

The Translator's (In)Visibility in Legal Texts: The Case of Domestic and EU Labour Law

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Abstract

The paper discusses the issue of multilingualism policy and its outcomes on the basis of several EU terminological solutions and the consistency of the use of selected labour law terms. The study leads to a few conclusions on the EU translator's visibility, or invisibility, in EU documents. The analysis is carried out within the field of labour law, which in the case of Poland is part of a national legal system that has for a long time already been subject to a process of unification. Phrases containing the word "pattern", and referring to the organisation of working time, were selected for analysis and have revealed inconsistencies in the selection of Polish equivalents for the Polish language versions of EU legal acts. Moreover, a short study of the Polish Labour Code has been carried out to see what terms connected with the organisation of working time are used there, and whether the terms are the same as, or similar to, those used in EU law.

Keywords: European Union translation, translator, multilingualism policy, labour law terminology, equivalence, terminological consistency

Abstrakt

W artykule została omówiona kwestia polityki wielojęzyczności oraz skutków, jakie za sobą niesie, w oparciu o kilka przykładów terminologicznych rozwiązań znalezionych w tekstach unijnych oraz spójności w wykorzystaniu wybranych terminów prawa pracy. Przeprowadzone badanie umożliwiło wyciągnięcie kilku wniosków na temat widoczności działań tłumacza, lub jej braku, w tekstach unijnych. Do analizy wybrano wyrażenia odnoszące się do organizacji czasu pracy zawierające słowo „pattern”, które pojawiły się w tekstach unijnych regulujących ten zakres prawa. Porównanie unijnych tekstów prawnych w języku angielskim i polskim pokazało pewną niespójność w tłumaczeniu tych terminów na język polski. Dodatkowo przeprowadzono krótką analizę polskiego Kodeksu Pracy w celu sprawdzenia, jakie terminy odnoszące się do organizacji czasu pracy zostały w nim wykorzystane i czy są one bezpośrednio powiązane znaczeniowo z terminami unijnymi.

Słowa kluczowe: tłumaczenie w Unii Europejskiej, tłumacz, polityka wielojęzyczności, terminologia prawa pracy, ekwiwalencja, spójność terminologiczna

1. Introduction

Are different language versions of EU legal acts indeed the “same”? Is the EU translation process visible in different language versions of the same document? And, finally, can the terminology found in EU texts be a resource for translating legal terms rooted in member states’ national legal systems? These questions recur again and again in the translator’s head. Not only are different language systems an issue here, but so too are distinct legal systems. The sovereignty of each and every country lets it decide on the laws that are in force in its territory. In the case of Poland and other EU member states, that right has been limited as some areas of domestic law need to be unified with EU legislation. An example here is labour law, which has been adjusted to European legislation since as far back as 1989. The unification of the law has usually taken the form of amending old, or passing new, acts of law. The law that is implemented, usually indirectly in the case of labour law, derives from the Polish language versions of official EU legal acts. It is assumed that they are the same documents as their English or other language versions.

However, when examined in detail, one may notice that the translated documents often lack terminological consistency.

2. Labour Law – general characteristics

Poland's accession to the EU imposed an obligation on the former to unify certain aspects of Polish law with EU legislation. One part of law that was subject to unification was Polish labour law. Implementing new regulations in its case started very early, long before any official steps were taken towards membership of the European Economic Community (EEC). According to legal specialist, Walerian Sanetra, the process of labour law unification can be divided into four stages. The first one lasted from 1989 to 1994 and was a post-transformation period in which a reconstruction of the Polish labour law system was inspired by EEC law. The second stage covered the next four years, from 1994 (the moment the Europe Agreement establishing an Association between the European Communities and Poland entered into force) to 1998 (the beginning of the negotiation process between Poland and the European Union). The third stage, from 1998 to 2004, was a time of adjusting the Polish legal system to the requirements of EU law, *inter alia* by reconstructing Polish labour law. The moment Poland became an EU member state marked the beginning of the fourth stage, which is still ongoing. Since 1st May 2004 efforts have been made to update Polish labour law subject to changing EU law (Sanetra 2015, 82–83).

Due to the unification and adjustment process extending over so many years, in fact from the beginning of the 3rd Polish Republic (1989), stage three of the process, when the obligation was imposed on Poland, only required far-reaching changes in a few areas in the case of labour law. However, there were also areas of labour law that had to be regulated from scratch. An area of labour law that required significant changes was that relating to the organisation of working time (chapter 4 of the Labour Code) (Sanetra 2015, 83). The EU legislates on it via directives (there is no resolution directly regulating the organisation of working time). Pursuant to Article 288 of the Treaty on the Functioning of the European Union

[a] directive shall be binding, as to the result to be achieved, upon each Member State to which it is addressed, but shall leave to the national authorities the choice of form and methods. (Consolidated Treaty on the Functioning of the European Union, Article 288)

Hence, member states are given a lot of freedom as to the means of implementing directives as long as the result intended by the EU legislation is achieved. In Poland amendments to the Labour Code have predominantly served as a means in which they introduce the respective EU regulations. Among other means used in Poland, old acts have been amended and new acts have been passed.

