# Aspects of Legal Translation in Contracts of Carriage

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## Abstract

This article analyzes several aspects of the maritime law vocabulary, in order to overcome the problem of maritime inaccuracies in translation and to contribute to the better understanding and translation of texts and legislations within this field. The first section of this article deals with several key terms and issues in the field of legal translation and maritime language and highlights the fact that maritime language represents a functional variety of register. The second section presents the corpus analyzed within this paper in order to reveal the language variation in the two languages (i.e. Romanian and English) and to assess their lexical density. The third section is focused on corpus analysis, highlighting the language variation in the English and Romanian translation of the chosen texts from the field of contracts of carriage in maritime law.

**Key words:** legal translation, contracts of carriage, English language, Romanian language
**J.E.L. classification: K00**

## 1. Introduction

Due to the recent intense use and increasing importance of the English language in many parts of the world, English has become an internationally spoken language, which engendered several linguistic, socio-cultural and pedagogical consequences. On the other hand, legal language is extremely complex and, therefore, many people do not completely understand important legal documents and regulations, such as those providing for their rights, fundamental freedoms and obligations, the rules from a statute, or the terms and conditions mentioned within an agreement. (Andrewartha, 2009, p.15). The need to understand legal words and their differences is increasingly urgent, triggered by elements such as the background of globalization, the necessity to harmonize laws at the EU level, the intricacy of economic, social, cultural and political factors and issues that greatly influence the legal field, the necessity for fast and effective resolutions to national and, especially, to international conflicts (Kocbek, 2006, p.20).

As a branch of ESP, maritime English emerged as a diversity of specialized technical English, triggered by the need to communicate effectively (either between the ship and the shore or among crew members or between crew and passengers) in order to provide safety at sea (International Standards of Maritime English as a Means to Improve Safety at Sea 2010). Moreover, due to the globalization that took over the shipping industry and the international nature of crews, the English language transformed into a lingua franca at sea; in this respect, it is noteworthy that, in 1995, the International Maritime Organization adopted English as "the language of the sea" (Karastateva, 2011, p.1). We should also take into account that the standardization of marine words and expressions is a continuous process, triggered, on the one hand, by those persons involved in the teaching process and, on the other hand, by the International Maritime Organization, through its standards and requirements as far as the seafarers' skills and qualifications are concerned.

It is noteworthy that maritime English has an operational nature and it also displays several restrictions regarding its functional features. Besides the quite extensive specialized vocabulary, which varies according to the particular field (such as navigation, engineering, harbor operations and naval architecture), maritime English is also characterized by limited grammar structures and style restrictions imposed by the technical nature of the text. Thus, in order to improve the students'

learning of maritime English, the academic curricula needs to have in view only the features of genral English but also the above mentioned particularities (Shen and Wang, 2011, p.20).

Maritime language as technical terminology represents a functional variety of register, which encompasses several recurrences of linguistic items, in contrast with general language. General aspects of the language may be analyzed when approaching the subject of maritime language as technical terminology, but there are other implications, such as the legal framework and difficulties in translations (Nădrag and Stroescu, 2002, p.7). In this way, there are many things to be taken into account when discussing maritime language, such as the historic factor, the international factor and the legal aspect and legal terminology (especially when discussing maritime conventions).

## 2. Corpus presentation

The research described in this article was carried out to overcome the problem of maritime inaccuracies in translation and consisted in investigating the material with the purpose of identifying the main lexical units, finding the 'right' terms in maritime language. The corpus for the analysis carried out within this study was created by collecting fairly representative texts of the language used in the maritime transport, i.e. two legal texts: *Hamburg Rules, United Nations Convention on the Carriage of Goods by Sea, 1978, articles 1-11* and *Government Ordinance 42/1997 (r1) of 28/08/1997, republished in The Official Gazette, Part I no. 210/10.03.2004 as to the naval transport, modified and completed*).

The *Hamburg Rules* are a set of rules governing the international shipment of goods, resulting from the United Nations International Convention on the Carriage of Goods by Sea adopted in Hamburg on 31 March 1978. The Convention was an attempt to form a uniform legal base for the transportation of goods on oceangoing ships. The developing countries' attempt to level the playing field represented a driving force behind the convention. In its turn, *Government Ordinance 42/1997 (r1) of 28/08/1997* is one of the very few regulations governing the naval transport in Romania and it represents the transposition of the *Hamburg Rules* in the Romanian legislation.

