

The AUTHORISED TRANSLATION PROCESS – *Lessons Learned* in the Aftermath of the Covid-19 Crisis

Anca Monica STANCIU¹

DOI: 10.52744/AUCSFLSA.2022.01.05

Abstract:

In the current context, in which the pandemic has affected all areas of life, humanity has faced an unprecedented challenge. Society as a whole were forced to rethink new solutions and procedures, sometimes radically different from the previous ones, in order to be able to resume safely their daily activities in safe conditions. It all happens under the pressure of the time, and in order to limit, as much as possible, the negative effects on the economy, caused by the multiple lockdown periods. Admittedly, the field of translations is no exception - in addition to the dramatic decrease of the translation demand, caused by the slowdown of the social life, the performance of authorized translations is also hindered by the limited contact with the authorities. According to the European legislation in force, authorized translations require a subsequent legalization procedure. If they are to be used in a country other than the one that issued the source document or in a country other than the one where the translator is authorized, the situation becomes even more complicated. The paper aims to identify possible solutions to increase the effectiveness of remote translation, using the means provided by technology.

Keywords: *authorised translation; legalization process; challenges*

1. Preamble

The isolation caused by the global pandemic has accentuated, more than ever, the need for remote communication. The concepts of „home-office”, „telework”, „home-work” have begun to be used more and more frequently to designate work carried out at the home-base location, in the so-called privileged fields of activity, where this way of working could be adopted. But regardless of the specificity of the field, no activity could have been possible to perform remotely without benefiting from current technology. In turn, technology had to adapt in order to create the right conditions for each activity. The adaptation of technology to the current context has led to the emergence of an impressive number of programs

¹ University of Craiova, Craiova, Romania, anca.stanciu@edu.ucv.ro



and applications, specially designed to fit for purpose. Due to digitalization, vital areas of activity such as education, public administration, certain sectors of the industry, etc. could be continued. From the point of view of the present research, we are interested in investigating the extent to which the translation and legalization activity can be performed remotely, given that the legalization process of any translation, irrespective of the country in which it is performed, involves, at some point, the contact with the authorities. This article intends to highlight aspects of the translation activity carried out during the pandemic that can be classified in the *lessons learned* category, and intends to draw attention to an opportunity that can be further exploited, post-pandemic, for the benefit of the translation activity as a process and product.

2. Legalization of translations - process and procedure

The definitions of the concept of *legalization* are multiple and they differ depending on the legislation of each state. Given that the actual legalization involves distinct steps, in accordance with the legislation in force, we shall attempt to explore the issue and to identify, based on a comparative approach, some of the methods used in countries such as Romania, Belgium and France, hoping to identify a common (successful) approach, and an adequate solution.

Under the circumstances, the current study focuses on the status of legalized translations and we hope to provide viable answers to the following questions:

- What does the legalization of translation involve?
- What are the administrative steps to follow in order have a legalized translation?
- How can we use current technology to be able to perform remote translation and legalization?

2.1. BELGIUM

2.1.1 PROCESS. The Federal Public Justice Service (SPF Justice) sheds light on the concept of *legalization*: „*La légalisation désigne la procédure par laquelle un fonctionnaire certifie l'authenticité de la ou des signatures apposées sur un document et, s'il s'agit d'un acte public, la qualité des personnes qui ont dressé l'acte ou dont l'acte émane*” (https://justice.belgium.be/fr/themes_et_dossiers/personnes_et_familles/legalisation_de_documents/faq) [Legalization refers to the procedure by which an official certifies the authenticity of the signature(s) affixed to a document and, in the case of a public act, the quality of the persons who drafted or issued the act] (our translation). In other words, legalization refers to the verification of the signature of the person or persons who