The main EU directives dealing with the organisation of working time are as follows:

- Council Directive 93/104/EC of 23 November 1993 concerning certain aspects of the organisation of working time (Official Journal L 307, 13/12/1993 P. 0018 – 0024)
- Directive 2000/34/EC of the European Parliament and of the Council of 22 June 2000 amending Council Directive 93/104/EC concerning certain aspects of the organisation of working time to cover sectors and activities excluded from that Directive (Official Journal L 195, 01/08/2000 P. 0041 – 0045)
- Directive 2002/15/EC of the European Parliament and of the Council of 11 March 2002 on the organisation of the working time of persons performing mobile road transport activities (Official Journal L 080, 23/03/2002 P. 0035 – 003)
- Directive 2003/88/EC of the European Parliament and of the Council of 4 November 2003 concerning certain aspects of the organisation of working time (Official Journal L 299, 18/11/2003 P. 0009 – 0019)

It is difficult to closely follow all the amendments made in the Labour Code as a consequence of EU directives since the directives are often changed and there is no direct information as to which modification of the Labour Code, or labour-law act, resulted from the implementation of a given directive. Moreover, a directive can be implemented partly by amending the Labour Code, and partly by passing or amending acts. Additionally, not everything needs to be introduced anew owing to the fact that Polish labour law was inspired by Community law. Moreover, the relationship between Polish law and EU law is not always clearly visible in the Polish law that is in force. The multitude of changes in the Labour Code has led to the improvement of employees' protection standards on the one hand; on the other, the technical and legislative aspects of the Labour Code have significantly deteriorated due to the constant modification of directives, leading to the required respective amendments to domestic law, and have resulted in a drop in the coherence of the legislation set forth in it and terminological incoherence (Sanetra 2015, 87).

3. Labour Law – a translation field

The fact that EU directives do not need to be introduced into domestic legislation in their original form has, among other things, led to a situation in which Polish and EU legal terminology have not needed to be made uniform. As a result, the terms and concepts that we find in the Polish original versions of the directives are not always found in the Polish Labour Code. Another thing that should be highlighted here is the multilingualism policy adopted in the EU which says that EU legislation is created in all languages of the European Union and each language version is treated as an authentic document (see more in Biel 2014, 60–62, Jacometti 2012, 1384–1385, Doczekalska 2009, 119–120). Stefaniak aptly notices the relation between legal languages of the European Union and EU legal system.

The European Union also has its own specific legal system, although it does not have its own language and hence it has to “borrow” its legal terminology from the legal languages of the Member States. Still, it needs to be stressed that the concept system of EU law is distinct from that of the Member States because the EU legal system is distinct from the legal systems of EU Member States. (Stefaniak 2017, 115)

Therefore, there are a number of problems connected with the terminology contained in EU law, such as the absence of definitions in Community texts, a non-technical definition applied on purpose and a lack of internal coherence (Pozzo 2006, 12–18). The lack of definitions has led to various meanings of the terms in various national legal systems. The non-technical definitions provided in certain cases by EU legislators do not improve the situation as they are not always sufficiently precise. The lack of internal coherence is shown by different words/phrases referring to the same concept within a single document or a series of documents referring to one another. Incoherence is also visible in different language versions of the same document. (A “pattern”¹ in the meaning of a “pattern of work,” studied further in this paper, is just one example).

This stands in opposition to some of the usual properties of terms, and legal terms in particular, *inter alia* that they should be standardised and artificially fixed and share such characteristics of terms as transparency and consistency (Lukszyn and Zmarzer

¹ Whenever a single quotation mark is used, the reference is to the word or phrase without specific context. The use of italics indicates that the phrase is analysed in the context specified by the relevant text.

2006, 90–92; Biel 2014, 39–42). This also clashes with the basic criteria terminologists and translators base their choices on, e.g. consistency, accuracy and clarity (Stefaniak 2017, 116). Naturally, those features should be true for terms as part of a given system. In the case of European translation performed under the multilingualism policy, it should be remembered that the translation is done within the same concept system, namely the system of EU legislation. Therefore, the transparency and consistency mentioned above should be considered from that perspective.²

The translator's work in such conditions consists in expressing the ideas of the source text in the target language. That would seem to be a short and concise definition of a standard translation task. In the case of EU translation, however, one difference is to be found in the nature of the source and target languages, i.e. neither of them maintains the status of being a national language any longer as they are used detached from the relevant legal culture of the domestic legal system. More and more, EU legal English is recognised as a new genre (Robertson 2012, 1233; Bajčić 2018, 15). To some extent, the same can be said about other official languages of the European Union, at least from the terminological point of view, because all of them have become a means of communicating concepts that exist only in the legal reality created by EU legislators. There are specific stylistic rules that the multilingualism policy has imposed on those who prepare EU documents, both the authors and translators, in the form of the "Interinstitutional Style Guide" (European Union 2011). It has been prepared in all the official languages of the European Union. Apart from the first three parts, which are the same regardless of the language (meaning the issues discussed therein are equal in all the various language versions), there is also a fourth part in each language version, relating to publications in a given official language, which introduces stylistic elements typical of a given language. This style guide, in a way, limits the translator's selection of the linguistic means s/he may use when doing his/her work, and also makes the translator, and the translation process, less visible in the final product. On the other hand, when it comes to the implementation of EU law in national legal systems, some problems with the consistency of the use of legal terms in a national legal system may appear. Polish labour law terminology has not changed due to the implementation of European law, but it has been adapted to new purposes and extended. Yet, as Sanetra notes, there is a lot of terminological incoherence in that field of Polish law (Sanetra 2015, 87).

