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Prieto Ramos, Fernando; Guzman, Diego

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Legal Terminology Consistency and Adequacy as Quality Indicators in Institutional Translation: A Mixed-Method Comparative Study

Fernando Prieto Ramos and Diego Guzmán

1 Background

As a key aspect of legal discourses and translation competence, legal terminology constitutes a prominent theme in Legal Linguistics and Legal Translation Studies. It is ‘the most visible and striking linguistic feature of legal language as a technical language, and it is also one of the primary sources of difficulty in translating legal documents’ (Cao 2007: 53). However, decision-making on legal terminology at international organizations, despite its relevance for institutional translation quality, remains largely unexplored. There is a particular need for more empirical evidence on the relationship between decision-making patterns (process) and the adequacy of the resulting translations (product) in the light of the relevant communicative conditions and the various factors that may have an impact on quality, such as working procedures, translator profiles, revision practices and time constraints. In that vein, the focus of this chapter will be on the consistency and adequacy of terminological decisions in international legal texts and their correlation with recommendations found in the corresponding institutional terminological databases at three representative organizations: the European Union (EU), the United Nations (UN) and the World Trade Organization (WTO).

The comparative analysis will concentrate on patterns of translation of an illustrative term (*due process*) into Spanish over fifteen years (2000–2015). It is part of a large-scale project, ‘Legal Translation in International Institutional Settings: Scope, Strategies and Quality Markers’ (LETRINT),¹ which covers the same period and adopts the abovementioned holistic approach to quality (encompassing process, competence and product [see Prieto Ramos 2015]) for the analysis of terminological adequacy. This kind

¹ Supported by the Swiss National Science Foundation through a Consolidator Grant.

of integral analysis provides the relevant ground to investigate, among other aspects, the factors that contribute to inappropriate terminological decisions, especially when such decisions are recurrent. This has been illustrated by two preliminary studies on the translation of national court names at different international organizations and the assessment of legal entries in terminological databases (Prieto Ramos 2013b, 2014c). The same integrative decision-making model will be used here for the qualitative analysis of translation adequacy, in conjunction with substantial quantitative analysis. This mixed-method approach will be explained in more detail in the next section, before the results of its application are presented and discussed.

2 Mixed-method approach

The combination of methods emerges as the most appropriate approach for identifying and interpreting translation patterns in our ten-year corpus of institutional texts. Lexicometric (quantitative) analysis and acceptability (qualitative) analysis are combined to address our research questions: How was the term *due process* translated into Spanish in the three organizations under examination between 2005 and 2015? What are the levels of consistency and adequacy found in each institution? To what extent are translation solutions in line with recommendations in the relevant institutional terminological resources? What implications for institutional translation decision-making may be derived from the triangulation of findings? While translation decision-making is intrinsically qualitative in nature, the search for regularities and the measurement of quality variables inevitably calls for the integration of statistical analysis in exploiting our corpus. In other words, both types of analysis complement each other.

2.1 Corpus description

The corpus for this study is composed of three parallel sub-corpora of texts translated from English into Spanish and published in institutional repositories of the UN, the EU and the WTO² in 2005, 2010 and 2015. This means that texts were translated by multiple institutional teams in the case of the UN and the EU (including the European Commission, the Council of the EU and the European Parliament, all of them involved in the ordinary legislative procedure, as well as the Court of Justice of the EU [CJEU]), whereas WTO translations were produced by a single team per target language. In the three contexts, a proportion of translations is outsourced, but the responsibility for their revision (where appropriate) and final quality lies with the same institutional language services.

In order to build the parallel bilingual sub-corpora, all texts featuring occurrences of *due process* in English were first retrieved and filtered to exclude documents in which the term did not refer to the concept under scrutiny (see Section 3), for instance, texts that were translations from third languages or where the English text

² Texts were retrieved from EU's EUR-Lex, UN's search.un.org and WTO Documents Online, using each year of the corpus and 'due process' as search criteria.

was a back translation from Spanish (e.g. the case of *due process* as translation of *debido proceso* in the Report of the High Commissioner for Human Rights on the situation of human rights in Colombia, E/CN.4/2005/10). However, in the case of bilingual originals or multilingual texts, the Spanish versions were considered if the English term referred to the relevant concept and this was clearly the ‘master version’ for translation (or co-drafting, if any). In the case of the UN, for example, in bilingual originals on the situation of human rights in particular countries (e.g. Somalia or Nigeria), occurrences of *due process* referred to international obligations with the sense studied here and were validated for the analysis of their translations into Spanish.

The EU sub-corpus demanded special attention, as there is officially no ‘original version’ of EU texts. Nonetheless, in practice, English is the predominant language of originals for EU law-making and monitoring procedures,³ and this was the starting point for the verification of the idiomatic use of the English term in context. The presumption was confirmed through the preliminary semantic validation. In the case of the CJEU, the reverse was presupposed, since French is the internal working language of the Court, and only instances involving English as the language of the case were considered. Again, the verification of meaning in context was the ultimate test to validate each occurrence. Overall, *due process* was used with its prevalent procedural sense in English as original language in the overwhelming majority of texts initially retrieved; only in the case of the CJEU were a more significant proportion of cases excluded (ten out of sixteen documents initially retrieved).

A total of 1179 documents were confirmed as corpus components after the semantic verification process (see Table 6.1). They contain a total of 2579 occurrences of *due process*. For ease of reference, each occurrence was assigned a unique code that identifies the institution and the year of text publication, for example, occurrence 1210_UN_2010. The UN parallel sub-corpus is the largest, with 946 English texts and their Spanish versions, followed by the WTO sub-corpus (175 documents) and the EU sub-corpus (58 documents). The texts compiled were produced for various institutional purposes, including policy and law-making (e.g. EU legislation), implementation monitoring (e.g. compliance reports of UN human rights treaty bodies) and adjudicative procedures (e.g. WTO dispute settlement reports and CJEU judgments).⁴ The most prominent text groups at each institution (see Table 6.2) are

Table 6.1 Documents compiled per year and organization

	2005	2010	2015	TOTAL
EU	17	22	19	58
UN	237	333	376	946
WTO	70	45	60	175
ALL	324	400	455	1179

³ As confirmed by internal statistics provided by the European Commission, the Council of the EU and the European Parliament for the period under examination.