signed the document or, where appropriate, to the verification of the quality of the person who signed it. Then it is specified that legalization is a simple administrative formality and that it does not lend authenticity to the content of an act. Hence, it should not be confused with „compliant certification”, a procedure that certifies the conformity of a copy to the original. In other words, regarding the legalization of translations, this procedure actually involves the legalization of the translator's signature, the quality of which was previously recognized. A legalized translation certifies that the person who performed the translation is legally authorized for this purpose, but it does not certify the originality or conformity with the original of the translated document. Starting from 01/01/2021, considering the current pandemic context, no French-speaking or Dutch-speaking court will ensure the legalization of the signature of sworn translators and interpreters. From this date, legalization requires to follow a new procedure, coordinated by SPF Justice. This regulation covers several situations, which may differ depending on the status of each translator (registered or not in the National Register) and on the beneficiaries of the translated document: internal or external.

2.1.1.1 Thus, translators and interpreters registered in the National Register are issued a temporary stamp, so as to be entitled to legalize the translated documents themselves. Furthermore, in order to be considered legalized, any translation must be completed by a special closing formula containing the translator's identification data, in the order indicated below:

„1. la mention „*Pour traduction conforme et ne varietur de la langue ... vers la langue ... Fait à ..., le*” ;

2. suivi de votre numéro d'identification (numéro commençant par VTI);

3. suivi de votre signature ;

4. suivi de votre nom - prénom ;

5. suivi de votre titre: *traducteur juré, ou traducteur-interprète juré ;*”

(https://justice.belgium.be/fr/themes_et_dossiers/personnes_et_familles/legalisation_de_documents/faq)

[1. The mention „For the authenticated and ne varietur translation from language ___ into language ___, Done at ___, on ___; 2. followed by your identification number (number starting with VTI ...); 3. followed by your signature; 4. followed by your name and surname; 5. followed by your title: sworn translator or sworn translator-interpreter] (our translation).

2.1.1.2. Translators whose registration has not yet been validated but who have received permission to make an off register registration



must legalize their translation with the national register and then with the SPF Affaires Étrangères (with or without the apostille, depending on the destination of the document). In order to be legalized, the translation must, in this case, be completed by a different formula and followed by the identification data of the translator, as follows:

„1. la mention „Pour traduction conforme et ne varietur de la langue ... vers la langue ... Fait à ..., le” ;

2. suivie de la formule de prestation de serment suivante: « Je jure avoir rempli ma mission en honneur et conscience, avec exactitude et probité. » ;

3. suivi de votre signature ;

4. suivi de votre nom - prénom.”

[1. The mention „For the authenticated and ne varietur translation from language ___ into language ___, Done at ___, on ___; 2. followed by the following formula of taking the oath: „I swear that I have fulfilled my mission honorably and conscientiously, with accuracy and probity”; 3. followed by your signature; 4. followed by your first and last name.] (our translation).

2.1.2 PROCEDURE. From the point of view of the procedure to be followed to legalize translations in the Kingdom of Belgium, we also distinguish two administrative steps, which differ depending on the destination of the translated document. In other words, the institution in charge of legalizing the documents for internal use is the National Register. Translations intended for use abroad are legalized by another institution, namely SPF Justice. It is interesting, however, that for any of these procedures, the physical submission of documents is required. In the case of translations for internal use, the authorized institution provide the translators with a special mailbox for submitting the documents to be legalized. These must be accompanied by an envelope stamped and inscribed with the address to which the documents must be sent after legalization. Translations intended for use abroad must be submitted in person, or exceptionally, by post. Once legalized, they are sent by postal courier to the address indicated by the applicant.

2.2 FRANCE

2.2.1 PROCESS. In France, legalized translations have a similar regime to those done in Belgium. There is also a clear distinction between „traduction certifiée” and what is called „traduction assermentée” in the legal fields, business and emigration. The difference between the two ways of translating documents is the format of the translation which, in the case of certified translations, is accompanied by the certificate of the accredited professional translator, while the sworn translation is signed



by the translator registered in the official registers of the courts. (<https://www.diplomatie.gouv.fr/fr/services-aux-francais/legalisation-1499/article/quels-documents-peuvent-etre-legalises>).

