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(Diplomová práce)

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Překlad odborného jazyka se zaměřením na právní texty

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Prohlašuji, že jsem tuto diplomovou práci vypracovala samostatně a uvedla úplný seznam citované a použité literatury.

V Olomouci dne Vlastnoruční podpis

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THE LIST OF ABBREVIATIONS

ST – the source text

TT – the target text

SL – the source languaage

TL – the target language

SVO analysis – syntactical analysis of subject, verb and object

CONTENTS

1 INTRODUCTION

At the present time with invention of various computer translators and programs, more and more people are discussing meaning of translators. In all spheres of human life which deal with international communication, however, translation is an inherent part of such communication. Moreover, with nowadays stress on international business we can encounter increasing amount of translation of specialised texts from various disciplines. Legal language, as part of specialised style, is highly specialised and thanks to the world-wide globalisation, companies and organisations operate or cooperate with one another all over the world and they would be unable to sustain without legal documents and their proper translation from and into many languages. As insufficient attention has been paid to this topic, or since it is often underestimated we have decided to focus on the translation of specialised texts in the present study with the title "Translation of Specialised Language with Focus on Legal Texts". Although specialised communication deals with both spoken and written form the focus of the present study is solely on its written form in order to penetrate into it more deeply.

As theoreticians of translation, translators and for instance also Žváček point out it is necessary to acquire theoretical knowledge of translation, apply appropriate methods and tools and not just rely on practical skills.[1] Therefore, the theoretical part of the present study introduces theoretical findings in the field of translation which are later applied in the practical analysis. It aims to present findings from not solely the theory of translation in general but, in particular, from the theory of translation of specialised texts. In the theoretical part it is firstly essential to define "the style" and how it is approached by different linguists. Various kinds of styles are briefly introduced with more emphasis one one particular style and the topic of the present study – "specialised style". Its peculiar features distinguishing it from the rest of the styles are studied, but stress is laid especially on its translation. After analysing findings in the theory of translation of the specialised style, legal language as an inherent part of it is discussed in detail. The theoretical findings and observations are presented both in the English and in the Czech legal environment since they are the source

[1] see D. Žváček, *Kapitoly z teorie překladu* (Olomouc: Vydavatelství Univerzity Palackého v Olomouci, 1995), 8.

language (the SL) and the target language (the TL) of the subsequent translation in the practical analysis. These two legal environments are compared and contrasted from various linguistic perspectives. Peculiarities of English legal language are discussed more profoundly because it is the language of the ST. Another reason is the fact that during research it was revealed that English offers more resources than Czech and what is more we had opportunities to investigate legal English in British environment. Therefore, there is a separate chapter devoting to historical development of legal English which is undoubtedly an important historical and linguistic phenomenon. Both English and Czech part, however, discuss particular linguistic features that are divided into lexical, morphological and syntactical part.

Since the historical overview of the two legal systems is presented, we have also decided to study the environment of both legal systems not only from the perspective of theoretical findings but also from the point of view of the contemporary legal writing and contemporary trends and approach to translation of legal documents. For this reason we have carried out interviews with English and Czech legal experts (Appendix 1 and 2).

In the last chapter of the theoretical part we lay emphasis on not only legal language itself but on specific features of its translation that should not be omitted. Therefore, they deserve a separate chapter which deals with the study of legal translation and its distinctive facets in contrast with other styles.

Regarding the practical analysis, we have decided to concentrate on and investigate only one part of legal style which is translation of legal documents – legal contracts – which we have chosen for the translation and its subsequent analysis. Its SL is English and we translated it into the TL – Czech. The document has been obtained from an anonymous American public limited company. Our goal in the analysis is to investigate and highlight the typical features of not only legal style but of composing legal contracts and more importantly to focus on the most troublesome aspects of translation from English into Czech. Consequently, we wanted to investigate what translators of legal contracts should focus on and what typical mistakes they should avoid. The ST and the TT are in the Appendix 3 and Appendix 4 but after reconsideration we decided to add one more document (Appendix 5) which is a combination of the ST and the TT. The reason was to enhance transparency and help understanding of examples from the ST and the TT with the help of graphical layout that would lead to effective looking up of examples used in the ST analysis and the TT analysis.

Since paragraphing is a typical feature of legal documents, the text has been divided into paragraphs, the Czech translation is after each ST paragraph and it is in different colour – blue. The chosen examples are then in the two parts of the practical analysis (the ST and the TT analysis) highlighted, they are in the ST and the TT analysis indicated as "example 1, 2 . . ." and the number in the brackets indicates the number of the page in the Appendix 5 called "The Source and the Target Text for the Analysis".