⁴ The UN’s main judicial body, the International Court of Justice, is excluded from this study because its official languages are limited to English and French.

Table 6.2 Origin of corpus documents

		Number of documents	% of compiled docs for the organization	% of compiled documents
EU (58; 4.92%)	Council of the European Union	15	25.86%	1.27%
	European Commission	13	22.41%	1.1%
	European Parliament	13	22.41%	1.1%
	Council of the European Union/ European Parliament	6	10.34%	0.51%
	Court of Justice and General Court	6	10.34%	0.51%
	Other bodies ^a	5	8.62%	0.42%
UN (946; 80.24%)				
	Human rights bodies	418	44.19%	35.45%
	General Assembly	321	33.93%	27.23%
	Security Council	144	15.22%	12.21%
	ECOSOC	32	3.38%	2.71%
	Programmes, funds and specialized agencies	16	1.69%	1.36%
	Procedures or bodies related to other UN legal instruments	12	1.27%	1.02%
	Other bodies or procedures	3	0.32%	0.25%
WTO (175; 14.84%)				
	Dispute settlement panels	33	18.86%	2.8%
	Appellate Body	25	14.29%	2.12%
	Committees ^b	24	13.71%	2.04%
	Working parties on accession	24	13.71%	2.04%
	Other negotiating groups ^c	23	13.14%	1.95%
	Negotiating Group on Rules	19	10.86%	1.61%
	Other bodies ^d	27	15.43%	2.29%
Total compiled documents		1179		

^aEuropean Data Protection Supervisor, European Economic and Social Committee, and European Court of Auditors.

^bCommittee on Anti-Dumping Practices, Committee on Regional Trade Agreements, Committee on Safeguards, Committee on Subsidies and Countervailing Measures, Committee on Technical Barriers to Trade, Committee on Trade and Development, and Committee on Trade-Related Investment Measures.

^cNegotiating Group on Market Access, Negotiating Group on Rules and Negotiating Group on Trade Facilitation.

^dCouncil for Trade in Goods, Council for Trade in Services, Council for Trade-Related Aspects of Intellectual Property Rights, General Council, Working Party on Domestic Regulation, ministerial conferences and other Dispute Settlement Body documents.

documents produced in the framework of human rights treaty body procedures in the case of the UN (44.19 per cent); WTO dispute settlement documents, including texts produced by panels, the Appellate Body and the Dispute Settlement Body (40 per cent); and EU legal acts (37.93 per cent).

As regards the breakdown of language services responsible for translations at the UN and the EU, in the first case, the UN Office at Geneva takes the largest share with 48 per cent of the UN sub-corpus (as it deals with the majority of texts of human rights bodies), closely followed by the UN Headquarters in New York at 46.5 per cent (all occurrences in Security Council documents and most occurrences in General Assembly documents) and other duty stations (5 per cent of the sub-corpus translated in Vienna and less than 0.5 per cent in other offices). As to the EU sub-corpus, the documents originated from the Commission, the Council and the Parliament in similar proportions, followed by the CJEU (six documents). Only five documents of that sub-corpus were issued by other bodies: two from the European Data Protection Supervisor, two from the European Economic and Social Committee, and one from the European Court of Auditors.

2.2 Quantitative and qualitative analysis

All occurrences of *due process* and its translations were extracted from the corpus using XBench, a quality assurance and terminology management tool. The resulting database was used for the analysis of the relevant variables, starting with translation consistency, by measuring the variability of terminological decisions (Section 4). Lexicometric methods of frequency analysis and cooccurrence analysis were applied to generate comparative statistics. Reformulations were grouped by lexical clusters in Spanish, which facilitated the dissection of semantic nuances during the acceptability analysis of translations. Finally, the adequacy levels resulting from this qualitative analysis were quantified for further statistical comparison between periods and organizations, and also, subsequently, between extracted translations and recommended reformulations in terminological database entries (Section 5). As pointed out by Mattissek (2010: 318), with the help of lexicometry, particularly ‘systematic comparisons and the calculation of similarities between different sub-corpora (e.g. comparisons over time)’, the researcher can reveal discursive phenomena that would be difficult ‘to discover through the mere use of reading and interpretation due to large quantities of text’.

As for the key acceptability (qualitative) analysis used to determine adequacy levels, as already mentioned, it was based on a previously tested integrative decision-making model in legal translation, presupposing that the evaluation of adequacy of terminological decisions depends on the same communicative parameters that condition these decisions. Such conditions are defined at macro- and microtextual levels, starting with the analysis of the translation brief, the source text (ST) and the target text (TT) communicative situations, and the legal contextualization of the translation (see Figure 6.1). This provides the background for the translation-oriented analysis of the original term in context and for the actual acceptability analysis of possible reformulations through comparative legal and linguistic analysis

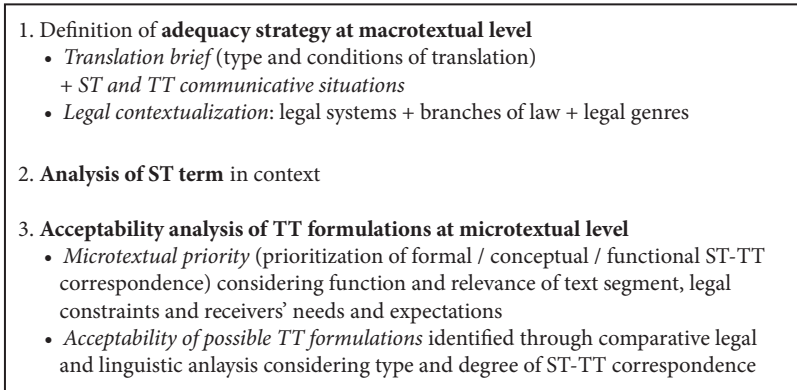


Figure 6.1 Outline of decision-making model.

in the light of the microtextual priority for adequacy (e.g. in the case of system-bound terms, identification of the legal singularity, pre-eminence of 'system-neutral' conceptual solutions or functional renderings) (for more details, see e.g. Prieto Ramos 2014c).