## 3. Research methodology: the text content analysis tool

This section is focused on the corpus analysis, highlighting the language variation in the English and Romanian translations of the two legal texts from the field of maritime law (more specifically, from the law of contracts of carriage by sea) presented in the previous section. The objectives of this analysis are to detect language variation and difficulty in the words and phrases used in specialized maritime language, using a specialized English and Romanian corpus, and to contribute to the clarification and better understanding of several words and phrases specific to the terminology of maritime law and, more specifically, to the terminology in the field of the contracts of carriage by sea. In this research, in order to achieve the proposed objectives, we used the Text Content Analysis Tool, which is an instrument that analyses the text content and automatically produces statistics related to a text; these may deal with issues such as word count, special words, number of phrases and sentences, average number of words within a sentence, lexical density etc. An additional value is brought by the amount and type of information obtained on lexical behavior which contributes to map the lexical profile of the register (i.e. legal language, maritime law on the contracts of carriage by sea). The corpus analysis will reveal a pattern for maritime English language, which cannot otherwise be studied by direct human observation, given the great amount of the data involved. Moreover, in language analysis, the sampling of data is necessary.

## 4. Corpus analysis

The analysis of four-word expressions (see Figure 1), in *Government Ordinance 42/1997 (r1) of 28/08/1997* highlights that that maritime law has more nouns as key words, with verbs (especially in present tense or in present or past participle) as the next word class more commonly used; moreover, prepositions such as "in", "by", "for", "to", "of", "between" are also widely used. The majority of the words used are semi-technical ("transport", "international", "convention", "agreement", sea", "port", "system", "carriage" etc.) and technical words ("inland", waterway",

"hoist", "naval transport facilities", "craft", "shipper", etc.).

*Figure no. 1. Four-word expressions in Government Ordinance 42/1997 (r1) of 28/08/1997*
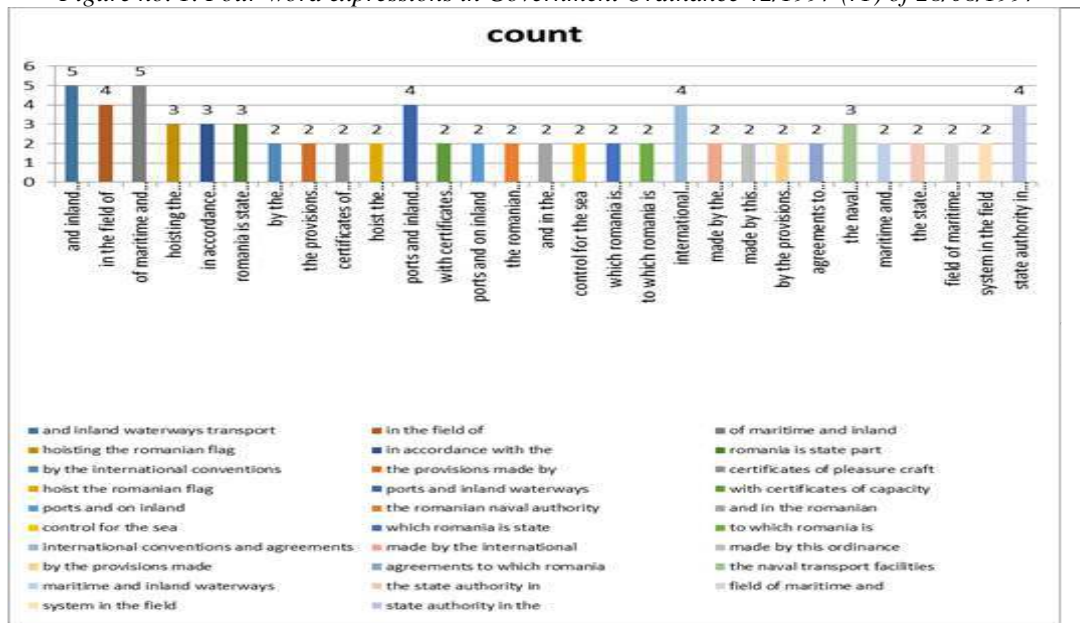


*Source: Processing by Text Content Analysis Tool*

Figure 2 and the statistics regarding specialized word count and length show that, within the text *Hamburg Rules, United Nations Convention on the Carriage of Goods by Sea, 1978*, there predominate three or four syllable words, of mild difficulty, such as: "convention", "provisions", "liability", "paragraph", "delivery", "consignee", "document", "agreement", "accordance", "particulars", "limitation", "applicable" ,"dangerous", "provided". These words are semi-technical or non-technical. Longer and more difficult words are used less within the corpus (one to six times); however, these are semi-technical or non-technical words: "compensation", "international", "notwithstanding", "circumstances", "responsibility", "nevertheless", "jurisdiction", "subparagraph", "attributable", "consequences", "inaccuracies", "inconsistent", "interpretation", "correspondingly", "identification", "requirements", "responsibilities", "supplementary".