2.2.1.1 Certified translation is required in the case of documents that have official purposes but for which the translator is required to hold only the certificate of professional translator. This type of certificate is intended for non-European countries and the Commonwealth. At the end of the document, the translator will mention that the translation is faithful to the source text, will indicate the source language and the target language, will sign and date the translation.

2.2.1.2 Sworn translation is required in the case of documents to be used for official purposes, intended for emigration, legal and commercial affairs, study abroad applications, financial documents such as account and accounting statements, or medical documents, translations to be used in France or in certain European countries. The translator who performs such translations must be registered with the court of the country of residence.

2.2.2 PROCEDURE

The translator's signature must be certified by a French public authority - if the translation is to be legalized - according to the same process as for a private act: by a French city hall, a French notary, a French Chamber of Commerce and Industry or a French consular post. The status of a sworn translator before a Court of Appeal or authorized by the head of a consular post cannot be equated with the status of the representative of the state. Article 7 of the Decree no. 2007-1205 of August 10, 2007, regulating the manner in which a document written in a foreign language shall be translated into French, provides that:

„Pour être légalisés, les actes publics et les actes sous seing privé doivent être rédigés en français ou, à défaut, être accompagnés d'une traduction en français effectuée par un traducteur habilité à intervenir auprès des autorités judiciaires ou administratives françaises ou d'un autre Etat membre de l'Union européenne ou d'un Etat partie à l'accord sur l'Espace économique européen ou de la Suisse, ou auprès des autorités de l'État de résidence.” (<https://www.diplomatie.gouv.fr/fr/services-aux-francais/legalisation-1499/article/procedure-de-traduction>) [In order to be legalized, public documents and documents under private signature must be drafted in French or, failing that, must be accompanied by a French translation done by a translator authorized to intervene with the French judicial or administrative authorities or in another State, a Member State of the EU, or of a State that is a party to the Agreement on the European Economic Area, or of Switzerland or with the authorities of the State of residence] (our translation).



Regarding the translation of documents from French into a foreign language, the same source *France Diplomatie* informs us that in the situation where the translation of a document must be legalized or must accompany an act in a foreign language that is presented for legalization, it must meet the following criteria:

- To be performed by a sworn translator from a French court of appeal or by a translator authorized by a French diplomatic or consular representative from abroad, starting from the original of the document, himself/herself having to comply for legalization, that is, to meet the conditions of legalization;
- The source document and the translation must bear the stamp and signature of the translator and, in equal measure, the same translation number (registration number), identical on the two documents.

It should be noted, at the same time, that a sworn translation has a higher value than a certified translation, a fact demonstrated by the wider scope of use. This added value is generated by the fact that the translator was accredited by a special procedure and that s/he took the oath, by the stamp placed by the sworn translator but also by the fact that his signature was recognized by a Court of Appeal, a court or French Ministry of Foreign Affairs. We also note that in France, a translation does not necessarily involve subsequent contact with another authority to validate the translation, unless the translated document is not to be used abroad or should be subject to a legalization procedure. Legalization often involves the apostille of the document to be translated (<https://www.traduction-assermentee-officielle.com/fr/blog/articles/7-traduction-certifiee-legalisation-apostille-3-choses-a-savoir.html>).

2.3 ROMANIA

2.3.1 PROCESS. In Romania, the current legislation does not distinguish between legal translations and other types of translations. The accreditation of translators and interpreters is done by the Ministry of Justice, following which they become authorized to translate at the Prosecutor's Office, the Court of Cassation and Justice, the Superior Council of Magistracy, Courts, tribunals, criminal investigation bodies, public notary offices and lawyers. Article 319 (5) of the legalization methodology, related to Law 36/1995, specifies the form in which the translated document must be presented. It must be accompanied by a copy of the original after which the translation was made: „*Copia inscrisului care se traduce, se anexeaza traducerii, cu aplicarea stampilei interpretului si traducatorului autorizat, pe marginile alaturate, la imbinarea a doua file, astfel incat stampila de legatura sa fie aplicata pe toate filele inscrisului, care se numeroteaza, capseaza, coase sau broseaza*”



[The copy of the document to be translated is attached to the translation, with the stamp of the authorized interpreter and translator, on the adjacent edges, joining two tabs, so that the link stamp is applied on all tabs of the document, which are numbered, stapled, sewn or broached] (our translation). A translation thus made must be submitted, in the form mentioned above, at the office of a Notary Public, for the certification of the translator's signature.