Focusing on the content of the analysis itself, firstly we concentrate on proper analysis of linguistic features of the ST due to the fact that, on one hand, such analysis facilitate later translation and, in addition, we wanted to prove that without such analysis translation of not only any style but in particular of the specialised one may be very awkward and is impossible. There are various approaches how to structure the ST analysis. Depiction of individual phenomena occurring in the ST in the linear order has proven unsuitable for our purposes; instead, we decided to divide the ST analysis into lexical and morpho-syntactical part, each one subsequently concentrating on more detailed phenomena in the sub-chapters. One of the reasons is as Žváček proposes that in translation of specialised texts (compared to belles-letters style) the attention is paid to lexical level and syntactically-semantical structure of the sentence.[2] According to various examples from the ST, this approach with lexical and morpho-syntactical part has proven useful for our purposes because various examples from the ST are not solely morphological or syntactical ones but often combination of both of them. Even though the ST analysis does not deal with textual analysis as a separate chapter, it is mentioned and discussed in the TT analysis as part of translational operations and with the aim to make the whole text coherent and understandable thanks to various cohesive links.

Regarding translation of the ST, my own translation is presented in this study. During the translation process we wanted to take into account all possibilities for translation and our solution was re-evaluated many times. For final decision and especially for the most troublesome parts we took advantage of cooperation with a Czech legal expert and the solution was discussed with him.

[2] see Žváček, 19.

The translational process, the methods, translational operations and difficult parts of translation are consequently described in the TT analysis. It was given most consideration because during such analysis we took into account and combined findings from all previous parts of the present study. Focusing on the explanation of structuring of chapters and the sub-chapters in the TT analysis, the structure and titles of sub-chapters have been also reconsidered several times. The final decision is not the same as structuring of the ST analysis – on the lexical and morpho-syntactical part – but according to specific translational operation or distinctive feature that occurred during translation. This decision may seem to be incoherent. Nevertheless, the reasons are several. Firstly, although it is a separate TT analysis, we cannot omit to mention the ST and therefore examples from the ST had to be depicted and also contrasted with the examples of their translation in the TT. Another reason is that (as more specified below) English and Czech are such different languages that frequently a lexical phenomenon occurring in the ST shifted in the TT into morphological or syntactical phenomenon or vice versa which led to the fact that lexical and morpho-syntactical part was combined. This decision was also supported by Žváček who mentions that a translator needs to contrast both the SL and the TL and therefore a grammatical phenomenon in the SL can shift into a stylistic phenomenon in the TL.[3] Apart from that, since we could not analyse all linguistic features we pay attention to the most significant ones that are typical for the ST and the TT. We concentrate mostly not only on the examples that best illustrate the legal style and particularly legal contracts but also on those that are somehow unusual for the style and are different in their usage in other styles. This is another reason that led us to the decision to structure TT analysis in a different way than the ST analysis. For the purpose of the present study it seems more appropriate to highlight in the individual sub-chapters individual distinctive phenomena or translational operations rather than to stick to the same, from one perspective coherent, but from the other one rather limiting and incoherent structuring.

In the final part of the whole study the analysis has been summarised and evaluated and the theoretical findings have been contrasted with nowadays trends. We also aspire to provide not only insight into translation of legal documents but also recommendation for translators of legal documents with particular stress on avoiding underestimation of the ST

[3] see Žváček, 16.

and the TT analysis which should be an inherent part of every translation process. In addition, we want to highlight recommendation to avoid underestimation of specialised translation from English into Czech with various phenomena that do not seem problematic from the first sight. Moreover, stress is laid on necessity of adequate specialised education, ability of linguistic reasoning and searching for specialised advice and support.

2 GENERAL ASPECTS OF TRANSLATION OF SPECIALISED TEXTS

2.1 Style versus Register

At the beginning of the theoretical study it is essential to mention that every text ranks among a certain kind of style or belongs to a certain register. There are generally different approaches of different linguists who categorise a text into either the category of "style" or "register". Baker, for instance, uses the term "register" and defines it as "variety of language that a language user considers appropriate to a specific situation."[4] As opposed to that, Crystal and Davy use the term "style" in *Investigating English Style*. They highlight necessity to firstly explain what the "style" is. According to them, it refers to language habits of one person or language habits shared by a group of people in certain time and situation under certain kind of social context which distinguishes it from general linguistic features common to English.[5] We can see that both definitions – of the register and of the style – are very close to each other, for the purpose of the present study, however, we decided to use the term "style" as Crystal and Davy suggest.

2.2 Different Styles

Before the translation process itself, translators should categorise the text into a specific style and in order to do it properly they need to be aware of the aspects of such style, which are very distinctive. This is useful particularly for the appropriate understanding of the text, for understanding of what should be taken into account during the analysis of the ST and the translational process itself. It is also a guideline for

[4] Mona Baker, *In Other Words* (London: Routledge, 1992), 15.

