Industrial discourse in the context of court interpreting in Sweden

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Abstract. The article examines industrial discourse as part of spoken legal language in a courtroom setting in Sweden and its impact on the interpreting process and results. The paper draws up a brief overview of the discourse key features, the concept of communicational failure (a misfire) and presents analyses of authentic audio recordings from court trials interpreted from Swedish to Russian. The study is based on the linguistic semiotics approach with focus on the subfield of semantics. A special attention is paid to legal vocabulary and technical terminology. The eventual outcome of the article might be seen as an attempt to unravel the nature of mistakes and interactional misfires in connection with spoken industrial discourse.

1. Introduction

The sphere of legal language represents a “recognizable linguistic variety, differing from other kinds of language use” [1, p. 3]. At the same time it is not a single, unified concept, but rather “a cluster of uses” and the term itself is one of many other designations (e.g. law and language, the language of the law, language in law, forensic linguistics) used to describe a general field of study. Details and nuances between these phrases and what they denote have been much discussed in the literature. Nevertheless, this “fractured” field [2, p.11 as cited in 1, p.3] is relatively well-researched to conclude that legal language is a kind of discourse, in other words “a variably classifiable set of utterances with enough regularities to contrast fairly consistently with other kinds” [1, p.3]. At its broadest legal language can include both written and spoken legal discourse, linguistic evidence, legal education, translation and interpreting [1, p.3].

When put in one specific context – the courtroom – it is inevitable for the legal discourse, as it reflects events of life, to encompass other types of texts. Considering rapid technological development around the globe it is becoming difficult to ignore the occurrence of scientific, technical and business terminology in court discourse more and more often. In this paper, the term “industrial discourse” will be used to loosely describe a scope of special knowledge on and terminology associated with the development, manufacturing and merchandizing an industrial product. For example, when dealing with a theft, industrial discourse might be present when identifying stolen goods or equipment used for stealing, when recounting the circumstances of the event to establish available means and ways of payment and so on. And, of course, there is often technical evidence presented in many types of criminal cases – whether it is represented as an expert’s statement or a part of a witness’ or defendant’s testimony, industrial discourse becomes a constituent of the legal language during the courtroom hearing because of its direct connection to the merits of a case.

In line with the European Convention on Human Rights [3, art. 6], courts in Sweden are required to provide the right to a fair trial, including the right to free assistance of an interpreter. This obligation is incorporated into Swedish legislation, which clearly states that a so called “authorized interpreter” is to be engaged in the first place [4, kap.5 §6]. The national authorization is in place to ensure that a distinction is made between amateurs and qualified interpreters, who have passed an advanced
professional examination and is subject to the supervision of The Swedish Legal, Financial and Administrative Services Agency (Kammarkollegiet). It is also possible to obtain a special authorization as a court interpreter in some languages, which is to indicate a higher quality of interpreting. Becoming a court interpreter in Sweden means that in addition to the basic authorization examination an interpreter must also complete a specialized test that focuses on legal interpretation. However, this test does not include a proficiency exam on either technical or business terminology.

Since both the institutional and the lay members of legal conversations expect high quality of interpreting throughout the interaction without regard to the type of text encountered in the courtroom, it is interesting to investigate if the terminology of industrial discourse presents any particular challenges for an interpreter and leads to communicative failures or just the opposite – creates a perfectly firm basis due to its semantical unambiguity when given a specific context.

This study sets out to assess the functioning of industrial terminology in interpreted court discourse on the basis of audio records of court interpreting in Sweden. These analytical procedures and the results obtained from them are described in the following sections.

2. Methods
The present study was conducted using sample examination of more than 35 hours of court interpreting between Russian and Swedish languages. The data was gathered during 2018 with significant geographical spread. The examined material was collected in form of audio records that include 22 hearings held in 9 different district courts in Sweden [Attunda District Court, Gothenburg District Court, Hässleholm District Court, Kalmar District Court, Lund District Court, Nacka District Court, Södertörn District Court, Stockholm District Court, Östersund District Court].

The records represent one specific stage of the hearing process which is examination of the Russian-speaking plaintiff, defendant or witness. At first the speaker is asked to present his or her version of the events and afterwards the parties and the judges can put questions to the speaker. It also means that the interpreter is working with both Russian and Swedish as alternating source and target languages, although in a few cases there are two one-way interpreters working in tandem. In most cases interpreting is consecutive, sometimes simultaneous. To the extent that there is no video image available, the only non-verbal indicators to allude to a communicative failure are hesitation pauses, coughs, sounds of hesitation and sighs.