The proposed methodological triangulation ultimately aims to illustrate the benefits of multi-method research design to empirically capture and assess institutional translation patterns beyond the qualitative analysis of selected examples, which is the most common approach in the field (see e.g. Jopek-Bosiacka 2013 on the assessment of the translation of five common law terms into Polish in CJEU judgments). Before delving into the quantitative results, the analysis of the source term and its possible reformulations into Spanish for the three contexts at hand will be summarized in the next section.

3 Analysis of source term and possible reformulations

In line with the decision-making model outlined above, the *general elements of the adequacy strategy* were defined to guide the translation-oriented analysis and the evaluation of terminological decisions. In the institutional contexts scrutinized, three elements take priority in the light of the principle of equal authenticity of the various language versions and the need for interlinguistic concordance: accuracy, semantic univocity and consistency, particularly in the case of key concepts and established names.

As for our *illustrative term*, *due process*, all uses validated in the corpus conform to the meaning traditionally found in common law, as defined by Garner (2014: 610): 'The conduct of legal proceedings according to established rules and principles for the protection and enforcement of private rights, including notice and the right to a fair hearing before a tribunal with the power to decide the case.' The doctrine of procedural due process is particularly developed in the United States, where the Constitution

enshrines this principle in its Fifth and Fourteenth Amendments. In its substantive sense, ‘due process of law’ entails protection against arbitrary or unreasonable legislation. In our corpus, most occurrences refer to procedural provisions or guarantees in adjudicative or administrative proceedings (e.g. WTO dispute settlement or UN human rights reviews). In the case of the EU, references are often made to procedural obligations under international law rather than specific EU or national provisions.

In the *acceptability analysis* of possible reformulations into Spanish, the microtextual priority is conceptual correspondence for an international Spanish-speaking audience in the case of UN and WTO texts, and the Spanish legal system in the case of EU texts. In the comparative legal analysis, emphasis is therefore on finding common denominators that can facilitate understanding of the original concept while avoiding functional renderings that might refer to national singularities or specific procedures or branches of law. Based on a mapping of related procedural concepts in constitutional, civil and criminal law in the most populated Spanish-speaking countries (see Table 6.3), we can conclude that *debidas garantías procesales* (and its variants) is the most suitable rendering to meet both the adequacy strategy and the microtextual priority. The concept of *garantía procesal* conveys the essence of the original term and is the most widespread in the Spanish-speaking world, including Spain. The concept of *debido proceso* is also an accurate conceptual rendering that

Table 6.3 Related procedural concepts in most populated Spanish-speaking countries

	CONSTITUTION	CRIMINAL PROCEDURE LEGISLATION	CIVIL PROCEDURE LEGISLATION
MEXICO	<i>formalidades esenciales del procedimiento; garantía del debido proceso legal</i>	<i>garantías</i>	
COLOMBIA	<i>debido proceso</i>	<i>garantías procesales</i>	<i>debido proceso</i>
SPAIN	<i>tutela efectiva</i>	<i>garantías procesales</i>	<i>tutela judicial efectiva; garantías procesales</i>
ARGENTINA	<i>juicio previo fundado en la ley</i>		
VENEZUELA	<i>debido proceso</i>	<i>debido proceso; garantías del debido proceso</i>	<i>garantías procesales</i>
PERU	<i>debido proceso; tutela jurisdiccional</i>		<i>igualdad efectiva de las partes en todas las actuaciones del proceso</i>
CHILE	<i>proceso previo legalmente tramitado; garantías de un procedimiento y una investigación racionales y justos</i>	<i>juicio previo y proceso legal</i>	
GUATEMALA	<i>derecho de defensa</i>	<i>garantías procesales</i>	
ECUADOR	<i>debido proceso; garantías básicas</i>	<i>juicio previo; garantías previstas</i>	

can be easily recognized in the Spanish-speaking world; it is actually used in various Latin American national legal systems (e.g. Mexico, Colombia, Venezuela, Ecuador, Uruguay), which reflects the influence of the original common law concept in Spanish-speaking legal systems.

Finally, the concept of *tutela judicial efectiva* as established in the Spanish legal system (also found as *tutela jurisdiccional* in Peru) may be an adequate translation in EU texts when used in connection with judicial contexts. Otherwise, as would be the case for texts that refer to international obligations within the EU, it might prove more appropriate to use an internationally oriented conceptual rendering than a term bound to a specific national legal system.

Reformulations including *garantías procesales* and *debido proceso* are also the common denominator between recommendations in institutional terminological resources (EU's IATE, UNTERM and WTO's dispute settlement glossary), while *tutela judicial efectiva* also features in an IATE entry (see Table 6.11).

4 Translation consistency

4.1 Intertextual variability

A total of 123 translations of *due process* in Spanish were found among the 2579 occurrences of the term (see the list in the Annex). In order to draw a precise picture of each indicator, the total number of occurrences ('TO') and the number of occurrence categories per document ('OD', i.e. counting each translation variant once in each text, regardless of its repetitions in the same text) were quantified separately for each sub-corpus (see Table 6.4).

Terminological variants were bundled into clusters according to their lexical core, resulting in ten lexical clusters (*derecho*, *garantía*, *juicio*, *legalidad*, *norma*, *procedimiento*, *proceso*, *regularidad*, *salvaguarda* and *tramitación*) and a miscellaneous group ('other') composed of twenty-six different reformulations (with three or fewer instances in each variant) and six omissions.