[5] see D. Crystal and D. Davy, *Investigating English Style* (London: Longman, 1986), 9-10.

translators in order to be familiar with the fact how this style is generally translated and what should be prioritized or, on the other hand, what should be avoided.

Crystal and Davy revealed that language is never a single homogenous phenomenon but has rather different varieties used in different situations and in different environment. According to this presumption, we distinguish certain styles. Crystal and Davy take into account very wide range of language features necessary for the stylistic analysis but since we focus on legal style and its translation we distinguish only general stylistic features needed for the stylistic analysis. Firstly, in the stylistic analysis it is crucial to decide whether the utterance belongs to either spoken or written communication. In this matter we distinguish "discourse" (that is connected with spoken communication) and "text" (connected with writing).[6] In the present study we concentrate only on the written specialised communication because the example of legal communication in the practical part of the present study is a piece of text (legal contract). Therefore, the spoken legal communication could be dealt with in other studies. After this first presumption (whether we deal with spoken or written communication) Crystal and Davy proposes to decide about a kind of occupation which the activity of the utterance concerns or, in other words, what certain task (law, science, etc.) participants are involved in. Thirdly, we need to distinguish, according to a relative social status of communicational participants, the level of formality, politeness, intimacy, kinship or certain hierarchical relations. Consequent is to choose modality (a letter, a note, a textbook, a report, a lecture, etc.) which is connected with the suitability for the subject matter. There are occasional idiosyncratic features of certain styles of individual users as in, for instance, poetry which is in contrast to the general characteristics of the styles. Having introduced general stylistic aspects for the analysis, the last focus is on the particular stylistic features – phonological, grammatical, lexical, etc.[7]

According to such primary stylistic analysis we later distinguish particular styles. Each style has interwoven features and special terminology which all intend to fulfil specific communication purpose. Classification of styles, however, also differentiates according to different approaches of various linguists. Galperin, for instance, distinguishes

[6] see Crystal and Davy, *Investigating English Style*, 3.

[7] see Crystal and Davy, *Investigating English Style*, 66 - 85.

functional styles, each with relatively stable system influenced by historical aspects. He categorises them into: the belles-lettres style, publistic style, newspaper style, scientific prose style and style of official documents, each one with its own subcategories.[8] There are linguists who rank legal language among the style of official documents which is also called administrative style but some others such as Tomášek point out that there is a separate category – legal style – characterised by specialised grammatical and lexical means in their specialised function.[9] We will later discuss legal language in both contexts.

Čechová et al. state that the administrative style or the style of official documents is characterised by a strict compliance to the norms and thus administrative documents are obliged to be precise and follow a certain purpose. The aim is to write documents as objectively as possible. The writer of the text is back-grounded which means that the text ought to be impersonal and the writer is often an institution. The subjects in such documents are deprived of any subjectivity in a manner that they are called by universal names – "the addresser" and "the addressee" or "the assigner" and "the assignee" – and in such way their relation is strictly determined only in the terms of the administrative matter. Even though the communication in administrative style deals with spoken communication, it predominantly concerns written documents. This leads to standardization of the texts which will be studied also on the text chosen for the analysis in the present study.[10]

2.3 Translation of Specialized Language

According to Knittlová, most theoreticians who are or were studying styles do not sufficiently distinguish style of fiction from other styles[11] which is important to point out in the present study. We consider such style to be the opposite of the specialised one and

[8] see Galperin, *Stylistics* (Moscow: Higher School Publishing House, 1971), 253.

[9] see M. Tomášek, *Překlad v právní praxi* (Praha: Linde, 2003), 27–28.

[10] see Marie Čechová et al., *Stylistika současné češtiny* (Praha: ISV – nakladatelství, 1997), 168–169.

[11] see Dagmar Knittlová, *K teorii i praxi překladu* (Olomouc: Univerzita Palackého v Olomouci, 2000), 123.

therefore we want to mention it in this part of the study. In such a way we can highlight the typical features of the specialised style.