With the purpose of facilitating analysis, transcriptions of the records were made in compliance with the authors’ analytic perspective and needs. According to the used system only speech and pauses are reflected, where short pauses are conveyed with “/”, long pauses – with “//”.

3. Results
Analyses of data have demonstrated a variety of possible outcomes. They have shown that sometimes actualization of industrial discourse does not hinder the interpreter’s performance and is covered by his or her thesaurus on the subject as illustrated in examples 1-4. It has also been revealed that terminology of industrial discourse might go beyond the scope of interpreter’s active vocabulary, and thus might or might not cause communicative misfire as shown in examples 5-8 respectively.

Interestingly, the correspondence between communicative misfire and industrial discourse was observed not as a result of interpreter’s failure of perception, understanding or delivery of an adequate and equivalent translation, but rather because of interlocutor’s low information awareness and knowledge on a subject (example 9).

There is also a peculiar complication of the issue of occasional loanwords (taken from Swedish and uttered by Russian-speaking side during his or her speech) that in most cases is shown to cause a shorter pause or a slight delay in interpreting rather than a communicative misfire as illustrated in examples 4 and 8.

Overall, the findings were not unexpected; they correlate with the research hypothesis concerning the industrial discourse representing both a source of misunderstandings and translation mistakes, and also constituting a solid ground for meaning-making as one of court interpreting elements.
4. Discussion and Conclusion
This section is divided into four parts. The first part gives a brief overview of discourse key features. The main issues addressed at the beginning of the section are therefore: a) type of discourse from the perspective of interactional sociolinguistics (person-oriented /institutional), b) type and characteristics of discourse from the perspective of semiotic linguistics (legal / industrial), c) text form (written / spoken).

The second part deals with defining a concept of communicative misfire. The third part of the section presents the findings of the research, focusing on examination of translation strategies used to prevent or overcome failure in interpreted court discourse. The remaining part of the paper sums up the study and provides conclusions and suggested implementation of the research results in the field of oral legal translation.

4.1. Discourse key features
4.1.1. Type of discourse from the perspective of interactional sociolinguistics. From a sociolinguistic point of view legal language used in a courtroom setting, being opposed to informal communication, is a typical example of institutional discourse [5, p.89], which means “a discourse that takes place within a professional or work-based setting” [6, p.7]. In other words, it has prescriptive nature and is provided with a certain temporal set of reference. A further definition of institutional discourse is given by V. Karasik who describes it as “a specialized clichéd type of communication among people, who might not know each other in person, but should communicate in accordance with the regulations of this community” [7, p. 292]. Characteristic for institutional interactions as a set of typical communicative events is asymmetrical relations between the participants (with power, control and status unequally distributed between a member of an institution on one hand and laymen, defendant or witnesses on the other hand) [see 6, p.15].

Among other prominent attributes are occurrence of indirect speech acts (e.g. when “questions are intended as commands requiring compliance and therefore expect no reply at all” [6, p.15]), different rules of politeness [6, p.15], predetermined topic of conversation, highly conventionalized speech features. Judicial discourse is also characterized by more stringent structuring, maximum speech restrictions, fixed exchange of communicative roles, less conditional context, organization in accordance with the norms of a justice institution etc. [5, p.88-89].

4.1.2. Type and characteristics of discourse from the perspective of structural linguistics. In order to examine industrial discourse in the context of court interpreting, it is reasonable to proceed with considering how it looks like and what distinguishes it from legal discourse from perspective of linguistics, for example, stylistics and discourse analyses. Crystal describes the language of legislation as follows: “[it] depends a great deal on a fairly small set of grammatical and lexical features. For example, modal verbs (e.g. must, shall, may) distinguish between obligation and discretion. Pronouns (e.g. all, whoever) and generic nouns (hyponyms, e.g. vehicle, person) help foster a law’s general applicability” [8, p. 374 as cited in 1, p.3]. Further descriptions are offered by T.A. Volkova, who notes: “multi-part closed syntactic constructions having a partially autonomous status within a sentence are used. The objectivity of information presentation is achieved through the use of present tense of a verb, the universal nature of information is transmitted, in particular, by pronouns with generalizing semantics (each, none, everyone)” [5, p. 91].

Both legal and industrial discourse have common stylistic features: legal texts [5, p.90], as well as scientific texts [9, p.3] are distinguished by objectivity, generalization, high informativity, logical organization of presentation (strict sequence, clear connection between the main idea and details), and thus by semantic clarity and distinctness.