² More on issues relating to intra-Community translation can be found in Svoboda, Biel and Łoboda (2017).

4. Examples of legislators' terminological solutions

The purpose of the next chapter is to analyse examples of phrases containing the word “pattern” in selected EU legal documents referring to the organisation of working time. Terminology found in the English language versions of the documents has been collated with the terms in the respective Polish language documents, and vice versa.

The idea of making the word “pattern” the starting point of the analysis was born during the author's translation work when she was asked to translate a Polish text on the organisation of working time into English. One of the main terminological problems she encountered was finding English equivalents for Polish terms originating in the Polish Labour Code and relating to the organisation of working time, such as: *system czasu pracy* (a system of working time³), *rozkład czasu pracy* (a working time schedule), *rozkład czasu pracy danego pracownika* (an employee's working time schedule) and *indywidualny rozkład czasu pracy* (an individual working time schedule), and jargon words such as *harmonogram* (a schedule) and *grafik* (a roster) that appeared in the source text. The terms seemed to be very confusing in Polish, at least for a non-lawyer, and the author wanted to make them as clear as possible in English since the text was aimed at employees responsible for making schedules of work. An analysis of parallel texts led the author to EU legislation on the organisation of working time, where she found that the most frequently used word in the required context is the word “pattern”. Yet, surprisingly, the use of EU terminology turned out to lack consistency, even in related documents. The same concepts were presented via different terms, and the situation was similar in the Polish language versions of the documents the author reviewed. It was this that made her delve into the issue in further detail.

³ All English equivalents of Polish terms from the Polish Labour Code are provided by the author.

4.1. The studied empirical material

The terms selected for the analysis are phrases containing the word “pattern” that were found in the English language versions of category A legal acts (Biel 2017, 36) governing EU law on the organisation of working time. The documents selected for the analysis were as follows⁴:

(1.) Directives:

- (1.1.) Council Directive 93/104/EC of 23 November 1993 concerning certain aspects of the organisation of working time (Official Journal L 307, 13/12/1993 P. 0018 – 0024) – **CD93/104/EC** or **Council Directive 93/104/EC**;
- (1.2.) Directive 2000/34/EC of the European Parliament and of the Council of 22 June 2000 amending Council Directive 93/104/EC concerning certain aspects of the organisation of working time to cover sectors and activities excluded from that Directive (Official Journal L 195, 01/08/2000 P. 0041 – 0045) – **D2000/34/EC** or **Directive 2000/34/EC**;
- (1.3.) Directive 2002/15/EC of the European Parliament and of the Council of 11 March 2002 on the organisation of the working time of persons performing mobile road transport activities (Official Journal L 080, 23/03/2002 P. 0035 – 003) – **D2002/15/EC** or **Directive 2002/15/EC**;
- (1.4.) Directive 2003/88/EC of the European Parliament and of the Council of 4 November 2003 concerning certain aspects of the organisation of working time (Official Journal L 299, 18/11/2003 P. 0009 – 0019) – **D2003/88/EC** or **Directive 2003/88/EC**.

(2.) Communication:

- (2.1.) Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions reviewing the Working Time Directive (Second-phase consultation of the social

⁴ Here the documents are organised according to the forms of EU legislation, and also chronologically within each form. Later in the paper the discussion is only organised chronologically, following the order presented in Table 3. The abbreviations with which the documents are referred to later in the paper, especially in tables and graphs, are given in bold at the end of each of the enumerated items.

partners at European level under Article 154 TFEU) /* COM/2010/0801 final */ – **ComWTD**.

(3.) Opinion:

(3.1.) Opinion of the Committee of the Regions on the Proposal for a Directive of the European Parliament and of the Council amending Directive 2003/88/EC concerning certain aspects of the organisation of working time (2005/C 231/10) – **O-D2003/88/EC** or **Opinion on Directive 2003/88/EC**.

(4.) Resolution:

(4.1.) European Parliament legislative resolution of 17 December 2008 on the Council common position for adopting a directive of the European Parliament and of the Council amending Directive 2003/88/EC concerning certain aspects of the organisation of working time (10597/2/2008 – C6-0324/2008 – 2004/0209(COD)) – **R-D2003/88/EC** or **Resolution referring to Directive 2003/88/EC**.

The corpus of texts was first formed with the use of a search engine and tools available on the EUR-Lex website (EUR-Lex). The tools provided on this website make it possible to create bilingual PDF files presenting selected language versions of an EU document. Therefore, to facilitate further analysis, seven PDF files, each presenting a bilingual (English and Polish) version of a document, were created and saved. Such a corpus of parallel texts was then subject to linguistic annotation (see Łukasik 2009, 79–80).