Language of specialised texts substantially differs from language of fiction and from the colloquial language. Čechová et al. describe general features of specialised texts. The specialised style started to detach from language of fiction and the colloquial language already in the Middle Ages. The aim of this style is to offer precise, clear and unambiguous information which is supported also by graphical layout as a distinctive element of this style. Authors of specialised texts follow former findings in their specialised fields, which leads to intertextuality and allusions with frequent usage of footnotes. When any innovations appear they focus on expression of findings and observations with the allusions to the previous discoveries. This has undoubtedly an impact on the specialised language. In specialised texts there are specialised lexical items in their characteristic functions and with distinctive features or tendencies according to the specific kind of the text. Different types of specialised texts in different disciplines (science, law, medicine, etc.) often substantially differentiate also in the form of appealing to the reader. (For instance, in advertisement the addressee is addressed by direct imperative whereas in administrative text by different kinds of indirect address thanks to the tendency to politeness.) For specialised communication written form is typical and when spoken form is used it is mostly prepared in advance. Another typical feature is focus on denotative meaning of words and avoiding expressions with connotative meaning. On the syntactic level there are various means of condensation – infinitive structures and usage of verbal substantives or adjectives. This is connected with tendency to nominalisation which is otherwise in Czech rather rare compared to English.[12]

Such features should be kept in mind during translational process. General rules in translation are, according to Žváček, to know 1. the SL, 2. the TL, 3. the foreign setting and 4. diverse translational methods and procedures with ability to skillfully apply them in practical usage.[13]

[12] see Čechová et al., 148–164.

[13] see Žváček, 8.

These general rules, of course, concern not only general translation but also translation of specialised texts but, apart from them, a translator has to have general knowledge of the discipline he translates. Žváček discusses this matter more in detail. In such kind of translation emphasis is laid on information and not on the author´s style and his or her aim. In addition, specialised texts are characterised by more compacted word order, expressions with great informational load, more explicitly expressed syntactical and semantic relations, more abstract words, absence of subjectivity and more general description of phenomena. All these factors must be reflected in the translation, too. Footnotes need to be preserved in the translation or, when necessary, translator can add information even though it could seem rather awkward while used in translation of fiction. Nevertheless, basically translators should choose for translation appropriate means that have the same function in both the source and the target text.[14]

As we have proposed that specialised texts do not deal with connotations or any emotional attitude of the author to the reality, Hrdlička explains that it means that the specialised text is exact and unambiguous. Such exactness needs to be reflected in translation and in such a way that the text should be exact as a whole unit, not just on the level of separate sentences or on the lexical level. Of course, occasionally even emotional and expressive elements may occur in the specialised translation, for example, in scientific argumentation or polemics, but they are rather rare.[15]

Nevertheless, **passive voice** is a facet of specialised style that ranks among one of the core ones. Baker describes the main function of its usage, which is to avoid specifying agent and give an impression of objectivity which is, as discussed above, necessary to achieve in the specialised texts. This is true in English and should be borne in mind when comparing it with the TL into which the text is being translated. The reason is that in other languages frequency of occurrence of passive voice may substantially differentiate.[16]

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[14] see Žváček, 16.

[15] see Milan Hrdlička, "Odborný text a jeho translace," in *Antologie teorie odborného překladu*, ed. Edita Gromová (Ostrava: Ostravská univerzita v Ostravě, 2007), 66-67.

[16] see Baker, 102-109.

Translators need to be familiar with **specialised terminology** of every specialised text. It is a very distinctive feature of specialised texts functioning on the lexical level. Poštolková categorizes terminology into three groups and more closely specifies them: 1. terms from a given field, 2. general specialised expressions and 3. words or phrases of common language. The following terms, for instance, belong to the first group: "zpracovatelský" or "trh" (in economy), "velkosériová výroba" (in industry) and "trestní čim" or "právní předpis" (in law). The second category deals with phrases and structures that are not terms used just in one field but in the specialised style in general. They are, for example: "výchozí" or "představovat (co)". The last group differs from the previous ones in a way that there are expressions from common language which are, however, more formal and typical for specialised style, as evident from the last chosen examples: "občasné," "je znepokojující, že . . .," "vcelku," "resp.".[17]

There are theoreticians of translation who point out that translation of specialised texts is not, in comparison with translation of fiction, less demanding as it is often regarded to be. Hrdlička, for instance, stresses this fact and suggests that reasons for such lack of understanding are that it is said that the terms are not translated but substituted. Substitution can be used only if appropriate terms have been already developed in both the source and the target language. Another reason is that it is claimed that interpretation is not needed for translation of specialised texts. This is not, however, true, either. Interpretation is the crucial part of every translation process because every translation deals with decision-making and interpretation.[18] When discussing substitution of the terms we can point out that Hanáková along with Hrdlička admits that substitution is not sufficient and leads to simplification of translation of specialised texts. This is true especially in case of remote language systems and thus different approaches of users of such languages towards certain phenomena. According to her, substitution of terms can be used only when dealing with terms which are motivated both in the SL and the TL in the same way or are not

[17] see Běla Poštolková, *Odborná a běžná slovní zásoba současné češtiny* (Praha: Československá akademie věd, 1984), 17–18.

[18] see Milan Hrdlička, "Odborný text a jeho translace," in *Antologie teorie odborného překladu*, ed. Edita Gromová et al. (Ostrava: Ostravská univerzita v Ostravě, 2007), 65-66.

motivated at all.[19] We must bear in mind this remark since the SL and the TL of the present study are very remote languages – English and Czech.