It is significant that both types of investigated discourse are of systematical character in terms of vocabulary. As far as industrial discourse is concerned, special attention should be paid to terminology since continuous development of science, technology and business involves the emergence of a huge variety of terms, professionalisms, and slang. Moreover, terminology “is the most ‘mobile’ layer of
vocabulary, subject to constant and active enrichment and change” [9, p.3]. It is against this background that systematic character of industrial discourse is formed.

Lexicon of industrial discourse is primarily built on the use of technical terminology and so-called special vocabulary. A term is usually understood to be a word (or a group of words), having a specific and unique meaning within a given industry or specialization. In addition, any possibility of misunderstanding or interpretation, different or divergent from author’s, should be excluded. A technical term must comply with following qualities: 1) designate only one referent; 2) be unambiguous and in this sense context independent, in other words, its exact meaning must be indicated by its definition in all cases of its use in any text; 3) only one term must correspond to each concept so that there are no synonyms with matching meanings.

The systematical nature of legal language, on the contrary, has limitative effect. According to Golev, legal language is a “special system that reveals its own significance, formed by opposition of special concepts and determination by current legislation” [10]. Thus, it is fair to state that interpretation of a text depends on the whole system of concepts and laws and its internal patterns. As Golev notes: “The decoding of this code requires special hermeneutic presumptions, special culture of thinking, formed by many generations of people with special legal thinking”. Volkova observes that: “specification of a legal text, its understanding in connection with a certain situation of assignment create a closed context and completeness of understanding; in this case, interpretation is limited to context and in fact comes down to activities for understanding prescriptions. <…> Open context of judicial practice, the balance of legal dogma and cultural tradition form certain philological and legal openness and some incompleteness of a text, which confirms the need of its interpretation” [5, p.90].

In other words, legal terminology often functions as a framework that needs to be filled with context to form an exact meaning, it is abstract to a certain degree and needs to be defined more accurately within a context, whereas technical terms are designed to be context independent when identified within a broader context as a specific technical field.

Another interesting observation to support this conclusion was made by A. Tcherdantsev: “Qualified lawyers easily "grasp" the abstract meaning of the rule of law and in relation to specific situations without much effort. But <…> such <…> understanding of the rule of law is based on the experience of the past, individual interpretation and interpretation of other subjects” [11, p.14].

In line with a linguosemiotic approach the issue of terminology lies within a subfield of semantics which is therefore considered to be a primary object of the present study.

4.1.3. Text form. Since the undertaken research is being conducted on interpreting in the sphere of legal discourse, which throughout this paper is used to refer to legal language used in courtroom settings in Sweden, our main focus lays on spoken texts. The literature on spoken discourse has highlighted several key features: cooperation between participants, politeness and rules of turn-making: turn design, allocation, distribution and function [6, p.15]. People usually presume that a written text can be defined as highly structural, whereas oral speech is unstructured [6, p.15]. However, spoken texts are both rule-governed and have their own “norms and conventions, [which] contribute to creating distinctive and recognizable features of a genre” [6, p.15]. If we unexpectedly closed a brief meeting with The End or In conclusion, it would be recognized as rule-breaking and “the interlocutor or the audience would draw inferences” [6, p.15] from this marking or foregrounding manner of production.

4.2. On the concept of communicative misfire

Before moving on to examining examples of interpreted legal texts, it is necessary to discuss the concept of communication failure. The term ‘misfire’ was introduced by Austin in his speech act theory and initially referred to a putative act of speech that fails to perform because it either fails to meet felicity conditions or the addressee fails to respond with an appropriate uptake [12, p.16, 25-27]. While a variety of definitions of the term ‘communication failure’ has been suggested, in this paper we will use the definition suggested by E. Zemskaya who explains it as “complete or partial
misunderstanding of a partner’s statement of communication, i.e. non-fulfillment or incomplete realization of communicative intention of a speaker” [13, p.602].

4.3. Research findings

In order to consider the issues of industrial discourse in the context of legal interpreting let us now move on to examining excerpts from audio recordings of the court hearings:

(1) **Prosec:** Du behövde en skiftnyckel?
    **Interp:** Vam nuzhen byl razvodnov klyuch?