2.3.2 PROCEDURE. In Romania, translations performed by experts are called „authorized translations”. In order for a translation to be considered „authorized”, also from the point of view of form, it must always be concluded by a special formula regulated within Art. 320 (1) of the same legislation, related to law 36/1995:

„Subsemnatul(nume, prenume astfel cum sunt mentionate in autorizatie), interpret si traducator autorizat pentru limba/limbile straine in temeiul autorizatiei nr. ... din data de ..., eliberata de Ministerul Justitiei din Romania, certific exactitatea traducerii efectuate din limba ... in limba, ca textul prezentat a fost tradus complet, fara omisiuni, si ca, prin traducere, inscrisului nu i-a fost denaturat continutul si sensul.” (<http://www.traduceri-notariale.ro/metodologie-legalizare.pdf>).

[I (name, surname as mentioned in the authorization), interpreter and translator authorized for the foreign language (s) under authorization no. ... of ..., issued by the Romanian Ministry of Justice, hereby certify the accuracy of the translation made from the language ... into the language, that the text presented has been translated completely, without omissions, and that, by translation, the content and meaning of the document were not distorted] (our translation).

Also, according to the methodology of the procedure for legalizing the signature of translators by notaries public, the provisions contained in Law 36/1995, republished, Art.152 (1), specify that *„traducatorul atestat protrivit legii, care a intocmit traducerea, va semna formula de certificare a acesteia, iar notarul va legaliza semnatura traducatorului. Legalizarea semnaturii traducatorului se poate face si dupa specimenul de semnatura depus la biroul notarului public.”* [the translator certified according to the law, who prepared the translation, shall sign the certification formula, and the notary shall legalize the translator's signature. The legalization of the translator's signature may also be done after the signature specimen submitted to the notary public's office]. In other words, in Romania, the procedure for legalizing a translation involves the subsequent contact with the authorities, in the case of our country, the authority being represented by the notary public office to which the translator submitted the signature specimen.



The legalization procedure of legal translations seems to be similar in most European states and not only. Mathias A., Professor of Political Science at the University of Bielefeld, Germany, speak about a „trend in recent research in International Relations and International Law alike has pointed out that international legalization increasingly also takes the form of a closer cooperation and exchange between and a mutual recognition of relevant national legal institutions, particularly courts” (2007:7). This continuous preoccupation with harmonizing translation policies and practices exists and has as its main purpose to make „order of disorder” according to Willke (2003: 78). However, there are different ways to certify the official translation of a document, specific to each individual state. Certain countries, not only those in the European space, require the translator to intervene even on the original document, by applying the stamp and signature of the person who performed the translation. In an internship report, published at the end of her undergraduate studies, Rodríguez (2013: 33-35), talks about the method practiced by translation companies in Colombia, Latin America, which involves applying stamps to the original document, a fact that causes dissatisfaction among clients. This dissatisfaction is fully justified. We can easily imagine what the same document would look like if it had to be translated into several languages in order to be used in several countries. If we look at the legalization process from the perspective of Abbott and Keohane (2002): „We understand legalization as a particular form of institutionalization characterized by three components: obligation, precision, and delegation.” Equally, taking into account the fact that any legalized translation can become an official document, having the same legal force as the original document (Martínez and Pugés, 2016:3), we’ll try, in the following, to identify and propose a model of digitized legalization, the solution to which the necessity appeared during the pandemic.