In addition to this discussion, Dubský´s approach to this matter is that in specialised translation it is essential to know that the TT should not be translated but reformulated because expressions and formulations are used according to standardised vocabulary in a given field. Translation is supposed to be appropriate in terminology as well as on the stylistic, syntactical, semantic, graphical and phonetic level. It should comply with both functional equivalence and communicative equivalence in which it is to a certain level similar to the translation of fiction.[20] Nevertheless, due to all such peculiarities we can presume that translation of specialised texts is hardly an easier task than translation of fiction, as could be assumed.

This fact is connected with another element that leads to underestimation of specialised translation. It is usage of **specialised dictionaries** which, from one perspective, seem to be an enhancing tool that offers standardised vocabulary in a given field. Hanáková reveals that such overestimation of specialised dictionaries, however, does not take into account the fact that they only work on the lexical level and thus offer translation of a term from the SL into the TL without any explanation of terminological system in both languages. In addition, some terms in the SL can be very specific, which leads to their generalisation in the TL or vice versa. Apart from the lexical level, specialised dictionaries omit the morphological and syntactical level, which is even more problematic factor of their common structure.[21]

Difficulties in translation of specialised texts dwell in another factor. It is the fact that a translator needs to be ideally both an expert in a given specialised discipline and an expert in languages and translation. It means that such translator is supposed to have two competences – linguistic and specialised in a given field. According to such presumption, it

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[19] see Milada Hanáková, "Odborný překlad: Znalost oboru nebo jazyka?," in *Translatologica Pragensia IV* (Praha: Univerzita Karlova, 1990), 100–104.

[20] see Vítězslav Dubský, "Vícesložkovost odborného textu v překladu," in *Antologie teorie odborného překladu*, ed. Edita Gromová et al. (Ostrava: Ostravská univerzita v Ostravě, 2007), 13-19.

[21] see Milada Hanáková, "Odborný překlad: Znalost oboru nebo jazyka?," in *Translatologica Pragensia IV* (Praha: Univerzita Karlova, 1990), 100.

is not enough to understand and comprehend the meaning but also to know the specialised terminology of a specialised discipline. This distinctive facet of specialised translation is pointed out by Hanáková as one of the crucial elements of competence of translators of specialised texts. In this way it is necessary to train future translators and interpreters so that they are able to adapt and orientate in practice and are linguistic experts with knowledge of specialised disciplines.[22]

There are countless of issues in current specialised translation discussed by academics. To point out some of them, the first one is, as Hrdlička claims, translation of texts penetrated with combination of standard language and colloquial language and slang which can cause problems for translation of specialised texts as well. Moreover, globalisation is another discussed issue. It has undoubtedly direct impact on communication as well as on translation that is inseparable from it because without translation the international communication would not be probably possible at all.[23]

When seeking appropriate equivalent in specialised translation translators bear in mind possible strategies how to deal with non-equivalence of the terms in the SL and the TL. Baker states that non-equivalence can arise from various reasons: the SL and the TL make different distinctions in meaning, the TL lacks superordinate, the TL lacks a specific term, there are differences in expressive meaning or form, or there is a difference in frequency and purpose of using specific forms. According to Baker, the strategies how to deal with non-equivalence are: 1. translation by a more general word, 2. translation by a more neutral/less expressive word, 3. translation by cultural substitution, 4. translation using a loan word or loan word plus explanation, 5. translation by paraphrase using a related word, 6. translation by paraphrase using unrelated words, 7. translation by omission, and finally 8. translation by illustration.[24] Even though they are proposed for general translation, awareness of them and stress on choice of the appropriate ones

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[22] see Milada Hanáková, "Odborný překlad: Znalost oboru nebo jazyka?," in *Translatologica Pragensia IV* (Praha: Univerzita Karlova, 1990), 97-100.

[23] see Milan Hrdlička, "Odborný text a jeho translace," in *Antologie teorie odborného překladu*, ed. Edita Gromová et al. (Ostrava: Ostravská univerzita v Ostravě, 2007), 66-67.

[24] see Baker, 20–42.

according to the given context as enhancing tool for non-equivalence in translation are worth mentioning also in the translation of specialised text.

3 ENGLISH LEGAL LANGUAGE

3.1 Historical Background

Translators who translate from the SL which is in the present study English should study and be familiar with all aspects of English legal language. This can be enhanced by studying historical development of legal English and the impact it has on contemporary form of legal English.