An analysis of the English language versions of the documents allowed the author to identify the appropriate terminology in English. The terminology tagged in the English language versions of these documents was then used to look for Polish equivalents in the Polish language versions of the EU documents. This linguistic annotation of the two language versions of the selected EU documents allowed the author to check the interlingual consistency of the use of terms and phrases containing the word “pattern”. The Polish corpus was then scanned in search of other instances when the Polish equivalent terms had been used, to verify the consistency of the use of the terms in Polish and to see if any other English term was translated into Polish in the same way as the initial one.

4.2. Analysis of phrases containing “pattern” and their Polish equivalents in EU documents

The afore-mentioned legal documents contain the following phrases with the word “pattern”: *working pattern*, *working time pattern*, *work pattern*, *time pattern*, *activity pattern*, *pattern of work* and *pattern* with intratextual reference to *a pattern of work*. One can classify those word phrases as multi-word terms, semi-technical terms (Alcaraz and Hughes 2002, 16–17), and thematic lexemes connected with the subject of regulation (Gizbert-Studnicki 1986, 77–78). Although the documents are part of the same legal system of EU legislation (the same concept system), the equivalent texts in Polish language versions are not always consistent as far as the corresponding original terms in the English language versions are concerned. This conclusion is based on observations made regarding the aforementioned phrases containing the word “pattern” (see Table 3).

In Council Directive 93/104/EC the word “pattern” appears seven times: twice as *patterns of work*, once as *pattern of work* and four times as *pattern* in such phrases as: *a certain pattern*, *a rotating pattern* (a type of a working pattern, in Polish *schemat rotacyjny*). There is high consistency in the equivalent Polish language version where: *patterns of work* (which appears 3 times) is translated as *schematy pracy* or *praca wykonywana według pewnego schematu* and *a pattern of work* as *schemat pracy*. Whenever the word *pattern* is used in English on its own, there is a clear reference to a *pattern of work*. Grammatically, there is a change in the number in one case, when *praca wykonywana według pewnego schematu* appears, a phrase in the singular in Polish.

As for Directive 2000/34/EC the word “pattern” appears twice in the whole document. The first time in reference to Council Directive 93/104/EC where the term *patterns of work* found in the English document seems to have been omitted or treated as if forming one term with *shift work* in the Polish language version, since the two have been translated as *praca w ruchu ciągłym* (more on that issue in the next subsection). The second time the word “pattern” appears is the term *working patterns*. The equivalent phrase used in the Polish language version is *modele pracy* (there is no change in the number, as the plural is maintained in Polish).

In Directive 2002/15/EC the word “pattern” is not found. Therefore, the text has been excluded from further analysis.

In Directive 2003/88/EC the word “pattern” appears nine times. The terms found are: *working pattern*, *pattern(s) of work* or *pattern* (with a clear reference to a pattern of work). In each but one case “pattern” is translated as “harmonogram”. A situation

when the word is translated differently is in *a rotating pattern*, translated as *system następowania po sobie*, which is an example of inconsistency, as in Council Directive 93/104/EC the same English term is translated as *schemat rotacyjny*.

In the Opinion on Directive 2003/88/EC, the word “pattern” appears three times: twice as *pattern of work* – in each case it is translated as *harmonogram pracy*, and once as *pattern of hours*, translated as *harmonogram godzin*.

In the Resolution referring to Directive 2003/88/EC, “pattern” appears five times. It is found in *patterns of work*, translated as *harmonogram pracy* (a change in the number). This phrase appears in the preamble where the reference is directly to Directive 2003/88/EC. In the remaining four instances the equivalent Polish term for *pattern(s) of work* used is *organizacja czasu pracy*. The selection of such a phrase seems to be misleading. The context provided by this and other EU documents indicates that the Polish *organizacja czasu pracy* is a hypernym of *harmonogram pracy*. Table 1 provides two extracts depicting the context of using *organisation of working time* and *patterns of work*. One is from the afore-mentioned example from the studied resolution where the reference is to Directive 2003/88/EC, the other is from Directive 2003/88/EC and presents a reference to Council Directive 93/104/EC. In each case *organisation of working time* is a general term followed by an enumeration of the types of organisation of working time each of the directives refers to. The final term in the list is *patterns of work*. Therefore by no means should the two be treated as synonyms, but instead surely *organisation of working time* is a broader term than *patterns of work*.

One of the terminological rules present in legal texts, even more than in other special purpose texts, is that there are no synonyms. Here, however, the Polish language version suggests that *a pattern of work* is a synonym of *organisation of working time*. The latter in fact appears ten times in this resolution and in each case is translated literally as *organizacja czasu pracy*. In the other texts subject to analysis one can also find it on a number of occasions, and always translated as *organizacja czasu pracy* (Table 4 shows the exact number of times the phrase appears in the documents subject to analysis). Besides, as explained above, there is a clear indication in the directives that the relation between the terms is hierarchical rather than linear and they should not be treated as synonyms.

Table 1. Context-based relation between *organisation of working time* and *pattern of work* in Regulation referring to Directive 2003/88/EC and in Directive 2003/88/EC.