Table 6.4 Total occurrences and occurrence categories per document

		2005	2010	2015	TOTAL
EU	TO	27	27	40	94
	OD	21	25	32	78
UN	TO	488	631	711	1830
	OD	329	425	462	1216
WTO	TO	187	284	184	655
	OD	112	80	89	281
TOTAL	TO	702	942	935	2579
	OD	462	530	583	1575

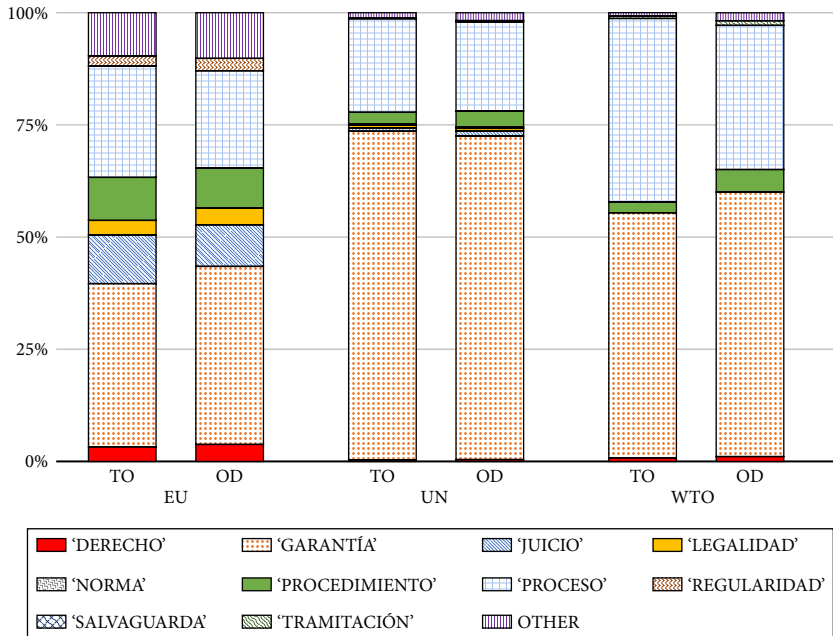


Figure 6.2 Lexical variability in each organization.

Figure 6.2 presents the overall distribution of these clusters in each organization. The results show a markedly higher degree of intertextual variability in EU documents despite the significantly lower number of occurrences found in this sub-corpus. The most frequent cluster (*garantía*) accounts for 36.56 per cent of this sub-corpus, as opposed to 73.27 per cent and 54.5 per cent in the UN and the WTO sub-corpora, respectively. When combined with translation variants including *proceso*, the TO share of the two most frequent clusters exceeds 90 per cent (94.09 per cent at the UN and 95.57 per cent at the WTO), whereas a similar figure (93.54 per cent) is only reached by combining the five most frequent clusters (*garantía*, *proceso*, *juicio*, *procedimiento*, *derecho*) and other reformulations in EU texts.

4.2 Intratextual variability

Intratextual inconsistencies (i.e. different translations of the term within the same document) range from 28 per cent of WTO texts to 12.47 per cent of UN texts and 15.52 per cent in EU texts for the entire period. They show very different trends over the decade analysed: They declined from 30 per cent to 22.85 per cent at the WTO; they remained mostly stable at the UN, between 17.3 per cent and 15.18 per cent; and they registered a very significant increase at the EU, from 5.88 per cent to 35.29 per cent (see Table 6.5).

A closer examination reveals that many of these texts are compilations where previous translations are reproduced in literal quotations, or long documents whose translations tend to be divided between different translators. For example, compilation documents represent one tenth of UN sub-corpus texts, including,

Table 6.5 Proportion of texts containing inconsistencies at each organization

	2005 (%)	2010 (%)	2015 (%)	Total (%)
EU	5.88	11.76	35.29	15.52
UN	17.3	12.31	9.57	12.47
WTO	30	17.14	22.85	28

Table 6.6 Translation variants identified in Council Decision (CFSP) 2015/555

1725_EU_2015	Responsible for grave violations of the right to due process .	<i>Responsable de graves violaciones de las garantías procesales.</i>
1726_EU_2015	He is, therefore, complicit in a grave violation of the right to due process , contributing to the excessive and increasing use of the death penalty.	<i>Es, por tanto, cómplice de grave violación del derecho a un proceso justo, contribuyendo así al uso excesivo y en aumento de la pena de muerte.</i>
1728_EU_2015	They were arrested, tortured and hanged without due process .	<i>Estas personas fueron detenidas, torturadas y ahorcadas sin proceso previo.</i>
1729_EU_2015	The five were arrested without charge for over a year, tortured and sentenced without due process .	<i>Las cinco personas mencionadas habían sido detenidas durante un año sin ningún cargo, siendo luego torturadas y sentenciadas sin el debido proceso.</i>
1731_EU_2015	He is complicit in a grave violation of the right to due process , contributing to the excessive and increasing use of the death penalty and a sharp increase in executions since the beginning of the year.	<i>Cómplice de una grave violación del derecho a un juicio justo, contribuyendo así al uso excesivo y en incremento de la pena de muerte que ha desembocado en un grave aumento de las ejecuciones desde principios de año.</i>

for instance, document E/CN.4/2005/L.11/Add.5 of 2005, in which occurrences 560_UN_2005 (*debido procedimiento legal*) and 561_UN_2005 (*debido proceso*) are reproduced from resolutions 2005/30 and 2005/32 of the Human Rights Commission, respectively. Official, provisional and summary records, half of which originate from the UN Security Council, are usually divided between several translators and represent 31.9 per cent of the UN documents containing intratextual inconsistencies.

In the WTO sub-corpus, intratextual inconsistencies are mostly found in dispute settlement reports (67.35 per cent), which also constitute the largest group of documents from this organization (see Table 6.2). Here, divergence is most often detected in footnotes and citations referring to other documents. At the EU, up to five translation variants were found in *Council Decision (CFSP) 2015/555 of 7 April 2015 amending Decision 2011/235/CFSP concerning restrictive measures directed against certain persons and entities in view of the situation in Iran* (see Table 6.6).

5 Translation adequacy

5.1 Adequacy levels

As part of the acceptability analysis (see Section 3), all translations of *due process* were cross-checked in context in order to grade their adequacy levels in a scale from 1 (highest level) to 3 (lowest level). Level 1 solutions (green colour in Figures 6.3 to 6.6) reflect all conceptual nuances mentioned in Section 3. Examples given in Table 6.7 illustrate this group. They all meet adequacy requirements in their contexts. Occurrences 1210_UN_2010 and 678_WTO_2005 convey the meaning of *due process* with conceptual formulations that can be recognized in all Spanish-speaking countries, while 1738_EU_2015 is adapted to the Spanish audience within the EU.