Firstly, Vystrčilová describes the basic background of English law. It has its origins in Roman law. It, of course, lived through its certain development which was to wide extent influenced by judicial decision during court cases rather than through codification. The pronominal language of law used to be Latin and was gradually replaced by French until finally at the end of 15th century English began to be used.[25]

Due to various reasons, Crystal and Davy explain early legal documents comprised very long complex sentences in the form of a solid block of script without any spacing, layout, with absence of punctuation and frequently the entire document was composed in the form of a single sentence. With the development of printing, however, various graphical enhancements gradually started to be used more, at the beginning with occasional capitalisation or underlying of the words. This gradually evolved into lettering and numbering of sections which substantially improved the early trend of long hardly understandable sentences and paragraphs.[26]

Although terms from Old English such as "named," "deemed," "life," or "said" can still be encountered in the contemporary legal English, as Crystal and Davy proposes[27], there are mostly expressions that are of French, Latin or Anglo-Saxon origin. The following ones are the best examples:

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[25] see Renata Vystrčilová, "Legal English," in *Acta Philosophica* (Olomouc: Univerzita Palackého v Olomouci, 2000), 91-95.

[26] see Crystal and Davy, *Investigating English Style*, 197-199.

[27] see Crystal and Davy, *Investigating English Style*, 209.

"Bid" (Anglo-Saxon) – "Offer" (French)

"Freedom" (Anglo-Saxon) – "Liberty" (French)

"Worth" (Anglo-Saxon) – "Value" (French)[28]

Owing to such development, legal language strongly differentiates from everyday colloquial discourse and legal documents are not understandable for general public. Nevertheless, Vystrčilová proposes that due to effort of "Plain English Campaign" in 19th century to simplify and clarify legal writing plentiful organizations decided to simplify their documents to be generally well-understood. This led to the revolutionary decision in recent year 1998 thanks to new regulations established by Lord Chancellor's Department in which a great deal of old Latin and French terms were replaced by terms from plain English. From the wide range of them the following ones can be highlighted:

"writ" (legal English) → "claim form" (plain legal English)

"minor/infant" (legal English) → "child" (plain legal English)

"ex parte" (legal English) → "without notice" (plain legal English)[29]

Vystrčilová, in addition, admits that there are supporters of this tendency who argue that legal language should be more understandable and comprehensive for the general audience and consequently it could save time and money and would facilitate the work of lawyers. As opposed to that, deniers of such trend argue that complexity of legal discourse is the reflection of centuries of effort to establish unambiguous, consistent, reliable language able to efficiently resolve any conflict.[30]

According to Bhatia one of the contemporary trends in legislative writing is usage of so-called textual-mapping as a text-cohering device which puts two fragments of text together. In practice it means structuring different information into different sub-sections according to information it carries. It can be properly illustrated on the following example:

[28] see Vystrčilová, "Legal English," 91-95.

[29] see Vystrčilová, "Legal English," 91-95.

[30] see Vystrčilová, "Legal English," 91-95.

"If sold on the open market by a willing vendor on the assumptions stated . . . in subsection (3) below, and for a grant, in subsection (4) below . . ." [31]

Since the historical development has an impact on the present image of legal English, the following chapter will study the contemporary legal features and their implication in the legal texts and legal interpretation.

3.2 Specific Features of Legal English

"Modern English legal writing is flabby, prolix, obscure, opaque, ungrammatical, dull, boring, redundant, disorgani(s)ed, gr(e)y, dense, unimaginative, impersonal, foggy, infirm, indistinct, stilled, arcane, confused, heavy-handed, jargon- and cliché-ridden, ponderous, weaselling, overblown, pseudointellectual, hyperbolic, misleading, incivil, labo(u)red, bloodless, vacuous, evasive, pretentious, convoluted, rambling, incoherent, choked, archaic, orotund, and fuzzy."[32]

It is well-known that legal documents are generally difficult to read and comprehend by laypeople and the reasons for that were revealed in the previous chapter. Legal writing ranks among the administrative style, which is also characterised by such features, but in comparison with it, legal writing is obliged to be more profound as it follows often more strict rules. It is also considered to be highly sophisticated and therefore only specialists can properly understand and properly interpret the exact message of the legal texts due to very precise meaning in every expression. Paradoxically, the statement above has been done by two professors and lawyers and actually points out that the nature of legal writing is like that. On the other hand, according to the style in which it is written and the message it brings, we

[31] see V. K.Bhatia, *Analysing Genre: Language use in professional settings* (London: Applied Linguistics and Language Studies Series, 1993), 141.

[32] Tom Goldstein and Jethro K. Lieberman, *The Lawyer´s Guide to Writing Well* (Berkeley: University of California Press, 2002), 3.

may consider it as an attempt to lead us to consideration, whether the current style of legal writing is necessary or not.