*Figure no. 2. Readability by using indicators such as hard words in Hamburg Rules, United Nations Convention on the Carriage of Goods by Sea, 1978*
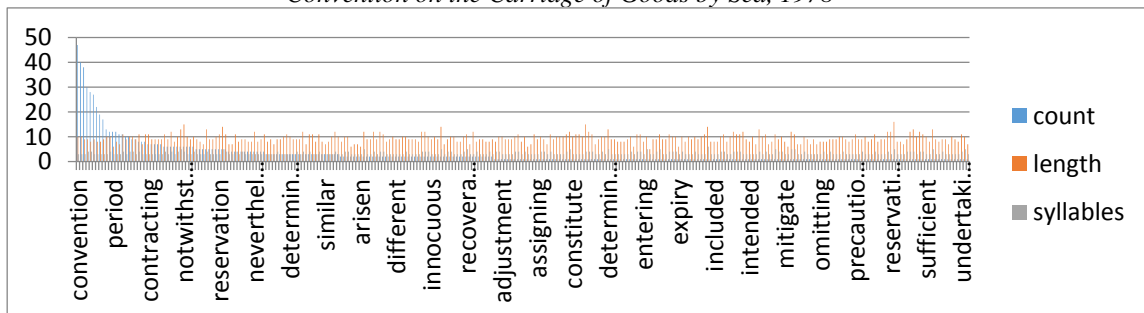


*Source: Processing by Text Content Analysis Tool*

Figure 3 shows the number of counts, as far as lexical density is concerned in the *Hamburg Rules, United Nations Convention on the Carriage of Goods by Sea, 1978*. The Lexical Density Test, aimed at revealing the reading difficulty level of a text, employs the following formula: Lexical Density = (No. of different words / Total no. of words) x 100. It also tries to establish the share of content words in relation to the total number of words. It is noteworthy that the lower the density of a text, the more understandable it is. For example, a lexical density level of around 60-70% signals a lexically dense text, while a lower lexical density level of around 40-50% belongs to less dense texts. From this perspective, the above chart reveals that the analyzed corpus (Hamburg Rules, United Nations Convention on the Carriage of Goods by Sea, 1978) has a low density and is, therefore (especially combined with the fact that there predominated three or four syllable semi-

technical and non-technical words), more easily understood by readers.

*Figure 3. No. counts – Lexical Density Hamburg Rules, United Nations Convention on the Carriage of Goods by Sea, 1978*

Figure 4 and the statistics regarding specialized word count and length show that, within the text *Government Ordinance 42/1997 (r1) of 28/08/1997*, there predominate two, three and four syllable words, of mild difficulty, such as: "activities", "authority", "maritime", "ministry", "national", "naval", "performs", "inland", "provisions", "surveillance", "transport", "waterways". These words are semi-technical or non-technical. Longer and more difficult words are used less frequently within the corpus (one to six times); however, these are semi-technical or non-technical words: "administrations", "certification", "infrastructures", "installations", "institutional", "international", "professional", "self-propelled", "subordinated", surveillance, "transmission".

*Figure 4. Word count in Government Ordinance 42/1997 (r1) of 28/08/1997*
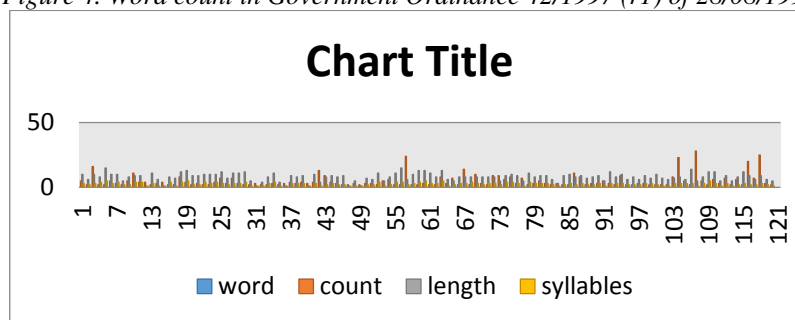
According to Halliday (1988, p.14), specialized languages are functional varieties or registers that can be referred to in terms of the recurrence of certain linguistic items in comparison to general language or other variations. In order to understand, characterize and properly use specialized languages, quantitative and qualitative data are of exceptional importance. Furthermore, specialized corpora provide the necessary means for register description and allow for quantifying language characteristics.

Language users transmit their own perception of reality through language, using it for its main purposes: to convey and receive information, to organize, clarify and summarize ideas, to persuade, influence or manipulate others. Speakers choose discourse strategies depending on the social, economic, political or academic status of their addressees (Popescu, 2015, p. 109), their own status, the general context. Moreover, speakers decide on the vocabulary, phrases and the disposition of sentences and complex sentences when using a foreign language. A great deal of other factors have a huge impact on communication in a foreign language: mother tongue, other previously aquired or learned languages, the socio-cultural background knowledge. All this can lead to variation in second/foreign language use. As to Smith (1983, p.192-193), he prefers the phrase „register variation" applied to the variations produced depending on the context.