3. The Covid-19 context and its impact on the translation process and procedure

In the article entitled *La COVID-19: Quel impact pour le monde de la traduction?*, published on the website of the European Commission, Josephine Chaillou and Anna Van Der Kallen, students in the Master's programme *Traduction professionnelle et spécialisée* of the *Université Catholique de l'Ouest, Angers*, estimate that the translation activity has been severely damaged by the global health crisis. Their statement is based on various surveys and opinion polls conducted by STF (*Société Française des Traducteurs*) and by the CSA study institute (<https://csa-research.com/>). Both analyses were performed in 2020. Following the opinion poll conducted by STF in June-July, it resulted that: „57% of the



526 participants believed that the crisis would have a negative impact on their work. Of this 57%, 48% anticipated having to take on a side job, 23% were considering retraining, 15% were thinking of temporarily suspending their work and 7% were thinking of quitting permanently". The reasons that could lead to such decisions are highlighted by the CSA study and are represented by: „lower income, fewer job opportunities and a decline in workload, but very few requests for lower rates” (<https://blogs.ec.europa.eu/emt/covid-19-how-has-it-affected-the-world-of-translation/>). The conclusion of the article is presented in the last paragraph and is aptly summarized as „Anticipate and adapt”.

4. Conclusions and recommendations

Definitely, anticipating and adapting, thinking in advance about the possible consequences and finding solutions to overcome them can be considered as a strategy suitable for the context in which we find ourselves. The isolation generated by this global health crisis has, however, if we are allowed to say, a few, albeit few, positive effects. One of these is the fact that people all over the world have had to think of quick solutions in order to adapt to the current situation. Thus, people's creativity was stimulated and the result could be observed in almost all areas of social life where legislation and work were rethought to allow for operation in times of crisis. Unfortunately, in the field of translations, it has not managed to adapt quickly enough and this aspect is also determined by the dependence that the legalization process has on the authorities of different states, in charge of this procedure. Inertia or the slowing down of the work rhythm is also caused by the little possibility of the contact with the authorities. We have attempted to present, roughly, the way in which legalized translations are performed in different states, in order to highlight the dependence on authority and to identify the way in which it manifests itself. We found out that the major setback is the following: the legalization of the translator's signature is done by an authority of the state where the translation is performed, an authority that requests documents in physical format in order to certify legalization. The need to submit the documents to be legalized in physical format entails one of the following actions:

- Contact the authorities in order to submit and / or receive documents - sometimes impossible during lockdown;
- Sending documents by postal courier – a time-consuming activity when sending and returning correspondence.



5. Possible solutions

In our opinion, technology is the one that could be a viable solution, with multiple advantages and benefits. The solution to these problems could be given by the creation of a high-performance, completely secure computer system, to which the state institutions in charge of legalizing the documents as well as the authorized translators have access, and the signing and stamping of these documents can be done electronically using any of the existing security elements: token, electronic signature, etc. This virtual space would allow and could involve performing the following actions via e-mail:

- Registration of the translation request and automatic assignment by the system of an individual registration number;
- Scanning the document to be translated and uploading it to the system;
- Importing the document containing the translation and the possibility of applying the stamp and signature of the translator - secure action by entering a password;
- Choosing the body that the translator prefers, or to which he is assigned, to perform the translation;
- Applying the stamp of the authority in charge of legalization and electronic signature by this authority;
- Generating the final document and sending it, by email, to the translator who generated the legalization request;
- The final authentication element can be the generation, by the system, of a special barcode.

These operations, previously presented, could be a solution whose advantages could be, in my opinion, at least the following:

- Increasing the speed of the legalization process, which could have a positive impact on the volume of translations performed;
- Advantages in terms of taxation, which could be reflected in better management of the workload of translators;
- An important step in the direction of digitizing the relationship with the state authorities;
- Creation of an electronic database that includes the persons authorized to perform legalized translations but also the institutions empowered with legalization;
- Cancellation of the expenses related to the reference for legalization or those related to the transport of the translator to the location where the legalization takes place;
- Net advantages in terms of environmental protection, in direct accordance with „paperless” policies and the reduction of carbon emissions caused by transport activity, etc.