As mentioned above, for every communicative purpose we use a different style with its distinctive communicational means. As the name suggests, legal language is a type of style produced for legal purposes and used in the legal environment. Specialised legal language can, as Cao describes, be encountered in contracts, conveyances, regulations, by-laws and other documents.[33] One of the crucial features of such terminology is as Crystal suggests "the words are in fact law."[34]

As it is true about the specialised language in general, legislative style avoids any personal aspect and thus it does not matter who the speaker (or in the written text the writer) and the listener (in the written text the reader) actually is. This crucial facet is also, according to Bhatia followed by another one which is requirement on **unambiguity, precision and all-inclusiveness**. Readers or listeners of such legal writing can thanks to it avoid misunderstandings, faulty interpretation of the context and are able to comprehend properly the massage of the utterance, which could otherwise lead to many disputes.[35]

Basically, Cao states that legal terminology in general has been based for centuries on the fact that law guides and modifies human behaviour and human relations. Legal writers have always tried to seek ideals and standards for the nations in order to set equity, justice, rights and welfare in every country. For this very simple reason legal language is normative and consequently also prescriptive, directive and imperative.[36] A paradox, however, dwells in the fact that although the reason why legal terminology is so simple, it tends to be so complex, complicated, awkward and unnecessary as Goldstein and Lieberman claim in their above mentioned definition of legal language.

All legal writing not only in English or in Czech but in every language is too distant from any spontaneous writing such as colloquial language or language of poetry and prose. It has numerous **set expressions and phrases** which are typical for this style and do

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[33] see Deborah Cao, *Translating Law* (Clevedon: Multilingual Matters, 2007), 9.

[34] David Crystal, *The Cambridge Encyclopedia of Language* (Cambridge: Cambridge University Press, 1987), 386-387.

[35] see Bhatia, 103.

[36] see Cao, 13.

not occur anywhere else. As Crystal and Davy suggest the basic facets of such expressions and phrases are **wordiness, lack of clarity, pomposity and dullness**. Wordiness or in other words the usage of too many expressions can be seen on the example of "null and void" or "terms and conditions" because both terms in these couplets actually carry the same meaning and therefore one of them is redundant. Due to wordiness legal language lacks clarity because sentences are usually too long and clumsy. Dullness results from pomposity and all the other mentioned features but it is also the consequence of tendency to go into minutiae. Other typical features are **repetition, alliteration and rhythm** that are connected with historical aspect of legal style because it dates back into history before invention of printing press and with it connected general literacy. During that time law had to be remembered clearly and therefore the purpose of all these aspects was to high extend enhance understanding of law.[37]

The most distinctive features can be probably found on the **lexical level**. Crystal and Davy, moreover, describe that legal language is known for frequent usage of archaic forms often non-understandable to common readers such as "withnesseth" or adverbial words combined with preposition-like words such as "hereinbefore," "hereinafter," "hereunder," "thereof," or "hereto". They serve the purpose of referential means or means of cohesion which refer to the parts of the legal document sooner or later mentioned in the text. Regarding usage of nouns, their **post-modification** is preferred to pre-modification and mostly **abstract nouns** rather than concrete nouns are used. These abstract nouns often occur in pairs both as synonyms or neat-synonyms with more or less the same meaning like in case of already mentioned "terms and conditions." Furthermore, **adjectives** with emotional connotation such as "splendid," "disgusting," or intensifying adverbs like "very" occur in legal language rarely or not at all. Typical is also occurrence of "shall" which does not signalize future tense but expresses a consequence of a legal action. Another most frequent element is adverbials which are put thanks to their mobility into unusual positions to achieve entire clarity and avoid ambiguity as much as possible. This can be evident from the following phrase: "a proposal to effect with the Society on assurance". This statement would probably on ordinary level look like "a proposal to effect

[37] see Crystal and Davy, *Investigating English Style*, 204-215.

on assurance with the Society" but "with the Society" is forwarded next to the modifying verb in order to avoid any possible ambiguity. Another specific semantic feature of legal terminology is that common words have **uncommon meaning**. This is, for instance, in case of "action" used in legal texts with meaning "law suit," or "hand" which compared to its usage in standard language is "signature" and "said" does not imply the spoken information but written one.[38]

Other lexicological features appearing frequently in legal texts are **binominal and multinominal expressions** which is as Bhatia explains "a sequence of two or more words or phrases belonging to the same grammatical category joined by some syntactic device such as 'and' or 'or'."[39] Bhatia more specifies that there are phrases such as "signed and delivered," "in whole or in part," "by or on behalf of," "under or in accordance with," which can serve as ideal examples fostering the fact that legal language is supposed to be precise and all-inclusive. This phenomenon can be even more evident on the following utterance: ". . . it is proved that an accused person has accepted or obtained, or has agreed to accept, or attempted to obtain any gratification."[40]

