that the "ability to use a dictionary or a thesaurus should not be taken for granted." While bilingual dictionaries may be useful in the beginning phase of language study, learners should be encouraged to start using monolingual English dictionaries as soon as possible, she states. We generally agree with the need to instruct learners to use dictionaries (including informed use of various free on-line dictionaries), however we would suggest that even at advanced stages bilingual dictionaries may be needed. In the case of reading comprehension a learner may need to supplement a monolingual English dictionary (or online resources) with a specialised bilingual dictionary for the relevant field of study. And in the case of the production of a written text in the foreign language dealing with content that was previously learned in the mother tongue, a general in addition to a specialised bilingual dictionary may be useful. Using the example of law students, this may involve writing in the foreign language the summary of a case that was heard and determined in their mother tongue.

Researchers generally agree that "students become better readers only by doing a lot of reading" (Grabe and Stoller 2001: 188). A large recognition vocabulary is essential for growth in reading ability, as is extensive exposure to engaging foreign language material (Grabe 2010: 96). However, there is evidence that not all word recognition skills come from extensive reading, as students benefit from explicit instruction focused on the development of vocabulary (Grabe and

Stoller 2001: 192). If students learn to apply the strategies unique to L2 learners, this will help them to become faster, fluent and primarily regular readers in the foreign language.

It is suggested that there are benefits to integrating reading and writing instruction in academic settings (Grabe 2010: 97). University students need to be aware of the discourse, genre and register aspects of the texts they are to produce. Therefore a small comparative and contrasting project might involve reading a number of texts of a particular genre (or text type) in English - for example several judgments - and analysing them from the point of view of conventional organisation, language and style. The students may then be asked to compare the features identified during the analysis with the conventions of Czech judgments and to produce in English a written summary of a Czech judgment.

The most important benefit of the application of reading strategies unique to L2 learners that is particularly relevant to the EAP/ESP context is the possibility to lift the restrictions created by the difficulty of a given text. Such strategies enable the readers to cope with authentic text and to gradually become independent readers.

2.2.6   Writing

Translation does not rank high on the list of techniques for teaching writing (neither among Czech authors, such as Beneš 1970, Mothejzíková 1988, or Hendrich 1988, nor among those writing in English such as Celece-Murcia 2001 or Kaplan 2010). Hendrich (1988: 238) mentions the benefits of integrating writing instruction with practical experience in using dictionaries. Both Mothejzíková (1988: 207) and Hendrich (1988: 239) warn of the impact of mental translation on the production of written text. However, also in such a case it applies that with growing proficiency the need to rely on the mother tongue decreases. Beneš (1970: 190-191) recommends limiting written translation into the foreign language to very simple phrases or sentences, and to start with oral translation and only after that ask learners to translate sentences in writing. He suggests that if the source text in the mother tongue is too difficult, asking learners to translate it will only result in a huge amount of errors that will cause such a process to be detrimental to learning. Repka and Gavora (1987: 221) state that the translation of text from the mother tongue into the foreign language is a common manner

of practicing writing. They argue that it does not put learners under time pressure, as compared with interpreting role play for example, and students may even be allowed to use a dictionary. The majority of authors do not see any role for translation in writing instruction, however Hendrich (1988: 255) states that translation will probably always have some role in language classes but that the way it is used should approximate how professional translators are trained. We will look at such ideas in the section 2.4 dealing with the point of view of translation studies.

There seems to be some level of agreement on the benefits of integrating instruction in reading and writing particularly in the ESP/EAP context (Kroll 2001: 225). The skills that are required in such instructional settings include summarising, paraphrasing, interpreting and synthesising. Students need to become acquainted with various genres common to academic writing, such as essays or research papers, as well as other genres that may be of particular importance to their field of study, such as lab reports in natural sciences or case briefs in law. The translation element may then be built upon in integrated activities, including reading in the foreign language, comparing the information in the text to knowledge acquired in the mother tongue, and then making a presentation and writing a handout for the audience (Tudor 1987). We believe that there is value in asking students to summarise in the foreign language texts written in their mother tongue, and then translate some passages, such as important definitions, as precisely as possible.

2.2.7   *The mother tongue and the vocabulary*

The use of the mother tongue to convey the meaning of foreign language vocabulary is one of the least controversial uses of translation in class. As it turned out, in the case of some ELT methodologies, trying to introduce the meaning of new vocabulary through alternative means, such as bringing objects into class or the teacher trying to mime the meaning of the word, is not particularly easy. In addition, the closer the learner moves toward a higher level of proficiency, the more frequently they will come across abstract vocabulary and specialised vocabulary for which miming, even if the teacher is exceptionally gifted, is not an option.

Let us first deal with the approach of Czech and Slovak language teaching theory. Many authors (Beneš 1970: 114; Hendrich 1988: 135; Repka-Gavora 1987:143, Choděra 2006) see the role of

translation as being primarily at the presentation stage of vocabulary, as one way of introducing the meaning of the lexical item. The term used by the authors for such a process of becoming acquainted with the meaning of a lexical item or, from a teacher's point of view, presentation of the meaning of a lexical item, is *semanticisation* (Czech *sémantizace*). This represents the first phase in acquisition of foreign vocabulary (Beneš 1970: 114). The manner of semanticisation depends primarily on the selected method of teaching, however the choice of the means of introducing new vocabulary depends also on many other factors, such as the type of vocabulary (if there is a mother tongue equivalent or not), the stage of learning, the proficiency of the learners, or the teacher's bilingual skills. Beneš (1970: 114-115) distinguishes three means of semanticisation of vocabulary:

(i) Demonstration or pictures (very useful for concrete concepts at beginner stages – A1 and A2 of the Common European Framework). The fact that the mother tongue does not need to be used in this case is often mentioned as an advantage. And this may be the case particularly when talking about very young learners. However, the fact that the teacher does not use the mother tongue equivalent poses no limits on learners, who may connect the picture with the expression in the mother tongue and the word in the foreign language anyway.

(ii) Semanticisation in the foreign language (using context, explanation, synonyms or antonyms, definition or description). This form is recommended in intermediate or higher stages of learning. It is particularly useful in teaching specialised vocabulary where the learner is first introduced to the new lexical item in context (in an authentic text, if possible), then the learner may work on a matching exercise of definitions and terms from the text, and finally there may be discussion in class about the potential translation equivalents for the terms from the matching exercise. The conclusion of such a discussion may well be that there is no equivalent in the mother tongue for some of the terms and that a simplified definition will have to serve as the mother tongue equivalent. The main advantage of introducing the meaning of lexical items in the foreign language, according to Beneš, consists in the explanation being at the same time a revision of already-known language and listening practice, while a disadvantage may be that it could be time-consuming to explain mainly more complex abstract terms.

40

(iii) Semanticisation using the learner's mother tongue, i.e. translation of the foreign language expression into the mother tongue, or explanation of more complex concepts in the mother tongue. This is used mainly for expressions that are conceptually equivalent in both languages. Such a limitation is also mentioned by Repka and Gavora, who add the requirement of usage equivalence (Repka-Gavora 1987: 143). The learner's mother tongue as a means of semanticisation is useful primarily at beginners' stages, for words where demonstration or explanation in the foreign language cannot be used. It is fast and the most precise manner of semanticisation. The main disadvantage according to Beneš is the fact that the mother tongue is used during a foreign language class (Beneš 1970: 114). Mothejzíková (1988) also points out the speed and precision of semanticisation in the mother tongue on the one hand, and the time demands of presenting vocabulary in the foreign language.

[T]hirdly, the L1 can frequently provide the quickest and the most precise access to the ground floor of L2 meaning. It is incredible the extremes to which some people will go to avoid conveying meaning interlingually, contextually delimited interlingual equivalence can be precise and very efficient, making all the time thus saved available for meaningful graded communication in L2 (Mothejzíková 1988: 32).

Mothejzíková mentions translation as one of the devices in the "general approach" for teaching the active use of vocabulary. In respect of using the mother tongue to save time for communicating in the foreign language in class she is in agreement with Cook (2010 as well as Butzkamm and Caldwell 2009).

In terms of a relationship between the different stages of learning foreign language vocabulary and various means of introducing vocabulary, Beneš (1970: 113) suggests that at the first stage (beginner, A1 and A2 according to the Common European Framework or CEFR) the mother tongue be used more often. At the second stage (intermediate or B1 and B2), it is possible to introduce vocabulary increasingly using the foreign language (definitions, explanations) and the teacher may introduce the students to the dictionaries available and explain how to use them. At this stage the learner also becomes acquainted with other meanings of already-known vocabulary and synonyms and antonyms of these words. At the third stage (advanced, C1-C2),

the mother tongue is used only to a very limited extent; the main type of exercise consists of independent spoken or written production, which may sometimes be combined with translation into the foreign language or into the mother tongue.

Choděra (2006: 123) accepts as inevitable the need to compare the lexical item in the foreign language with the mother tongue equivalent during the first phase of presenting vocabulary, however strongly warns against such a comparison at practice stages as this may act to strengthen mother tongue interference. He claims that developing fixed bilingual equivalences between the foreign language and the mother tongue may be required in the case of professional interpreters, however it is "undesirable, or not required" in the practical language classroom (Choděra 2006: 124). We would like to present the opposite case for advanced learners of a foreign language who need to communicate to foreigners about the knowledge they have acquired in the mother tongue. For example, a lawyer communicating with his client in English about a provision of Czech law should indeed develop fixed bilingual equivalences between Czech legal terms and their translation equivalents.

As for ELT literature written in English, use of the mother tongue in introducing the meaning of a foreign language word does not feature often, similarly to the role of the mother tongue in the productive and receptive skills discussed above. It is acknowledged that the teaching of vocabulary has been long neglected as the result of a primary focus on grammar, however this started to change in the late 1980s. The communicative approach to language teaching in the 1980s focused on the implicit learning of vocabulary based on the learner reading words in context and inferring the words' meaning from the context, or using monolingual, rather than bilingual, dictionaries. Currently most researchers recognise that, while it is important to provide the learner with sufficient opportunities for incidental encounters, it is just as important to learn vocabulary in an explicit manner (Decarrico 2001: 286). Translation could appear under both these categories either in the form of mental translation carried out by learners irrespective of the teacher's directions, or in the form of the explicit provision of a mother tongue equivalent by the teacher. Nevertheless, the only mother-tongue related strategy mentioned by Decarrico is "encouraging students to check for an L1 cognate," which probably means asking students to think of a word in their mother tongue with the same origin. Cook (2010: 140-141), by contrast,

focuses less on the English as a Second Language context and points out that "theorists whose ideas are anchored in classroom reality" (and we should add that English as a Foreign Language is a completely different classroom reality) have long recognised the fact that translation is essential for introducing new vocabulary. He points out the importance of translation in the case of *false friends,* which could otherwise easily go unnoticed in the text. He states that if teachers discuss with learners the degree of equivalence in different translations then learners will not be misled into thinking that there is a simple one-to-one equivalence. Kennedy and Bolitho (1984: 59-66) point out the importance of teaching and learning vocabulary in English for specific purposes. They suggest that new, specialised vocabulary may be introduced through demonstration and visuals, however "translation may be preferred if the teacher is competent in the students' language as well as English" (Kennedy and Bolitho 1984: 59). They consider word formation and relationships between words as being important for the learning of new vocabulary. Also, quite importantly, they suggest that learners should be trained in recognising the value of new vocabulary in authentic text and in deciding which lexical items are important and should become part of their productive vocabulary, and which are less important and should only be assigned to recognition vocabulary. Kennedy and Bolitho suggest that in the case of productive vocabulary the learner should take down exhaustive notes, including examples in context, whereas in the case of recognition vocabulary "a translation, or a brief definition may suffice" (Kennedy and Bolitho 1984: 66). We would like to add that even in the case of productive vocabulary pronunciation as well as a translation may be useful, as it is well known that learners (especially adults) tend not to use words productively if they do not know how to pronounce them correctly.

The use of translation as a means of sematicisation of lexical items should always be combined with contextualised presentation of the lexical item and possibly with an explanation or definition of the item in the foreign language. Precision is of the utmost importance in learning the language of a profession, which, combined with the abstract character of many law terms, makes legal language an ideal candidate for semanticisation in the foreign language in combination with mother tongue translation equivalent. In addition to the above-mentioned matching of English terms and their definitions and subsequent discussion of the possibilities for translating the terms, activities that may be used in advanced classes include finding in an

authentic text English equivalents for listed Czech terms, or matching English translations with Czech terms highlighted in an authentic Czech legal text provided. The latter activity represents a good preparation for translation from Czech into English. Various collocation activities where the learner searches for all verb-noun collocations with the word *contract* in an English text and then completes a table with the English collocations found and the Czech translation of the collocations are extremely useful.

2.3   Translation and Common European Framework of Reference for Languages

The Common European Framework of Reference (CEFR) is built around the principle of plurilingualism (Council of Europe 2001: 4), which goes beyond multilingualism (attainable by simply encouraging learners to learn more than one foreign language) in that all languages learned or acquired by an individual are seen as mutually interacting, interrelating and contributing to the communicative competence of the individual. Learners are perceived as individuals experiencing languages in their cultural contexts and as individuals capable of communicating across cultures. The CEFR goes as far as suggesting that the ability to cope with several languages and cultures should be assessed and rewarded: "Translating (or summarising) a second foreign language into a first foreign language, participating in an oral discussion involving several languages, interpreting a cultural phenomenon in relation to another culture, are examples of mediation (as defined in this document) which have their place to play in assessing and rewarding the ability to manage a plurilingual and pluricultural repertoire" (Council of Europe 2001: 175).

Even though the CEFR is strongly anchored within the communicative language teaching tradition, it takes a liberal attitude to translation and interpreting in the classroom. It places considerable emphasis on *tasks* that are defined as "any purposeful action considered by an individual as necessary in order to achieve a given result in the context of a problem to be solved, an obligation to fulfil or an objective to be achieved" (Council of Europe 2001: 10). Tasks are further structured into *real-life tasks* (also called 'target' or 'rehearsal' tasks), based on the learners' needs outside the classroom, and *communicative pedagogic tasks*, based on the "social and interactive nature and immediacy of the classroom situation where learners engage in a 'willing suspension of disbelief' and accept the use of the target language rather than the easier and more natural mother tongue to carry out meaning-focused tasks" (Council of Europe

2001: 157). Translating a foreign language text is among those tasks mentioned as examples. This example is further expanded to involve various *strategies*, such as checking whether a translation of the text already exists, using a dictionary, or discussing with a classmate what he or she has done. The task necessarily involves language activity and text processing (Council of Europe 2001: 15).

Instead of engaging the concept of skills, the architects of the CEFR created a superstructure of *communicative language activities* consisting of reception, production, interaction and mediation (Council of Europe 2001: 14). Reception and production (oral and written) are viewed in isolation in the framework and interaction is defined as an activity where "at least two individuals participate in an oral and/or written exchange in which production and reception alternate and may in fact overlap in oral communication" (Council of Europe 2001: 14). The authors of the CEFR suggest that *speaking (oral production), writing (written production), listening to (aural reception)* or *reading (visual and audio-visual reception)* a text would be used in cases such as where a speech is recorded or broadcast, or a written text is published, where the producers of the text are separated from the receivers, who are unable to respond (Council of Europe 2001: 57). Interaction is further broken down into *spoken* and *written interaction*.

Mediation or *mediating activities* is the term used in the framework to refer to translation and interpreting as well as occasionally to paraphrasing or summarising and recording texts in the same language. The CEFR defines mediation as "written and/or oral activities [which] make communication possible between persons who are unable, for whatever reason, to communicate with each other directly" (Council of Europe 2001: 14). The CEFR acknowledges that mediating language activities "occupy an important place in the normal linguistic functioning of our societies" (Council of Europe 2001: 14). *Oral mediation* in the CEFR includes simultaneous, consecutive as well as informal interpretation and *written mediation* includes exact translation (e.g. contracts, legal or scientific texts), literary translation, summarising gist within a foreign language or between the mother tongue and a foreign language, and paraphrasing (e.g. paraphrasing specialised texts for lay persons) (Council of Europe 2001: 87).

The effort of the authors to introduce a general term that could cover translation / interpreting (between two different languages) as well as paraphrasing (within the same language) and summarising (either between two different languages or within one language) resulted in differing perceptions of the term. Bassie Dendrinos maintains that

> [m]ediation is altogether different from professional translation and mediation. I view it as a form of everyday social practice which involves meaning-making agents […] in acts of communication that require negotiation of meaning and relaying of information across the same or different languages. Such action becomes necessary when the help of the mediator is either requested or offered because it is assumed that the participants in a communicative event are experiencing some kind of information gap or because they cannot understand something said or written (Dendrinos 2006: 16-17).

Dendrinos goes on to explain that professional translators and interpreters differ from her concept of mediators due to the fact that they do not appear anywhere in the discourse produced, and do not have the right to change the discourse, genre or register of the text, or resort to reported speech, whereas mediators "participate in the communicative event, become interlocutors and turn a two-way into a three-way exchange, interpreting and making choices they think are useful for the other participants" (Dendrinos 2006: 17). It seems to us that the difference made by the author is rather between the "informal interpretation" subsumed under oral mediation in the CEFR, and professional interpreting. Even though a professional interpreter should be 'invisible,' it is hard to imagine that he would not participate in the communicative event. While we do not propose that all learners should be trained in professional interpreting or literary translation, we believe that they should be able to clearly distinguish between rendering someone else's ideas in a different language or in the same language but with a different level of formality, and presenting their own construction of such ideas.

Michael Byram (2008) stresses the intercultural element of mediation as the ability to analyze and reflect on how things are done in different countries and cultures. Similarly to Dendrinos, he proposes that the descriptors for mediating activities should be created and asserts that translation and interpreting activities are under-emphasized in the CEFR. The two examples of tasks used by Byram to illustrate the difference between the pedagogical use of translation and mediation are both intended for students of upper-secondary school. The first task is essentially translating a simple descriptive text from English into French, and then from French into German, from

German into Spanish, and then back into English. The students then compare the source text and the English text resulting from several retranslations to show that there is no one-to-one relationship between the languages. The second example is a role-play where a student from a British school is asked to explain to a French student on an exchange program why the French student must wear a uniform when visiting the school in Britain. Our view however is that whether the intercultural element becomes evident in the translation process or not depends on the type of text being translated. Therefore, in the case of the translation of a source text that was created within a common law culture, into any of the languages in which continental law systems are expressed, the students carrying out such a task will necessarily be confronted with the task of communicating across cultures.

Whereas chapter 4 of the CEFR (Language use and the language user) looks at translation and interpreting under the heading of mediating activities as both professional and less formal activities - as in informal interpreting for friends or family -chapter 6 (Language learning and teaching) suddenly switches to the purely language-teaching world. Two of the general approaches to language teaching/learning outlined by the CEFR include distinctive features of using the mother tongue for classroom management (Council of Europe 2001: 143). When dealing with the possible role of texts, the traditional role of reading comprehension aid is reserved for translation, and written translation is mentioned as being among options for text production (Council of Europe 2001: 145-146). Subsection 6.4.4 (Council of Europe 2001: 147) asks the users of the CEFR to identify to what extent learners should learn through various approaches that engage communicative tasks and language activities, referring back to tasks and activities as defined above. So by extension, mediation activities and translation elements may be included in communicative tasks performed by students. However, this is not stated explicitly. The subsection dealing with the teaching/learning of vocabulary (Council of Europe 2001: 149 - 150) interestingly enough includes explicit training in the use of monolingual and bilingual dictionaries, as well as the "systematic study of different distribution of semantic features in L1 and L2" on the one hand, and the "memorisation of word-lists with translation equivalents" on the other hand. In the context of learning grammar, "translation of example sentences from L1 to L2" is mentioned (Council of Europe 2001: 152). Comparing the examples of the use of translation to exemplify grammar or to memorize vocabulary lists with the requirement to

give recognition to plurilingual and pluricultural competencies of learners such as translating between a second and first foreign language, there seems to be a considerable gap between the target competencies and the means to achieve them.

2.4 The point of view of translation studies

As we have seen in the previous section, mediating activities as defined by the CEFR include not only translation and interpreting, but also paraphrasing and summarising. Let us therefore start with defining the term *translation* for the purpose of this thesis. Since we believe that translation in ESP/EAP classes at a tertiary level should have primarily the form of a translation element in close to real-life activities, we will take the practical view point and describe translation as it is carried out by a professional translator. Translation is a text-production process which requires the translator

> [t]o produce in a Target Language (TL) a text which must fulfil a specific purpose for a specific readership in a specific spatiotemporal setting. This text, the Target Text (TT), has to be based to a great extent on another text, the Source Text (ST), which exists in a language other than TL, the Source Language (SL). ST, too, has a specific purpose to fulfil for a specific readership in a specific spatiotemporal setting, but the purposes, readerships and settings for the two texts are, of course, never quite the same (Malmkjær 1998: 7).

The important element is the fact that the translator is no longer required to take into account only the source text and its purpose, but is also expected to translate the text for a specific purpose and for specific readers, as instructed in the *translation brief* (a set of instructions from the party commissioning the translation regarding the intended purpose of the Target Text (TT) and its readers). The TT may be produced for various purposes and readerships, therefore it may be hard to identify a single 'correct' translation, there being only 'appropriate' translations, according to the given purpose and readership. The definition uses the terms Source Language (SL) and Target Language (TL), which cover both directions of translation from and into the mother tongue of the translator or indeed a translation between two foreign languages. It also points out that the readership and setting of the ST and the TT are never the same, which necessarily also involves cultural differences. As the ST exists in a language different to that of the TT, clearly a summary or paraphrasing in the language of the ST does not fall within this definition of translation. Christina Schäffner (1998: 132) goes as far as stating that translation for language learning purposes

> [m]eans reproducing the message of the ST while paying attention to different linguistic structures (i.e. mainly the decoding-encoding view). Since the pedagogical aim is often the production of an interlingual version, the product does not really deserve the name 'TT' and the activity does not really deserve the name 'translating' either. Translation for professional purposes means text production for specific purposes.

The reference to 'structures' indicates 'grammar,' and 'interlingual version' refers to the learner's interlanguage as a stage in the learner's grasp of the foreign language that may show various imperfections. Schäffner (1998: 131) uses the term 'philological translation' for translation for language learning purposes, and 'functional approach to translation' to refer to translation for professional purposes. In this thesis we use the term translation to refer to written translation between two different languages, covering both literal translation, or source-text centred translation - which may have specific pedagogical uses including teaching grammar - and translation resulting from application of the functional approach, where the translation is produced for a specific purpose and readership.

Text is in this thesis used to mean written as well as spoken text. Written translation is distinguished from oral translation, which is referred to as *interpreting*. In professional conference interpreting a distinction is made between simultaneous and consecutive interpreting. In the case of *simultaneous interpreting* the interpreting is carried out while the speaker is still talking, whereas in *consecutive interpreting* the interpreting occurs in logical units after the speaker has finished a sequence. There are also hybrid forms, such as *sight translation*, which is essentially a written text-to-speech interpreting.

2.4.1   Translation process

According to Malmkjær (1998: 7) the translation process involves at least five activities: (i) Anticipation; (ii) Resource exploitation; (iii) Co-operation; (iv) Revision; and (v) Translating. There is no specific order in which the five activities must be completed and they may also overlap. The purpose of the anticipation activity is to establish the context of the ST, the author, the purpose and the readers for whom the ST was intended, and similar information needs to be identified for the TT, who wants the ST to be translated, and for what purpose and for what audience. Within this phase the translator also gathers the required reference books

(e.g. dictionaries) and similar TL texts to serve as a source of TL terminology, structure and layout. The translator may also consider whether the scope of work will require co-operation with other translators. The co-operation phase then involves working with other translators as well as the customer who commissioned the translation and other experts who may need to be consulted in the case of legal, scientific or technical translation. Resource exploitation includes the informed use of dictionaries, term-bases and the TL texts gathered during the anticipation activity. If a team of translators is working on a single TT, they may need to create their own glossary of terms which they will use consistently throughout the TT, and such a glossary may also contain reasons why a particular translation solution was adopted. The translation activity spans resource exploitation and co-operation. At the end of the revision activity the final version of the TT is reached. In his simple description of the process of completing a translation assignment Malmkjær (1998: 8) writes that the activity of translating requires that the translator is competent in both the SL and the TL, however the translator must also be able to relate the two language systems to one another appropriately. This skill is not automatically acquired simultaneously with becoming bilingual or multilingual, but requires instruction and practice, as put by Cook (2010: 79):

> Though it is perhaps assumed, that a person who has successfully learnt a new language will at the end of their studies not only be able to speak and write the new language but also to translate in and out of it, quite how this is to be achieved has, in these same theories ['cutting-edge' linguistic theories of the last century], been left out of account.

And as the CEFR requires the people living in Europe to be plurilingual (Council of Europe 2001: 4), there is no reason why they should not learn at least the basics of moving appropriately between the languages they can communicate in.