In conclusion, the interconnection of translation and technology, as stated above, could result, in addition to the direct advantages attributed to the translation sector, in collateral benefits for other related fields, such as IT, administration, environment, and so on. What is equally important, and to keep an optimistic note, Covid-19 generated isolation, but paradoxically, also generate solutions for an enhanced mobility regarding the circulation of documents - a subsequent benefit, in the aftermath of the health crisis, which can be exploited in the authorized translation process.

References

- Abbott, Kenneth W. and Keohane, Robert O. 2002. *The Concept of Legalization*. in *Power and Governance in a Partially Globalized World*. 1st Edition Routledge: London. Chapter 7, p. 20.
- Mathias. Albert. 2007. *Beyond legalization*. „Law and Legalization in Transnational Relations”. Routledge London and New York. p. 185-202.
- Rodríguez, Luisana. 2013. *A World Behind a Translation Company*. University of Los Andes, internship at San Pancraccio Traductores e Intérpretes Públicos C. A p. 33-35.
- Tanagua Barceló Martínez, María; Delgado Pugés, Iván. 2016. *La traduction assermentée en Espagne et en France: aspects « privés » et étude comparative*. „Revista de Llengua i Dret, Journal of Language and Law”, núm. 66, p.3: <file:///C:/Users/Monica%20PC/Downloads/317808-Text%20de%20l'article-451775-1-10-20170130.pdf>
- Willke, H. (2003) *Atopia*, Frankfurt: Suhrkamp, p. 78, in Mathias 2007. *Beyond legalization*. p. 7.
- https://justice.belgium.be/fr/themes_et_dossiers/personnes_et_familles/legalisation_de_documents/faq
- <https://www.diplomatie.gouv.fr/fr/services-aux-francais/legalisation-1499/article/quels-documents-peuvent-etre-legalises>
- Article 7 of the Decree no. 2007-1205 of August 10, 2007: <https://www.diplomatie.gouv.fr/fr/services-aux-francais/legalisation-1499/article/procedure-de-traduction>
- <https://www.traduction-assermentee-officielle.com/fr/blog/articles/7-traduction-certifiee-legalisation-apostille-3-choses-a-savoir.html>
- Metodologia procedurii de legalizare a semnăturii traducătorilor de către notarii publici/ Legea 36/1995, republicată, Art.152 (1); Art. 320 (1): <http://www.traduceri-notariale.ro/metodologie-legalizare.pdf>



La COVID-19: Quel impact pour le monde de la traduction ?,
<https://blogs.ec.europa.eu/emt/fr/la-covid-19-quel-impact-pour-le-monde-de-la-traduction/>
CSA Study institute <https://csa-research.com/>
<https://blogs.ec.europa.eu/emt/covid-19-how-has-it-affected-the-world-of-translation>
<https://www.rechtbanken-tribunaux.be/sites/default/files/nieuwsartikels/directive-procedure-legalisation-20201218.pdf>
<https://www.traduction-assermentee-officielle.com/fr/blog/articles/7-traduction-certifiee-legalisation-apostille-3-choses-a-savoir.html>

Brief biographical note

Anca Monica STANCIU, PhD, Junior Lecturer at the University of Craiova is a graduate of the Doctoral School *Alexandru Piru* Faculty of Letters, University of Craiova with Doctoral Internship at the Sorbonne-Nouvelle University Paris 3, France – research in the legal and administrative translation; graduate of the Faculty of Letters of the University of Craiova, specialization: *Romanian-French*. She has a vast experience in the field of translation and administrative consultancy, in Romania and in Belgium as a *French - Romanian language sworn translator* - authorization 12674/2005 issued by the Ministry of Justice, Romania, and *Traduqueur Jurée de langue RO* - Tribunal de Première Instance Nivelles /2006. She worked with the European Commission - DG ECHO between 2013-2017 as Project / Process Assistant - North, West and Central Africa.