R-D2003/88/EC	
English language version	Polish language version
Directive 2003/88/EC of the European Parliament and of the Council (4) establishes minimum requirements concerning the organisation of working time , inter alia, in respect of daily and weekly rest periods, breaks, maximum weekly working time, annual leave and certain aspects of night work, shift work and patterns of work .	Dyrektywa 2003/88/WE Parlamentu Europejskiego i Rady (4) ustanawia minimalne wymagania co do organizacji czasu pracy , między innymi pod względem okresów dobowego odpoczynku, odpoczynku tygodniowego, przerw, maksymalnego tygodniowego wymiaru czasu pracy, corocznego urlopu wypoczynkowego oraz pewnych aspektów pracy w porze nocnej, pracy w systemie zmianowym oraz harmonogramów pracy .
D2003/88/EC	
English language version	Polish language version
Council Directive 93/104/EC of 23 November 1993, concerning certain aspects of the organisation of working time (3), which lays down minimum safety and health requirements for the organisation of working time , in respect of periods of daily rest, breaks, weekly rest, maximum weekly working time, annual leave and aspects of night work, shift work and patterns of work , has been significantly amended.	Dyrektywa Rady 93/104/WE z dnia 23 listopada 1993 r. dotycząca niektórych aspektów organizacji czasu pracy (3), która ustanawia minimalne wymagania higieny i bezpieczeństwa w odniesieniu do organizacji czasu pracy , w związku z okresami dobowego odpoczynku, przerw, odpoczynku tygodniowego, maksymalnego tygodniowego wymiaru czasu pracy, corocznego urlopu wypoczynkowego oraz aspektów pracy w porze nocnej, pracy w systemie zmianowym oraz harmonogramów pracy , została znacznie zmieniona.

Source: own work

In the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions reviewing the Working Time Directive, there are 18 phrases containing the word “pattern”. In contrast to the previous legal documents, the mixture of forms in English is quite rich: *working patterns* (4 times), *working time patterns* (6 times), *work patterns* (5 times), *time patterns* (once), *activity patterns* (once), and *patterns of work* (once). In each case the equivalent Polish term used is *model pracy*. It is worth stressing here that there is a change of person from plural in English to singular in Polish. Interestingly, there is one case when a different equivalent term is used: in one case *working time*

patterns is translated as *organizacja czasu pracy* instead of *model pracy*, which seems to be an example of inconsistency as in the other 5 instances the same phrase is translated as *model pracy* (see Tables 2 and 3).

Table 2. Exceptional translation of *working time patterns* as *organizacja czasu pracy* in ComWTD.

ComWTD	
English language version	Polish language version
ETUC (European Trade Union Confederation) is also interested in addressing reconciliation of work and family life, and allowing workers more influence over working time patterns .	ETUC jest także zainteresowana poruszeniem kwestii godzenia życia zawodowego i rodzinnego oraz umożliwieniem pracownikom większej kontroli nad organizacją czasu pracy .

Source: own work

A search with the IATE search engine available at <https://iate.europa.eu> showed that the only term listed in that database is *working patterns*. The equivalents in Polish provided there are *modele pracy* and *modele organizacji pracy*, but only the first equivalent is taken from an EU legal act, namely Directive 2000/34/EC. As Stefaniak states in her paper on terminology work in the European Commission, “[t]erms, like all other components of the specialized language evolve, get accepted or rejected, change their conceptual scope, go out of usage or become marked” (Stefaniak 2017, 111).

As a consequence, terminological databases are also updated. Somewhat surprisingly, some of the documents translated after the year 2000, namely Directive 2003/88/EC, the Opinion on Directive 2003/88/EC and the Resolution referring to Directive 2003/88/EC, do not follow suit. Yet, the last one published in 2010, ComWTO, is nearly fully consistent in that respect, as even related phrases, such as *working patterns*, *working time patterns*, *work patterns*, *time patterns*, *activity patterns*, and *patterns of work* are translated into Polish as *model pracy*, a term found in the IATE database, but in the singular.

Table 3. Phrases containing the word “pattern” and their Polish equivalents in EU legislation concerning the organisation of working time.

PATTERN											
Publication year	1993	2000	2003	2005	2008	2010					
Document	CD93/104/EC	D2000/34/EC	D2003/88/EC	0-D2003/88/EC	R-D2003/88/EC	ComWTTD					
Term in English	Term in Polish	No	Term in Polish	No	Term in Polish	No					
working patterns		modele pracy	1	harmonogramy pracy*	1	model pracy	4				
working time patterns						model pracy	5				
work patterns						organizacja czasu pracy	1				
time patterns						model pracy	5				
activity patterns						model pracy	1				
patterns of work	schematy pracy; praca wykonywana według pewnego schematu	(no translation provided, the term is omitted)	1	harmonogramy pracy	4	harmonogramy pracy	1				
pattern of hours				harmonogram godzin	1	organizacja czasu pracy	4				
pattern	schemat (pracy)	4	harmonogram**	3							
			system *	1							

* with an adjective changing (narrowing) the meaning; ** contextually referring to pattern(s) of work

Table 4. *Organisation of working time* and its Polish equivalents in EU legislation concerning the organisation of working time.

ORGANISATION OF WORKING TIME						
Publication year	1993		2000		2003	
Document	CD93/104/EC		D2000/34/EC		D2003/88/EC	
Organisation of working time	Organizacja czasu pracy	9	Organizacja czasu pracy	8	Organizacja czasu pracy	10
Publication year	2005		2008		2010	
Document	0-D2003/88/EC		R-D2003/88/EC		ComWTD	
Organisation of working time	Organizacja czasu pracy	5	Organizacja czasu pracy	9	Organizacja czasu pracy	4

4.3. Patterns of work from the preamble to Directive 2000/34/EC and in other documents on the organisation of working time

An interesting example of “freedom of translation”, which is surprising in the context of the single legal system of European Union law, is an extract from Directive 2000/34/EC which is part of the preamble listing the documents that the relevant directive refers to.