2.4.2 Equivalence

Another pivotal term used in translation theory is *equivalence*. When we say that something is *equivalent* we do not mean that it is the same or identical; what we mean is that it has similar effect, is equal in function or meaning. A translation may be equivalent to the source text in various ways. The five most important types of equivalence were proposed by Werner Koller (House 2009: 31-32):

(i) *Denotative equivalence* refers to equivalence in an extra-linguistic world, the real-world. So, for example, in the sentences 'The capital city of the Czech Republic is Prague' and *Hlavní město České republiky je Praha,* the words Prague and *Praha* denote the same thing, they are denotatively equivalent.

(ii) *Connotative equivalence* is equivalence on the level of cultural feelings or associations evoked by a term or phrase. The connotations evoked by the word 'breakfast' in an English-speaking context may be radically different from associations the same word may evoke in France.

(iii) *Text-normative equivalence* refers to equivalence on the level of text types, such as different letter layouts in various cultural and linguistic communities.

(iv) *Pragmatic equivalence* is equivalence in terms of fulfilling a particular function for the recipients. Julian House uses Eugene Nida's example of a modern Bible translation where Jesus rides into Rome on a Vespa instead of entering Jerusalem on a donkey.

(v) *Formal-aesthetic equivalence* refers to the successful rendering of wordplay, rhymes or, for example, alliteration in translation.

It is clear from the above descriptions of the five main types of equivalence that equivalence on all these levels cannot be achieved. Therefore the process of translating is a process of choosing among various options. The choices made by the translator will depend on the kind of text being translated and the purpose for which it is translated.

2.4.3   Literal and free translation

Language teaching theory works with a continuum between two poles: *literal translation* and *free (idiomatic) translation.* Beneš (1970: 192) uses literal translation to refer to **precise** translation (important primarily in reading comprehension of scientific text). Free translation into foreign language, in Beneš' opinion, may be utilised for speaking practice, for instance when summarising the content of mother tongue text in a foreign language, which may take the form of an activity close to real-life sight translation or consecutive interpreting, depending on whether the source text is written or oral. Cook (2010: 135) points out that in the dichotomies used for comparing traditional and communicative approaches to language teaching, translation has been consistently associated with the traditional half, focusing on form rather than meaning,

accuracy rather than fluency, artificiality rather than authenticity, declarative knowledge rather than procedural knowledge, and authoritarian teaching rather than collaborative learning. And this fact is also reflected in the ways that translation exercises have been used traditionally in language teaching. In many cases learners are still required to translate literally without access to a dictionary or other reference sources. The purpose is usually to test the learner's knowledge of vocabulary or grammar and even though we believe that teachers no longer use artificial isolated sentences limited to graded vocabulary and grammar for instant oral translation by learners, we would like to suggest that in the modern use of translation in teaching advanced learners the pendulum should swing toward meaning, authenticity, fluency, procedural knowledge and collaborative learning.

Guy Cook (2010: 136-139) introduces the term 'close translation' as a form of exercise consisting of asking students to produce a translation that is as close to the original as possible. This is different from 'word-for-word translation,' which is used by Cook to refer to literal translation that strictly maintains the word order of the original, which often produces grammatical inaccuracies. He suggests that while some forms of literal translation may be useful aids in beginners classes, where the learners' focus should remain on semantic equivalence (with some consideration of pragmatic equivalence in the case of substantial differences), attention may be focused on functional and discoursal equivalence through intermediate to advanced stages (Cook 2010: 73). Discourse as used by Cook means "a stretch of language, written or spoken, considered in context" (2010: 58). Henry Widdowson suggested as early as 1979 in an article on the pedagogic use of translation that most objections to using translation as a technique in class are based on the assumption that learners are required to establish *structural equivalence*. He suggests that if translation is carried out as an exercise in establishing *semantic equivalence* and *pragmatic equivalence* then the objections would become unsustainable (Widdowson 1979: 104). In advanced classes, the suggested activities include discussing translation problems, such as searching for mistranslations and discussing them, or comparing different translations of the same text, or a communicative meaning focused activity such as business decision-making or the evaluation of evidence with a built-in translation element (González-Davies 2004, Cook 2010).

2.4.4 Translation as a communicative activity

A number of leading experts seem to be in agreement that translation may be embedded as a component of real-life communicative situations or tasks (e.g. House 2009, Carreres 2006, Cook 2010). Interpreting role-play and sight translation, which is on the edge of written translation and interpreting, are also presented as valuable language instruction activities that have a positive influence on fluency as well as precision of speech (Mraček 2013). House (2009: 65) gives the example of a learner being asked by a fictitious neighbour to give in English an oral summary of a letter written in French, and then to translate the letter in writing for future reference. Other communicative translation activities include converting a specialist scientific text into a version directed at a lay audience and then translating the converted version. The version converted for the lay audience as well as its translation may then be used to discuss the differences in the text genres across cultures (House 2009: 66).

It is quite clear that there is a substantial difference between literal translation (including its more extreme forms of close translation and word-for-word translation) as traditionally used in language teaching, and 'real-life' translation, taking into account the context and purpose of the ST and TT. However, we believe that these two forms of translation should be seen as two extreme poles. The two forms of translation and all the possibilities between the two poles may be useful if exploited in the right EFL class for the right purpose and to the appropriate extent. While the general rule may be, as suggested by Cook (2010), to use literal translation as an aid in beginners' classes and to progress toward 'real-life' translation in the advanced stages of language study, there are experts who suggest otherwise too.

Christopher Titford (1983), teaching English to German university students, suggested two techniques that could be used on a sentence level with advanced students to bring to learners' attention the differences between the communicative norms of the mother tongue and of a foreign language. The first technique is based on the teacher intentionally offering to learners a translation that is too literal in terms of constructions, collocations or idioms, and asking the learners to correct it (Titford 1983: 53). The translation submitted to learners for correction would probably be similar to the 'word-for-word' translation as used by Cook. The second

proposed technique is back-translation, where the learner translates from their mother tongue into the foreign language, the teacher translates from the learner's translation back into the learner's mother tongue, attempting to indicate in the translation where the student needs to make improvements, and then the student translates again from the mother tongue into the foreign language, making the required changes. A projector may be used to involve all students in the class in the process (Titford 1983: 55). While we believe that the first method could be used not only with advanced university students but also with intermediate students (B2 level of CEFR),, the back-translation technique would require the teacher to have a native-level command of both languages and to be a skilled translator at the same time, which is a limitation. Literal translation has long been the norm for legal as well as scientific and technical translation, therefore a very 'advanced' subject matter. Luckily this is gradually changing and translators are gaining some degree of freedom, and "free translation that respects the text's contextual foundations should become the new norm" (Wolff 2011: 230).

Angeles Carreres (2006: 8) writes that the purpose of translation courses for modern language students at Cambridge University is to develop students' close reading skills for challenging texts, to make the students sensitive to issues of style in both their mother tongue and the foreign language, and "to improve their linguistic skills in the foreign language." She states that, in order "to extract full pedagogic potential from translation, students need to have moved beyond beginners level and […] we should be aiming at exploiting translation for all it can offer beyond the acquisition of certain structures or lexical items (e.g. sensitiveness to register, cultural knowledge, intercultural and stylistic awareness, etc.)" (Carreres 2006: 14). This in our opinion requires using the 'close to real-life' translation or 'communicative translation,' as Carreres refers to it; on the other hand she sees no harm in using the 'hyper-literal' translation to explain to students how the verb *gustar* works in Spanish, comparing it with the English verb "to please" in awkward sounding hyper literal translation ("cinema pleases me"). Carreres believes that both approaches should have their place in a language classroom and her students agree - in her questionnaire survey the student respondents clearly indicated that translation into the foreign language is "conducive to language learning" (Carreres 2006: 9).

Gunilla Anderman (1998: 45-46) quotes a survey carried out among British universities by Penelope Sewell (1996), which showed that the majority of institutions that responded to the questionnaire taught translation as a way of improving students' language proficiency. Sewell suggests improving the traditional approach to using translation in class in three principal ways: (i) learners must not feel that the translation is used for evaluation, because in such a case they tend to produce a translation that is as close to the ST as possible; (ii) the text extracts that are to be translated must be presented in context, and (iii) learners' draft translations with teacher's comments may be returned to learners for revision and the comments may then be discussed in class. Sewell also suggests that using some simplified form of translation brief makes it easier for learners to focus on the recipient of the TT rather than strictly following the ST (Sewell 1996 quoted in Schäffner 1998: 128).

If we look back to Malmkjær's (1998: 7), five activities involved in the translation process from the point of view of useful skills for language learners and future professionals in a field other than modern languages, we find a number of benefits. The anticipation and resource exploitation skills require the learner to apply his research skills, including through library and online sources, in both languages involved, to practice using various types of dictionaries and term bases, to think about potential culture-specific elements that may appear in the source text, and to discuss in class the issues of intercultural communication. These are certainly useful skills for university students expected to publish their own papers in the future. The skill of co-operation is a core skill *per se* for the lives of the learners; in class it involves discussing with other learners in the foreign language, and if the learners need to consult experts in the subject matter of the text it will give them a good idea of what kind of input they may be expected to provide to a professional translator when they become experts. And finally, keeping in mind the recipient and the purpose of the text produced (in our case as a result of translating and revising) is a skill that all professionals would benefit from. So as suggested by Stibbard (1998: 73),

> [t]ranslation as a teaching activity should be concerned with the process and skill of translation and only with the end product in so far as it arises from sound skills development. The general student benefits from merely working towards solutions, understanding the factors which determine decisions and from evaluating these decisions. The final product is for our purposes of less importance than the work which went into producing it.

The skills that learners practice while working on a simulated professional translation are really the greatest benefit.

2.5   A psychological perspective

The field of psychology and its individual specialised areas, such as the psychology of second language acquisition (SLA), are so complex and extensive that they lie well beyond the scope of this thesis. However psychology has provided valuable input throughout the history of language teaching and learning. A lot of the discussion concerning using, or not using, translation in language classes revolves around psychological arguments, such as claims about the similarity of learning the mother tongue and every other foreign language, or the mother tongue being the main source of learners' errors in the foreign language. This is why we wish to present at least several areas that are significant to the use of translation. We first look at the use of mother tongue in class, which is often the general heading for a discussion on the use of translation in class. As the mother tongue was perceived in the past to be a major source of negative transfer (or interference), the next topic we cover is transfer, both negative and positive. The issue of learner-age and related dependence on or independence of the mother tongue is briefly covered, as well as the distinction between naturalistic SLA as compared with instructed SLA. Finally, translation seen as a real-life activity, carried out with the teacher as mediator rather than the source of the sole correct translation, is looked at.

2.5.1   Use of the mother tongue

In discussing the use of the mother tongue in class we need to make an important distinction between learning a second language in the foreign language environment, in language teaching terms learning English as a Second Language (ESL), and learning a foreign language in class in the environment of the learner's mother tongue, or English as a Foreign Language (EFL). Most classes of ESL will necessarily be heterogeneous classes in terms of the mother tongues of the learners, making the use of the mother tongue relatively difficult, however not impossible. Most current theoretical opinions accept that the learner's mother tongue plays an important role from the point of view of language learning, psychology, and also socially. Teachers in practice even in ESL contexts may allow some use of the mother tongue on the part of learners

where, for example, the learners share the same mother tongue and may help each other in class with comprehension or even production (Ellis 2003: 274). There is mental translation which will be performed by learners in ESL contexts anyway, irrespective of the wishes of the teacher. So even in an ESL context the mother tongue does have a role to play. It is also necessary to differentiate between the use of the mother tongue by the teacher and by the learner.

In an EFL context, which is the focus of this thesis, principled use of the common learner-teacher mother tongue is a natural choice. However, there has been a reluctance to use the mother tongue in English classrooms which may be due to a prevailing monolingual approach to teaching (i.e. the principle of speaking only in English and never using the mother tongue as applied in various intralingual methods), as well as principles introduced by communicative language teaching (CLT) in reaction to the old-fashioned grammar-translation method.

> There is no question that a basic tenet of CLT is that the use of the mother tongue should be discouraged as much as possible. Such a tenet ignores the productive ways in which the mother tongue can be used in class, and is particularly inappropriate in an era when English is being acquired primarily in bilingual contexts (McKay 2002: 112).

Even though teaching may be monolingual, the learning of a foreign language is always at least bilingual (learners will refer to their mother tongue irrespective of the teacher's wishes).

> The notion, well established in other areas of education, that new knowledge (for example, of L2) is only acquired, and recognized as new at all, by reference to what is familiar (for example, in L1) has no place, it seems, in this scheme of things (Widdowson 2003: 154).

Henry Widdowson (2003: 150) refers to the process of learning a foreign language as a process of *bilingualization*, at the end of which a varying degree of bilingualism is achieved.

> Indeed the widely accepted idea that the first language should be avoided at all costs in the second language classroom, and translation resolutely discouraged, is based on the belief that contact between the two languages is the last thing you want. So it would appear paradoxically enough, that if bilingualism is to be defined as two languages in contact in the individual, conventional language teaching procedures are designed to stifle rather than promote it (Widdowson 2003: 150).

In this context it is important to point out the often-made distinction between *compound* and *coordinate bilingualism.* While in the case of compound bilinguals, the lexicons of the two languages are said to be stored jointly in their minds, in the case of coordinate bilinguals the lexicons are said to be stored separately. One of the arguments raised against the use of translation in class, even though it has never been substantiated, was that it promotes the wrong kind of bilingualism in the learner, ie compound bilingualism (House 2009: 61). Widdowson states that, in spite of the teacher's effort to achieve coordinate bilingualism, "what learners do is to go through a process of compound bilingualization through interlanguage stages" (2003: 150). He points out that it may be possible for small children acquiring two languages simultaneously to naturally become coordinate bilinguals, but in the case of learning a second or foreign language after being proficient in one's mother tongue, the learner "has to pass through a compounding period of interim interlanguage stages before coordinate competence can be achieved" (Widdowson 2003: 150).

Czech and Slovak ELT experts do acknowledge the need to respect the influence of the mother tongue and any other learned foreign languages on the process of learning a new foreign language, however many still maintain that the mother tongue in foreign language classes should be used only to a very limited extent, when for example an explanation of grammar or providing the translation of a new lexical item is more efficient than trying to achieve the same in the foreign language (e.g. Choděra 2006: 123). On the other hand Beneš (1970) points out the importance of comparing and contrasting the foreign language with the mother tongue for exploring the learner's own mother tongue. This appears to be a very modern view, considering the fact that it is one of the objectives of using translation in modern languages curricula in the UK (Carreres 2006).

> The possibility to compare mother tongue with a foreign language fosters in-depth understanding of a language as a means of communication and reveals for the pupil the function of the mother tongue, improves his grasp of various shades of meaning, it results in better awareness of the mother tongue as well as more precise and polished use of it (Beneš 1970: 7).

There has been some negative experience of using concurrent translation in class where the teacher translates everything in the language class as it is said. In the experimental research of

Ulanoff and Pucci in 1993 (cited in European Commission 2013: 16) it was found that learners soon stopped paying attention to the weaker language. In response it was suggested that the mother tongue be used a principled manner, as proposed by Butzkamm and Caldwell (2009). In their opinion all classroom instruction should be provided in the foreign language and the teacher should use the mother tongue only in those cases where it would be more efficient than using the foreign language. They claim that if the ban on learners using their mother tongue is lifted this will have an important psychological effect on the learners, in that they will be more willing to take the floor and speak in the foreign language. In an EFL context the foreign language cannot be learned by "mere exposure to the FL learning, because there is simply never enough of it" (Butzkamm and Caldwell 2009: 30). Similarly, Medgyes (2003) is of the opinion that judicious use of the mother tongue can save a lot of time in class.

There is one additional important psychological argument in favour of principled use of the mother tongue in classes, which concerns the emotional and affective aspect of use of the mother tongue. Studies on code-switching in class as presented by Guy Cook (2010: 46-48) show that code-switching has a positive effect on student identity and emotion and promotes a sense of class unity, which in turn promotes motivation and success. The mother tongue is in some contexts used to put students at ease, to show the teacher's empathy and to create a less threatening atmosphere (Cook 2010: 48). The need "to reduce anxiety in the early stages of language learning by allowing some use of the mother tongue" is also pointed out by Stibbard (1998: 71).

2.5.2   Transfer

In the behaviourist view of human learning the mother tongue was considered a hindrance and teachers were expected to avoid it at all costs. This view of learning became associated with the term *interference*, used to describe the unwanted effects that the mother tongue has on the foreign language of a learner. Interference was often used not only to argue against the use of the mother tongue in class, but also against translation into the foreign language, as this was said to interfere with the natural process of learning and to corrupt the use of the foreign language through the unnatural co-presence of the mother tongue. Interference was also

thought to occur when translating into the mother tongue, whereby the learner's mother tongue was assumed to suffer from the confusing co-presence of the foreign language. This impact of the mother tongue was a major concern of all teaching methods based on the behaviourist view of human learning, such as audio-lingualism. In behaviourist theory contrastive analysis was supposed to reveal the set of features of the mother tongue (or mother tongue habits) that would interfere with the foreign language. Those elements of the foreign language that were similar to the mother tongue were supposed to be easy for the learner, and those that were different were expected to be difficult (Odlin 1989: 15). However, empirical research in the 1970s started to show that "learning difficulties do not always arise from cross-linguistic differences and that difficulties which do arise, are not always predicted by contrastive analyses" (Odlin 1989: 17).

Interference implies only negative transfer in foreign language learning, which is why scholars (e.g. Odlin 1989) suggest using the term *transfer*:

> The term *interference* implies no more than what another term, **negative transfer,** does, but there is an advantage in using the latter term since it can be contrasted with **positive transfer,** which is the facilitating influence of cognate vocabulary or any other similarities between the native and target languages (Odlin 1989: 26).

Terence Odlin (1989: 27) uses the following working definition of *transfer*, indicating that it is a wider term than the phrase *native language influence*:

> Transfer is the influence resulting from similarities and differences between the target language and any other language that has been previously (and perhaps imperfectly) acquired (Odlin 1989: 27).

'Target language' in the above definition means the language that is being learned, a meaning that differs from that used in the section 2.4 of this thesis on the point of view of translation studies, where 'target language' simply means any language into which a text is being translated. Odlin describes numerous studies which confirm that both negative and positive transfer play a role in learning a foreign language, and that translation activities, if used in a targeted manner, may help overcome negative transfer (for example through comparative exercises focusing on false friends). Kirsten Malmkjær (1998: 8) is in agreement, and adds that while it is true that translation produces interference, bilinguals have to face interference and the practice of translation increases awareness of interference and the ability to control it. The role of translation

as a process in language learning that reveals interference and helps to overcome it is also presented by Carmen Cuéllar Lázaro (2004: 51).

In order to take into account both the positive and the negative influence of the mother tongue we will use throughout this thesis the terms *negative transfer* and *positive transfer*. Current cognitive views imply that the mother tongue is a resource that the learner may draw on when learning a foreign language. Learning as a *cognitive process* naturally involves comparing and contrasting the formal and functional features of the mother tongue and the foreign language (House 2009: 63).

Language transfer has been proven to operate in various aspects of language. For example positive transfer in the field of cognate vocabulary is known to reduce the time needed to develop good reading comprehension.

> [M]uch of the influence of the native language (or of some other previously learned language) can be very helpful, especially when the differences between them are relatively few. For example the number of Spanish-English cognates (e.g. *público* and *public*) is far greater than the number of Arabic-English cognates (Odlin 1989: 26).

Odlin refers to a study involving comparisons of Finnish and Swedish-speaking learners of English and a study carried out in the USA of learners who had Arabic and Spanish as their mother tongues. The Swedish and Spanish learners performed significantly better on vocabulary questions in ESL testing because Finnish and Arabic do not share as much cognate vocabulary with English as Swedish and Spanish do (Odlin 1989: 78).

Negative transfer "involves divergences from norms in the target language" (Odlin 1989: 36). The divergences may take various forms and may result in *underproduction,* such as learners trying to avoid structures in the foreign language that are very different from structures in their own language; *overproduction*, where for example learners when trying to avoid relative clauses write too many simple sentences, or *production errors,* such as calques, which are essentially mistranslations that reflect too closely a mother tongue structure. Another important effect of negative transfer may be *misinterpretation*, which, among other things, may result from different cultural assumptions (Odlin 1989: 37-38).

What are the proposed solutions to negative transfer in Czech ELT methodology? Beneš' work on the methodology of teaching foreign languages was published in 1970 and was still strongly tied to behaviourist ideas. In his opinion a learner may overcome the influence of the mother tongue by repetitive translation of interfering sentences into the foreign language, however "excessive translation does not contribute to building up automatic habits in the foreign language" (Beneš 1970: 186). It does not exclude mental translation from the communication process, according to Beneš, who suggests that foreign language skills could best be developed by first 'automating' the elements that are subject to strong interference from the mother tongue within the foreign language, and then confronting these elements with the mother tongue so that learners become aware of the differences. At this point translation exercises may be used. Beneš also takes into account the developmental aspect and suggests that translation exercises are particularly appropriate for mature and exceptionally intelligent learners (Beneš 1970: 36). We must point out, however, that the type of translation exercises Beneš probably had in mind are radically different from those that Malmkjær and Cuellár Lázaro talk about. In Beneš' time the solution consisted of drill-like translation of individual sentences to practice interfering sentence patterns. A similar approach to that of Beneš is proposed by Hendrich (1988: 45), who suggests that interference practice may involve literal translation into the mother tongue and that "methodologically well-targeted translation practice is to become a protection against interference" (1988: 246). Both Beneš and Hendrich (1988: 239) consider mental translation to be an effect of mother tongue interference with the productive skills of speaking and writing in the foreign language.

> Excluding translation from classroom does not help to overcome mental translation. Mental translation disappears only after the habits in the foreign language are fully automatic. Up to this stage, which cannot be reached in school instruction, mental translation remains part of all productive language activities (Beneš 1970: 188).

Hendrich proposes that teaching procedure should focus on eradicating calques both on a lexical and syntactic level. In their lexical plan teachers should focus on identifying and drawing the learner's attention to *false friends* (words in the mother tongue and the foreign language that have similar roots but different meanings), creative translation solutions for lacunas (lexical gaps in the mother tongue or foreign language) which may be related to strongly culturally

rooted lexical items, and also to develop a full range of synonyms. In the syntactic plan Hendrich suggests combating negative transfer using sentence transformations guiding learners toward the ability to express the same meaning using several synonymous structures (Hendrich 1988: 249). Hendrich points out that opinions of use of the mother tongue and translation in foreign language classes differ and states that in his approach focused at primary and secondary schools,

> [a]dequate and strictly targeted use of the learner's mother tongue in the foreign language class including certain type of exercises has positive effect not just in terms of neutralizing interference of the mother tongue but also in terms of more precise and deeper understanding of individual language phenomena both in their presentation and in the practice phase (Hendrich 1988: 322).

Even though both Hendrich's and Choděra's work were conceived within the communicative language teaching tradition, Choděra has a radically different view of translation in the foreign language class and claims that translation is *inevitable* only in the phase of primary semanticisation, in other words in the presentation phase, while he considers translation to be clearly detrimental in the subsequent phases of practice (Choděra 2006: 51).

We have seen that ELT methodology is primarily concerned with the lexical and the syntactic level and, in terms of translation unit, primarily with the sentence level rather than the text level. However, transfer has been proven to have an impact also on higher levels, in particular the level of discourse:

> [M]isunderstandings involving politeness and coherence are especially likely to cause bad feeling, and so discourse differences are a matter of particular concern. Since languages directly or indirectly encode some cultural differences, instruction pointing out those differences is also appropriate […] (Odlin 1989: 160).

As we have seen, on the one hand the mother tongue may be the culprit of negative transfer; on the other hand researchers accept that knowledge of the mother tongue as well as of any other foreign languages facilitates positive transfer and thus assists in the learning process.

> Along with social factors, a number of pedagogical factors may have an important effect. For example, teachers who know the native language of their students may provide information about native-target-language contrasts that other teachers cannot provide. Similarly, textbooks and other materials that present analogies between the native and target languages may promote or inhibit some kinds of transfer. (Odlin, 1989: 136)

Whether the involvement of the mother tongue promotes positive transfer and helps to address negative transfer depends in practice, among other things, on the choice and application of teaching techniques. The approach of the teacher in drawing students' attention to issues of transfer affecting various aspects of language, such as false cognates (e.g. English *evidence* / meaning *proof/* and Czech *evidence* /meaning *record-keeping/*) is extremely important, as well as the type of materials to be used. So for example lists of false cognates or glosses to that effect used with authentic texts in textbooks may warn learners not to consider the foreign language vocabulary to be too similar to the mother tongue vocabulary. "Overt instruction may not always prevent negative transfer, and when the instruction is poorly conceived, it may even encourage such transfer. However, there is reason to believe that instruction can often diminish negative transfer" (Odlin 1989: 147).