(2) **Interp:** Kakaya u vas spetsial’nost’?
    **Def-nt:** Elektrik
    **Interp:** Elektriker
    **Prosec:** Svag ström stark ström eller // vilken typ av elektriker?
    **Interp:** Kakogo tipa u vas // dopusk yest’ na vysokove napryazheniye na nizkoye napryazheniye?
    **Def-nt:** Nu dopuskov u menya netu / no ya mogu rabotat’ do 380 vol’t
    **Interp:** Jag har ingen särskilt behörighet men jag kan jobba med upp till 380 volt

(3) **Def-nt:** Skazal / chtovotzdes’ on imenozabil v navigatsii tot magazin...
    **Interp:** Det var Viktor som programmerade i sin GPS just den här butiken...

(4) **Def-nt:** U menya yest’ svoya firma /my / ”snikeristy”
    **Interp:** Jag är snickare och vi har ett byggföretag
Examples 1 to 4 illustrate that although not having been prepared for dealing with industrial discourse during oral legal translation, the interpreter did not stumble, and no communication failure occurred. It could be assumed that these positive results were partly due to widespread use of technical terminology in our daily life (examples 1 and 3) which made us accustomed to some more or less frequently used technical terms, and partly due to the interpreter’s broad vocabulary and knowledge of professional realia (as in example 2). It can also be argued that mono-semantically features of the term “skiftnyckel” (adjustable spanner) was of greater importance since the interpreter happened to know exactly what it denoted and had knowledge of an equivalent term in Russian. Another helpful feature of technical terminology in the present language pair is international unification of some units of measurement (e.g. “volt” from example 2). The latter example (4) is particularly interesting where the defendant uses a so-called barbarism – the Swedish word “snickare” (carpenter) with Russian morphology (agent suffix “–ist” and inflection outlining plural number “–y”) in order to name his occupation. Since “snikeristy” is not a real technical term the interpreter had to do the logical procedure of ruling out all other possible meanings until he or she made a rapid conclusion that it must be an adopted version of the Swedish term for “carpenter” due to the language interference.

Regarding difficulties in comprehending or translating industrial discourse by the interpreter, the following examples illustrate cases where communication between participants of court discourse was not disrupted despite some distortion of sense:

(5) **Def-nt:** Yasmotrel to shomnenado / nu raznyye profilya / raznyye tam // yazanimayus’ yeshchedomaremontami
    **Interp:** Jag tittade på det som var intressant för mig / ja tittade bland annat på olika verktyg som jag behöver för att jag sysslar med renoveringar hemma

(6) **Prosec:** När bestämde du dig för att ta... /[unhearable] utan att betala?
    **Interp:** Kogda vy priyvali resheniye vyzyat’ i vytit’ / ne zaplativ?

The strategy of generalization might be used to prevent a misfire and provide good communication flow. When as shown in example 5, the term “profilya” (drywall profile) from construction industry appeared challenging for the interpreter, she chose to replace it with a hypernym “verktyg” (tool). It
was wrong decision that created an incongruity between original and translated texts, since drywall profile doesn’t share the same semantic field as the generic term “tool” and cannot therefore be put into hyper- and hyponymic relation. However, this translation mistake did not lead to a communication failure between the interlocutors, presumably because this technical term was not of interest for merits of the case and its precise translation was considered to be excessive. Another translation technique illustrated in example 6 is omission of challenging element, relying on the concept of “shared knowledge” – because of indistinct pronunciation the interpreter had trouble in hearing what the item was, so she relied on the fact that the information about stolen item was already known and accepted by the parties, and thus it was also established what item was being discussed, therefore it didn’t need to be named explicitly and could be omitted.

Let us now turn to the examples of industrial discourse (7 and 8) that led to a misfire in the course of court interpreting:

(7) Witness: Eto bylo 10 /Nebol’shoy zhiloy kompleks iz 10 domov
Interp: Det var ett mindre villaområde /10 villor
Witness: 175 kvartir
Interp: Ursäkta kankske inte villor // 10 fastigheter / totalt 175 lägenheter

As far as the word “dom” (house) is concerned, it is a part of common vocabulary and can refer to both a private villa and a high-rise. In the example above nothing alludes to what type of building is meant by the witness and so the interpreter makes a choice based on her presumption about real estate market in the region, which would suggest that “zhiloy kompleks iz 10 domov” is most likely to denote a small residential area with single-family housing. However, when the witness specifies “175 kvartir” (175 apartments) it is evident that her initial assumption has been wrong, and some corrections should be made on the preceding rendition. In this case, it is rather expectations of a technical term and its factual absence in the context of construction industry than polysemy of the word “dom” (house) that challenges the interpreter and leads to an unsuccessful communication.