Table 5. *Shift work and patterns of work* in Directive 2000/34/EC.

D2000/34/EC	
English language version	Polish language version
Council Directive 93/104/EC of 23 November 1993 concerning certain aspects of the organisation of working time (4) lays down minimum safety and health requirements for the organisation of working time, in respect of periods of daily rest, breaks, weekly rest, maximum weekly working time, annual leave and aspects of night work, shift work and patterns of work.	Dyrektywa Rady nr 93/104/WE z dnia 23 listopada 1993 r. dotycząca niektórych aspektów organizacji czasu pracy (4) określa minimalne wymagania zdrowotne i bezpieczeństwa przy organizacji czasu pracy, w odniesieniu do okresów dziennych przerw w pracy, tygodniowych przerw w pracy, maksymalnego tygodniowego czasu pracy, urlopu wypoczynkowego, pracy w nocy oraz pracy w ruchu ciągłym.

Source: own work

The excerpt above shows that the terms *shift work* and *patterns of work* are translated as *praca w ruchu ciągłym* (see Table 5), although in other texts in EU legislation the Polish term *praca w ruchu ciągłym* is an equivalent of *continuous work* (or is translated as a verb phrase *to work continuous shifts*).

Nearly the same extract can be found in Article 1 (2) of Council Directive 93/104/EC where the application of the directive is specified. There we can see that the phrase *shift work and patterns of work* is treated as containing two terms, not one (see Table 6): *praca w systemie zmianowym* and *praca wykonywana według pewnego schematu*.

Table 6. *Shift work and patterns of work* in Council Directive 93/104/EC.

CD93/104/EC	
English language version	Polish language version
2. This Directive applies to: (a) minimum periods of daily rest, weekly rest and annual leave, to breaks and maximum weekly working time; and (b) certain aspects of night work, shift work and patterns of work .	Niniejsza dyrektywa ma zastosowanie do: a) minimalnych okresów dziennego i tygodniowego czasu przerwy w pracy oraz corocznego urlopu wypoczynkowego, przerw oraz tygodniowego maksymalnego czasu pracy; jak również b) niektórych aspektów pracy w porze nocnej, pracy w systemie zmianowym i pracy wykonywanej według pewnego schematu .

Source: own work

An analogical reference to Council Directive 93/104/EC can be found in Directive 2003/88/EC (Table 7). In the latter, the equivalent of *shift work* is the same as above, namely *praca w systemie zmianowym*. However, the term *patterns of work* is translated as *harmonogramy pracy*. Moreover, later in the text one can find that exactly the same phrase appears in Article 1 (2) where the description of the application of Directive 2003/88/EC is given. The Polish equivalent here is analogical to the one described above: *patterns of work* is translated as *harmonogramy pracy*. This inconsistency has led the author to an analysis of other documents under review which refer to Directive 2003/88/EC to find out what equivalent phrases in analogical contexts are given in the Polish language versions of those acts.

Table 7. *Shift work and patterns of work* in Directive 2003/88/EC.

Directive 2003/88/EC	
English language version	Polish language version
<p>(1) Council Directive 93/104/EC of 23 November 1993, concerning certain aspects of the organisation of working time (3), which lays down minimum safety and health requirements for the organisation of working time, in respect of periods of daily rest, breaks, weekly rest, maximum weekly working time, annual leave and aspects of night work, shift work and patterns of work, has been significantly amended.</p>	<p>(1) Dyrektywa Rady 93/104/WE z dnia 23 listopada 1993 r. dotycząca niektórych aspektów organizacji czasu pracy (3), która ustanawia minimalne wymagania higieny i bezpieczeństwa w odniesieniu do organizacji czasu pracy, w związku z okresami dobowego odpoczynku, przerw, odpoczynku tygodniowego, maksymalnego tygodniowego wymiaru czasu pracy, corocznego urlopu wypoczynkowego oraz aspektów pracy w porze nocnej, pracy w systemie zmianowym oraz harmonogramów pracy, została znacznie zmieniona.</p>
<p>2. This Directive applies to: (a) minimum periods of daily rest, weekly rest and annual leave, to breaks and maximum weekly working time; and (b) certain aspects of night work, shift work and patterns of work.</p>	<p>2. Niniejszą dyrektywę stosuje się do: a) minimalnych okresów dobowego odpoczynku, odpoczynku tygodniowego oraz corocznego urlopu wypoczynkowego, przerw oraz maksymalnego tygodniowego wymiaru czasu pracy; oraz b) niektórych aspektów pracy w porze nocnej, pracy w systemie zmianowym oraz harmonogramów pracy.</p>

Source: own work

In the European Parliament legislative resolution of 17 December 2008 on the Council common position for adopting a directive of the European Parliament and of the Council amending Directive 2003/88/EC concerning certain aspects of the organisation of working time, one can find the same pair of equivalents as in Directive 2003/88/EC, the original act the resolution refers to.