2.5.3   Learner age

As we have seen in section 2.5.1, mother tongue cannot be eliminated from the process of learning a foreign language. The question of whether it should be utilised in an EFL class in the form of 'scaffolding,' or in the form of comprehensive translation activities involving all four skills, depends to a considerable extent on the learner's age, proficiency and learning style preferences. The concept of scaffolding is used in a report *Translation and Language Learning* produced for the European Commission and published in 2013. The authors of this report compare the support structure that enables completion of the initial stages of construction to the learner's mother tongue serving as the scaffolding in the learning framework provided by the teacher. The scaffolding can be removed later once the learner learns the language skills. We find this comparison quite precise and will use it throughout the thesis to refer to such a form of translation in class, which is radically different from real-life translation activities intended for advanced learners.

Discussion of the ideal age for a learner to start to learn a foreign language reveals some important differences in the ways children and adults learn and also between the ESL and EFL contexts. In terms of the ideal learner age, there seem to be two contradicting approaches. One of these states 'the younger the better,' and the other 'the older the better' (Dörnyei 2009: 235). Dörnyei explains that while the lay public as well as many Second Language Acquisition (SLA) researchers claim that

'the younger the better,' in his opinion there is a difference between the ESL and EFL context. While 'the younger the better' approach is certainly true in the case of young children of immigrants in the ESL context, in the EFL context, on the contrary, it may be advantageous to start learning a foreign language later. Dörnyei states that in the EFL context where the foreign language is taught as a school subject and learners have very limited or no direct contact with members of the foreign language community, a five-year-old pupil is likely to make much less progress than a mature learner of 15 or 30 years of age (Dörnyei 2009: 235-235). He also notes that most of the discussions about the ideal age bracket for starting to learn a foreign language (or *critical period for SLA*) concern the ESL context, and "very few scholars offer any real explanation of the causes of the typical reverse trend – namely 'the older the better' – in formal learning" (Dörnyei 2009: 240). Dörnyei further explains that 'the younger the better' works only in what he calls an 'optimal naturalistic SLA context,' "when the learner is immersed in the host environment and has regular and rich interactions with a variety of native speakers" (Dörnyei 2009: 249). Whereas, in formal school education where the learner's contact with the foreign language is restricted to two or three language classes per week, the conditions are far from being perfect. Dörnyei states that all available research indicates that young learners in an EFL context "should be engaged in tasks that offer hands-on, meaningful activities and an abundance of rich naturalistic-like input that they can access (songs and games are obvious activities for the youngest age group), yet language programmes organised along these lines are rare" (Dörnyei 2009: 253). He concludes that, while in the ESL context of immigrant children, for example, younger is definitely better, in the EFL context "starting before the age of about 11 will mainly have attitudinal rather than linguistic benefits" (Dörnyei 2009: 265). Dörnyei also points out that if the methodologies based on a lot of explicit rules, and hence tasks requiring inductive/deductive reasoning skills and abstract thinking are used in classes of young children, this may result in stemming children's initial natural interest (Dörnyei 2009: 265). So the role of the mother tongue in the form of occasional translation gloss from the teacher and allowing some use of the mother tongue by the pupils should work as 'scaffolding' that can help minimise anxiety about the foreign language and open up the young learner's potential to learn implicitly.

On the other hand, explicit learning forms the foundation of most skill learning in adults (Dörnyei 2009: 252). The learners that are the focus of this thesis are adult, and are more efficient learners than children. Their ability to concentrate is better and their attention span is

longer. Their knowledge of the mother tongue is stronger, which improves their ability to learn the foreign language, but at the same time the negative influence of the mother tongue is also stronger and needs to be kept under control. Beneš (1970: 188-189) suggests that in the case of young learners only translation into the mother tongue should be used, for example to introduce the meaning of vocabulary, whereas with adult and more proficient learners (intermediate and advanced), translation into the foreign language may be used. He states that translation into the mother tongue contributes substantially to the development of the receptive skills of reading and listening and should be allocated appropriate space in instruction. Here we must note that not all adult learners are proficient, however in our case learners at the tertiary level are expected to have reached the B2 level of the Common European Framework of Reference.

2.5.4   *Motivation and feedback*

Another important aspect of language learning from a psychological point of view is motivation, which plays a prominent role in language learning because learning and maintaining a foreign language is a life-long endeavour and requires self-discipline on the part of learners. Once learners complete the last course in a foreign language at the tertiary level they will need to find a way of developing their language skills on their own, and motivating themselves to do so, otherwise their foreign language (in the case of the EFL context) will be subject to gradual attrition. While games are the most natural way of motivating young children, it seems that for adults the relation to practical real-life experience is an important motivating factor - and this is where activities involving translation and interpreting, such as role playing (involving the role of interpreter) or translating a real contract, may become an interesting link to real-life. The ability to work out one's own solution to a translation problem, for example, is the best way to foster a learner's sense of competence, which in turn represents a central component of the learner's motivation to learn (Williams 2007: 50).

We consider it useful for our purposes for a teacher to carry out a translation activity with learners as a *mediator* in the sense of Feuerstein's theory of mediation. Three features of mediation that are considered essential for all learning tasks are:

(i) Significance. The teacher needs to make learners aware of the significance of the learning task so that they can see the value of it to them personally, and in a broader cultural context.

(ii) Purpose beyond the here and now. In addition learners must be aware of the way in which the learning experience will have wider relevance to them beyond the immediate time and place.

(iii) Shared intention. In presenting a task, the teacher must have a clear intention, which is understood and reciprocated by the learners." (Williams 2007: 69)

An important element of the first mentioned feature of mediation, the significance, is transmission of culture. In our case this would include the culture of the target language. If we take English for legal purposes as an example, this would involve learning about the legal realia of common law jurisdictions in a comparison with the legal system of a civil law jurisdiction, and thus comparative skills are practised at the same time. If, while working on a translation activity, leaners compare legal concepts of the source and target legal systems they will learn more than just how to translate; they will practice researching source language and target language reference material to identify and compare the most important characteristics of these concepts and then find a translation solution that should convey the meaning as precisely as possible. The third and most important feature may be construed as the necessity of giving clear instructions and making sure that the learners understand what they are supposed to do. This would include precise information on the source text, the purpose for which the target text will be used, and the audience/readers (e.g. lay or lawyers) for whom it is intended. Providing the background information, or the translation brief, draws the learners' attention to the differences in style they should use in order to convey the message of the source text in an appropriate manner. It also provides the teacher with the context against which the learners' translation solutions should be evaluated, as there is no single correct solution but only better or worse solutions for various translation briefs.

We would like to mention one additional feature of mediation that is particularly relevant to translation activities, which is *sharing,* or in other words co-operation among learners (Williams 2007:69). Learners of various professional fields may have to cooperate with professional translators in their future careers and being able to identify the information that should form part of a translation brief or to discuss translation issues makes them better prepared for such a role. A similar view is presented by Vienne (1998: 115) when talking about written translation, and by Stern (2011: 341), who looks at the same issue from the point of view of court interpreting.

Stern points out that the majority of lawyers and judges are trained in their monolingual legal systems and have no understanding of the interpreting process or about using an interpreter efficiently.

> Judges and lawyers should be reminded that, in view of the complexity and specialised nature of legal discourse, preparation by interpreters is a precondition for competent and accurate delivery. Wherever possible, interpreters need to be briefed and provided with documents relevant to the case, such as witness statements, in advance (Stern 2011:341).

We believe this is not only true for judges and the legal profession, but for any other professionals whose specialised discourse may be completely incomprehensible to a translator or interpreter. We are therefore convinced that some practical experience with activities involving translation, including translation briefs or resolving issues with translating terminology and culture, would be beneficial to any ESP learners.

In order to understand the main aspects of the motivation of learners in a country where English is a foreign language, it is important to be aware of the difference between *integrative orientation* and *instrumental orientation*. Orientation here is not the same as motivation, however it is one of the factors that contribute to motivation. "An integrative orientation occurs when the learner is studying a language because of a wish to identify with the culture of speakers of that language" (Williams 2007:116). "An instrumental orientation describes a group of factors concerned with motivation arising from external goals such as passing exams, financial rewards, furthering a career or gaining a promotion" (Williams 2007:116). Williams suggests that integrative orientation may be more important in an ESL context, whereas instrumental orientation may prevail in an EFL context such as learning English in the Czech Republic (Williams 2007:117). This appears to be in line with the feelings expressed by learners in the case study presented in this thesis, who found practical translation activities motivating because they could use their translation skills at work.

Williams further differentiates between *intrinsic* and *extrinsic motivation*. The main difference lies in the reasons for performing an activity: if they are about performing the activity itself (the activity is enjoyable for the learner), the motivation is intrinsic; if the reasons are outside

of the activity, the motivation is extrinsic (Williams 2007: 123). Williams explains that factors of intrinsic and extrinsic motivation influence each other and that learners may be motivated both extrinsically and intrinsically. Intrinsic motivation, which can be related to interest in an activity, curiosity, challenge and development of independent skills, plays, according to the author, an important role at the stage of initial motivation of the learner, as well as throughout the study of the language (Williams 2007:125). Irrespective of whether the learners' reasons for studying a language are extrinsic or intrinsic, "[t]he greater the value that individuals attach to the accomplishment of or involvement in an activity, the more highly motivated they will be both to engage in it initially, and later to put sustained effort into succeeding in the activity" (Williams 2007: 125).

Another aspect that can boost or diminish motivation is *feedback*. Williams (2007:135) states that

> It has been demonstrated clearly that feedback to learners which is interpreted by them as informational rather than controlling is likely to increase their motivation towards certain tasks as it provides them with information that helps them perform the current and subsequent tasks with a greater degree of independence. (Williams 2007:135)

This is in line with our findings, which will be presented later, that learners prefer to receive individual feedback in the form of comments or suggested improvements to their target text explaining why the teacher would consider the suggested solution better. It would be even better to hold individual consultations with learners regarding their target text and give them a chance to defend their solutions, and after the consultation to review the target text on the basis of the agreed solutions. However, we understand that in some contexts with a high numbers of learners per teacher this solution would be extremely time-consuming or even unfeasible.

Chapter 3: English for Specific Purposes and Legal Translation

In Chapter 2 we reviewed how translation was used in the past and how ELT and translation experts suggest it be used at the present time. However we did not discuss what subject matter may be translated in class, which will be the topic of Chapter 3. As this thesis primarily focuses on using translation in advanced courses of English for Legal Purposes (ELP), the first section of this chapter looks at ELP in the more general context of English for Specific Purposes taught as a foreign language. The second section then presents a legal translation experiment, comparing attitudes of lawyers and non-lawyers toward translation solutions.

3.1   English for legal purposes and the Czech learner

3.1.1   *English for international communication*

In the vast majority of cases, Czech learners of English for Specific Purposes at the tertiary level are learning the language for international communication. The more academically oriented learners will need to be able to read journals, deliver presentations at conferences, and write papers. As Sue Ellen Wright writes, "[n]ot only are most scholarly articles originally published in English, but a relative low percentage of these articles is translated into other languages because worldwide, scientists have adopted English as their working language, both in written and spoken form" (2011: 256-257). The more professionally oriented learners will need to communicate with their clients and colleagues, and their company's working language may be English even if the subsidiary is located in the Czech Republic. Therefore knowledge of English as the *lingua franca* will be extremely important for their future careers. This is even more so in Central and Eastern Europe, where English has only relatively recently become the language for international communication (at least as far as language learning is concerned).

One of the main reasons for this is undoubtedly the growing need for legal practitioners, as well as law students, to communicate internationally. This is probably driven by a desire on the part of law students to first of all spend some time studying abroad to gain international experience, and then to find a job with one of the larger law firms or multinational companies, where a good knowledge of English is a must. Czech legal practitioners on the other hand are encountering

a growing number of foreign clients with whom they need to communicate in English. A lot of the communication is written, but still the need for oral communication, including conference calls or video-conferencing arrangements, is growing. The context in which English for legal purposes is used by Czech law students and law professionals serves as the empirical basis for the case study described in this thesis.

When describing English as an International Language many authors refer to Kachru's categorization of countries, which is based on the role that the English language serves in individual groups of countries.

> The *Inner Circle,* where English is the primary language of the country such as Australia, Canada, the United States, and the United Kingdom;
>
> the *Outer Circle,* where English serves as a second language in a multilingual country such as in Singapore, India and the Philippines; and
>
> the *Expanding Circle,* where English is widely studied as a foreign language such as in China, Japan and Korea. (McKay 2002: 6-9)

In this classification the Czech Republic clearly belongs to the *Expanding Circle* countries, even though twenty years ago the prevailing language taught at Czech schools and universities was the Russian language. The premise of the English language as a widely studied foreign language will apply to the current generation of university undergraduates and young professionals, however life-long learning courses are often attended by participants who have not benefitted from a structured formal education in the English language.

Both cross-cultural communication and the purpose for which the language itself is used are central to the definitions of English as an International Language. For example, the Longman Dictionary of Language Teaching and Applied Linguistics defines English as an International Language as follows:

> (...) the notion of English as an International Language recognizes that different norms exist for the use of English around the world and that British, American, Australian or other mother-tongue varieties of English are not necessarily considered appropriate targets either for learning or for communication in countries

where English is used for cross-cultural or cross-linguistic communication (...) The type of English used on such occasions need not necessarily be based on native speaker varieties of English but will vary according to the mother tongue of the people speaking it and the purposes for which it is being used. (Richards and Schmidt 2010: 179)

The purpose for which English is used in our case is primarily communication within a specific discourse community of legal professionals, but also very often communication with people who are not members of this community, such as clients. In this respect the Plain English movement has in our opinion a lot to offer learners of legal English as a foreign language. It is more realistic to ask a Czech learner to produce a plain English discourse than to set the formal language of English statutes or archaic language of English contracts as a target for learning. These genres should certainly be understood by learners. But presenting them as the target for production skills in an EFL class can be highly demotivating.

As far as culture is concerned, the following quotation illustrates the important connection between English as an International Language and English for specific purposes:

Because the cultural basis of such specialized discourse communities is not directly connected with any particular primary culture, or cultures, but rather transcends geographical, social, and ethnic borders, these discourse communities are examples of an international community *par excellence.* Although the use of EIL [English as an International Language] should not be equated with English for specific purposes, it is the use of English for specific purposes, that has the greatest potential for developing truly international communities. (McKay 2002: 99)

Widdowson speaks about "domains of superposed knowledge which extend over cultural and linguistic boundaries," including "most of the special purposes for which a foreign language is learnt as a service subject" (Widdowson 1979: 107-108). Even though there are areas of law that are more or less culturally neutral in that their application is truly international - such as European legislation - there are certain aspects, mainly when contrasting the common law and civil law traditions, that are very closely related to local culture and which make it impossible to use common law terms to refer to civil law concepts. This is true of "legal realia," defined by Chromá as expressions "culturally rooted in the national law and language but having no, or an incomplete counterpart in the target language and the target legal system" (2004: 51). Therefore

strategies to overcome such cultural differences represent an important skill for learners of legal English as a foreign language. McKay suggests the following three principles for handling cultural content in a class teaching English as an International Language:

> First, the materials should be used in such a way that students are encouraged to reflect on their own culture in relation to others [...] Second, the diversity that exists within all cultures should be emphasized. And finally, cultural content should be critically examined so that students consider what assumptions are present in the text and in what other ways the topic could be discussed. (McKay 2002: 100)

The first rule mentioned above is particularly important in relation to legal English and adult education. Comparing local legal concepts or culture with similar concepts in other countries presents numerous advantages: it is an excellent discussion topic which aids in overcoming hesitation to speak in English; it makes adult learners more comfortable because they can rely on their knowledge of law as their area of expertise (even though there is a danger of the discussion switching into the mother tongue whenever the English language knowledge is insufficient); and it helps learners to practice strategies for rendering local legal concepts in English (Bahenská 2009: 36-38).

3.1.2   English for specific purposes

English for specific purposes (ESP) developed within the growing trend of English being used as an international language and within the communicative language teaching tradition, in reaction to the learner-centred approach to language teaching. In the 1960s the ELT experts found out that there were groups of adult learners who had received some second/foreign language instruction however all the instruction and materials had dealt with 'general' English and did not cater for their specific uses. Therefore course designers, authors of textbooks and teachers had to carry out needs analyses, and based on their findings they started designing specialised courses and materials covering individual fields of English for Specific Purposes (Kennedy and Bolitho 1984).

There are different classifications of ESP. Kennedy and Bolitho (1984: 3-6) distinguishes between three main subgroups of English for Occupational Purposes (EOP), English for Academic Purposes (EAP), and English for Science and Technology (EST). EOP refers to courses designed

for learners who need to use English within their work or profession. EST focuses on English for studying science and technology. Within EAP as a school subject Kennedy and Bolitho further differentiate between *integrated* EAP and *independent* EAP. In the case of independent EAP, the English language is a separate subject on the curriculum and the content of the English language course is related to the content of other subjects within the curriculum. Integrated EAP, on the other hand, is where the English language becomes the medium for learning other subjects. We will use ESP as a general term referring to "[a] course whose content is determined by the professional needs of the learners" (Crystal 1995: 108).

As learners of English for law at the tertiary level need a combination of EAP and English for Legal Purposes, let us have a look at what EAP may involve. It is usually a practical course reflecting the local needs of the learners. Its purpose is usually to assist learners with their study or research in the foreign language, and it may cover all areas of academic communicative practice:

- Pre-tertiary, undergraduate and post-graduate teaching (from the

  design of materials to lectures and classroom tasks).

- Classroom interactions (from teacher feedback to tutorials and seminar discussions).

- Research genres (from journal articles to conference papers and grant proposals).

- Student writing (from essays to exam papers and graduate theses).

- Administrative practice (from course documents to doctoral and oral defences).
  (Hyland 2006: 1)

Students at the tertiary level study their individual disciplines and this presupposes that they must also master the language related to their particular discipline as required. In countries where English is not the L1 (or the native language), students need to learn English as the currently prevailing language of science in addition to the specialised register of their profession in their mother tongue. Currently, "more than 90 per cent of the journal literature in some scientific domains is printed in English and the most prestigious and cited journals are in English" (Hyland 2006: 24). So the specialised uses of language that students need to learn may involve reading

and writing, oral presentation skills, and language for reasoning and problem-solving and for carrying out practical research activities (Hyland 2006:38).

Widdowson (2003: 54) states that "[r]egisters relate to domains of use, to areas of knowledge and expertise which cross national boundaries and are global of their very nature." He explains that learning to become a member of a specialised professional community means to learn the register of that profession. In some cases the register may even only be in the English language. For example, in some countries (such as some countries in Scandinavia) English is gradually becoming the language of university science instruction in order to prepare students for predominantly English-speaking working environments, and also for economic reasons, because it becomes too expensive to publish specialised textbooks for a very limited number of students. This may cause difficulties in the future as different fields of study will lack terminology in native languages. Popular science writers will then need to act as translators and have to create the native terminology for a particular field, translating from English into their native language and at the same time converting purely scientific text into text designed for an educated lay audience (Wright 2001: 257). Some fields of study in the Czech Republic are also beginning to use a majority of written learning material in the English language (personal communication with students), and the main reasons seem also to be economic.

However, law students are in a slightly different position, since they do not have a choice of language, as they cannot study for example Czech law in the English language. Legislation as well as judgments are drafted in the local language. While English has a strong presence in the form of documents issued by the European judiciary, and some of the EU *acquis* is only available in English, the local legal language continues to be important. Thus, inevitably some translating must take place. Henry Widdowson suggests that the

> [s]cientific discourse expressed through one language, for example, is likely to be closer semantically and pragmatically, to scientific discourse expressed in another than to other areas of discourse expressed in the same language. Hence translating scientist-to-scientist discourse from SL to TL is likely to present far fewer problems than translating it into a different kind of discourse within the same language: that is to say as far as scientific material is concerned at any rate, translation for peers is easier than simplification for a popular readership. (Widdowson 1979: 106)

Widdowson claims that scientific discourse must be independent of cultures, and is becoming truly international. He goes on to explain that "semantic and pragmatic translation can be used as teaching device for learners who need the TL as an additional medium for scientific communication" (Widdowson 1979: 107). Widdowson states that the scientific discourse is neutral in regard to particular languages and cultures. This has been expressed by some respondents in our survey, which we present later. These respondents suggested that the English language for natural sciences does not present so many difficulties because it does not contain culture-specific elements and most of the texts in journals are written in English anyway. However, Wright disagrees that there is culture-free scientific discourse: "[i]t would be naïve to assume that Sci-Tech texts are devoid of cultural content or that their translation involves straightforward transfer" (Wright 2011: 253).

The above discussion shows that the use of translation in teaching ESP is probably the least controversial manner of using translation in class. This is confirmed by Kennedy and Bolitho (1984: 30), who included in their "class profiles" a fictitious group of six bank employees working in the Düsseldorf branch of an American bank. In the analysis of their needs there is, among other things, the requirement "to translate freely between English and German." However in the table listing various activities or language skills for individual profiles there is no mention of translation, apart from "using an English dictionary" (Kennedy and Bolitho 1984: 33). While Kennedy and Bolitho were extremely liberal toward translation, admitting that some groups of learners may actually need to be able to translate in their jobs and suggesting using translation in teaching specialised vocabulary, the list of activities is illustrative of some attitudes whereby it is silently assumed that if the learner becomes proficient in the foreign language he will also be able to "translate freely" between his mother tongue and the foreign language. As we have shown above, there are numerous experts who state the opposite. One of the reasons why the use of translation in ESP rates among the least controversial ways of using it is the fact that many ELT experts are convinced that specialised scientific discourse must always be translated as precisely as possible (i.e. as fits the description of philological translation) and is not likely to include any culturally rooted lexical items that would lack translation equivalents in the target language. However, as we have seen, while scientific and technical texts may pose less problems in terms of culture than for example legal text, they still do contain some culture-related lexis.

In addition to that, precise translation may not be the only thing that may be required of learners in the future: they may have to translate a statutory provision for their clients, for example, or explain it in plain language.

3.1.3   *Translation in ESP*

Let us now look at the suggested practical uses of translation in an ESP class. Translation activities are recommended mainly for students with an advanced knowledge of English (Widdowson 2003, Tudor 1987). At the same time, one of the suggested benefits of translation in class is the possibility to use authentic texts. This advantage is also mentioned by Kennedy and Bolitho (1984: 48):

> If conceptual knowledge of the learner is higher than his linguistic level, then using simplified materials (which also simplify subject content) may cause offence to the learner. In this instance, there is a strong case for using authentic materials appropriate to the conceptual level of the learner. However, as much support as possible should then be provided for the linguistic content by offering explanations in the learner's first language, by using diagrams and by devising carefully graded exercises.

In ESP classes for adult learners almost always the conceptual knowledge is higher than the linguistic level of the learner. One way of making sure that the text is completely relevant to the needs of the learner is to offer the possibility for students to bring into class the texts they have to deal with at work, for example. This may be demanding for the teacher, however if the teacher shows a willingness to learn from the students this can substantially improve class dynamics and provide invaluable opportunities for discussions. Teaching ESP necessarily involves becoming at least superficially oriented in the subject area of the learners.

While it makes sense to use authentic material in English for the receptive skills, in order to prepare learners to cope with authentic reading and listening texts it is much more realistic to aim for *plain language* when concentrating on the productive skills. It is important to explain to students who do not have a native-like knowledge of English that using plain language is beneficial for their work clients as well as for themselves, because trying to imitate the language of English statutes while at the B2 level of proficiency is likely to produce some bizarre combinations of *herebys, shalls, aforementioneds* mixed up with simple learner errors.

'Plain language' means language and design that presents information to its intended readers in a way that allows them, with as little effort as the complexity of the subject permits, to understand the writer's meaning and to use the document. (Adler 2012: 68)

Quite importantly, Adler adds that "plain language is not a dialect of the standard language but a relationship between the text and its audience" (Adler 2012: 68). Assignments consisting of converting legalese, which is often perceived by non-lawyers as "a device by which lawyers cynically make themselves expensively indispensable" (Adler 2012: 73), into plain language tend to stimulate quite interesting discussions in class. Law students soon remember situations where they were themselves exposed to professional language that they found incomprehensible, such as when communicating with a medical doctor or discussing with friends who study natural sciences.

In an ESP setting, where translation is not the target skill, translation may take the form of smaller scale activities focused primarily on vocabulary and collocations, such as asking students to read through a text in English and as one of the post-reading activities asking them to search the text for English translation equivalents for the mother tongue terms presented by the teacher. Such activities mostly fall within the ambit of vocabulary learning and is dealt with in the section 2.2.5 on the mother tongue and the vocabulary. Or, translation may occasionally be introduced as a larger scale activity carried out perhaps only once a semester, as individual or team work. In such larger-scale activities translation is used in a manner that is as close as possible to the job of a professional translator.