Level 2 translations (yellow colour in Figures 6.3 to 6.6) are acceptable in context but are not the most adequate in terms of accuracy. They tend to be generic formulations that lose some nuance of the original concept, such as *procedimiento establecido*, *procedimiento adecuado*, *procedimiento correspondiente* or *aspectos de procedimiento* (see examples in Table 6.8). In the case of *procedimiento establecido* (back-translated as *established procedure*), for example, the concept might be acceptable when referring to the relevant procedural rights, but such procedures might not have been established, in which case the translation may be misleading. These level 2 generic solutions or hypernyms might be the result of a deliberate decision to avoid a more specific concept, a simple oversight or insufficient awareness of the legal content of the

Table 6.7 Examples of level 1 (highly adequate) translations

678_WTO_2005 WT/DS290/R	43. The European Communities is also of the view that the “deficiencies” of the requests for establishment of a panel seriously prejudice its due process rights as a defending party, notably, to know the case it has to answer.	43. <i>Las Comunidades Europeas opinan también que las “deficiencias” en las solicitudes de establecimiento de un grupo especial perjudican gravemente su derecho a gozar de las debidas garantías procesales en su condición de parte demandada, y en particular al derecho a conocer los argumentos a que han de responder.</i>
1210_UN_2010 A/65/44	(25) The Committee regrets the complaints alleging a systematic failure to comply with the principle of ‘non-refoulement’ and with the right of access to due process and information for refugees and potential asylum-seekers, and the failure to provide proper safeguards against persons being placed at risk when returned to their country of origin.	25) <i>El Comité lamenta las alegaciones de que no se respeta sistemáticamente el principio de “no devolución”, acceso al debido proceso y acceso a información para los refugiados o potenciales solicitantes de asilo, ni se garantizan plenamente los mecanismos que impidan poner en riesgo a las personas devolviéndolas a su país de origen.</i>
1738_EU_2015 02011R0359- 20150409	The restrictive measures should target [...] persons complicit in or responsible for directing or implementing grave violations of the right to due process [...].	<i>Las medidas restrictivas deben dirigirse [...] contra las personas implicadas o responsables de la dirección o ejecución de violaciones graves del derecho a la tutela judicial efectiva, [...].</i>

Table 6.8 Examples of level 2 (acceptable) translations

537_UN_2005 CCPR/C/USA/3	Specifically included are the Fourth Amendment's proscription against unreasonable searches and seizures (including seizing a person's body), the Fifth Amendment's proscription against depriving one of life, liberty or property without due process , and the Eighth Amendment's proscription against the infliction of cruel and unusual punishment.	<i>Concretamente esto se refiere a la prohibición, prevista en la Enmienda IV, de la entrada y registro arbitrarios en lugar cerrado (incluida la aprehensión de una persona), la prohibición contenida en la Enmienda V de privar a una persona de la vida, la libertad o los bienes, salvo por los cauces legales establecidos, y la prohibición contenida en la Enmienda VIII de infligir castigos crueles e inusitados.</i>
1480_WTO_2010 WT/ACC/SYC/10	transparency and due process requirements, including circulation for review and comment of all standards, technical regulations, and conformity assessment provisions prior to implementation	<i>Requisitos en materia de transparencia y requisitos de procedimiento, incluida la distribución de todas las normas, reglamentos técnicos y disposiciones de evaluación de la conformidad con miras a su examen y a la formulación de observaciones al respecto, antes de su aplicación</i>
1749_EU_2015 52014IE5356	1.4 Apart from the principle of 'Most Favoured Nation' (MFN), and the cover normally included by the Commission to deal with compensation in cases of war, revolution and so on, the Committee urges that investor protection under an IIA and therefore open to the use of ISDS, must be restricted to cover the four substantive protections, namely [...] prompt, adequate and effective compensation when expropriation occurs (not discriminatory and with due process); [...]	<i>1.4 Aparte del principio de «nación más favorecida» (NMF) y la cobertura que la Comisión incluye habitualmente para hacer frente a las compensaciones en caso de guerra, revolución, etc., el Comité pide que la protección de los inversores en el marco de un AII – que, por consiguiente, puede incluir el recurso a la RCIE – esté claramente restringida y abarque únicamente los cuatro tipos de protección sustantiva, a saber: [...] compensación rápida, adecuada y efectiva en caso de expropiación (que debe ser no discriminatoria y seguir los procedimientos adecuados), [...]</i>
1750_EU_2015 52015AA0001	This exception to the basic rights of due process must be more closely managed.	<i>Esta excepción a los derechos fundamentales de defensa debe regularse de forma más limitativa.</i>

original notion. A smaller group of reformulations that refer to specific procedural guarantees within the scope of *due process*, but convey the concept only partially, were also included in level 2 (e.g. *derechos fundamentales de defensa* in 1750_EU_2015).

Finally, level 3 translations (striped bars in Figures 6.3 to 6.6) are considered 'unacceptable'. Most failed to reflect the content of the term because the sense conveyed was too broad or diverted from the original concept (e.g. *atestado en regla, riguroso proceso, diligencia debida*), or they were unjustified omissions (see examples in Table 6.9). For example, *principio de legalidad* was considered inaccurate as it referred to the broader (related) concept of rule of law. Only one typographical error was spotted: *las garantías procesarles* (1446_UN_2010). In another case, the European Commission corrected a mistranslation found in a previous EU Council Decision on the same