Table 7. *Shift work and patterns of work* in R-D2003/88/EC.

R-D2003/88/EC	
English language version	Polish language version
Directive 2003/88/EC of the European Parliament and of the Council (4) establishes minimum requirements concerning the organisation of working time, inter alia, in respect of daily and weekly rest periods, breaks, maximum weekly working time, annual leave and certain aspects of night work, shift work and patterns of work .	Dyrektywa 2003/88/WE Parlamentu Europejskiego i Rady (4) ustanawia minimalne wymagania co do organizacji czasu pracy, między innymi pod względem okresów dobowego odpoczynku, odpoczynku tygodniowego, przerw, maksymalnego tygodniowego wymiaru czasu pracy, corocznego urlopu wypoczynkowego oraz pewnych aspektów pracy w porze nocnej, pracy w systemie zmianowym oraz harmonogramów pracy .

Source: own work

The examples provided show that terminological inconsistency is evident even when the documents are interrelated, like in the case of the studied legislation. The relationship between each of the documents subject to analysis is illustrated in the diagram below.

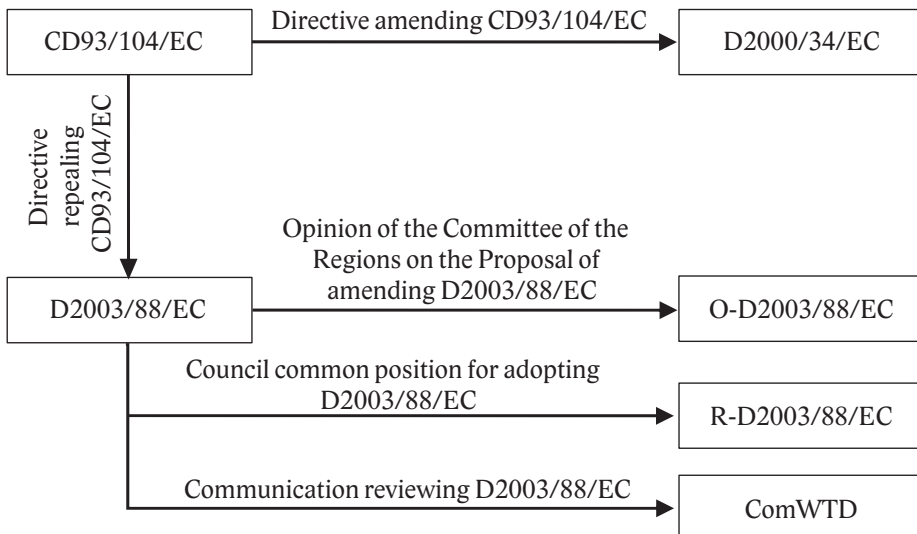


Fig. 1. Relationship between the EU labour law legal acts under review.

Source: own work

5. Examples of Polish-English legal translation dilemmas

The terminology and the concept system used in Polish labour law are not unified with EU law. Hence the terminological systems of the two legal systems cannot be the same. Terminology referring to the organisation of working time serves as a good example. The terms found in the Polish language versions of EU legislation on the organisation of working time that are the equivalents of the terms containing the word “pattern”, in fact, are not usually found in the Polish Labour Code, the main act on labour law in Poland. Indeed, when the phrases are used there (there are only two situations like that), then the concepts that they refer to are different.

Let us turn our attention to terminology relating to the organisation of working time found in the Polish Labour Code (Journal of Laws of the Republic of Poland of 1974 No 24 Item 141, Act of 26 June 1974 Labour Code), the main legal document through which EU directives referring to labour law are implemented. What is found in that document in reference to the organisation of working time are four terms: *system czasu pracy* (a system of working time), *rozkład czasu pracy* (a working time schedule), *rozkład czasu pracy danego pracownika* (an employee's working time schedule) and *indywidualny rozkład czasu pracy* (an individual working time schedule).

As for *system czasu pracy* (a system of working time), Chapter 4 the Labour Code defines five different systems of working time that can be applied in Poland. These are:

- (1.) *system równoważnego czasu pracy* (an equivalent working time system) – a system of working time in which a prolonged daily working period is balanced with less daily working time on certain days or with days off work (Article 135 § 1 of the Labour Code)
- (2.) *system przerywanego czasu pracy* (an interrupted working time system) – a system of working time according to a previously arranged working time schedule under which there is not more than one break in work per day that is not longer than 5 hours. The break is not included in the working time, but an employee is entitled to remuneration for that period of break amounting to half of the remuneration due for the stoppage (Article 139 § 1 of the Labour Code)
- (3.) *system zadaniowego czasu pracy* (a performance working time system) – a system of working time in which, having arranged it with the employee, the employer determines the time needed for the performance of tasks entrusted to the employee, taking into account the working time deriving from the standards set forth in Article 129 of the Labour Code (Article 140 of the Labour Code)

- (4.) *system skróconego tygodnia pracy* (a short-week working time system) – a system of working time that allows work to be performed by the employee for at least 5 days per week and prolonging the daily working time up to 12 hours in a reference period not longer than 1 month (Article 143 of the Labour Code)
- (5.) *system czasu pracy, w którym praca jest świadczona wyłącznie w piątki, soboty, niedziele i święta* (a Friday-to-Sunday and holiday working time system) – a system of working time in which work is done on Fridays, Saturdays, Sundays and holidays only (at employee's request only) (Article 144 of the Labour Code).