Written assignments in advanced classes primarily focus on Czech to English translation, as this contributes to the development of writing skills in English. The source text should always cover a topic that the learners know well in their native language and that was also previously covered in English language classes. In order to approximate a professional assignment as much as possible, the teacher should inform the students who the audience is for whom they are preparing the translation and, if it is a legal audience, it may be interesting to discuss afterward what changes they would make if the translation was instead for laymen. It is also necessary to inform students of the source of the text and the purpose of the target text. In the preparation phase students may be asked to read through the text and to identify the translation issues. The next step would be to

discuss potential solutions in class, discuss any available reference material and texts of a similar nature in the target language, which could be used for retrieving the technical terms, as well as any text-level conventions, and the style. Then the students could work on the translation at home, turn in their papers in an electronic format, and receive individual feedback from the teacher via email. A similar process even if substantially simplified might be used in class whereby, after going through a unit in a textbook offering sufficient opportunities for reading English authentic text and discussing the topic, the students, instead of translating in writing at home, may create either in groups or individually a short written or oral gist translation of a Czech text.

Czech to English translation may also constitute the component of a larger scale project such as one described by Tudor (1987). Tudor points out the benefits of using translation activities in order to develop in advanced learners a better awareness of stylistic appropriateness. In his paper he presents the case of his German students of English who needed to use English only occasionally while "[t]he need for English occurred in situations in which the initial formulation of ideas had already taken place in German or the relevant back-up documentation was written in German" (Tudor 1987: 269). The project requires the learner to prepare an oral presentation of 15 minutes and hand-outs on the basis of relevant mother tongue material. The teacher is available for consultation throughout the preparation stage. The in-class presentation is followed by discussion. Such a project is, of course, rather time-consuming but enables the learner to practice reading (reading parallel texts in order to retrieve relevant terminology), writing (the presentation and handouts), speaking (making the presentation), and also spoken interaction (discussion in English). Tudor concludes that

> [t]ranslation can serve a valuable function with certain categories of ESP learner, and […] 'translation' need not be seen as synonymous with the precision-oriented translation of brief texts with which most readers will, with more or less happy memories, be familiar. (Tudor 1987: 272-273)

Tudor's opinion is shared by the authors of *Translation and language learning* study (Pym and Malmkjær 2013: 125-126), who present numerous ideas for using translation in foreign language classes, although not particularly focused on ESP classes. Allow us to quote from those ideas the general 'pedagogical translation framework' as set out by Leonardi, which clearly shows that a translation component may be included in various communicative activities in class.

Pre-translation activities: brainstorming; vocabulary preview; anticipation guides (where a question and answer process establishes the students' level of prior knowledge).

Translation activities: reading activities; speaking and listening; writing; literal translation; summary translation ('gisting'); parallel texts (the study of texts in L2 on the same topic as the text in L1); back-translation (a text is translated from L1 to L2, then back into L1, by a different person); grammar explanation; vocabulary builder and facilitator; cultural mediation and intercultural competence development.

Post-translation activities: written or oral translation commentary; written or oral summary of the L1 text; written composition on the topic of L1 text. (Pym and Malmkjær 2013: 125-126)

Literal translation is mentioned in this general framework as just one of the options; we saw a practical example of using literal translation in advanced classes of EFL in Titford (1983) and another example catering specifically for ESP learners may be found in Holme (1998: 32-33). Both Titford and Holm chose to produce the literal translation themselves from the learners' mother tongue into the foreign language, and then get the learners to correct it. As an optional follow-up, learners may be asked to translate it back into their mother tongue. Holm cautions that asking learners to translate literally is a "time-consuming and uninstructive activity." He uses literal translations of formal letters which highlight the differences between the two languages in the particular genre. The purpose of back-translation is stated as follows: "Translating back reinforces this learning by reminding students of their mother-tongue equivalents to the English term […]" (Holme 1998: 33).

A simulated liaison interpreting activity may be used for classroom purposes as a role play, for example in groups of three students with one acting as interpreter. This can be used to practice mining for useful terminology which the "interpreter" will need for the topic of the conversation. This can also demonstrate how important it is to inform the interpreter of the topics to be discussed so that they can prepare for the job. Using the example of Czech law students, asking them to give presentations in English of a topic closely related to Czech law (such as a Czech form of business) also requires them to do a lot of translation work.

Still focusing on the case of Czech law students, the comparison and critical evaluation of several versions of a translation of the same text may be a useful activity for future lawyers as they should ultimately be able to assess the quality of translation which they are using and also potentially they may be asked to provide legal analysis as an input to the process of translation. Numerous translations of Czech legislation into English are available online in varying quality and students often use them uncritically. It makes sense to instruct law students in distinguishing a good translation from a bad one. The ability to assess the quality of delivered translation is particularly important in the case of lawyers, as under Czech law it is the lawyer who is liable for translations which form part of legal advice (Valenta 2008: 32). We must admit that it may be much more difficult to find translations of, for example, Czech scientific texts into English online, let alone several translations of the same text, so this activity may not be so useful in other ESP contexts.

Looking at the various kinds of translation activities that may be put to meaningful use within ESP classes, we should mention *sight translation*, which requires the student to read a text in English and to translate orally a specific passage from the text. The purpose behind such an exercise may be to identify and tackle complex syntactic structures, lack of punctuation, false friends, culture specific expressions or content or words having different meanings in the specific and general English contexts. In our particular case, students are expected to read the text at home and reach the best possible understanding using English language dictionaries, online resources and bilingual dictionaries. Sight translation is then used in class to check reading comprehension and to draw students' attention to any complicated issues. We believe that the sight translation of any text - let alone legal - into English is extremely difficult even for a trained professional, and all the more so for a student, no matter how advanced they may be, and that it should not be practised without thorough preparation.

Written translation is another bilingual activity used occasionally as a classroom activity, for homework assignments or for test purposes. Law students mention that when applying for part-time jobs with law firms they are often required to translate legal text in both directions (Czech into English and vice versa), without any reference material, as a test of their knowledge of English. Such a technique is completely detached from the real-life written translation. Whenever written translation is assigned to students they should be allowed to exploit any

reference material they may find useful and the teacher should provide information regarding the availability of the reference material as well as guidance on how to use it. In this context we must mention *machine translation*. Students tend to rely on this quite extensively for both school assignments and those they are asked to complete at work. And as we cannot eliminate it, it may be a good idea to devise translation activities using machine translation to show students how imperfect the output tends to be and how much work must go into editing the output.

In the case of written translation assignments it is important to include information on the source text (for example the statute from which it has been excerpted) and to provide practical information regarding the intended purpose of the text in the target language, as it is the purpose against which the quality of the translation needs to be assessed. Translation activities given as homework assignments may include summarising an authentic Czech legal text for a lay (or professional) audience in English and translating selected sentences as precisely as possible, summarising a legal journal article, or writing a case brief in a language other than the source text.

3.1.4   *Purpose of translation activities in an ESP class*

What are the main benefits of using translation in an ESP class in general or legal English class in particular? The answer to this question very much depends on the form of translation used. Translation activities promote precision in the foreign language as well as in the students' mother tongue. Students become more sensitive to the difference in formal and informal register. They become aware of the fact that some terms of art may be difficult to understand for a lay audience and as such may require a plain language explanation. Translation into the foreign language also helps students to develop their writing skills. Using the simulated translation brief trains students to keep the target audience and the purpose of the target text in mind. When they write a text directly in English they can employ various work-around strategies to convey the message, whereas translating a legal or scientific or technical text offers less leeway in terms of the vocabulary and grammar that needs to be used, as well as the register.

Another benefit of discussing translation issues in class is that it develops the inter-cultural communication competence of the learners. In our case the law students get used to comparing

and contrasting culture-specific concepts in Anglo-American law and in Czech law, and practice using various strategies of explaining Czech legal concepts to an English speaker. Students get acquainted with functional equivalents - terms "designating a concept or institution of the target legal system having the same function as a particular concept of the source legal system" (Šarčević 2000: 236) - and become aware of the fact that these must be used with great caution as they may be very misleading. Finally, it is important to mention that once our graduates get beyond the phase where they are used as *ad hoc* translators at law firms, they may themselves commission professional translation services. At this stage their own hands-on experience of completing a legal translation assignment may increase their awareness of translation quality standards, the information that the translator needs to receive, and the issues that the translator may have to deal with. Put more simply, the law graduates become informed users of professional translation services. (A large part of the above section is based on Bahenská 2013: 14-18.)

3.1.5   *Legal translation*

Legal translation between English and Czech involves not only translation between the source and target language but also, necessarily, a good deal of comparative legal work between common law and continental law systems. Legal text is always strongly culturally bound to its legal system.

> The translation of legal text should not be undertaken without an extensive knowledge of the respective legal topic in both the source language and the target language, i.e. the knowledge of concepts, terms denoting these concepts, sentence patterns visualizing the information, genre classification of the text, the knowledge and legal culture and so on, in both languages and legal systems. Next the translator should consider the scopos / purpose of the target legal text and preferably the expectations of the ultimate recipient (Chromá 2004: 48).

Translating legal text involves drawing on students' language skills, in terms of reading the source text, writing the target text, and possibly speaking and listening to other members of a team working on the translation activity. Students need to exploit their comparative legal skills as well as online research skills (to find similar texts in the target language, and to verify collocability or translation equivalents found in bilingual dictionaries).

3.1.5.1 Legal framework and cross-cultural aspects

The cultural difference between common law (or judge-made law) as one of the main sources of law in English speaking countries, and civil law (or continental law) as a Roman law based legal system which prevails in continental Europe, including the Czech Republic, seems to lie at the heart of the many difficulties learners of English for legal purposes face.

The two traditions differ in many respects. The following quotation explains the difference in approach to the drafting of statues:

> […] [T]he civil code [meaning continental law] prefers generality whereas the common law goes for particularity. […] [t]he civil code draftsman is eager to be widely understood by the ordinary readership, whereas the common law draftsman seems to be more worried about not being misunderstood by the specialist community (Bhatia 1993: 137).

Commercial contracts in civil law jurisdictions tend to be much shorter compared with similar contracts in English speaking countries, because civil law systems can rely on extensive commercial codes when interpreting such contracts. There are also many legal concepts that do not exist in either continental law or common law jurisdictions.

> For historical reasons, the classifications and concepts of the common law and civil law differ, and therefore many Continental terms have no common law equivalent, just as many common law terms have no Continental equivalent, and similar terms with the same etymology may have different meanings (Mattila 2012: 28).

Legal texts are always very closely related to the particular legal system. Their meaning is interpreted within the context of the local legal system which

> [h]as its own rules of classification, sources of law, methodological approaches, socio-economic principles, its own terminological apparatus and underlying conceptual system, and thus its own legal language. Moreover, every legal system is embedded in a specific culture, which is a kind of gateway through which the translator must pass in order to gain genuine access to the ideas, traditions, thought patterns, institutions and concepts of a given legal system (Šarčević 2012: 194)

So while a legal translator does not necessarily need to be a lawyer and a linguist at the same

time, he must be able to carry out comparative genre analysis and, on the basis of such analysis, to transfer the legal information in as precise and comprehensible a manner as possible, and draft the target text in a format that is adequate to its purpose (Chromá 2004: 82).

> The primary objective of legal translation is that the target recipient should be provided with as explicit, extensive and precise legal information in the target language as is contained in the source text, complemented (by the translator) with facts rendering the original information fully comprehensible in the different legal environment and culture (Chromá 2004: 82).

As we will see in chapter 4 of this thesis, our learners are often charged with the task of converting a contract drafted by an English lawyer working for a multinational company based at its headquarters in England into a Czech contract having the equivalent practical effect in the Czech legal system. It is therefore not sufficient for the translator to translate the source text from the source language into the target language; the translator must also make sure that the target text will achieve equivalent effect in the target legal culture. It becomes clear that literal translation would not achieve this. This is why, even though literal translation and linguistic fidelity have a long tradition in legal translation, in modern translation theory and practice the purpose of translation is to "create a text that will be *interpreted* in the same way by legal professionals in the target legal system as it would be in the original legal system" (Wolff 2011: 234). So the approach is gradually moving away from literalism toward free translation, where the only objective is legal equivalence and a comprehensible target text. The translator is allowed to change sentence length, reorder paragraphs or even add translator's notes to aid comprehension of the target text (Wolff 2011: 238).

The above trend is in line with the constructivist view of translation and human learning. In the constructivist approach "the translator actively construes an interpretation of the source text, adapting it to various possible target-side purposes" (Pym 2011: 483), and the learner is actively involved in deciding on the learning objectives and participating in an evaluation of the activities. This view contrasts with the older "transmissionist" model, which is strongly source-text centered and therefore focused on literal translation of the source text. The constructivist approach moves the focus toward the target text audience and toward a focus on the learner. In the constructivist view the teacher is a facilitator or mediator who guides the learner through the

learning process rather than viewing the learner as "a passive receptacle for knowledge received either directly from perception or from the authority of a teacher of some kind" (Pym 2011: 483). Most contemporary theorists believe that "the transmissionist model is, or should be, a thing of the past, in terms of both pedagogical practice and translation theory" (Pym 2011: 483).

As we have seen above, translating legal text means translating the legal culture as well as the meaning of the source text. Let us now look at several examples that illustrate difficulties related to culture when English is the source language and when it is the target language. First we look at translation from English into Czech.

The term *tort,* as a civil wrong or the breach of a duty that the law imposes on all persons, does not have an equivalent in Czech law and it is necessary to use a descriptive equivalent: *občanskoprávní delikt.* Another such example is *partnership,* as a voluntary joining together of money, goods, labour, and skill by two or more persons for business purposes, upon an agreement that the gain or loss will be divided proportionately between them (Garner 2001: 641). The main features of this form of association are that it is not registered and does not have a legal personality distinct from its partners; the liability of the partners is unlimited; and each partner pays income tax on their share of profits (as opposed to corporation tax levied on the profits of a registered company). While the ordinary *partnership* (as opposed to *limited liability partnership*) shares some features with the Czech *veřejná obchodní společnost*, particularly in the taxation and unlimited liability of the members, *veřejná obchodní společnost* cannot be used as a translation equivalent as it is a company registered in the Commercial Register, unlike the traditional *partnership.* The explicative equivalent in Czech is *sdružení osob za účelem podnikání.* The other term sometimes suggested as an equivalent is *konsorcium,* however this is a business term used for an association of several legal entities for a particular purpose, whereas partners in a *partnership* are individuals rather than legal entities. It is thus clear that *konsorcium,* not being a legal term and having different features compared with *partnership,* also cannot be used as an equivalent. *Joint ownership (joint tenancy)* is another term which does not have an equivalent concept in Czech law. It is defined as ownership of property by two or more persons who have identical interests in the whole of the property, with a right of survivorship (Garner 2001: 479), which means that the last surviving joint owner becomes the

owner of the whole of the property. This is a distinctive feature that does not exist in Czech law. This is why the English term should be used in any translation into Czech and a translator's note explaining the special form of ownership should be included.

Looking at the other direction of translation, where Czech is the source language, reveals the same type of issues. *Přestupek,* for example, is sometimes incorrectly translated as *offence.* This translation should not be used however because an *offence* in English speaking countries is primarily a breach of criminal law, whereas *přestupek* is a violation of administrative law. For this reason the term should be translated into English as *administrative delict,* indicating the main feature of the Czech term. Another example that illustrates a concept in Czech law that does not exist in common law jurisdictions relates to the two dates generally assigned to Czech statutes: *platnost zákona (the date of coming into force)* and *účinnost zákona (the date of effect or operation).* The period between *force* and *effect* is called *vacatio legis,* which has no equivalent in legal English. This indicates another important fact: we cannot assume that, when we use a Latin term or phrasecommonly used in Czech, an English speaking lawyer will automatically understand it. Legal Czech tends to use different Latin expressions to those used in legal English.

The above examples highlight the difficulties a learner of English for legal purposes may face in terms of translating culturally rooted legal terms that do not have translation equivalents in the target language, and also the importance of research skills. It is impossible for a teacher to provide ready-made solutions for all translation/communication issues which a learner of English for legal purposes may encounter, however the teacher may share with learners different approaches to individual types of issues and the research tools which they should use when addressing a particular issue.

3.1.5.2 Varieties – text types – registers

The term *legal English* or *English for legal purposes* is a very general term with extensive meaning. It covers the language of the five major legal systems at least: the USA, the UK, Ireland, Canada and Australia. Even lawyers from England do not necessarily always understand those from the United States.

Thus modern English lawyers can understand American lawyers fairly well, and vice versa. Yet in some important respects the British and American legal systems have diverged, producing what are arguably differing dialects of legal English. In contrast to the United States, countries such as Canada, Australia and New Zealand broke away from the United Kingdom much later, and as a result, their legal languages are closer to that of England (Tiersma 2012: 23).

In addition to these we may also mention the English language used in European legislation. All these legal systems may use different terms for similar concepts, or the same terms but with different meaning. The term *legal English* or *English for legal purposes* covers written text as well as oral communication, and formal as well as informal registers.

The term *legal language* encompasses several usefully distinguishable genres depending upon the communicative purposes they tend to fulfil, the settings or contexts in which they are used, the communicative events or activities they are associated with, the social or professional relationship between the participants taking part in such activities or events, the background knowledge that such participants bring to the situation in which that particular event is embedded and a number of other factors (Bhatia 1993: 101).

Šarčević classifies written legal text into three categories, depending on the function of the text:

Legal texts with a <u>primarily prescriptive function</u>: laws and regulations, codes, contracts, treaties and conventions.

Hybrid texts, <u>primarily descriptive</u> but also containing prescriptive parts: judicial decisions and instruments used to carry out judicial and administrative proceedings, such as actions, pleadings, appeals etc.

<u>Purely descriptive texts</u> written by legal scholars such as legal opinions, law textbooks, articles, etc. (Šarčević 2000: 11).

A similar classification is presented by Gotti (2012: 63), who differentiates between two larger categories of primary and secondary legal documents. While primary legal documents have legal effect and are exemplified by legislation, those documents which fall into the category of secondary documents are primarily informative and examples include law reviews, textbooks or other legal reference books. The category of primary legal documents may be further subdivided into sources of law and legal documents. The category of sources of law then includes statutes, judgments and constitutions, whereas the category of legal documents covers texts created

by private individuals such as articles of association, contracts or wills. The differences in terminology and language used in various legal systems, the differences between formal and less formal expressions, and different conventions governing various communicative situations and legal text types represent important aspects of legal communication. It is clear that the scope is so huge that this can hardly be covered by any one course. Rather, learners need to be equipped with the research skills that will make it possible for them to research the particular legal topic at hand, the particular text type and the variety of legal language, as well as the source text legal system, to understand the effect of the source text in the source legal system and to be able to translate the source text in a manner and form that will achieve equivalent effect in the target legal system.

3.1.5.3 Main features of written legal English

Legal language in general has a reputation for being obscure and incomprehensible. It tends to be difficult to understand, even for native speakers of the same language. Crystal and Davy describe legal English as an

> [e]ssentially visual language, meant to be scrutinised in silence: it is, in fact, largely unspeakable at first sight, and anyone who tries to produce a spoken version is likely to have to go through a process of repeated and careful scanning in order to sort out the grammatical relationships which give the necessary clues to adequate phrasing (Crystal –Davy 1993: 194).

Legal texts are usually extremely conservative in terms of the expressions used, which is partly due to the fact that they are often copied from 'formbooks' and contract templates.

Long sentences are another important feature of legal text. There is often no punctuation. Šarčević mentions historical reasons for this. Early British statutes were formulated as a single sentence. Later, as statutes became more complicated, each section was drafted as a single sentence (Šarčević 2000: 130). Legal sentences are usually self-contained units and the only formal linkage between the self-sufficient sentences is the repetition of lexical items (Crystal – Davy 1993: 202).

Legal terminology is the most prominent lexical feature of legal text, along with complex prepositional phrases *(in accordance with),* archaic compounds such as *hereto, hereunder,* and *hereinafter*, the use of archaic words resulting in highly formal text, and the strong influence of French and Latin (*chose; ratio, obiter)*. Binominal and multinominal expressions - defined by Bhatia as sequences of two or more words or phrases belonging to the same grammatical category and having some semantic relationship (Bhatia 1993: 108), such as *signed and delivered,* or *act or omission,-* represent another distinctive feature of English legal text which tends to cause difficulty in understanding and translation, because the reader needs to find out whether there is any difference in the meaning of the words or phrases, and if so, what the difference is. Latin is often mentioned as the old *lingua franca* of law as well as of other fields of study such as medicine or natural science. While this may be true for medicine and natural science, in law research shows that, for example, "only about one fourth of the Latin terms and maxims in a sample of German legal dictionaries are found in dictionaries of legal English. This suggests that most of the Latin used by civil and common law systems is unique to each" (Tiersma 2012: 21). A similar difference applies to the Latin used in Czech law and that used in English law (Chroma 2004).

3.1.5.4 Legal English in communication and local needs

Legal English may be used in various communicative situations. It is used for communication within the professional legal community (among native English speakers, between native English speakers and non-native English speakers, or for communication between non-native English speakers using English as the *lingua franca*). It is used in different settings such as universities, law firms or courtrooms. Lawyers, however, need to communicate regarding legal issues with non-lawyers too (such as communicating with a client). Lawyers (and indeed professionals in general) need to be able to differentiate between these two types of communication. They should be able to communicate across the discourse community barrier. This is why the ability to explain terms or complex contract clauses/statutory provisions in plain language is an important skill for a lawyer to learn.

Czech lawyers generally use English locally (in the Czech Republic) to communicate with speakers of other languages (not necessarily native English speakers and not necessarily lawyers) about

Czech legal concepts. The knowledge they use in such communications was originally acquired in the Czech language. Therefore the ability to render Czech legal concepts in English is one of the most practical language skills they may learn. Raising learners' awareness of the differences between legal traditions and about the issues of translating terms that are strongly rooted in the legal culture of the particular country is a good starting point. The challenge lies in translating local knowledge into English while taking into account any potential misunderstanding that may result from differences between common law jurisdictions (if communicating with a native English speaker) and continental law. This is why Czech lawyers need to be able to use their knowledge of law and their knowledge of the English language for a comparative legal analysis. At the same time they need to have some translation skills, such as the ability to use English and bilingual dictionaries, to carry out online research concerning the source text and target-language text type and the vocabulary to be used, and also to keep in mind the purpose of the target text and the target audience. It is of utmost importance to explain to learners that the first equivalents found in dictionaries are not always the best ones, and that the chosen equivalent should be compared against the terms used in a text of a similar nature in the target language (a parallel text). Also, not all internet resources have the same reliability. It is startling how many students will simply use the first equivalent provided in a dictionary and not read the rest of the entry.

3.1.5.5 Teaching and learning challenges

Every teacher is at the same time a learner. The non-native teacher of English is also a learner of English and can share with students the experience of overcoming various learning difficulties. In a typical university English-for-legal-purposes course in the Czech Republic, which would be a monolingual class with a non-native teacher who is not a lawyer, there is an important balance resulting from the sharing of knowledge of the English language on the one hand and the sharing of knowledge of law on the other hand. Textbooks usually provide the Anglo-American culture input and the learners, together with the teacher, provide the local legal culture input within discussions on common features of and differences between civil law and common law. This develops the skill of working around the issue of describing Czech legal concepts in English. This balance is achieved by sharing knowledge and skills in the English language, and the knowledge of local law in English makes it easier especially for adult learners to cope with the learning situation and to overcome their embarrassment of making mistakes in English.

Another issue relates to the complexity of the subject matter. Such learners invariably consider the teacher to be a source of information about the Anglo-American system of law yet the teacher can hardly meet such an expectation considering the number of legal systems involved and the typical setting described above. Course providers of legal English usually inform potential attendees about the entry level of English required, nevertheless rather imbalanced groups in terms of language ability, especially on life-long-learning courses, are not uncommon.

Learning challenges specific to legal English include the use of prepositions (matching verbs with the right preposition, complex prepositional phrases, and so on.); terminological synonymy arising from different varieties of English (*plaintiff* US – *claimant* UK, *Memorandum of Association* UK – *Articles of Incorporation* US); single terms having different meanings in different legal systems (*regulation* in general - *předpis,* in a European context *nařízení*; or *bylaws* - in the US *stanovy,* and in the UK *vyhláška místní správy*); and general English expressions having a different legal meaning, such as *rather than,* which is often used in legal texts to mean *and not (a nikoli);* or *from time to time,* which is used to mean *as required (podle potřeby).*

Resisting the influence of the mother tongue is one challenge common to all learners of English and there are some specific examples of false friends in English for legal purposes which may result in negative transfer. One such example is *evidence,* meaning in English something that tends to prove or disprove the existence of an alleged fact (Black's Law Dictionary), but meaning in Czech a set of records. Another example is *paragraph* for *písmeno* in Czech statutes, with *section* being the legal English equivalent of the Czech *paragraf.* Also the English term *subject* is often incorrectly used as an equivalent to the Czech *subjekt,* which should be translated as *entity* (Bahenská 2009: 35-41).