Another example of a communication failure due to industrial discourse use illustrates what is probably the most common type of the source of misfire in that respect:

(8) Def-nit: 1 / tak / poluchayetsya / my potom podoshli k samorezam // gde samorezy byli kryuki byliy eshche eti vesha-veshalki yest’ / kotoryye veshayutsya / i my ikh nachali nabirat’ / i oni u nas v kraske provalivalis’
Interp: Och det är / det är // när vi gick runt såhär, som [tolken måste fråga]
Interp: Chto takoye samorezy? [asking the defendant]
Def-nit: ”Skrover” “spiker” gvozdi shurupy
Interp: Aha aha och // skruvar och // bultar och liknande

Difficulties in interpreting illustrated in this example are caused by a designator of a specific type of fastener (a hardware device). Since the speech originator is not an expert witness, but a common citizen, the term “samorezy” (something that is “self-cutting” – in literal translation) might from the interpreter’s perspective be perceived as either a colloquial name for a tool that the interpreter is familiar with or as an unknown technical term. In that way, a misfire here is caused by the act of reference and the issue of ascertainment of the signified. Beginning of the interpreter’s line gives us a clue about her hesitation on the matter, which was materialized in form of repetitions and interpreting with somewhat vague sense, presumably to win some time to think. Without making any success on decoding the word by herself, the interpreter attempts to clarify the meaning of “samorezy” by asking the originator of the message for explanation. However, the defendant proceeds with enumeration of terms that could either be a series of synonyms or continuation on the items collected in the shop. This situation is similar to the one described in example 4 – by ruling out a possibility of “skrover” and “spiker” being real technical terms, the interpreter established that it was a result of language interference which represented the defendant’s trying to pronounce these terms in Swedish. When having decoded these barbarisms in addition to other synonyms in Russian, the interpreter proceeds with her task, producing generalized translation into Russian (because “samorezy” is not a screw in
general, but a “self-tapping screw”). This, however, doesn’t have any negative impact on continued communication.

(9) Def-nt: Net / v Belorussii yest' takoye ponyatiye kak CHUP // eto chastnoye unitarnoe predpriyatie /eto kogda odin chelovek rukovodit 4-5 lyud’mi // i ya xor rabotal v takoy kompanii // my delali domain bani iz brusa / iz dereva

Interp:Nej, asså jag har jobbat inom något som i Vitryssland motsvarar en enskild firma där man som ensam ägare kontrollerar ... ett arbetslag som består av 4-5 personer och där jag hållit på och satt ihop bastuhus

Prosec:Aa, så du, du är liksom arbetsledare, chef för arbetslagen, styr arbetet?

Interp:Det här var egentligen inte min firma, utan jag var en av arbetarna på en sån här firma.

Prosec:Så tolken har uppfattat dig fel när jag sa att du hade drivit en enskild firma och styrt arbetslag?

In the preceding turns of the defendant’s talk he states to have been a construction worker, neither self-employed, nor working for some other company. Naturally prosecutor wanted a more precise answer about the defendant’s state of working and in the reply to his question encountered a previously unknown to him term “CHUP” (Private Unitary Enterprise) that denotes a form of enterprise existing in Belarus. Notwithstanding rather clear information from the defendant and its correct interpreting to Swedish, the prosecutor still could not get the grip of the defendant’s role in the company. At last, despite subconsciously admitting his own misunderstanding of the defendant’s explanation, the prosecutor concluded that responsibility for a communication failure lies on the interpreter.

4.4. Conclusions and suggested implications of the research results

Having discussed key features of legal and industrial discourse, the concept of communicational failure (a misfire) and analyzed some real conversation practice, the final part of this section addresses results of the study and ways of its suggested implication.

The paper has raised important questions about the nature of industrial terminology in court interpreting and the scope of technical terminology in contrast to legal vocabulary. The research has shown that degree of accuracy on interpreting technical and business terminology as well as interpreting techniques used to deal with potential communication failures might differ.

Taken together, these results suggest that industrial discourse can contribute to occurrence of communication failures, and thus incongruities in interpreting due to interpreter’s poor knowledge of technical terminology within the relevant technical field. This, however, can be helped by advance preparations on the topic or by using feedback-feature of a dialogue setting of an oral translation. The findings will be of interest to active court interpreters, members of institutional settings and other participants of court discourse.

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