Rozkład czasu pracy (a working time schedule) is used parallel to *system czasu pracy* (a system of working time) as in a system of working time a group of employees may work according to a certain working time schedule. What can be said about a working time schedule is that it is an element of work rules and regulations (the collective agreement or announcements), it defines general rules of working time in a company, days off work resulting from the rule of a 5-day working week, the rules accompanying the preparation of individual working time schedules, the start and finish times for the work of each shift, and the time of breaks at work (those included in and excluded from the working time). Shift work is an example of a working time schedule (Prasołek 2017).

Rozkład czasu pracy danego pracownika (an employee's working time schedule) is the distribution of working hours a given employee is required to work in a certain period that results from the working time schedule. Its informal name is *grafik* or *harmonogram*. In short it is an individual work period for a given employee in a given reference period. It simply specifies the general rules deriving from the working time schedule. It can be prepared for individuals or for groups of employees (teams). It is not prepared at the employee's request and should not be confused with an individual working time schedule (Article 142 of LC). It should be prepared before the beginning of the reference period (at least one week earlier) (Prasołek 2017).

A completely different concept is to be found in *indywidualny rozkład czasu pracy* (an individual working time schedule). This way of organising working time is always preceded by an employee's request. It is a deviation from the working time schedule defined in the company's rules and regulations. It is prepared at an employee's written request (part B of their personal files), but the request does not entail any obligation on the part of the employer. The introduction of any irregular working time schedule cannot break the rules of the working time system in which the employee is contracted. It is a schedule adjusted to an individual employee's needs (e.g. family or school

needs) that diverges in some way from the company's general working time schedule (Prasołek 2017).

As one may notice, there are no terms such as *model pracy*, *harmonogram pracy*, or *schemat pracy* (equivalent phrases for phrases containing the word "pattern" in the Polish language version of EU legislation) in the Labour Code. The phrase *organizacja czasu pracy* (organisation of working time) is seen only once in Article 186^{8a} of the Labour Code, but the concept it represents is different, something which is seen in the categorisation of working time in the Polish Labour Code and the extract from the preamble to Directive 2003/88/EC and other documents (see Table 1). As for *system czasu pracy*, the term is clearly defined and subject to clear categorisation in the Polish Labour Code, which cannot be said for the phrases containing the word "pattern" in the EU legislation. The word "system" is found in the Polish language version of Directive 2003/88/EC in the term *system następowania po sobie* (*rotating pattern* in the English language version of the document), a term not defined in that document. The phrase *harmonogram pracy* is a term found in Article 31e (2) of the Act on Drivers' Working Time (Journal of Laws of the Republic of Poland of 2004 No 92 item 879 Act of 16 April 2004 on drivers' working time.) However, no extended context that would explain the meaning of the term is given there.

6. Conclusions

The translator's visibility has, to some extent, been limited in the course of rendering services for the European Union. There is much less space for individualism than in other translation jobs. The multilingualism policy has made it necessary to introduce some standards regarding the use of official languages. These standards, for instance, in the form of interinstitutional style guides, restrict the range of choices translators have at hand when doing their work. Moreover, translators are not left alone to select equivalents. To assist them there are terminological databases, such as IATE, VJM and EU Vocabularies (a service offering access to a number of other terminological databases), and terminologists working for various EU institutions. Therefore, the style guides and rich EU terminological resources make the translator, as an individual, less and less visible in the end.

But, is the translator truly invisible? It seems that, in the case of law as a translation field, the translator, or translation s/he does, cannot really hide. Furthermore, the

translator, or the translation process the translator carries out, should not hide. The terms used in a certain legal text are always rooted in a particular legal system. In the case of EU law, despite the standardisation introduced, the Polish authentic language versions seem to be burdened with the “translator effect” – the multilingual policy applied to EU legislation results in a situation whereby piles of legal texts are translated by a large number of translators, who are naturally professionals and who naturally know the guides and know who to contact when the need arises. Yet, doubtless, they are also independent thinkers who interpret and translate texts occasionally in their own way.

The idea of multilingualism says that each and every act should have the same meaning no matter what EU language it is in. However, it cannot be forgotten that Polish language versions of EU legal texts are a product of translation. The source language in the translation process also matters. EU legal texts are usually translated from English, but it also happens that they are drafted in a different EU language and then translated (Stefaniak 2017, 115). Another significant issue is the national legal language of domestic legal systems the EU terms are sometimes borrowed from, though they do not represent the same concepts in the EU legal system and the respective domestic system of law.

Can the EU multilingual legal system serve as a point of reference for translating Polish legal texts? The answer is no. The border between the two legal systems should certainly never be forgotten, and the EU texts can be more misleading than helpful in terms of looking for equivalent terms for domestic labour law translation projects. The translation task that initiated this inquiry is proof. The presented examples of terminology from the field of labour law clearly show this, as there was not a single case when the Polish labour law terms and concepts subject to analysis coincided with those taken from the EU documents on the corresponding issues.

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