3.2   Legal translation experiment

The purpose of using a language is communication, and his has become the leading principle of modern approaches to teaching foreign languages. Translation activities represent examples of real-life communication situations. As we explained in section 3.1.4, which deals with local needs, Czech lawyers need to be able to communicate with their English-speaking clients or colleagues, translators and other people, perhaps professionals from other fields, about Czech

legal concepts in English. Looking at translation from this wider perspective, all lawyers must from time to time *translate*.

The purpose of this section is to explore how lawyers translate and whether their translation solutions differ from those adopted by professional translators; what options there are and how we choose among them. The section proceeds from an experiment based on the Czech-to-English translation of a legal text (see Appendix 2 for the source text and the target text), and the hypothesis that lawyers are more inclined to use translation solutions based on functional equivalence than are professional translators or non-lawyers.

3.2.1   Purpose of the experiment

The aim of the experiment, which was carried out among law students, professional translators as well as legal practitioners, was to find answers to the questions that follow. Is there any difference between legal professionals and translation professionals as regards their approach to legal translation? What is the role of comparative legal knowledge in the process of translation? Are there any implications for teaching English for legal purposes or for teaching legal translation?

Based on our practical experience as a translator of legal texts and as a teacher of English for legal purposes we believe that comparative legal knowledge lies at the heart of the process of finding appropriate translation solutions. Therefore every translator of legal text (lawyer or professional translator) should be able to identify potential sources of misunderstanding in the source text and to carry out a simple comparative analysis of the source language term and the possible translations of the term into the target language.

This relates to some practical issues, two of which we shall look at here. First, comparative legal analysis should be carried out primarily by lawyers and the solutions arising out of such analyses should be provided to the public in the form of specialised dictionaries. However, even the best dictionary cannot provide a solution to every possible translation issue. Second, legal translation should ideally only be carried out by translators specialising in this area. However,

in a small market such as the Czech Republic, only a few translators have the luxury of finding enough work in one particular area. The majority of translators need to cover a wide range of topics. Therefore in reality legal text may sometimes be translated by professional translators who have very limited knowledge of law, and translators who specialise in legal translation may cover a wide range of languages as certified translators. Clearly a certified translator in three or more languages can hardly be expected to have a detailed knowledge of the legal systems of all the countries in which those languages are spoken.

3.2.2 Description of the experiment

The experiment was based on a questionnaire (see Appendix 1), which provided an introduction indicating the extra-textual background (the growing need of Czech attorneys to communicate with their clients in English, and the necessity to explain Czech legal concepts in English and to sometimes translate extracts of Czech legislation into English). It also included questions concerning the respondents' age, their profession, their mother tongue, the number of years they had studied the English language, a self-assessment of their English language skills, and any other languages they may speak.

The source text was in the Czech language and included three extracts taken from an official textbook of Czech business law for students studying law within the Socrates/Erasmus programme at Charles University Law School. The texts were based on Section 21 of the Commercial Code regulating business undertaken by foreigners in the Czech Republic, and Section 57 of the Commercial Code which deals with the process of a company's coming into existence. The aspects of the source text (the translation of which was to be the main focus of the target text analysis) included Czech legal terms, a citation, and a terminological phraseme (a stipulating clause). The full wording of the source text and the model translation into English are included in Appendix 2. All the underlined segments were recorded in an excel spreadsheet and analysed within the experiment.

The respondents included 20 law students (ten from the second year of study, five from the third year and five from the fourth year); three articling attorneys; two company lawyers; ten translators (participants on a specialised course for certified translators); two teachers; and three

respondents from other professions. Law students, articling attorneys and company lawyers were included in the category of *lawyers,* and the remaining respondents were included in the category of *non-lawyers*. It is clear from the above description of the respondents that they were a rather heterogeneous group and the division into lawyers and non-lawyers was not precise. While second-year law students have primarily theoretical knowledge, some professional translators specialising in legal translation, such as the participants on the training course for certified translators, may have a much better practical knowledge of legal concepts.

3.2.3   *Documentary and instrumental translation of legal text*

As we pointed out in section 3.1.4 on legal translation, knowledge of both the legal system of the source language and of the target language, including the legal culture and in particular the relevant subject of the text, is essential for the successful translation of a legal text. Even though in practice translators are not always given enough time to research the legal topic in detail, without such knowledge they are unable to identify potential sources of misunderstanding let alone choose the appropriate equivalents. Their translation choices may then rely solely on a specialised bilingual dictionary, which is often not adequate.

Translation theory distinguishes between documentary and instrumental translation, which reflects the distinction between source-text focused translation and target-audience/purpose focused translation, or the dichotomy between a translation that is faithful to the original and free translation.

> Documentary translations (such as a word-for-word translation, literary translation, philological translation and exoticising translation) serve as a document of source culture communication between the author and the source text recipient, whereas the instrumental translation is a communicative instrument in its own right, conveying a message directly from the source text author to the target text recipient (Nord 1991:72).

Bearing this in mind, the respondents were asked to produce an instrumental translation, where the source text was the paraphrase of a statute and the purpose of the translation was to inform the reader about the provisions of the statute in order for them to be able to make qualified decisions. This task was chosen because it represents a very typical scenario which lawyers in the Czech Republic frequently find themselves in.

3.2.4   *Functional equivalent*

Analysis of the target texts produced by the respondents focused mainly on the translation solutions adopted by the members of the group of lawyers and the group of non-lawyers in the case of legal realia, based on the hypothesis - stemming from teaching experience - that lawyers are more inclined to use solutions based on functional equivalence than non-lawyers.

In translation theory a functional equivalent "results from cultural componential analysis and serves as the most accurate way of translating a cultural word" (Chromá 2004: 54). In legal translation a functional equivalent is defined as "a term designating a concept or institution of the target legal system having the same function as a particular concept of the source legal system" (Šarcević 2000: 236).

3.2.5   *Results*

Many law students start their language study with the idea that terminological equivalence works both ways, neglecting any discussion about the existence of the concept itself. From such a point of view, there are simply two terms in two different languages and it does not matter whether the translation runs from English to Czech or from Czech to English, as the pair will always be the same. Another simplification we often come across concerns the use of dictionaries. Many students believe that it does not matter what kind of dictionary they use. Sometimes they will simply choose the first translation equivalent they find. We believe that, while it is not the primary job of a lawyer to translate, lawyers are often called upon to do so. It is frequently one of the first tasks they may be required to carry out when they start working for a law firm. Even if they are never asked to translate - which is unlikely in a country like the Czech Republic with only ten million people speaking Czech - they still need to be able to judge and verify the quality of translations with which they will be supplied. Inevitably, many will work with translations and with translators. They must develop a good understanding of the work of translators in order to provide legal expertise as an input for such work.

We believe that a comparison of the solutions adopted by lawyers and those chosen by non-lawyers in terms of functional and semantic equivalence may yield some interesting insights into the ways

in which the two groups approached the task. It may also produce practical ideas for teaching legal English to future lawyers. Here are some of the results, focusing on cultural terms.

The source text uses the Czech terms *vznik* and *založení.* For a non-lawyer there is not much difference between the two terms, as they both have something to do with forming a company. However, there is an important difference for a lawyer. Czech law distinguishes between *založení* (E. formation / foundation) and *vznik* (a result of a registration process by which a company becomes a legal person distinct from its members). All the respondents tried to use two different translation equivalents in English for the two Czech terms. Some of the solutions given by the non-lawyers, such as *foundation* and *forming*, *establishing* and *creation*, give the impression that the respondent used two different synonyms simply because the source text uses two different words. The group of lawyers was more consistent in translating *vznik* using its functional equivalent, *incorporation.* On the other hand, the group of non-lawyers, which included many translators, used the descriptive paraphrase *commencement of legal existence,* which clearly explains the practical outcome of the Czech term *vznik.* We may tentatively conclude that lawyers are more willing to use the term *incorporation* because this translation solution is supported by their knowledge of law in English speaking countries.

The source text presented another interesting translation issue, as it used two different Czech terms for memorandum of association: *společenská smlouva* and *zakladatelská smlouva/listina.* The difference in the Czech terms simply indicates that in the first case two or more persons are involved in the company formation whereas in the case of *listina* only one person forms the business. This is a difference in the name of the document, however the purpose of the document is the same in both cases, as it represents the main constitutional document of the company. Therefore, either Czech term could be translated by one of the possible functional equivalents, and possibly a translator's note could be added explaining that the document has two different names in Czech depending the number of founders.

The results of the experiment indicate that knowledge of this fact, ie that the purpose of the two documents is generally the same and that therefore the two Czech terms may be translated using a single English equivalent, played an important role in the lawyers' translation decisions (in

particular students from higher years: 60% of the lawyers' group excluding 2nd year students used only one English term to denote both concepts); while a relatively high percentage of non-lawyers (40% of the non-lawyers' group) used a single English term instead of trying to find two different equivalents - which may be attributed to the fact that some members of the non-lawyers' group were participants on a course for certified translators which includes lectures in law introducing the most important legal subjects.

The last issue that we would like to discuss in this section is the translation of one of the Czech forms of company - *akciová společnost (a.s.)* (E. stock company). Since the beginning of the 1990s another term has been used for *a.s.,* namely *joint stock company.* However in the US and Canada a joint stock company is an unincorporated business entity, while in the UK and Ireland it is an archaic name for companies that are now registered as public limited companies (Chromá 2004: 56). *Joint stock company* is certainly a misleading translation equivalent, but it appears to be the equivalent supported by current usage in the Czech Republic. We could say that it is the official translation of Czech *akciová společnost.* While the majority of respondents used the "official translation," the functional equivalent (*public limited company*) was used by six lawyers and just one non-lawyer. This indicates that more lawyers are prepared to use the functional equivalent, whereas the non-lawyers prefer usage based on official translation solutions.

3.2.6   Practical issues

The main problematic issue of the experiment concerned the imprecise division of respondents into lawyers and non-lawyers, because the level of legal knowledge of law students at the beginning of the second year is still relatively limited, whereas a translator with a lot of experience in legal translation may have more legal knowledge than a law student who has just completed their first year. Also, it was rather difficult to find practising lawyers and professional translators to carry out the translation, which is why the source text had to be relatively short.

For this reason we restricted the use of translation activities to only students of the third to fifth years of study. As a result of focusing exclusively on students (and not on practising lawyers), in our case study which is described in this thesis we were able to use more extensive assignments

including translation, such as summarising a text from a Czech law textbook in English and translating only some specific parts of it.

The above results must be interpreted keeping in mind the effect of instruction. Law students in their English language classes as well as the participants on the courses for professional translators are provided with 'ready-made' translation solutions by their teachers during their classes and naturally they tend to use such translation equivalents when translating (in the case of the course participants, it is the main incentive for paying for the course). This is similar to what happens when using translation in testing English. The students try to guess what answer is expected by the teacher and provide exactly that answer, without thinking about the best solution for the particular translation issue. Therefore, we wish to suggest that teachers always give students the opportunity to think about their own solution to translation issues before the teacher provides their own opinion. The students' proposals and reasoning should be discussed in class, and then the teacher may explain why some of the solutions are better than others in a particular context and for a particular purpose of the target text and audience. This is particularly important as once a teacher states their opinion in class this tends to stymie any discussion about the translation issue, particularly in cultures where an authoritarian teaching approach still prevails.

The main immediate practical recommendation from the above-described experiment is to highlight the need to focus much more on internet research skills that can be used by the law students when drafting documents in English or when translating, and also to focus more on informed use of bilingual dictionaries. This seems to be primarily a translators' skill, which however is useful for lawyers too. The majority of this section is based on Bahenská (2011: 9-17).

Chapter 4: Case Study

4.1   Background to the case study: Legal English instruction in the Czech Republic

Before proceeding with a presentation of the actual findings of the case study, as exemplified by quotations from teacher and student interviews, we first provide here some background regarding the entry level knowledge of languages of the university students attending legal English courses, using the example of Charles University Faculty of Law. We provide a brief description of the elective course within which the translation activities were used, the students of which were interviewed for the purpose of this thesis case study. We also present one practical example of a translation assignment as it was used on this elective course.

4.1.1   Entry level English language and the course-book

Pupils in the Czech Republic are required to take English classes from the third year of school (age eight), according to the National Plan for Teaching Languages, and are expected to reach level A1 in the fifth year (age ten), and A2 in the ninth year (age 14). According to the Framework Education Programme for Secondary General Education, students must study two foreign languages, one of which must be English. They are expected to leave secondary school at B2 level in their first foreign language and at B1 in their second foreign language. At the point of leaving secondary school they are expected, among other things, to be able to use various types of dictionaries as part of their receptive skills as well as in the production of written text, and they should know the technical vocabulary for topics known to teenagers. This requirement - or a lack of compliance with it - will be relevant in the below discussion regarding the teachers' comments. As we will hear from several teachers of English for specific purposes, planning and reality do not always match.

University language classes represent the most advanced level of language learning and the last stage of formal language instruction. At the point of admission to university, students at Charles University Faculty of Law will have typically received 11 years of language instruction. They are required to study one foreign language at the faculty, choosing from English, German, French, Italian, Spanish and Russian. A majority of students choose English and many take

another foreign language as an optional subject. The basic course in English for legal purposes takes two years, representing close to 100 contact hours of instruction. The course in English is based on Marta Chromá's textbook *New Introduction to Legal English*, which covers all major branches of law which are studied as subjects at the Faculty of Law. It contains authentic extracts from legal texts belonging to various varieties of English language. The students usually read at home selected passages of authentic text, along with corresponding glosses on legal realia in English speaking countries and on translation issues, while the classes are used to discuss the legal topic. The students compare the facts they have read about with Czech law on the respective issue, and are asked to think of Czech equivalents for Anglo-American law concepts and to assess whether the Czech term, if there is one, may be used as an equivalent of the English legal term. The teacher draws attention to interesting vocabulary, including collocations, and encourages students to use these within discussion. Both volumes of the textbook contain an English – Czech dictionary of legal terms and the Czech translation equivalents include the number of the particular unit to which the equivalent applies, indicating the context in which the translation equivalent may be used. As far as translation activities are concerned, each unit concludes with a short list of sentences to translate from Czech to English, drawing on the extracts of text presented in the relevant chapter. In each unit there is a section which provides basic guidance on the legal translation process, including comments on issues that tend to cause problems in translation due to major differences between common law and civil law concepts. At the end of many units there is a short text to be translated, mostly from Czech into English. This could be an extract from a law textbook, a short employment contract, or an extract from a judgment, for example. The topic always matches the topic of the relevant unit and any terms that do not feature in the textbook are provided. The textbook's author also provides guidance as to the translation choices the students need to make. Often a Czech – English list of useful terms relating to the particular branch of law is provided. Other legal English textbooks that were reviewed for use of the mother tongue and translation are discussed below in section 3.3.2.

Students first undergo the basic two-year course of legal English, during which the use of Czech to English translation of longer extracts of Czech legal text is limited to a minimum for practical reasons (mainly a lack of time for discussion in class and too high student numbers to provide individual feedback should all students wish to submit their translations for evaluation).

Following this, students may take elective courses in Legal Writing, Presentations for Lawyers, Business English for Lawyers, or an intensive course preparing students for the International Legal English exam to obtain the ILE Certificate. Content-based foreign language instruction is provided both on an *ad hoc* basis, by visiting legal scholars giving lectures in English, or as part of regular subjects such as Equity and Trusts, and Legal Reasoning: First Amendment Case Law. The elective subjects represent, in our opinion, a much better basis for introducing one or two more extensive Czech-to-English translation activities as the numbers of students are lower and the students in general have chosen to participate and are therefore much more motivated. This is a key success factor as the students find that practical translation activities are much needed but very demanding (Bahenská 2014: in press).

4.1.2   *Use of translation in legal English textbooks in the Czech Republic*

In addition to Chromá's course book described above, which is used at Charles University Law School, we reviewed two other textbooks used at other law faculties in the Czech Republic, and two textbooks from Slovakia.

Angličtina pro právníky by Lucie Hanková (2010) presents a choice of legal topics, similar to Chromá's textbook (2011). Hanková begins every unit with the key vocabulary for the relevant topic and several texts for reading about the given topic. These texts are compiled from several sources and presented in two columns with the text on the right and English terms and their Czech translations on the left. In addition, the textbook provides simple mini-vocabularies of English terms and their Czech translation. The exercises include both directions of translation of legal collocations and a translation of individual sentences from Czech to English and in some units also English to Czech.

Právní angličtina 1-4 by Renata Vystrčilová (2013) is a textbook published on four CDs and a DVD with audio recordings. The units start with key vocabulary, with translation equivalents in Czech. Some units require the learner to "write in English" or to "say in English" the translation equivalents for Czech legal terms, while in other units learners are asked to browse a text in English to find English equivalents for Czech terms provided in the exercise. Some units

require the learner to translate simple individual sentences into English. One unit dealing with employment law (on the fourth CD) contains a bilingual employment contract template arranged into two columns. While we are sure that learners do appreciate this, there are no exercises that exploit the bilingual text for language learning purposes. The textbook author places an emphasis on the comparative aspect of English for legal purposes, and this emphasis translates into providing the perspective of law in the UK and the USA on the one hand, and in the Czech Republic on the other hand. Thus the textbook contains texts dealing with, for example, the Czech legislative process, as well as the legislative process in the UK. The interviews with the students that are presented below show that this type of information is very much required by the students, as they would like to learn English language through text about Czech law in English, however not many English or US legal experts write about Czech law, so authentic texts written by native speakers are notoriously difficult to find.

Turning to the two textbooks published in Slovakia, the first is *Legal English: Fundamental Terms and Topics* by Sylvia Kummerová et al. (2009). This textbook is based purely on legal text that deals with Anglo-American law, key terms are provided only in English, and none of the language exercises use any form of translation. The other textbook is *Legal English Applied: Practice Book for Law Students* by Petra Uličná and Tatiana Kučová (2010). This textbook offers reading texts in each unit with pre-reading activities and exercises, including translation of individual sentences from Slovak into English under the heading of "Practise your translation skills". This form of translation is included in each unit and not all the vocabulary needed for the translation of these sentences appears in the unit reading. In addition to translation of individual sentences into Slovak, the units toward the end of the textbook contain a text in English with gaps and a list of missing words. Students are asked to complete the gaps and then to translate the text into Slovak. The authors of the textbook state that the book is supposed to be used by students for practice together with Brown's and Rice's *Professional English in Use: Law.* However, none of the units contain any key vocabulary with translation equivalents and neither is there a glossary of legal terms with translations at the end of the textbook. The practice book does not provide a key to the exercises, so the learners seem to be left to their own devices as far as the translation exercises are concerned.

As we have shown above, the legal English textbooks reviewed for their inclusion of translation activities keep the translation primarily on the level of individual legal terms, legal collocations, or individual sentences. Only Chroma's textbook includes more extensive texts for translation from Czech to English, providing at the same time the required vocabulary and abundant authentic English reading opportunities dealing with the relevant topic of the unit as well as glosses on translation from English to Czech. Vystrčilova's textbook on CDs provides a lot of text in English that deals with Czech law, which is appreciated by students.

4.1.3 Elective course of Business English for Lawyers

The questionnaire survey and the semi-structured interviews with students presented below in Chapter 4 on learner views was carried out among students who participated on the elective two-semester course of Business English for Lawyers. For this reason this section provides a very brief overview of the elective subject as a background for the survey.

The Business English for Lawyers course was designed in 2007 primarily for advanced students who had successfully completed a standard four-semester course in Legal English taught at Charles University Faculty of Law, and who focused on business law and finance in their studies. The disciplines of law and business show marked differences in terms of their discourse practices and styles. Business depends on aggressive innovation, whereas law relies on extreme conservatism in discourse practices (Bhatia 2000). In order to address the issue of differences in style between the two disciplines and with respect to the target group of law students, a 'regulatory' approach was taken, and hence the aim of the course is to cover topics that are regulated by law that are related to business and finance.

The course tends to attract students who wish to find employment with a large law firm specialising in business law. The winter semester part of the course deals with the language of business and company law and covers various forms of business organisation and company formation, including constitutional documents, share capital and loan capital, directors, meetings and resolutions, mergers, and liquidation. On average 30 students attend over the winter semester. The summer semester focuses on finance-related topics, including language

relating to banking, secured transactions, debtor – creditor, negotiable instruments, tax, and insurance. Usually around 20 of the students who pass the exam from the winter part of the course decide to register for the summer course.

All topics are covered using authentic - primarily British and some US – materials, including business law textbooks, textbooks on banking and financial law, internet resources, and textbooks on English language for law and finance. Students are required to read the texts at home and classes are devoted to discussion in English about the content of the texts, clarification of the language, and explanations of culture-specific concepts, while students are also asked to discuss the topic from a Czech legal perspective. At least one written homework assignment incorporating a translation element is always included as part of the course (Bahenská 2013: 14-18).

4.1.4   Written translation into English: A practical example

There is no single approach that would suit all legal English courses. The choice of approach will depend on many factors, such as the primary purpose for which the learner intends to use legal English, the proficiency level of the learner, the subject matter focus of the course, the length of the course, and many other issues. However, in the typical setting of legal English classes in the Czech Republic, the following pattern seems to provide good results.

As a starting point the teacher uses an English text, written or spoken (recorded), to present the main concepts of the respective branch of law in one or several English speaking jurisdictions. The teacher then verifies the reading/listening comprehension through questions, asking for synonyms or explanations in English or by asking the learners to summarise the text. At this stage a judicious use of translation is appropriate, especially for long complex sentences, false friends or indicating potential translation solutions for specific legal English terms that have no equivalent in Czech. This is followed by discussion of the differences between common law and Czech law on the same subject, and a joint effort to find equivalents or descriptive paraphrases for Czech concepts. It is more valuable for learners to go through the process of finding a solution together with the teacher than for them to receive the answer straight away. During this phase it is useful to discuss and, if possible, practice using various sources

of reference including internet resources and specialised dictionaries. Ideally there should be a writing assignment for homework, such as describing in English a particular aspect of Czech law related to the subject matter discussed in class, or preparing a presentation on that subject for the class.

English for legal purposes represents one of the most difficult languages to learn. However the task is not impossible, especially if the providers of an ELP course manage the learners' expectations. Learners need to be able to understand authentic legal English texts to the extent required for their particular purpose of learning. Listening comprehension is of course also important and we are lucky in that many new legal English textbooks include listening exercises. However, Czech lawyers should not be expected to produce legal English texts similar to authentic English texts. In terms of production skills the main criteria should be transparency, comprehensibility and precision (Bahenská 2009: 35-41).

One practical example of an activity we use each semester on our elective course of business English for lawyers consists of translating Czech legal text into English and providing explanatory comments for fictitious clients. The entire semester is spent studying English language for English company law with some aspects of US terminology. The source text for this activity is an extract from the Companies and Cooperatives Act No. 90/2012 Sb. (Business Corporations Act). The students are required to translate the text as precisely as possible and to explain in plain English the different provisions and the terms used in the provisions to for their fictitious English-speaking client. The homework assignment is optional and the length of the source text is 160 words. The students need to complete the assignment within four weeks, and they can score up to ten bonus points for the final exam test. The text of the assignments is shown below in Figure 1.

Translate the extract from the Companies and Cooperatives Act N. 90/2012 Sb. (Business Corporations Act) as precisely as possible. Then explain those of the translated provisions that in your opinion require explanation and the terms used in the provisions in plain English for the purposes of your English speaking client.

§ 132

(1) Společnost s ručením omezeným je společnost, za jejíž dluhy ručí společníci společně a nerozdílně do výše, v jaké nesplnili vkladové povinnosti podle stavu zapsaného v obchodním rejstříku v době, kdy byli věřitelem vyzváni k plnění.

(2) Firma obsahuje označení „společnost s ručením omezeným", které může být nahrazeno zkratkou „spol. s r.o." nebo „s.r.o.".

§ 133

Podíl společníka ve společnosti s ručením omezeným se určuje podle poměru jeho vkladu na tento podíl připadající k výši základního kapitálu, ledaže společenská smlouva určí jinak.

§ 134

(1) Plnění věřiteli poskytnuté společníkem z důvodu jeho ručení podle § 132 odst. 1 se započítává na splnění jeho nejdříve splatné vkladové povinnosti.

(2) V případě, že započtení není možné, poskytne společníkovi náhradu za jeho plnění společnost. Nedosáhne- li společník náhrady plnění od společnosti, poskytnou mu náhradu za jeho plnění společníci v poměru, v jakém nesplnili svou vkladovou povinnost podle stavu zapsaného v obchodním rejstříku ke dni, v němž byl společník vyzván k plnění.

Figure 1: Written translation assignment

The main criterion for assessing the translations is clarity of the target text and whether the students managed to convey the entire message. The explanations are assessed mainly depending on whether the students wrote their explanations in plain English and whether the explanations are sufficiently clear for a non-lawyer.