Table 6.9 Examples of level 3 (unacceptable) translations

737_WTO_2005 WT/REG198/1	Neither Party shall expropriate or nationalize an investment of an investor of the other Party in its Area either directly or indirectly through measures tantamount to expropriation or nationalization (hereinafter referred to as ‘expropriation’) except: (a) for a public purpose; (b) on a non-discriminatory basis; (c) in accordance with due process of law and Article 60; and (d) on payment of compensation pursuant to paragraphs 2 through 5 below.	<i>1. Ninguna Parte expropiará o nacionalizará una inversión de un inversionista de la otra Parte en su Área, ya sea directa o indirectamente mediante medidas equivalentes a expropiación o nacionalización (en lo sucesivo referido como “expropiación”) salvo que sea: a) por causa de utilidad pública; b) sobre bases no discriminatorias; c) con apego al principio de legalidad y al artículo 60; y d) mediante indemnización conforme a los párrafos 2 a 5 siguientes.</i>
760_EU_2010 52010IP0310	Urges the Iranian authorities to eliminate, in law and in practice, all forms of torture and other cruel, inhumane or degrading treatment or punishment, and to uphold due process of law and end impunity for human rights violations;	<i>Insta a las autoridades iraníes a que supriman, de hecho y de derecho, todas las formas de tortura y penas o tratos crueles, inhumanos o degradantes, hagan respetar la ley y pongan fin a la impunidad en caso de vulneración de los derechos humanos;</i>
2244_UN_2015 A/70/35 [Omission]	12. Not all the occupation-related costs can be measured in monetary terms; for example, no dollar value can be assigned to the distress and agony of the loss and destruction of life, community, culture, shelter or a homeland, or the detention of a human being without due process and legal justification.	<i>12. No todos los costos derivados de la ocupación pueden medirse en términos monetarios; por ejemplo, no se puede tasar en dólares lo que cuesta la angustia y la agonía de la pérdida y la destrucción de la vida, la comunidad, la cultura, la vivienda o una patria, o la detención de un ser humano sin justificación legal.</i>

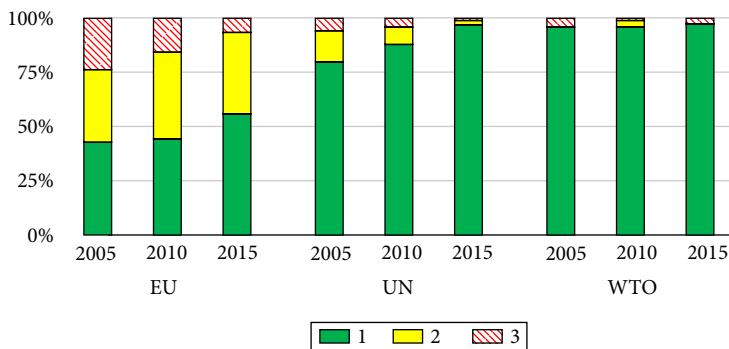


Figure 6.3 Adequacy levels in the three organizations (quantified in OD).

matter. The sentence reproduced in English and rectified in Spanish was: ‘STRESSING the common values governing privacy and the protection of personal data ..., including the importance which both Parties assign to **due process** ...’; in which *due process* was translated as *tratamiento que corresponda* in Council Decision 2010/16/CFSP/JHA as opposed to *tutela judicial efectiva* in Commission Proposal COM(2010) 316 final.

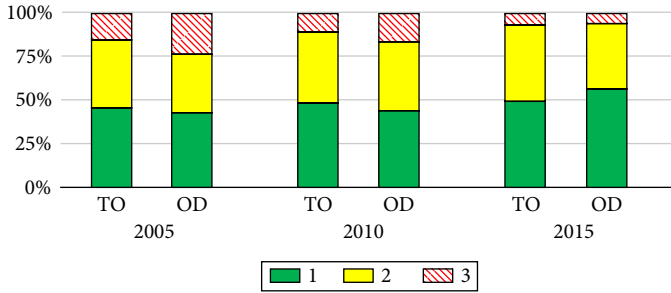


Figure 6.4 Adequacy levels in the EU sub-corpus.

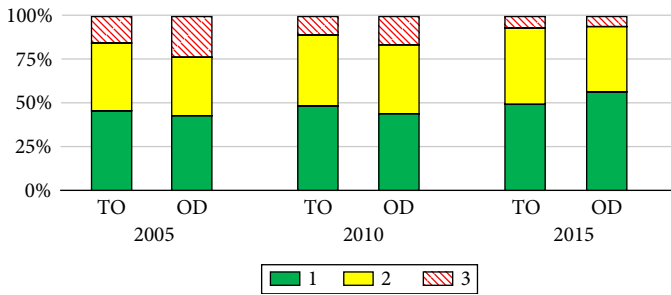


Figure 6.5 Adequacy levels in the UN sub-corpus.

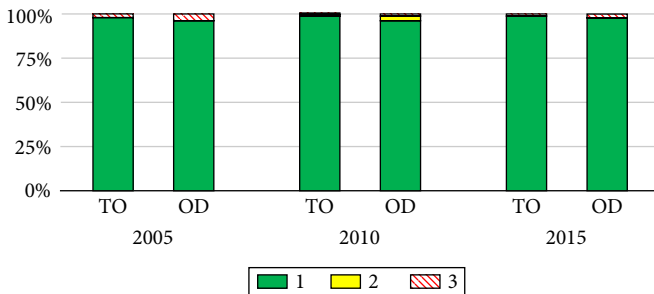


Figure 6.6 Adequacy levels in the WTO sub-corpus.

The adequacy grading results (see comparative levels of OD in Figure 6.3) show that level 1 scores are predominant at the WTO (96.44 per cent of OD) and at the UN (88.73 per cent), but account for less than half of translations at the EU (48.72 per cent). The reverse applies to level 3: 15.35 per cent as average for the whole period at the EU (with a peak of 23.81 per cent in 2005), compared to 3.67 per cent at the UN (with a highest annual score of 5.47 per cent in 2005) and 2.65 per cent at the WTO (highest annual score of 4.46 per cent in 2005). Finally, the proportion of level 2 translations is increasingly low at the UN (14.59 per cent in 2005 and 2.38 per cent in 2015) and negligible at the WTO (except for 2.5 per cent in 2010), as opposed to a share of 37.18 per cent evenly distributed through the EU sub-corpus.

Overall, the general trend observed at the three institutions in terms of adequacy levels between 2005 and 2015 is positive, particularly so where there was more room for improvement, that is, in EU translations. Level 3 scores dropped from 23.81 per cent in 2005 to 6.25 per cent in 2015 in that sub-corpus, and level 1 scores increased in a similar proportion from 42.86 per cent to 56.25 per cent. At the UN, level 1 translation scores improved from 79.94 per cent to 96.32 per cent, while level 3 translations registered the opposite trend, down from 5.47 per cent to 1.3 per cent. Finally, the situation at the WTO remained stable over the same period, with a high global average of 96.51 per cent of level 1 translations and negligible fluctuations between levels 2 and 3 in the remaining portion of the sub-corpus.