All languages have standardized „rules" for conceiving academic, technical or scientific texts. This has been the result of the effort to avoid too much language change, which has nowadays been demolished by communication technology use (Baca, 2008, p. 14), to maintain precision and avoid ambiguity. The Internet and the World Wide Web have led to amazingly fast language changes if compared with the last century. As Duszak (1997, p.9) points out, "Recent insights into academic writing have shown considerable variation in text characteristics across fields, languages and cultures. [...] Among the most notable differences are field-and culture-bound disparities in global organization schemata of texts."

Generally, specialized languages have their own features, associated with a certain type of thinking, such as formal style, domain specific vocabulary/ highly specialized vocabulary, simple language structures, impersonal forms, short sentences, or on the contrary, long, complex, convoluted sentences (e.g. legal language). Technical writing is different from other genres in being formal and direct; consequently, synonyms, metaphors, colloquial expressions are to be avoided. Eggins and Martin 1997: 336) suggest further characteristics: the use of standard syntax without abbreviations; no reference to the author of the text; the topic is considered the most relevant aspect; use of incrustations; lots of subordinated sentences put together, long complex noun phrases; a great numbers of nouns and a decreased number of adverbs. Thus, Duszak (1997, p. 2) states that "All this contributed to the image of a dehumanised language of science, and likewise to the image of a dehumanised writer".

Specialized words and expressions highlight objectivity, and help foreign language writers understand and use specific language appropriately; unfortunately, at the same time, these characteristics may constrain natural communication.

## 5. Conclusions

In our study, we have conducted an analysis on the lexis of legal maritime English, from two legal texts: *Hamburg Rules, United Nations Convention on the Carriage of Goods by Sea, 1978, articles 1-11* and *Government Ordinance 42/1997 (r1) of 28/08/1997, republished in The Official Gazette, Part I no. 210/10.03.2004 as to the naval transport, modified and completed*). For this purpose, by means of Text Content Analysis Tool, we extracted the legal maritime and checked qualitatively the effectiveness of the statistical classification. We have also attempted to map the lexical profile of these two legal texts. It is noteworthy that the methodological basis of the corpus research is diverse as it not only covers the fields of corpus linguistics but also involves looking into grammatical and lexical relationships and discourse analysis. The study is concerned with data of language used in maritime law literature and uses corpora to investigate the language of maritime law.

The tools available in the Text Content Analysis Tool assisted us in conducting the corresponding analysis. Moreover, collocates, fixed phrases and clusters were instantly revealed from concordance lines. The analysis of sintagmatic relations revealed prefabricated word combinations within the texts. It is noteworthy that these word combinations represent a characteristic of the analyzed register and an essential element in the production and understanding of the specialized legal knowledge (Scott, 1998).

It should also be added that a more clear image of any language can be obtained by analyzing the words occurring significantly more often within a certain linguistic area, compared to the general language use, rather than by paying attention to those words with a high frequency level (i.e. key words) (Scott, 1997). Key words were arrived at in this study by using the key word function of the Text Content Analysis Tool. A word got into the list if it was unusually frequent (or unusually infrequent) in comparison to a larger word list.

Overall, the three largest word class categories among the key words for all the studied documents were similar, that is, nouns. This was followed by verbs and then adjectives. The analysis of key words has clearly identified that maritime law has more nouns as key words, with verbs and adjectives as the next two word classes more commonly used, and that the majority of the words used are semi-technical and non-technical words. However, semi-technical words, such as "liability'", "responsibility", "contract", "agreement", "carrier", "carriage", "transport", "transportation", "certification", "certificate" could pose a problem to translators who have a high proficiency in English language; therefore, these words ought to be given a more uniform translation and understanding. There should also be caution in handling these words as individual words in maritime law as many of them appear more as multi-word units in the texts and thus become more technical in appearance, for example, phrases such as "causes that exclude the liability" and "being found responsible" or "transport agreement" or "contract of carriage" may be familiar but they become sub-technical and semi-technical and need to be carefully used.

It is through corpus studies like this that linguists, translators and material writers would be able to check and understand the differences in English maritime law from the general English language

and be able to apply this knowledge within their field of activity (Scott, 1998). The novelty brought by this paper consists in the choice of the corpus and in the use of the *Text Content Analysis Tool* in an attempt to extract the specialized vocabulary of the discipline, to reveal the terminological intricacy and to contribute to a better understanding of this specialized terminology within the field of maritime law. This study proves that there is a need for small corpus studies to be carried out, especially on language for specific purposes, as these types of studies provide insights which would help in the production of better learning materials and in the teaching and learning process.

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