Here are some examples of the translation issues that the students need to deal with. The topic of the source text is *společnost s ručením omezeným.* The options for translating the term, which refers to a Czech form of business, include using the functional equivalent of *private limited company* used in England, including a translator's note on the differences between the Czech and English forms of business, or using a literal translation into English ie *limited liability company* (posing the danger of misinterpretation by US readers due to a different taxation regime applicable to limited liability companies in the US), or, alternatively, by keeping the term in Czech and including the literal translation in brackets - which would not be practical because the term appears in the source text several times. The text also includes *s.r.o.* as an acronym that forms part of the trade name used in the Czech Republic to identify the legal form of the business. The students are expected to keep this acronym in Czech.

Other examples include the translation of *společník* as *member* rather than *partner,* as the term *partner* would incorrectly indicate to an English speaker that the form of business is close to a *partnership.* This is a translation solution that should alert the learners to a negative transfer, as společník in other contexts could indeed be translated as a *partner*. The Czech term *ručení,* in the context of companies, is translated as *liability,* however dictionaries also offer *guarantee* (used in other contexts), while the term *liability* is also used for Czech *odpovědnost,* which appears more frequently in legal texts. *Firma* is a typical example of a *false friend.* The correct legal translation in this case is *trade name* rather than *firm,* which is difficult because even in general Czech *firma* is used to refer to *firm.*

In addition to the task of translation itself the students also focus on keeping the fictitious client in mind and on paraphrasing any provisions that may be too difficult in plain language, and also explaining any terms that may be incomprehensible. Even though students learn throughout their studies to use the language of their profession, they will not always only communicate with other law professionals. They will need to be able to adapt the way in which they express themselves to the audience they will be communicating with. Texts such as contract clauses or statutory provisions are ideal for practicing paraphrasing, where learners are asked to rephrase the text for a lay audience exploiting synonyms and giving simple explanations of legal terms, as well as examples (Bahenská 2013: 14-18).

4.2 Learner views

4.2.1 Method

Students' opinions were canvassed through 12 individual semi-structured interviews (see Appendix 5 for interview questions) with law students (from the third to the fifth year), who attended the elective course. The course covered both bilingual and monolingual language activities, and included one group discussion with 24 students, as well as a questionnaire asking for the utility rating for various EFL activities used during the course (see Appendix 3). Informal discussions with students from my classes also represented a complementary source of information. Some of the types of translation activities as well as the translation issues which the students had to resolve when completing the assignments have been described in chapters 3 and 4 of this thesis. In this section we summarise the students' perception of meaningful use of the mother tongue, what form of translation in class they find useful, what form of feedback they prefer, and whether they are ever asked to translate at work (as many of the higher year students have part-time jobs at law firms). In addition the results of the students' rating of translation activities in terms of utility, compared with other activities in the EFL class are included which was carried out among the same group of student.

All the interviews were carried out in Czech, so the quotations below are in Czech, followed by a translation into English provided by the author of this thesis.

4.2.2 Translation skills are useful

Překlad do angličtiny je určitě užitečný a je to nepoměrně těžší než překládat z angličtiny do češtiny. […] Pokud člověk pracuje v nějaký velký advokátní kanceláři v Praze, tak je velká pravděpodobnost, že se dostane do styku s angličtinou a je velká pravděpodobnost, že bude muset klientům překládat to, co vytvořil. Je hrozně důležité ten překlad udělat rychle a kvalitně protože ten čas, který strávíte tou samotnou právní prací je relativně jednoduše tomu klientovi odůvodnitelný, zatímco těžko někomu odůvodníte, že umíte špatně anglicky a to, na čem jste myšlenkově strávili tři hodiny, potom šest hodin překládáte za tu stejnou cenu. (Igor)

Translation into English is definitely useful and much more difficult than translation into Czech. […] If a student works at a large law firm in Prague it is very likely that he will need English and that he will

have to translate for clients text that he previously created [in Czech]. It is of key importance to translate it quickly and to a good quality because it is easy to justify to the client the time spent doing legal work but it is hard to justify that your knowledge of English is poor and so after completing the legal task in three hours, another six hours were required to translate the text […] In my experience the ability to translate text is automatically expected of students and attorneys undergoing traineeships. (Igor)

Podle mě překlady rozhodně mají své místo [ve výuce právnické angličtiny] a myslím, že by se měly provádět častěji, než je my provádíme. Protože my nikdy nebudeme žít v monolingválním prostředí. (David)

In my opinion translation definitely has its role [in classes of legal English] and I believe that it should be practised more frequently. Because we will never live in a monolingual environment. (David)

All of the students interviewed found legal translation skills to be important. Often recruitment tests include written translation of legal text. Students working at larger Czech law firms and Czech offices of international law firms are required to translate contracts, legal opinions and legal journal articles (in both directions), as well as relevant sections of Czech legislation into English. Sometimes they are also asked to review for legal precision translations produced by professional translators. Translation skills are "automatically expected" of students and trainee lawyers (Igor). Some of the students had translation work included in their job description (Silvie). One example mentioned involved a combination of legal and linguistic translation of a model contract supplied by a parent multinational company to its Czech subsidiary, which needed to be translated into local law and local language as well. The reverse procedure can also be required of our students whereby a contract needs to be drafted under Czech law but in the English language.

4.2.3   Difference between law and other fields of study

The difference between law and other fields was also raised in student interviews:

Právníci musí pracovat s jazykem. Takže se klade velký důraz na *precision of thought* a musíte se umět velmi přesně a jednoznačně vyjádřit v češtině a to samé byste asi měla být schopná udělat v angličtině. (Igor)

Lawyers must work with language. Precision of thought is of great importance so you must be able to express your thoughts precisely and clearly in Czech, and you should be able to do the same in English. (Igor)

One of the students who worked at a tax consultant's office thought that precision of legal terminology was not as important at their place of work as was precision of financial terminology. The student was primarily expected to explain to their clients in a comprehensible manner which provisions of the tax treaties applied to them and why. The student in question often had to sight translate from Czech sources of law during international conference calls (David).

4.2.4 Use of mother tongue

Students attending classes taught by native speakers occasionally express frustration at not understanding a term precisely (having just an approximate idea is often not sufficient in law) or not understanding an English term that is central to the entire class. They suggested solving this through having the native teacher hand out some material in advance so that the students could prepare the most important vocabulary at home. All of the students said they prefer to receive individual feedback on their written translation assignments combined with an in-class summary of the most important comments, and perhaps the opportunity to discuss other students' solutions.

Students prefer legal English classes to be in English with translation guidance and occasional translation activities.

> Tak takhle, já nemůžu říct, že by mě to nebavilo, kdybych to nepotřebovala, ty ekvivalenty, tak v zásadě ono je to jednodušší, učit se to prostě jenom v jednom jazyce, a nehledat tam ty překlady, který kolikrát ani neexistujou, protože nějakej institut prostě v angloamerickým právu není a u nás je nebo obráceně. Mě to připadá pohodlnější, ale v praxi to prostě takhle nefunguje. (Alena)

> Well, I can't say that I don't enjoy it, if I didn't need the equivalents; it is basically easier to learn the language only in the foreign language and not to look for the translations, which often don't exist because a certain concept does not exist in Anglo-American law and it does in Czech law or vice versa. It seems to me more convenient, but it simply doesn't work like this in practice. (Alena)

All students interviewed found translation activities useful, even though one student noted that such activities may not be perceived as the most attractive. Two students (Petra and Tereza) pointed out that it is automatically expected that students will be able to translate, if they learned a foreign language. However, when they were asked about their past language instruction

111

experience, they recalled that they never translated in class or at home; they discussed a lot and did exercises but they felt that in practice they needed to move confidently between the two languages and they were not prepared for that through their prior foreign language instruction.

Students considered both oral translation in class and written translation homework to be useful. Translation from Czech into English was considered more useful by those students interviewed. While oral translation from English to Czech of terms or complex extracts from authentic texts presented in a textbook is appreciated in the introductory stages of legal English classes, more advanced students require more practice in the translation of coherent text from Czech to English, despite admitting that they find this very demanding. All but one student considered individual feedback in the form of comments and "tracked changes" in Word documents to be more meaningful than a summary of common mistakes provided in class. Several students suggested that a combination of both types of feedback would be best.

4.2.5   Student questionnaires

As an additional source of information, students were asked through questionnaires to rate the utility of various activities they undertook during the course on a scale where *1* stood for "useless" and *5* for "extremely useful." A total of 25 questionnaires were turned in.

The questionnaires confirmed that the majority of the students (21) thought that translation training should form part of the course. Further, 20 students found translation from Czech into English to be more useful than from English into Czech. The highest utility rating, an average of 4.6, was given to "explaining terms in English." Average ratings of translation-based techniques ranged from 3.65 for "oral translation of Czech text into English," to "oral translation of text English into Czech," with an average rating of 3.91, and 4.04 for "written translation of legal text from Czech into English" (Bahenská 2013: 14-18).

4.3   Teacher views

The survey study focused on the views of ESP teachers on translation and asked whether they actually used translation in their classes and, if so, how they used it. The study was implemented

in the form of semi-structured interviews (see Appendix 6 for interview questions), self-administered questionnaires for three teachers who were not available for a recorded interview, and questionnaires distributed to teachers of foreign languages for law at an international conference that focused on teaching foreign languages for law at universities. All quotations used in this section were translated from Czech or Slovak to English by the author of this thesis as the interviews and the questionnaires were administered in the Czech language and some respondents to the questionnaires answered in Slovak.

4.3.1 *The respondents*

The teachers who were interviewed or who provided written answers to interview questions were native Czech teachers of English for Specific/Academic Purposes from Charles University Faculty of Law, Faculty of Social Sciences, Faculty of Natural Sciences, the Protestant Theological Faculty, and the Czech University of Life Sciences, Prague. The teachers who completed questionnaires at the conference were teachers of legal foreign languages from various law faculties from the Czech Republic and Slovakia.

Altogether 29 teachers were involved in the survey. We received a total of 24 questionnaires from the conference participants, of whom four were also interviewed. Two other teachers were interviewed and three teachers provided written answers to the semi-structured interview questions. Of the 29 teachers only six were teachers of English for Specific/Academic Purposes other than law. So the vast majority of the group were teachers of English for Legal Purposes (21 teachers). In terms of their background, eight respondents had studied pedagogy, five had studied translation studies, and 16 had studied languages at various philosophical faculties. Six teachers had less than ten years of experience, 17 teachers had ten to 20 years of experience, and six teachers had more than 20 years of experience of teaching foreign languages at universities. The group consisted of 21 teachers of English, one teacher of Latin for law, two teachers of French, three teachers of German, one teacher of Russian, and one teacher of Spanish. Of the total of 29 teachers, six had Slovak as their mother tongue and the remaining 23 spoke Czech as their mother tongue. Sixteen teachers of the 29 said that they spoke more than one foreign language.

4.3.2 What the teachers said about their learners

According to the teachers, their learners' most frequent level of proficiency was B1 (12 teachers), while six teachers said that the level of their students fell between B1 and B2, and some teachers said the level was between B2 and C1. Two teachers said that some learners were at A2 and some teachers did not respond to this question. The size of groups was between ten and sixty, with the most frequent response in the case of English language teachers being twenty to thirty students in a group. The interviewed teachers in general complained about the varying proficiency of learners in the groups. One teacher mentioned that she does a regular survey among her students in the first semester, and that this survey shows that they may have received anywhere between five and 15 years of prior English language instruction.

4.3.3 Interview questions

Questions focused on the forms and purpose of using the mother tongue (MT) and translation in ESP/EAP classes. A wide range of options were provided for the teachers to choose from, including mother tongue use in teacher talk, student talk, various forms of translation including written, oral, isolated words, sentences, text extracts, direction of translation, in class translation, homework translation, translation as a test, and so on. And, if the teachers did not use translation, what were the main reasons? Other questions asked about students' perceptions of use of the mother tongue or translation, whether teachers were aware of their perceptions, and about the teachers' own opinions as to whether they considered translation to be a useful or a useless practical skill for an expert with a university degree. Interviews also included questions about teachers' own language biographies, where and how they learned English, whether they spoke any other languages, and what impact the way that they had been taught had on their own teaching practice. One of the last questions also focused on any perceived differences between translation used in teaching English for legal purposes and translation used in teaching English for other academic purposes.

4.3.4 Use of the mother tongue other than in translation

Let us first focus on the use of the mother tongue in class for classroom management and instructions in teacher talk, and the rules, if any, for mother tongue use in student talk. With two exceptions, all of the teachers interviewed said that there was no need to use the mother

tongue for classroom management in Master's degree classes. Both exceptions were teachers from a faculty where the entry level for students' English is set to the A1-A2 level, which explains the occasional need to use the mother tongue. On the other hand, two teachers who also had experience in teaching distance-learning courses, mostly for mature students, said that the mother tongue is indispensible for such courses due to the low proficiency of the students, who are 40 years or older and who have not benefitted from more extensive instruction of foreign languages as described in section 4.1 above. Most of these students studied Russian as the obligatory foreign language.

Use of the mother tongue by students was closely related to the fact that all the teachers interviewed shared their mother tongue with their students – classes were predominantly homogeneous from the point of view of the students' mother tongue, with two exceptions where a mixed class was mentioned as the main reason for not using the mother tongue and for restricting the use of translation to individual terms where required. The teachers in general showed a liberal attitude to students using some Czech when experiencing difficulties recalling the English term and asking the teacher for help. On the other hand, according to the teachers, their students' behaviour shows that they were discouraged from using Czech in English classes at lower levels of instruction. They are often afraid of asking the teacher and prefer to ask their neighbour before speaking in class.

> Všichni vědí, že jsem rodilý mluvčí češtiny, tak nebudu předstírat, že jim nerozumím, když něco říkají česky, to je nesmyslné. Víme, kde jaké slovo pro ně může představovat problém, třeba slovo ‚provided', kdežto rodilého mluvčího angličtiny to nenapadne. (Jana)

> Everybody knows that I am a native speaker of Czech, so there is no point in pretending that I do not understand them when they say something in Czech, as it would be a nonsense. [As native speakers of Czech] we know which words may cause problems for the students, such as 'provided,' whereas a native speaker of English may not be aware of this. (Jana)

The ability to foresee difficulties for students was a frequently mentioned advantage for teachers who shared the mother tongue with a homogeneous class.

> Zákaz používat mateřský jazyk je podle mě naprostý nesmysl, v řadě případů je lepší kvalifikovaný český učitel než rodilý mluvčí, hlavně u méně pokročilých skupin, a kdo si myslí, že důsledným používáním jen

cílového jazyka se docílí lepšího výsledku, pak nemá potřebné pedagogické znalosti, protože je známo, že dospělý člověk se učí jinak, než děti a nelze aplikovat způsob, jakým se učí děti na dospělé. (Luděk)

Prohibiting the use of the mother tongue is in my opinion an absolute nonsense. In many cases a qualified Czech teacher is better than a native speaker [of the foreign language], mainly in less advanced groups. And if anybody thinks that principled exclusive use of target language leads to better results, then they lack the required pedagogical knowledge, because it is known that an adult learns in a different way to a child and that it is not possible to apply the manner of teaching children to adults. (Luděk)

4.3.5   Use of translation

Turning to the different forms of translation used by the teachers interviewed, the most frequently mentioned was oral translation of English terms encountered in authentic texts by students or teachers for reading comprehension purposes. This was in fact the only use of translation mentioned by three of the nine teachers. Oral translation by students of difficult sentences in authentic text into Czech to verify precise reading comprehension was mentioned by all the remaining six teachers, and seems to be the most frequent purpose of translation in class. This is also confirmed by the questionnaire survey that is presented below. Several teachers (including those working with A2 classes) mentioned translation of abstract words as a quicker solution than trying to explain the word in English, and one teacher pointed out that translation of legal terms is often indispensable because only one translation may be precise, and precision is crucial in law.

Je otázka, co je překladové cvičení?: Překlad je užitečná věc, která má sloužit praktickému účelu, aby lidi pochopili, co v tom článku je a kdo je toho mocen, aby to řekl nějak lépe česky. […]Když překládají z listu ve třídě, naším cílem je těsný překlad, aby se drželi originálu.

There is the question of what is meant by translation exercise? Translation is a useful activity which should serve the practical purpose of people understanding what is written in the article [in the textbook], and those who are capable of it should translate it in appropriate Czech language. […] When students sight translate from textbooks in class it is our objective to translate as close to the original as possible. (Jana)

One form of translation activity mentioned by only three teachers was the written translation of a shorter text from Czech to English as homework, ranging from six lines up to a whole page.

The reasons why teachers did not use translation of coherent text related mainly to the number of students in class, mixed classes, and the difficulties of giving individual feedback to students. Time considerations were also important, as the students' main focus is not languages, and this is reflected in the number of contact hours allocated as well as the priority given to languages by the students.

One teacher who did not use translation in class or in testing mentioned that *"bylo by to diskriminační vůči zahraničním studentům"* - "it would be discriminatory toward foreign students" (Marcela). Another interesting comment was:

Když nepřekládáme z češtiny do angličtiny, tak často nepřijdeme na to, že máme upozornit, že některý termín nemůžou přenést z angličtiny na český pojem. (Renata)

If we do not ask students to translate from Czech to English we may forget to point out that [an English common law] term cannot be transferred to a Czech concept. (Renata)

There were two other interesting forms of translation activities mentioned by the teachers who were interviewed. One of these was used once or twice during the semester and involved an article in English taken from a natural science journal, from which the students translated only specific sentences (but had the benefit of knowing the context) and then wrote a summary of the text in English (Ludek). The other task involved the teacher retrieving Czech terms and useful collocations from the Czech version of an EU funding programme. Students were first asked to translate the terms and collocations they knew, and then they received the English version of the text and were asked to find the remaining English equivalents. "*Bývala jsem překvapená, že to pro ně nebývalo tak snadné, jak jsem domnívala*" - "I was surprised that it was not as easy for them as I expected," the teacher commented on the students' performance (Dagmar).

None of the teachers mentioned the use of translation of a coherent text in Czech to English as a close-to real-life translation assignment (ideally including information on the potential recipient of such translation and the purpose of translation). Based on our practical experience, this is an interesting activity where feasible with respect to the numbers of students. If the students are asked to translate an extract of legislation, for example, into English two times - once as a certified translation and once for client information purposes - it makes them think

about the language they need to use, and the explanations they may need to include for the lay audience. The ability to change the means of expression when communicating with peers or with lay people is an important skill for lawyers, and indeed for any professional. This type of translation activity can be used, if circumstances permit, to make students more sensitive to the differences in register that they need to consider. A similar, however intralingual, activity is used quite extensively as an oral paraphrasing exercise in current legal English textbooks, where it is adapted for mixed classes.

4.3.6   Use of dictionaries

The gap between secondary school English and legal or academic English is often huge. In overcoming this gap, dictionaries are an important resource in combination with textbooks and the teacher. Students are expected to know from their secondary school education how to use various types of dictionaries, and so teachers assume that they do not need to teach this skill. However, several teachers pointed out in their interviews that students are in general not skilled users of dictionaries. When asked to translate into English they tend to use the first translation equivalent offered in the bilingual dictionary or on the internet, and they do not verify whether the translation solution is correct, despite having the benefit of Google and its language settings as a wonderful concordancer available to use free of charge.

4.3.7   The utility of translation as a skill for university graduates

Six out of nine teachers said that they regarded translation as a useful skill for a university graduate. All teachers of legal English found translation useful, primarily with reference to the need for precision. This is in agreement with the results of the questionnaire survey, where all respondents said that translation was either a "quite useful" (8) or "useful" (16) skill for law graduates.

> Myslím, že je to pro ně užitečné. Návod ve cvičení typu, není třeba rozumět všemu, nechápu, jsou situace, které vyžadují přesný překlad. […] Když dojde na formální jazyk – např. právní pravidla , potřebují rozumět přesně. (Jana)

> I believe it is useful for them. In real life it is often necessary to understand precisely what is meant, […] especially when it comes to formal language such as legal rules. (Jana)

Mohou potřebovat přeložit text do češtiny jako citaci do diplomové práce. (Hana)

They may need to translate extracts of text in order to use them as quotations in their theses. (Hana)

Politologie, sociologie, filosofie jsou univerzální vědy, kdežto právo je český právo, německý právo, francouzský právo, takže musí znát český pojmosloví, německý, anglický atd. (Renata)

Political sciences, sociology, philosophy - these are universal sciences, whereas law is Czech law, German law, French law, so they [students] must know the Czech terminology, German, English [terminology] and so on. (Renata)

These comments, all from legal English teachers, contrast with the point of view of teachers of English for natural sciences as well as some teachers of English for political sciences, who said that most of the literature in their fields is in English anyway, and thus students can read the source material, write their papers in English, and have them proof-read by a native speaker.

V chemii v češtině skoro nic nevychází, když chcete nějakou chemickou informaci zjistit v češtině, skoro nic nenajdete. […] U přírodovědných oborů reálie nehrají žádnou zásadní roli, protože laboratoř je stejná v Praze i v New Yorku. Ale jazyk chemie primárně určován angličtinou a často v češtině ještě není ekvivalent.

There is virtually nothing published in chemistry in Czech. If you try to find [on the internet] some information in Czech about chemistry you will find almost nothing. […] In natural sciences realia do not play a major role, because the laboratory is the same in Prague or in New York. But the language of chemistry is primarily determined by English and often in Czech there is still no equivalent. (Ludek)

By contrast, all source text on Czech law is written in Czech, and legal realia or differences in concepts of common law and civil law represent a major source of difficulties in translation. The need for law students to be aware of the conceptual systems of both Anglo-American and Czech law is an important difference when drawing any comparison with students of other fields that are more "universal" (Bahenská 2014: in press).

4.3.8 Questionnaire survey of teachers of foreign languages for law

The below results are based purely on the questionnaire survey distributed among the teachers of foreign languages for law, which resulted in 24 completed questionnaires.

4.3.8.1 Use of the mother tongue in class

A total of 23 out of 24 teachers said that they did use the mother tongue (MT) in class. The majority of respondents use the mother tongue for explaining grammar rules (17 teachers) and for explaining errors made by learners (16 teachers), while 15 of the 23 teachers used the mother tongue for giving complex instructions in class (such as administrative guidelines and so on).
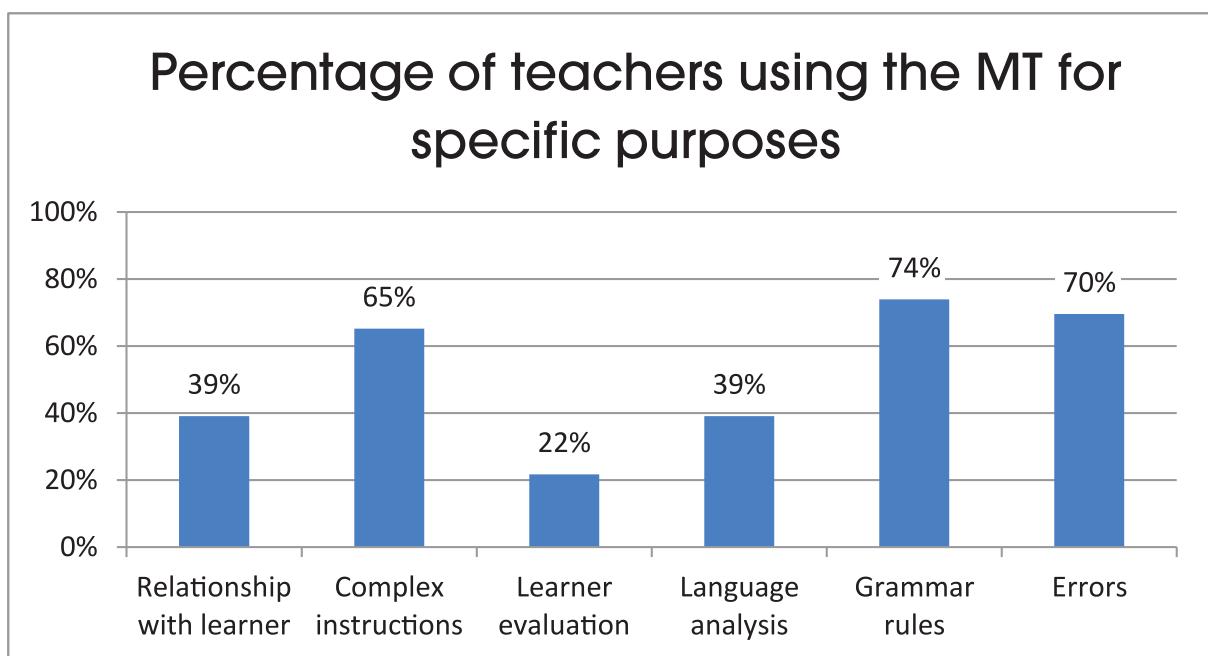
Figure 2: Percentage of teachers using the mother tongue for specific purposes

4.3.8.2 Use of translation activities

Again, with respect to translation activities (see Figure 3 on p. 122), 23 of the 24 teachers used some form of translation activities in class. The one teacher who did not use translation activities said that she could not use them due to a new form of examination for the German language course that she taught, however the same teacher said that translation activities formed ten percent of the total time of instruction of the foreign language within one semester. There is thus some contradiction in the responses of this particular teacher. The three most frequently

mentioned translation activities were oral translation of written text into the mother tongue (20 teachers), followed by the teacher providing the foreign language terms and translation equivalents (18 teachers), and the student orally translating a written text into the foreign language (18 teachers). Both written translation of individual sentences and of collocations into the mother tongue (16), and into the foreign language (15), scored relatively high. Written translation of coherent text into the mother tongue (11) and into the foreign language (9) is used less frequently, most probably also due to the larger groups of students.