5.2 Adequacy of most frequent translations

In order to draw a comprehensive overview of terminological decision patterns, the quantitative results on translation frequency and adequacy are now examined conjunctly. In particular, this section zooms in on the adequacy levels of the five most recurrent translations in each organization. Table 6.10 lists the ‘top five’ translations and their share of each sub-corpus, while Figure 6.7 presents their combined adequacy levels. In the first breakdown, the translations recommended in the respective institutional terminological resources are underlined.

The five most recurrent translations account for less than 60 per cent of occurrences at the EU, as opposed to shares close to or above 90 per cent at the UN and the WTO. In these two organizations, the two most frequent translations represent more than 60 per cent of total occurrences and occurrence categories per document, which doubles

Table 6.10 Five most recurrent translations in each organization

	EU	UN	WTO
TO	1. <u>garantías procesales</u> (22.58%) 2. <u>proceso justo</u> (11.83%) 3. <u>juicio justo</u> (10.75%) 4. <u>debido proceso</u> (7.53%) 5. <u>debidas garantías procesales</u> (5.38%)	1. <u>garantías procesales</u> (37.81%) 2. <u>debidas garantías procesales</u> (28.20%) 3. <u>debido proceso</u> (16.56%) 4. <u>debidas garantías</u> (3.06%) 5. <u>garantías legales</u> (1.58%)	1. <u>debido proceso</u> (40%) 2. <u>debidas garantías procesales</u> (32.06%) 3. <u>garantías procesales</u> (13.13%) 4. <u>debidas garantías de procedimiento</u> (6.87%) 5. <u>procedimiento con las debidas garantías</u> (1.68%)
	58.07% of TO	87.21% of TO	93.74% of TO
OD	1. <u>garantías procesales</u> (24.36%) 2. <u>proceso justo</u> (8.97%) 3. <u>juicio justo</u> (8.97%) 4. <u>debidas garantías procesales</u> (6.41%) 5. <u>debido proceso</u> (6.41%)	1. <u>garantías procesales</u> (33.63%) 2. <u>debidas garantías procesales</u> (29.11%) 3. <u>debido proceso</u> (14.06%) 4. <u>debidas garantías</u> (3.78%) 5. <u>garantías legales</u> (1.89%)	1. <u>debidas garantías procesales</u> (29.54%) 2. <u>debido proceso</u> (29.54%) 3. <u>garantías procesales</u> (16.73%) 4. <u>debidas garantías de procedimiento</u> (7.83%) 5. <u>procedimiento con las debidas garantías</u> (2.85%)
	55.12% of OD	82.47% of OD	86.49% of OD

the corresponding proportion found in the EU sub-corpus. Likewise, in terms of adequacy, level 1 scores for the entire period are higher in the two intergovernmental organizations (approximately 98 per cent at the UN and 100 per cent at the WTO) than in the EU (approximately 65 per cent). The remaining occurrences ranked at level 2 (acceptable), and none of the most frequent translations were unacceptable at any of the institutions (see Figure 6.7).

Interestingly, the four most recurrent translations at the UN and the five most frequent ones at the WTO are also found in their institutional terminological resources, which means that there is a very high consistency between the actual terminological

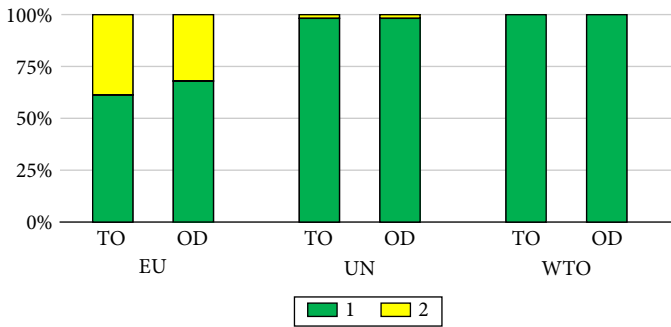


Figure 6.7 Adequacy levels of the five most frequent translations in each organization.

Table 6.11 Translations recommended in institutional terminological resources

	IATE	UNTERM		WTO dispute settlement glossary*
Entry	910481	315858	897163	
EN	<i>due process</i>	<i>due process</i>	<i>due process of law</i>	<i>due process</i>
EN	<i>due process of law</i>			<i>due process of law</i>
ES	<i>tutela judicial efectiva</i> (3.23%)	<i>garantías procesales</i> (37.81%)	<i>debidas garantías procesales</i> (28.20%)	<i>debido proceso</i> (40%)
ES	<i>respeto de las garantías procesales</i> (22.58%)	<i>debido proceso</i> (16.56%)	<i>debido procedimiento legal</i> (0.27%)	<i>debidas garantías procesales</i> (32.06%)
ES	<i>conformidad con las garantías procesales</i> (22.58%)	<i>procedimiento reglamentario</i> (1.20%)		<i>debidas garantías de procedimiento</i> (6.87%)
ES		<i>procedimiento previsto en la ley</i>		<i>procedimiento con las debidas garantías</i> (1.68%)

*The Spanish translations of *due process* found in this glossary, a priority resource for legal terminology at the WTO, are also found in the relevant entry of the WTOTERM database, except for *debido proceso*.

decisions and the relevant database recommendations. This contrasts with less than 25 per cent of occurrences matching an IATE recommendation, *garantías procesales*, which is the most frequent translation in the EU sub-corpus (see Table 6.11, where the frequency of recommended translations found in our corpus is indicated between brackets).

6 Discussion and conclusions

The triangulation of results of quantitative and qualitative analyses points to a series of correlations. In sum, the highest intertextual consistency and adequacy levels found at the WTO are systematically coupled with a highly prominent text group in that institution (40 per cent of occurrences were found in dispute settlement texts) and, more significantly, the most centralized translation service and the highest degree of adherence to internal terminological resources. At the opposite end, the lowest levels of consistency and adequacy of *due process* translations in EU texts (albeit improving from 23.81 per cent of inappropriate term reformulations in 2005 to 6.25 per cent in 2015) can be associated with the greater multiplicity of EU translation services (including in the case of the most prominent text group, legal acts) and the low adherence to the relevant IATE terminological recommendations. Finally, the UN sub-corpus shows patterns that are increasingly closer to the WTO's, despite the large volume of texts including *due process* and the division of most of their translations between two major duty stations. In other words, evidence suggests that terminological harmonization is facilitated by thematic coherence and language service concentration, and may be hindered by the fragmentation of texts and translation teams.