4.3.8.3 Time devoted to translation and utility of translation skills

The estimated proportion of translation activities in class during one semester was between ten to 15 percent in the case of nine teachers, while one teacher said that such activities formed a maximum of one percent, three teachers were in the range of 20-30 percent, and ten teachers answered in the range of 40-70 percent. Only one teacher mentioned providing information on the text and on the purpose of translation when assigning to students translation of coherent text. The most popular form of feedback was written corrections of the student translations given to individual students and a summary of common mistakes in class. All teachers considered translation to be a useful skill for law graduates; eight rated it as "*spíš užitečná*" – "quite useful" and the remaining 16 rated it as "*užitečná*" – "useful."
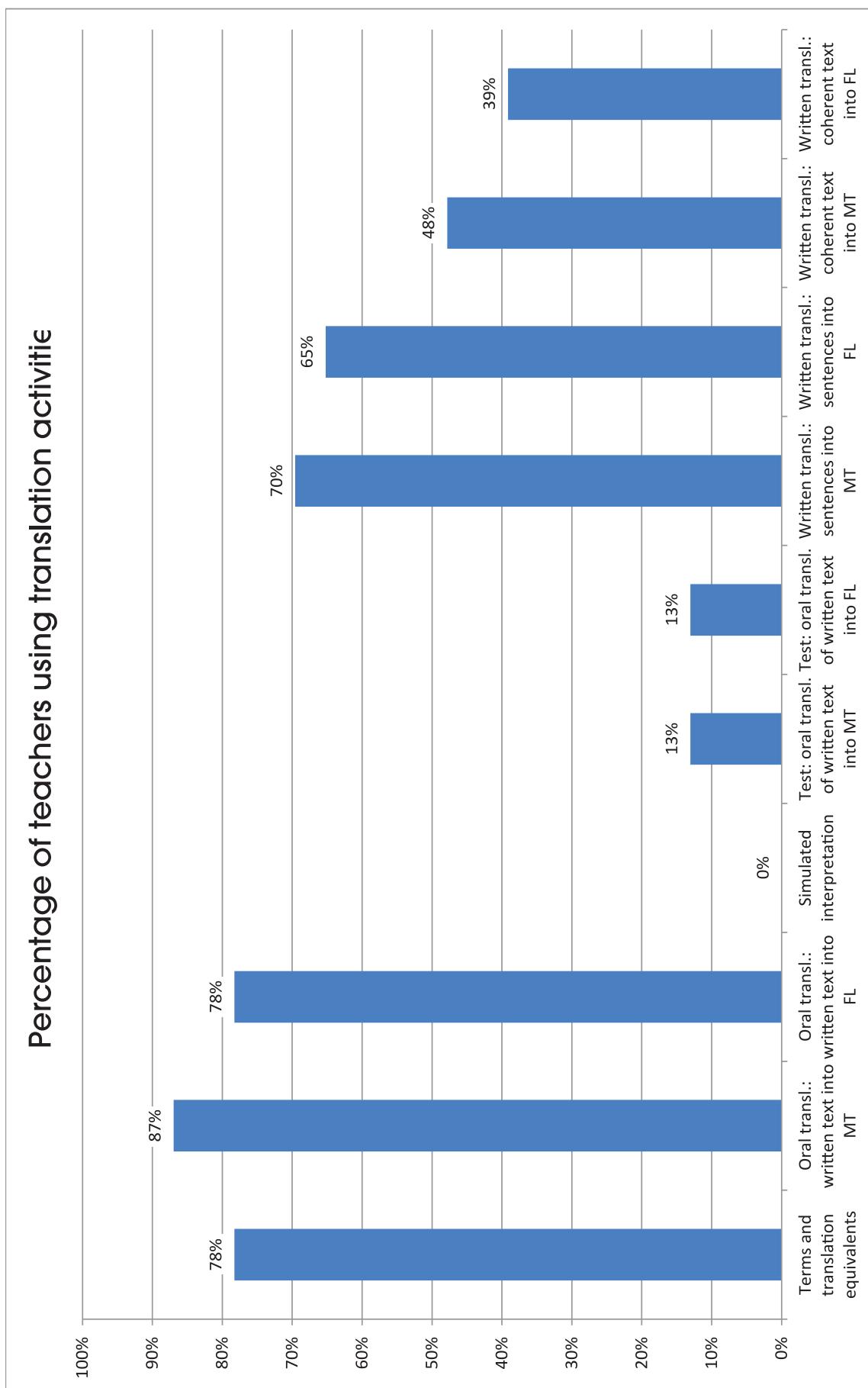
Figure 3: Percentage of teachers using translation activities

Chapter 5: Conclusion

This thesis set out to show how the mother tongue and translation have contributed to language learning and teaching in the past, what the current views on use of the mother tongue and translation in foreign language classes are, as well as how these two resources are used by Czech and Slovak teachers of English language for law, and how they are perceived by a group of learners who have been exposed to various activities involving translation.

The research presented in this thesis is particularly relevant to the context of English as a foreign language, taught in a linguistically homogeneous environment to adult learners of English for specific purposes at a tertiary level, with a particular focus on English for legal purposes. The research questions dealt with in the thesis are as follows:

1. Can translation contribute to effective learning of English for Specific Purposes?

2. If the answer to the first question is 'yes,' what forms of translation activities are best suited to make such a contribution?

3. Is translation currently used in courses of English for Specific Purposes, and more specifically, in courses of English for law taught in the Czech Republic? If so, how is it used?

4. What is the learner's perception of translation activities?

The first two questions were answered through the literature review which was presented in Chapter 2. In section 2.1 we conclude that a conflict between indirect and direct methods of language instruction has had a long-lasting effect on the attitude of language teaching experts and language teachers in general toward using the mother tongue and translation in language classes. While some indirect methods overused translation or even elevated it to the only technique of language instruction and language testing, the direct methods excluded it from the classroom altogether. The fact that some alternative language teaching methods used translation and interpreting in various ways later on did not help to improve the image of translation within language instruction; the main effect this had, particularly in the context of English as a Second Language, was that translation started to be perceived as a curiosity (Howatt and Widdowson 2004, Richards and Rodgers 2001, Larsen-Freeman 2000).

Section 2.2 focused on the current communicative approach to language teaching and how it views translation and the mother tongue in language classes. While we can conclude that the proponents of the communicative language teaching approach are less prescriptive in terms of the use of translation, their attitude is still reserved to say the least, and we may say that it is even more reserved in ESL contexts, where translation is much harder to use. The reviewed literature which mentioned translation as an optional technique or activity in a communicative foreign language class (primarily Cook 2010, Council of Europe 2001, Butzkamm and Caldwell 2009, Beneš 1970, Hendrich 1988, Repka and Gavora 1987, Choděra 2006, Malmkjær 1998, Pym and Malmkær 2013, Widdowson 1979, 2003) exposed divergent opinions, starting from very simple pedagogical use of translation and the mother tongue as a scaffolding in foreign language classes, primarily in the beginner stages of language learning (A1-A2), up to a communicative language learning activity involving translation designed for more advanced learners (B2-C1-C2). We believe that the main reason why the Czech and Slovak literature (with the exception of Beneš 1970) mentioned primarily the simpler pedagogical uses of translation was that the authors were dealing with methods focused on beginner classes of young learners at primary and secondary schools, however there are newauthors, such as David Mraček (2011, 2013), who see value in using translation as a communicative language instruction activity in advanced classes.

The most important contributions to the discussion on translation in language teaching were in our opinion made by Widdowson (1979, 2003), Cook (2010) and Pym and Malmkjær (2013). Widdowson used his authority within the ELT community to open up language teaching theory to at least giving some consideration to translation in some language teaching contexts, such as for advanced learners of ESP. Cook continued the discussion with an extensive review of literature relating to translation in language teaching. He also listed the main arguments for reconsidering translation as a modern communicative language instruction tool which may be used not only as simple scaffolding in beginner classes but also as a more advanced communicative activity. The report by Pym and Mamkjær relates to some confusion around the concept of *mediation* as used in the CEFR, and states that "translation is a communicative activity that can enhance the learning of an L2" (Pym and Mamkjær 2013: 135). It also notes that none of the case studies from individual countries have proved that there should be a correlation between decreased use of translation in class and higher performance in other

language skills (Pym and Mamkjær 2013: 135). The report also suggests numerous inspiring communicative activities with a translation element.

Looking at the traditional classification of the four language skills, translation plays the most important role in teaching reading and writing. Focusing first on teaching listening, we conclude that gist interpreting of a recorded text may be used occasionally, while intermediate learners may also benefit from subtitles when watching movies in a foreign language, and interpretation role-play is a suitable activity for advanced learners. In the case of learning to speak a foreign language, some ELT experts state that mental translation is detrimental to the ability to speak a foreign language as it slows down production and is conducive to learners mentally translating from their mother tongue before they speak up. However, other authors (such as Beneš 1970) state that learners will resort to mental translation anyway at the beginner and intermediate stages of language learning. Mental translation is further seen as one of the unique strategies that foreign or second language learners deploy when reading a text in a foreign language (Grabe and Stoller 2010). Interpretation role-play may be used to help the learner to focus on fluency and precision, diverting the learner's attention from individual words toward the general message, and helping the learner to visualise the content (Mraček 2013). These benefits are applicable to spoken interaction in general, involving both speaking and listening.

Looking at learning to read, we suggest that the use of translation as a test of learner comprehension rather than as an aid or resource in the hands of the learner has had seriously detrimental effects on the reputation of translation as a pedagogic technique. Most of the literature accepts translation as a natural companion of reading and Grabe and Stoller (2010) point out that mental translation, use of a bilingual dictionary, cognate vocabulary and glosses are strategies unique to a learner of a second or foreign language. In the field of teaching writing there are opportunities for using translation as an element of summarising and/or converting a text for a different audience or for a different purpose, such as for a lay audience. Another important benefit of translation is the fact that it allows for teachers to use authentic texts in class. Kroll (2001) suggests that there are clear benefits of integrating instruction in reading and writing, particularly in the ESP context. The teaching of vocabulary is the one area where the use of translation is not controversial as even experts strongly opposed to the use of translation

(e.g. Choděra 2006) admit that there is no faster way of explaining the meaning of a foreign word than by translation.

Section 2.3 discusses the concept of *mediation* as used in the CEFR and as interpreted by some authors writing about it. We find it interesting that in Greece, as reported by Dendrinos (2006), mediating activities became more popular after they were introduced into the national foreign language testing battery. A similar phenomenon was mentioned by one of the teachers in the questionnaire survey who claimed that translation was a useful skill but that at the same time the teacher could no longer use it in class because there was a new form of examination in the German language [we assume that the new examination excludes translation]. These two pieces of information indicate that there may be, in our opinion, a dangerous dependence between what is tested and what is taught. This poses a danger to every language learner, because tests are necessarily applicable to large numbers of learners, however not all learners have the same needs, and if teachers teach only what is tested then they may not teach what the learners actually need. In addition to that, some language activities are less suited for testing than others and in spite of the fact that translation has been traditionally used as a language test, we believe that it is one of the lesser suited activities for testing, because translation seldom has a single correct answer.

From the perspective of translation studies, the majority view as presented in section 2.4 is that translation is a useful activity for both beginners, used as a scaffolding that is later removed, and for advanced learners, as a close-to real-life communicative activity that involves learners using all their language skills and motivates learners through being immediately applicable in their lives. We believe that the view of translation as a process rather than as a target skill is more relevant for the purposes of our thesis, therefore we consciously did not cover the application of the theory of information in translation studies, which is dealt with for example by Jiří Levý (1971). A particular benefit lies in developing the learner's research skills and dictionaries skills, raising the learner's awareness of their audience, as well as developing the learner's knowledge of their mother tongue. An important distinction is made between the traditional instruction to translate as precisely as possible resulting in a translation close to the literal pole of the spectrum, and translation as it is viewed in current translation theory, which is more target text-and target audience-focused.

Section 2.5 deals with selected aspects of psychology related to use of the mother tongue and translation in foreign language classes. We conclude that the majority of authors agree that the mother tongue is a useful resource for a foreign language learner and that a principled use of the mother tongue in class is beneficial for foreign language learners and actually increases the amount of time in class that is available for communication in the foreign language (Butzkamm and Caldwell 2009). Both negative and positive transfer are inherent to any additional language learning, they operate in various aspects of language and many authors suggest that translation helps in keeping negative transfer under control (e.g. Malmkær 1998, Cuéllar Lázaro 2004). We also consider the motivational aspect of translation to be very important. As became evident from interview and questionnaire feedback from learners, canvassed within the scope of the survey research presented in this thesis, our learners find translation activities to be very practical and useful. So to answer the first research question of whether translation can contribute to effective learning of English for Specific Purposes, we conclude that it certainly can contribute to such learning, primarily in the forms described above. Concrete examples of activities suitable for adult advanced learners particularly in the ESP context are mentioned in Chapter 3.

Chapter 3 briefly describes English for Legal Purposes in the wider context of English for Specific Purposes and English as an International Language. It shows that the use of translation in teaching ESP is probably the least controversial manner of using translation in class as ESP presupposes adult learners who are more inclined toward explicit learning forms, precision, and who also naturally tend to compare and contrast the foreign language with their mother tongue. Another reason why translation in teaching ESP is less controversial is the fact that many ELT experts are convinced that scientific discourse must always be translated as precisely as possible (which means that it fits the description of philological translation) and does not contain many culturally rooted lexical items that would lack translation equivalents in the target language. We show that even if the lack of culture is true for science and technology texts (and there are authors who disagree even on this point, e.g. Wright 2011), it is certainly not true for legal discourse. We also conclude that modern translation practice requires the translator to take into account the purpose of the target text and the target audience, which is in our opinion particularly suited to the needs of learners in English for Legal Purposes classes working on translation activities.

The chapter includes concrete suggestions as to how translation activities may be used in advanced classes (e.g. Titford 1983, Tudor 1987, Pym and Malmkjær 2013). We show that legal translation is not only translation between the source and the target language but also a considerable amount of comparative legal work between common law and continental law. Therefore, anyone attempting to translate a legal text should have extensive knowledge of the respective legal topic in both the source language and the target language and should translate the source text in a manner that renders the source text "fully comprehensible in the different legal environment and culture" (Chromá 2004: 82).

Chapter 3 also includes a description of a legal translation experiment that aimed to find out whether lawyers would be more inclined to use functional equivalents for legal terms than non-lawyers. The result of the experiment was inconclusive, even though the numbers of lawyers using functional translation equivalents was slightly higher. The main reason why the results were not conclusive was the difficulty of strictly differentiating between legal professionals and translation professionals, as many law students who participated in the experiment had some experience in translation, and many translator participants had extensive knowledge of law. Also the experiment was vulnerable to the effect of 'a test,' where every participant tries to guess what the teacher expects and automatically uses that, rather than risking their own solution. We conclude that teachers should always give learners the opportunity to think about their own solutions to translation problems before discussing the reasons why certain solutions are better or worse for a particular context and setting. We believe that ESP courses should focus more on internet research skills and developing informed use of bilingual dictionaries and term bases.

Chapter 4 presents the results of the case study. The research is primarily qualitative, as we aimed to find out how translation is used - if it is used at all - on ESP courses, how it relates to language learning, and mainly what the attitudes of learners and teachers toward translation activities are. The survey research was based on a series of individual semi-structured interviews with ESP teachers, followed by a questionnaire survey distributed among teachers of foreign languages for law. The questionnaire survey covered approximately 45 percent of all teachers of foreign languages for law at Czech law faculties. The teachers in general were very liberal

in terms of allowing learners to use the mother tongue if necessary. They said that they saw no point in pretending that they did not understand the learners' mother tongue. All except for one teacher said that they do sometimes use the mother tongue in class, primarily for explaining grammar rules and errors made by learners. Translation is currently used in courses of English for Specific Purposes (even though the number of teachers of fields other than law was relatively low) and it is certainly used in courses of English for law in the Czech Republic. All but one teacher who answered the questionnaire survey and all but one teacher of those interviewed said that they used some form of translation in class. The most frequently used translation activities included oral translation by students of written text into the mother tongue, followed by the teacher providing translation equivalents for terms, and oral translation of a written text by learners into the foreign language. All teachers participating in the questionnaire survey considered translation to be a useful skill for law graduates.

Learner perception of translation activities was explored by means of semi-structured interviews with students who participated on a two-semester elective course of English for law in which translation activities were used, supported by a small questionnaire survey asking the students to rate the utility of the translation activities as compared with other language learning activities. Both the learners who were interviewed and the learners who filled out the questionnaire were recruited from the same elective course in which they were exposed to various uses of translation activities in class, including one translation project per semester. We are aware of the fact that the views of the students in this particular group cannot be representative of the views of Czech law students in general, let alone ESP learners. However, we are convinced that there is no point in asking for opinions on translation activities where the learner has no experience of such activities. All the interviewed learners considered translation activities to be useful for their careers, even though some indicated that they may be rather difficult and not always the most enjoyable. The students preferred classes to be held in the foreign language with the required translation guidance and occasional translation activities. The students in general considered translation from Czech into English to be more useful than translation in the other direction. The more advanced students participating on the elective course appreciated the translation of coherent text into English as good practice. The majority of students preferred to receive individual feedback on their translation work. The questionnaire survey, which was carried out

among 25 participants on the course, confirmed that the majority of the students thought that translation activities should form part of the course. Of the translation activities listed in the questionnaire, written translation of legal text from Czech into English received the highest utility rating of 4.04 on a scale of one to five, where one stood for 'useless' and five stood for 'extremely useful.'

When one teacher was asked during her interview about the impact on her teaching style of the teaching methods employed when she herself was a student, the teacher said the following: "I went through various trends or styles [of teaching] and I absorbed some components and adapted them to my disposition - every student and every teacher is different." (Jana) Indeed, the needs of students are different and the dispositions of teachers are different again. The use of translation depends on the one hand on individual circumstances (homogeneity of class, number of students), and on the other hand on teaching and learning style preferences.

In our opinion there are several important principles applicable to incorporating legal translation in classes of English for law, if and when teachers and learners agree to use the translation activities: (1) Translation activities should always approximate as much as possible the real-life assignments that students may have to deal with at school (in law classes) or at work; (2) students should never be asked to translate without being given the context, and preferably should be allowed to use reference material including dictionaries and access to the internet; and (3) teachers should keep in mind that in many cases there is no single *correct* solution, and that student translations should always be evaluated in terms of the requirements of the fictitious audience they are translating for and the purpose that was outlined in the assignment (Bahenská 2013: 14-18). Even though written translation of a coherent text into English will never become a day-to-day teaching activity in ESP classes, we believe that it is a very practical hands-on activity that may be used occasionally, once students have achieved the necessary level of proficiency and possess the requisite knowledge of specialised vocabulary to be able to cope with the given topic.

Resumé

Hlavním cílem této disertační práce s názvem **Překlad ve výuce odborné angličtiny pro nefilology** je prozkoumat možnosti využití překladu pro účely výuky odborného cizího jazyka z různých hledisek relevantních pro výuku odborné angličtiny na vysokoškolské úrovni v nefilologických oborech. Naším záměrem je nabídnout možnost zapojit překladové aktivity do kurzů odborného cizího jazyka na vysokých školách.

Výzkum, který prezentujeme v této disertační práci je zaměřen na výuku angličtiny jako cizího jazyka probíhající v homogenním prostředí z hlediska mateřského jazyka (tedy v zemích, kde angličtina není úředním jazykem a učitel ovládá mateřský jazyk studentů a studenti mají stejný mateřský jazyk); práce se zaměřuje na výuku odborného cizího jazyka pro dospělé studenty na univerzitní úrovni v nefilologických oborech se zvláštním důrazem na anglický jazyk pro právníky.

V rámci výzkumu jsme si položili následující otázky:

1. Může překlad přispět k efektivnímu učení se odborné angličtině?

2. Pokud odpověď na první otázku zní ‚ano‘, jaké formy překladových aktivity nejlépe splňují potřeby výuky odborné angličtiny?

3. Používá se překlad v současné době ve výuce odborné angličtiny a konkrétně v kurzech angličtiny pro právníky vyučovaných v České republice? Pokud ano, jak se používá?

4. Jaký je názor studentů na překladové aktivity?

Přehled odborné literatury, ze které jsme vycházeli při hledání odpovědí na první dvě otázky našeho výzkumu, je uveden v kapitole 2. Došli jsme zde k závěru, že střet mezi nepřímými a přímými metodami výuky cizích jazyků měl dlouhodobý vliv na přístup didaktiky k využívání mateřštiny a překladu ve výuce cizího jazyka (Howatt a Widdowson 2004, Richards a Rodgers 2001, Larsen-Freeman 2000). Současnou komunikativní metoda zaujímá k překladu ve výuce liberálnější přístup. Autoři, kteří zmiňují překlad jako možnou techniku nebo aktivitu v komunikativní výuce cizího jazyka zastávají odlišné názory na využívání překladu a mateřštiny

od velmi jednoduchého pedagogického využití ve formě pomůcky zejména ve skupinách začátečníků (A1-A2), která se po přechodu do středně pokročilých (B1-B2) odstraní, až po komunikativní aktivitu ve výuce cizího jazyka s prvky překladu pro pokročilejší studenty (B2 – C1 – C2).

Nejvýznamnější příspěvek k diskusi o tématu překladu ve výuce cizích jazyků podle našeho názoru učinili Widdowson (1979, 2003), Cook (2010) a Pym a Malmkjær (2013). Widdowson využil své autority v oboru didaktiky angličtiny, aby otevřel teorii výuky cizích jazyků k uvažování o překladu v některých kontextech výuky, jako jsou pokročilé kurzy odborné angličtiny. Cook navázal na Widdowsona rozsáhlým přehledem literatury se vztahem k překladu ve výuce cizích jazyků a předložil celý seznam argumentů, proč by se měl překlad znovu zvážit jako moderní nástroj komunikativní výuky cizích jazyků, kterého lze využívat nejen jako jednoduchou pomůcku ve výuce začátečníků ale také jako komunikativní aktivitu pro pokročilé studenty. Pyma a Mamkjær došli k závěru, že „překlad je komunikativní aktivita, která může přispět k učení se cizímu jazyku" (Pym a Mamkjær 2013: 135) a že žádná z případových studií, které uskutečnili v různých zemích Evropy, neprokázala, že by existovala korelace mezi menším používáním překladu ve výuce a lepšími výsledky v ostatních jazykových dovednostech (Pym a Mamkjær 2013: 135).

Podíváme-li se na tradiční klasifikaci čtyř jazykových dovedností, překlad jako nástroj výuky hraje nejvýznamnější roli ve výuce čtení a psaní. Autoři akceptují překlad jako přirozeného partnera čtení a Grabe a Stoller (2010) zdůrazňují, že vnitřní překládání, využívání překladových slovníků, příbuzná slovní zásoba mezi mateřským a cizím jazykem a glosy jsou strategie, které jsou jedinečné pro učení se čtení v cizím jazyce. Ve výuce psaní lze překlad využít jako prvek při psaní resumé a při konverzi textu pro jiného adresáta, například pro laiky, nebo pro jiný účel. Další důležitý přínos překladu spočívá ve skutečnosti, že překlad umožňuje učitelům pracovat s autentickými texty. Výuka slovní zásoby je oblastí, kde využívání překladu prakticky není zpochybňováno a připouští se, že neexistuje rychlejší způsob seznámení studenta s významem cizího slova než překlad.

Podkapitola 2.3 se zabývá pojmem *mediace,* jak ho využívá Společný evropský referenční

rámec pro jazyky a jak jej interpretují někteří autoři. Většinový pohled translatologie, jak je prezentován v podkapitole 2.4, je, že překlad je užitečná aktivita jak pro začátečníky, kde se používá v jednoduché podpůrné formě a postupně je možné jej vyřazovat, jak roste pokročilost studentů, tak i pro pokročilé studenty jako komunikativní aktivity blížící se co nejvíc skutečnému životu. Zvláštní přínos překladu tkví v rozvíjení dovedností využívání internetu k práci s textem, užívání slovníků a databází termínů, zvyšování povědomí studenta o publiku, ke kterému hovoří nebo pro které píše a také v rozvíjení znalosti mateřské jazyka.