While the translation consistency and adequacy patterns identified cannot be extrapolated to all legal terminological decision-making in each organization, they provide the empirical ground required for further investigation of the factors that may influence product quality variables in the translation process, including not only the reliability and use of term bases but also time constraints, quality control practices and profile specialization. For instance, all texts tend to be revised at the WTO, whereas this is not necessarily the case at EU institutions.⁵ In the latter context, the remarkable proportion of generic reformulations found in Spanish (between 35 per cent and 40 per cent of level 2 adequacy translations throughout the period analysed) and the low rate of adherence to IATE recommendations enable us to hypothesize that the legal nuance of *due process* was not detected and the term was translated 'at face value' in many cases.

Variations between EU institutions are also worth exploring. For example, inappropriate translations reach 19.35 per cent of total occurrences in texts of the European Commission, 14.29 per cent of occurrences in texts exclusively translated at the European Parliament and less than 7 per cent of occurrences in texts exclusively translated at the Council of the EU, while no mistranslations were detected in texts

⁵ All references to revision levels, internal practices and profiles mentioned in this chapter have been cross-checked with institutional informants.

translated by CJEU's lawyer-linguists. Although the EU sub-corpus is much smaller in size than the other two, the different patterns elicited can shed light on legal translation specialization and working methods in specific cases.

Text groups within the UN and the WTO sub-corpora do not show any significant divergence from the overall institutional adequacy trends, except for texts of the WTO's working parties on accession, which account for most of WTO's low rate of inaccuracies at 8 per cent of level 3 adequacy translations within that group. This contrasts with the total absence of mistranslations in Appellate Body texts, among other groups. As opposed to WTO texts on accession, the Appellate Body texts are systematically assigned to translators specializing in WTO law and are scrupulously revised.

These findings illustrate how mixed-method corpus-based research can be useful to identify textual patterns and relate translation quality indicators to translation process and competence components from an institutional perspective. By considering various factors through multiple lenses, this kind of empirical approach can enrich our global understanding of institutional practices and support adapted quality enhancement measures such as coordinated consistency checks, thematic screening and training, updating of terminological resources and discrimination of univocity levels and revision needs.

Annex: List of translations of *due process* by lexical cluster

DERECHO

derecho a la defensa
derecho a la jurisdicción
derechos de defensa
derechos procesales
[garantizar] todos sus derechos

GARANTÍA

debidas garantías
debidas garantías de procedimiento
debidas garantías del procedimiento
debidas garantías fundamentales
debidas garantías judiciales
debidas garantías legales
debidas garantías procesales
garantía de un proceso imparcial
garantía(s) del debido proceso
garantía jurisdiccional
garantías
garantías adecuadas
garantías adecuadas del debido proceso
garantías constitucionales

garantías de un juicio
garantías de un juicio imparcial
garantías de un proceso legal
garantías del debido proceso legal
garantías elementales del debido proceso
garantías esenciales de defensa
garantías judiciales
garantías judiciales del debido proceso
garantías legales
garantías previstas en la ley
garantías procesales
garantías procesales debidas
garantías procesales del derecho
garantías procesales legales
garantías procesarles [sic]
garantías sustantivas

JUICIO

[juicio] con arreglo a derecho
juicio con las debidas garantías
juicio imparcial
juicio justo
juicio regular

LEGALIDAD

legalidad
legalidad de las actuaciones
legalidad de un proceso
legalidad del proceso
legalidad procesal

NORMA

debidas normas procesales
normas fundamentales que rigen los procesos
normas procesales
normas procesales legales

PROCEDIMIENTO

debido(s) procedimiento(s)
debido procedimiento legal
preceptivo procedimiento
procedimiento(s)
procedimiento con las debidas garantías
procedimiento con las debidas garantías procesales
procedimiento con todas las garantías
procedimiento correspondiente
procedimiento de recurso

procedimiento debido
procedimiento justo
procedimiento reglamentario
procedimientos [que] siguen plenamente los cauces jurídicos adecuados
procedimientos adecuados
procedimientos legales vigentes
procedimientos pertinentes
procedimientos reglamentarios
procedimientos reglamentarios debidos

PROCESO

correspondiente proceso judicial
debido proceso
debido proceso judicial
debido proceso jurídico
debido proceso legal
pertinente proceso legal
proceso
proceso adecuado
proceso apropiado
proceso con garantías
proceso con las debidas garantías
proceso con todas las garantías
proceso con todas las garantías de la ley
proceso con todas las garantías jurídicas
proceso conforme a derecho
proceso [que] debe contar con todas las garantías
proceso debido
proceso equitativo
proceso establecido
proceso imparcial
proceso judicial apropiado
proceso judicial ordinario
proceso justo
proceso legal
proceso legal con todas las garantías
proceso previo
proceso previsto en la ley
procesos justos
procesos plagados de irregularidades
riguroso proceso

REGULARIDAD

regularidad del procedimiento
regularidad del proceso

SALVAGUARDA

salvuardas previstas en la ley
salvuardias procesales

TRAMITACIÓN

tramitación ajustada a derecho
tramitación correcta

OTHER

ajustarse a derecho
aplicación conforme a derecho de los procedimientos
aplicar la ley debidamente
atestado en regla
cauces legales establecidos
curso debido a los procedimientos judiciales
de conformidad con la ley
debida protección procesal
debido mandamiento judicial
diligencia debida
hacer respetar la ley
igualdad ante la ley
ilegalmente
integridad del proceso
justicia equitativa
Omission
perceptivamente [oír]
prácticas procesales
principio de legalidad
procesar con arreglo a derecho
reglas del juego
requisitos procedimentales
resguardos procesales
respeto de sus formas
tratamiento que corresponda
tutela judicial efectiva