Podkapitola 2.5 se zabývá vybranými aspekty psychologie, které jsou relevantní pro užívání mateřštiny a překladu ve výuce. Většina autorů se shoduje na tom, že mateřský jazyk je významným zdrojem při učení se cizímu jazyku a že principiální užívání mateřského jazyka ve výuce je pro studenty přínosné a ve skutečnosti zvyšuje množství času, které je možné věnovat komunikaci v cizím jazyce (Butzkamm a Caldwell 2009). Jak negativní tak i positivní transfer provázejí každé učení se dalšímu jazyku, působí v nejrůznějších aspektech jazyka a mnozí autoři uvádějí, že překlad pomáhá uvědomit si vliv mateřského jazyka nebo případně jiných cizích jazyků a umožňuje nám udržet tento vliv pod kontrolou (např. Malmkær 1998, Cuéllar Lázaro 2004). Na první výzkumnou otázku odpovídáme na základě závěrů kapitoly 2 tak, že překlad může přispět k efektivnímu učení se odbornému cizímu jazyku, a to zejména ve výše popsaných formách. Konkrétní příklady aktivit vhodných pro dospělé pokročilé studenty zejména odborného jazyka jsou uvedeny v kapitole 3.

Kapitola 3 v krátkosti popisuje anglický jazyk pro právníky v širším kontextu odborného cizího jazyka a angličtiny jako jazyka mezinárodní komunikace. Moderní praxe překladu vyžaduje, aby překladatel vzal v úvahu účel a adresáta cílového textu, což je podle našeho názoru rámec, který je nutné uplatňovat také v případě překladových aktivit používaných v kurzech angličtiny pro právníky. V této kapitole prezentujeme konkrétní návrhy na to, jak využívat překladové aktivity v pokročilých kurzech (např. Titford 1983, Tudor 1987, Pym a Malmkjær 2013). Ukazujeme, že překlad právnického textu není jen překlad mezi výchozím a cílovým jazykem, ale zahrnuje také značné množství komparativního práva mezi *common law* a kontinentálním právem. Proto překladatel právnického textu musí mít rozsáhlé znalosti daného tématu z oboru práva jak ve výchozím tak i v cílovém jazyce a měl by přeložit výchozí text tak, aby byl text

„zcela srozumitelný v odlišném právním prostředí a kultuře" (Chromá 2004: 82). Kapitola 3 dále obsahuje experiment s překladem právnického textu, jehož cílem bylo zjistit, zda budou právníci mít větší sklon využívat funkční ekvivalenty termínů než neprávníci. Výsledky experimentu nebyly průkazné zejména z důvodu obtíží při klasifikaci právníků a překladatelů, protože řada studentů práv, kteří se účastnili experimentu, měla určité zkušenosti s překladem a mnoho profesionálních překladatelů mělo rozsáhlé znalosti z oboru práva.

Kapitola 4 prezentuje výsledky případové studie. Výzkum je primárně kvalitativní, protože naším cílem bylo zjistit, jak se překlad užívá – pokud se vůbec používá – v kurzech odborné angličtiny, jaký má vztah k učení se cizímu jazyku a především jaký mají k překladovým aktivitám přístup studenti a učitelé. Výzkum je založen na řadě částečně strukturovaných rozhovorů s učiteli odborného cizího jazyka a tyto rozhovory jsou doplněny dotazníkovým šetřením mezi učiteli cizích jazyků pro právníky. Celkem se výzkumu účastnilo 29 učitelů odborného cizího jazyka. Dotazníkové šetření mezi učiteli cizích jazyků pro právníky pokrývá přibližně 45 % všech učitelů právnického cizího jazyka na právnických fakultách v České republice. Překlad se v současné době používá v kurzech odborného cizího jazyka (i když zastoupení učitelů angličtiny pro jiné obory, než je právo bylo poměrně malé) a rozhodně se v České republice využívá v kurzech angličtiny pro právníky. Všichni učitelé v dotazníkovém šetření až na jednoho uvedli, že užívají nějakou formu překladu ve výuce. Nejčastěji užívanými překladovými aktivitami byl ústní překlad psaného textu studentem do mateřštiny, prezentování překladových ekvivalentů pro odborné termíny vyučujícím a ústní překlad psaného textu studentem do cizího jazyka. Všichni učitelé, kteří odevzdali vyplněný dotazník, uvedli, že považují překlad za užitečnou dovednost pro absolventa právnické fakulty.

Pokud jde o vztah studentů k překladovým aktivitám, zjišťovali jsme jej pomocí částečně strukturovaných rozhovorů se studenty, kteří se účastnili dvousemestrálního výběrového předmětu právnické angličtiny v ekonomickém kontextu, ve které se využívaly různé překladové aktivity. Výsledky rozhovorů byly doplněny malým dotazníkovým šetřením, ve kterém jsme studenty žádali, aby zhodnotili užitečnost překladových aktivit ve srovnání s jinými aktivitami ve výuce odborného cizího jazyka. Všichni studenti, se kterými jsme nahráli rozhovor, považují překladové aktivity za užitečné pro jejich profesní kariéru. Studenti obecně považují překlad

z češtiny do angličtiny za užitečnější než opačný směr překladu. Pokročilejší studenti, kteří se účastnili našeho výběrového předmětu, oceňují zejména překlad souvislého textu do angličtiny. Většina studentů upřednostňuje individuální zpětnou vazbu. Z dotazníkového šetření mezi 25 účastníky kurzu vyplynulo, že si většina studentů přeje, aby překladové aktivity tvořily součást kurzu. Z překladových aktivit uvedených v dotazníku, dostal nevyšší hodnocení užitečnosti písemný překlad právnického textu z češtiny do angličtiny.

Užívání překladu závisí na jedné straně na okolnostech (zda je skupina stejnorodá co do mateřského jazyka, kolik studentů je ve skupině) a na druhé straně také na preferovaném stylu učení vyučujícího a stylu učení se studentů. Pokud se učitel a studenti dohodnou na užívání některých překladových aktivity ve výuce, podle našeho názoru pro začlenění těchto aktivit existuje několik důležitých principů. (1) Překladové aktivity by se měly vždy co nejvíce blížit reálným úkolům, které musí studenti plnit ve škole (ve výuce práva) nebo v práci; (2) studenti by nikdy neměli být nuceni překládat bez kontextu a pokud možno by měli přitom mít přístup k referenčním materiálům včetně slovníků a přístupu k internetu; a (3) učitel by měl mít na paměti, že v mnoha případech neexistuje jediné *správné* řešení.

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Appendix 1

Překlad právnického textu do angličtiny

Advokáti se ve své praxi stále častěji setkávají s anglicky mluvícími klienty, se kterými komunikují písemnou i ústní formou. Překlad dokumentů pro ně obvykle zajišťují kvalifikovaní překladatelé, ale běžnou komunikaci typu osobního jednání s klientem nebo poskytnutí základní informace elektronickou poštou si obvykle obstarávají sami. Při této komunikaci vychází z vědomostí, které si osvojili v českém jazyce nebo ze znění zákonů, které jsou psány v češtině. I když text píší anglicky, jsou nuceni překládat české koncepty do cizího jazyka. Je-li nutné citovat zákon, vyžaduje to také překlad. Následující text k překladu do angličtiny simuluje tuto situaci, tedy poskytnutí základní informace zahraničnímu klientovi.

Zadání je součástí výzkumu zaměřeného na zjišťování, jakou roli v překladu právnického textu hraje odborná znalost práva, a to jak práva českého tak i práva cílového jazyka – tedy práva anglicky mluvících zemí. Respondenti obdrží rozbor textu, možná řešení jednotlivých problematických termínů a formulací a možný překlad do angličtiny. Předem děkuji za vypracování a odevzdání překladu.

Nejprve prosím o zodpovězení několika otázek:

Prosím, uveďte svůj věk: _____

Jaká je Vaše profese? Prosím, zaškrtněte (nebo označte tučně) jednu z možností:
- ☐ Student PF UK
- ☐ Student FF UK
- ☐ Advokát
- ☐ Překladatel
- ☐ Soudce
- ☐ Jiná (prosím, uveďte jaká): _____

Jaký je Váš mateřský jazyk? _____

Jak dlouho studujete anglický jazyk? _____

Jak hodnotíte svou znalost angličtiny na stupnici od 1 do 5 (kde 1 je nejlepší - na úrovni rodilého mluvčího - a 5 je základní znalost) v následujících dovednostech? Prosím, označte křížkem x.

	1	2	3	4	5
čtení					
psaní					
poslech					
mluvení					

Ovládáte nějaké jiné jazyky?

Nyní prosím o překlad následujícího textu, který se zabývá podnikáním zahraničních osob v České republice a procesem vzniku společnosti:

Obchodní zákoník umožňuje podnikání zahraničním osobám na území České republiky zásadně za stejných podmínek a ve stejném rozsahu jako českým osobám, ledaže zákon stanoví něco jiného (§ 21 odst. 1 ObchZ). Zahraničními osobami se pro účely obchodního zákoníku rozumí fyzické osoby s bydlištěm nebo právnické osoby se sídlem mimo území České republiky.

Podnikáním zahraniční osoby na území České republiky se rozumí podnikání zahraniční osoby prostřednictvím jejího podniku nebo jeho organizační složky umístěné na území České republiky. Oprávnění zahraniční osoby podnikat na území ČR vzniká ke dni zápisu této osoby, popř. organizační složky jejího podniku, do obchodního rejstříku.

Proces vzniku obchodní společnosti zahrnuje dvě fáze: založení obchodní společnosti a vlastní vznik obchodní společnosti jakožto právního subjektu, tzv. legalizaci. Založení obchodní společnosti se uskutečňuje společenskou smlouvou, popř. zakladatelskou smlouvou, tj. dvoustranným, popř. vícestranným právním úkonem, a pokud obchodní zákoník připouští založení obchodní společnosti jedinou osobou, tak zakladatelskou listinou, tj. jednostranným právním úkonem. Společenská smlouva společnosti s ručením omezeným a zakladatelská smlouva akciové společnosti musí mít formu notářského zápisu.

Appendix 2

Source text

Obchodní zákoník umožňuje podnikání zahraničním osobám na území České republiky zásadně za stejných podmínek a ve stejném rozsahu jako českým osobám, ledaže zákon stanoví něco jiného (§ 21 odst. 1 ObchZ). Zahraničními osobami se pro účely obchodního zákoníku rozumí fyzické osoby s bydlištěm nebo právnické osoby se sídlem mimo území České republiky.

Podnikáním zahraniční osoby na území České republiky se rozumí podnikání zahraniční osoby prostřednictvím jejího podniku nebo jeho organizační složky umístěné na území České republiky. Oprávnění zahraniční osoby podnikat na území ČR vzniká ke dni zápisu této osoby, popř. organizační složky jejího podniku, do obchodního rejstříku.

Proces vzniku obchodní společnosti zahrnuje dvě fáze: založení obchodní společnosti a vlastní vznik obchodní společnosti jakožto právního subjektu, tzv. legalizaci. Založení obchodní společnosti se uskutečňuje společenskou smlouvou, popř. zakladatelskou smlouvou, tj. dvoustranným, popř. vícestranným právním úkonem, a pokud obchodní zákoník připouští založení obchodní společnosti jedinou osobou, tak zakladatelskou listinou, tj. jednostranným právním úkonem. Společenská smlouva společnosti s ručením omezeným a zakladatelská smlouva akciové společnosti musí mít formu notářského zápisu.

Target text

The Commercial Code enables foreigners to carry out business in the Czech Republic under essentially the same conditions and to the same extent as Czech nationals unless the law provides otherwise (s. 21 (1) ComC). For the purposes of the Commercial Code, foreign persons are natural persons residing outside of the Czech Republic as well as juridical persons with a registered office outside of the Czech Republic.

Business undertaken by a foreigner in the Czech Republic is understood, for the purposes of the Commercial Code, to be the business of the foreign person carried out through their enterprise or branch thereof (organisational subdivision) located in the Czech Republic. Licence for such foreigner to undertake business in the Czech Republic commences upon the registration of the person, or branch thereof, in the Commercial Register.

The process of a company's coming into existence comprises two stages: the foundation of the company, and the commencement of its legal existence as a legal person, i.e. its legalisation. The foundation of a company is based upon a bilateral or multilateral legal act, i.e. the memorandum of association. Where the Commercial Code allows for a company to be formed by one person, the foundation of such a company is based upon a unilateral act, i.e. the letter of incorporation. The memorandum of association of a limited liability company or a joint stock company must be in the form of a notarial deed.

Appendix 3

Dotazník pro účastníky výběrového předmětu Business English for Lawyers I v zimním semestru 2012

Máme zájem neustále zvyšovat kvalitu našeho kurzu a co nejlépe plnit potřeby jeho účastníků. Proto vás prosíme o vyplnění následujícího dotazníku.

Pokud jste se účastnili výběrového předmětu International Legal English a vyplnili jste tam hodnocení technik výuky, v tomto formuláři prosím vyplňte pouze část B a C.

A. **Zhodnoťte následující techniky výuky** odborného jazyka z hlediska jejich užitečnosti při učení se odborné angličtině na škále od 1 do 5, kde **1 = neužitečná a 5 = mimořádně užitečná**.

Technika	Hodnocení				
Aktivity zaměřené na nácvik výměny informací	1	2	3	4	5
Doplňování chybějících slov v jednotlivých větách bez variant	1	2	3	4	5
Doplňování chybějících slov v jednotlivých větách s volbou z několika variant	1	2	3	4	5
Doplňování chybějících slov v souvislém textu	1	2	3	4	5
Doplňování chybějících slov v souvislém textu s volbou z několika variant	1	2	3	4	5
Hlasité čtení textu v angličtině	1	2	3	4	5
Hraní rolí – např. nácvik vyjednávání	1	2	3	4	5
Kontrola porozumění textu / poslechu pomocí určování pravdivosti nebo nepravdivosti výroků	1	2	3	4	5
Kontrola porozumění textu tak, že učitel klade otázky v angličtině a studenti odpovídají v angličtině	1	2	3	4	5
Nácvik odborné diskuse na určité téma	1	2	3	4	5
Parafrázování textu z odborné angličtiny (např. ustanovení smlouvy) do angličtiny srozumitelné pro laiky	1	2	3	4	5
Párování termínů a jejich definic / vysvětlení	1	2	3	4	5
Písemný překlad souvislého textu (např. věta nebo odstavec) z angličtiny do češtiny	1	2	3	4	5
Písemný překlad souvislého textu (např. věta nebo odstavec) z češtiny do angličtiny	1	2	3	4	5
Prezentace studenta na určité téma	1	2	3	4	5
Procvičování antonym – např. hledání výrazů s opačným významem v textu	1	2	3	4	5
Procvičování synonym– např. hledání výrazů obdobného významu v textu	1	2	3	4	5
Psaní souvislého textu na určité téma	1	2	3	4	5
Řazení pomíchaných vět do správného pořadí	1	2	3	4	5
Tvoření vět s využitím určitých termínů nebo terminologických spojení	1	2	3	4	5
Ústní překlad souvislého textu (např. věta nebo odstavec) z angličtiny do češtiny	1	2	3	4	5

Technika	Hodnocení				
Ústní překlad souvislého textu (např. věta nebo odstavec) z češtiny do angličtiny	1	2	3	4	5
Ústní překlad termínů nebo terminologických slovních spojení z angličtiny do češtiny	1	2	3	4	5
Ústní překlad termínů nebo terminologických slovních spojení z češtiny do angličtiny	1	2	3	4	5
Vysvětlování termínů a terminologických spojení v angličtině	1	2	3	4	5

B. Hodnocení nácviku překladu 1 = neužitečná a 5 = mimořádně užitečná

Myslíte si, že nácvik překladu má být součástí kurzu?	ano	ne
Měl by nácvik probíhat písemnou formou (doma) nebo ústně?	písemně	ústně
Forma zpětné vazby: upřednostňujete kolektivní v semináři nebo individuální emailem	kolektivní	individuální
Který směr překladu považujete za užitečnější?	ČJ->AJ	AJ->ČJ
Zadání pro domácí písemný překlad (výňatek ze zákona o korporacích)	1 2 3 4 5	
Překlad plné moci v semináři	1 2 3 4 5	

C. Hodnocení organizace a vedení kurzu: 1 = neuspokojivé, 5 = mimořádně uspokojivé

Organizace zápisu do kurzu přes email: 1 2 3 4 5

Dali byste přednost zápisu přes IS ano ne

Vyučující: Adéla Bahenská 1 2 3 4 5

Způsob testování: 1 2 3 4 5

Uveďte prosím jakékoli další připomínky ke kurzu:

_____

_____

_____

_____

_____

Děkujeme za váš čas.

Appendix 4

Dobrý den,

jmenuji se Adéla Bahenská a učím právnickou a ekonomickou angličtinu na Právnické fakultě Univerzity Karlovy v Praze. V rámci postgraduálního studia se zabývám různými možnostmi využití překladu ve výuce cizích jazyků a zejména angličtiny v nefilologických oborech.

Předem děkuji za váš čas a odpovědi na následující otázky.

1. Který cizí jazyk pro právníky učíte a jak dlouho?

    ○ AJ   ○ N   ○ IT   ○ Jiný: ………..

    ○ FJ   ○ R   ○ ŠP

    Počet roků:_____

2. Jaký je váš mateřský jazyk?

    ○ ČJ   ○ Slovenština   ○ Jiný: ………..

3. Jaký obor jste vystudoval/a? _____

4. Jak odhadujete úroveň znalosti cizího jazyka vašich studentů na začátku studia cizího jazyka podle Evropského referenčního rámce?

    ○ A1   ○ B1   ○ C1

    ○ A2   ○ B2   ○ C2

5. Jak velké skupiny studentů obvykle učíte?

    Počet studentů: _____

6. Používáte při výuce mateřský jazyk?

    ☐ Nepoužívám.

    (Uveďte prosím

    důvod:_____

    _____)

    ☐ Používám (zaškrtněte prosím všechny uvedené příklady, které se vyskytují ve vaší výuce):

    a) Jako pomocný prostředek při vedení výuky:

    ○ navázání kontaktu se studenty   ○ jazyková analýza

    ○ složité pokyny   ○ prezentace gramatických pravidel

    ○ hodnocení studentů   ○ vysvětlování chyb

    b) Pokud používáte ve výuce mateřštinu k překladu, zakroužkujte všechny využívané formy a poté tři nejčastější označte hvězdičkou:

    ○ učitel prezentuje odborné termíny a jejich překladové ekvivalenty

    ○ student překládá **psaný text ústně do mateřštiny při výuce**

    ○ student překládá **psaný text ústně do cizího jazyka při výuce**

    Dotazník pokračuje na druhé straně, prosím otočte.

○ studenti simulují komunikaci prostřednictvím tlumočníka

○ student překládá psaný text **ústně do mateřštiny** při ústním **zkoušení**

○ student překládá psaný text **ústně do cizího jazyka** při ústním **zkoušení**

○ student **písemně** překládá jednotlivé věty nebo slovní spojení z cizího jazyka do mateřštiny

○ student **písemně** překládá **jednotlivé věty** nebo slovní spojení z mateřštiny **do cizího jazyka**

○ student **písemně** překládá **souvislý text** z cizího jazyka **do mateřštiny**

○ student **písemně** překládá **souvislý text** z mateřštiny **do cizího jazyka**

7. Pokud používáte překlad jiným způsobem, prosím, popište jakým:

_____

8. Odhadněte, jaké procento z celkového času určeného pro cizí jazyk v rámci jednoho semestru tvoří všechny vámi užívané překladové aktivity:

_____

9. Pokud někdy zadáváte písemný překlad souvislého textu:

Vypracovávají ho studenti v rámci semináře nebo doma? _____

Co uvádíte do zadání překladu?

_____

_____

_____

Jak poskytujete studentům zpětnou vazbu?

_____

_____

_____

10. Považujete odborný překlad za dovednost, která je pro absolventa právnické fakulty:

○ zbytečná   ○ spíš užitečná

○ spíš zbytečná   ○ užitečná

Appendix 5

Otázky pro vysokoškolské studenty práv čtvrtého a pátého ročníku

Souhlasíte s tím, abych si náš rozhovor nahrála a v anonymní podobě ho využila v rámci svého výzkumu?

Zabývám se využíváním překladu ve výuce odborného cizího jazyka. Překladem myslím: ústní překlad, písemný překlad; překlad slovních spojení, jednotlivých vět nebo souvislých textů; překlad do češtiny a z češtiny do angličtiny.

Považujete průpravu v odborném překladu za užitečnou pro vaši budoucí praxi?

Jakou formu překladu v rámci výuky jazyka považujete za nejužitečnější? Jaké formě zpětné vazby od učitele dáváte přednost?

Pokud v zaměstnání někdy překládáte, jaké texty to obvykle jsou?

Jaký máte názor na **používání češtiny ze strany učitele** ve výuce cizího jazyka?

Můžete uvést nějaké konkrétní zkušenosti?

Kdy to považujete za brzdu a za jakých okolností je to přínosné?
Např.:
- čeština jako pomocný prostředek při vedení výuky (vysvětlení, pokyny, …),
- čeština ve formě krátkého ústního překladu (např. odborné termíny a jejich ekvivalenty, ověření porozumění cizojazyčnému textu),
- použití češtiny v rámci samostatných překladových aktivit (překlad slovních spojení, jednotlivých vět, překlad souvislého textu různé formy – směr překladu z cizího jazyka a do cizího jazyka, ústně nebo písemně, v rámci domácí přípravy nebo ve výuce nebo formou testu, se slovníkem bez slovníku)

Appendix 6

Otázky pro vysokoškolské učitele odborné angličtiny v nefilologických oborech:

1. Souhlasíte s tím, abych náš rozhovor nahrála a v anonymní podobě využila při zpracování disertační práce?

2. Můžete mi prosím říct nejprve něco o sobě?

    a) Jaký obor jste vystudoval/a?

    b) Vzpomenete si na metody nebo postupy, které využívali vaši učitelé angličtiny?

    c) Kolik jazyků ovládáte a který jazyk jste se učil/a jako první?

    d) Jak dlouho učíte na této fakultě?

3. Jak probíhá studium angličtiny na vaší fakultě? Můžeme vynechat.

    a) Jak dlouho se studenti na vaší fakultě věnují studiu jazyka a ve kterých semestrech?

    b) Kolik studentů máte na starosti během jednoho akademického roku?

    c) S jakou znalostí anglického jazyka podle ERR většina studentů přichází na vaši fakultu? Zjišťujete ji vlastními testy? Jsou studenti rozřazováni podle pokročilosti?

    d) Mají studenti možnost absolvovat některé odborné předměty v cizím jazyce?

4. Co je obsahem učiva?

5. Používáte při výuce češtinu? Pokud ano, za jakým účelem?

    a) Jako pomocný prostředek při vedení výuky:

    - navázání kontaktu se studenty
    - pokyny v průběhu výuky
    - poskytování složitých instrukcí
    - vysvětlení v mateřštině
    - hodnocení studentů
    - jazyková analýza
    - prezentace gramatických pravidel
    - vysvětlování chyb

    b) Ve formě krátkého ústního překladu:

    - prezentace odborných termínů a jejich ekvivalentů nebo nové slovní zásoby obecně
    - rozvoj strategií parafrázování

- naváděni studentů k tomu, aby si vybavili konkrétní termín v cizím jazyce
- ověření porozumění
- vyhledání slova v překladovém slovníku
- jiné

c) Překlad jako samostatná aktivita v rámci výuky:
  o ústní
    - překlad z listu (do cizího jazyka, do mateřštiny nebo obojí)
    - hra na tlumočníka
    - překlad při ústním zkoušení (do cizího jazyka, do mateřštiny nebo obojí)
    - jiné
  o písemný (do cizího jazyka, do mateřštiny nebo obojí)
    - formou testu
    - jako seminární práce
    - během výuky
    - souvislý text, prosím uveďte přibližný rozsah
    - jednotlivé věty
    - jednotlivá slovní spojení
    - jiné
  o kombinace – srovnání několika překladů stejného textu a diskuse o nich

d) Používáte někdy následující aktivity související s překladem?
  o diskuse o problémech překladu
  o nácvik používání slovníků

e) Pokud někdy zadáváte písemný překlad souvislého textu, jaké je zadání a jakou formou dáváte studentům zpětnou vazbu?

6. Umožňujete studentům ve výuce použít češtinu?

7. Pokud používáte mateřštinu ve výuce, jak podle vašeho názoru působí použití mateřského jazyka ve výuce na studenty? (např. vzbuzuje odpor – studenti jsou zvyklí ve výuce mluvit

pouze cizím jazykem, vítají možnost použít nějaké slovo v češtině a zjistit od vyučujícího ekvivalent v cizím jazyce, občas přejdou zcela do diskuse v češtině a obtížně se vracejí k diskusi v cizím jazyce, zvyšuje nebo zmírňuje strach z CJ, …)

8. Považujete odborný překlad za důležitou dovednost pro vysokoškolsky vzdělaného odborníka? Myslíte si, že by studenti měli získat průpravu v odborném překladu? Prosím uveďte důvody.

9. Vidíte nějaký rozdíl v možnosti využití překladu mezi humanitními nefilologickými obory a například přírodovědnými nebo technickými obory?