On the level of binominal expressions Crystal and Davy points out the usage of two terms from **Latin and French** such as "proposal," "effect," "society," "assurance," "conditions," "contract," or "policy" alongside with **Anglo-Saxon** expressions which have the same or very close meaning and thus one of them seems to be redundant – for instance "made and signed," "will and testament." Such redundancy is explained by the fact that draftsmen were uncertain whether they carried the same meaning or not.[41]

As the legal style is full of **contradictions**, there is another one concerning vague expressions as one group, and words and phrases with very precise meaning as the other one as Crystal claim. The former serves the purpose to permit flexibility in interpretation as illustrated on the following examples: "as soon as possible," "nominal sum," "reasonable care". As opposed to that, the latter focuses on accuracy as evident from: "irrevocable,"

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[38] see Crystal and Davy, *Investigating English Style*, 204-215.

[39] Bhatia, 108.

[40] see Bhatia, 108.

[41] Crystal and Davy, *Investigating English Style*, 208.

"bonds," "hereby," "hereinafter," etc. Another contradiction dwells in the fact that some expressions are used exclusively in legal style but the others have gradually penetrated into general usage. The first group are words which were derived from Latin – "vis major," "in personam," "corpus delicti," etc. – and compared to that, expressions from French such as "verdict," "assault," "appeal," or "crime" have already become part of common vocabulary.[42] The third contrasting element is stressed by Crystal. It is that some terms may be used in everyday language but in legal context they have far more precise meaning, which means that they describe exact and precise meaning of what is intended because lawyers must rely on specific context and interpretation.[43]

Regarding the specific **syntactic features** in legal English plenty of them can be pointed out. Firstly, due to even more nominal tendency than in common everyday English with more verbal utterances, sentences are complex and compound and have above-average length. This can be evident on the following example by Bhatia:

> "The power to make regulations under this section shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of resolution of either House of Parliament."[44]

Passive voice is typical for English in general, it occurs even more in specialised style as analysed above, and it is even truer about such highly specialised style as the legal one. Cao suggests that it is one of the main features of legal style and in particular it helps disposing of any personal attitudes of a writer or direct naming or referring to somebody. [45]

Apart from that, according to Bhatia, a legislative clause often begins with the prepositions "where," "if," or "when" which introduce rather long initial case description. There are typical syntactic discontinuities that do not occur in any other genre. Following example illustrates this phenomenon: "(. . .) there shall, if the person has within that period

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[42] see David Crystal, *Cambridge Encyclopedia of Specialised Language*, 386-387.

[43] see Crystal and Davy, *Investigating English Style*, 204-215.

[44] Bhatia, 106-107.

[45] see Cao, 94.

permanently abandoned such activities without having carried on any trade (. . .), be deducted the amount of the expenditure (. . .).”[46]

Clauses in legal writing are frequently non-finite which does not comply with most other styles as Crystal and Davy claim. It is evident from the following example proposed by them: “any instalments then remaining unpaid.” From this example we can also deduce that non-finite clauses tend to post-modify nominal elements and serve the purpose of compacting information into as shortest utterance as possible.[47]

Another striking syntactic facet of legal style is considered to be the usage of **complex-prepositional phrases** (a preposition + a noun + a preposition). Prepositional phrases such as “purpose of,” “in respect of,” “in accordance with,” or “by virtue of” can be encountered in legislative writing more frequently than simple prepositions. “By virtue of” replaces simple “by” and “for the purpose of” substitutes “for.” The only reason for such uneconomical usage is undoubtedly again the requirement of legal style on clarity and unambiguity.[48]

Eventually, the last syntactical element of legal writing is, according to Bhatia, **cognitive structuring**. The first aspect of such structure is a main clause which describes the legal subject which is a person who posses certain rights as well as obligations. The second one describes a legal action. Due to such cognitive structuring most legal sentences have the following structure which substantially differs from the regular English word order: “If X, then Y shall do/be Z.” (X = description of case, Y = legal subject, Z = legal action). [49]

3.3 An Interview with an Expert on Legal Language and Translation in Great Britain – Findings

[46] Cao, 106–112.

[47] see Crystal and Davy, *Investigating English Style*, 205.

[48] see Bhatia, 107.

As already mentioned above, legal language does not rank among styles that would be expressive or with emotional connotation and that would often change like, for example, spoken discourse which is under constant development. Nevertheless, according to the study of historical development of legal English we could see that this style has gradually brought improvements and alterations as well. The reasons are that since the world changes the requirements of companies and individuals in working environment on legal style have to follow such tendency, too. Even though the legal style belongs to the rather stiff styles and it requires unambiguity and clearness, in recent decades it has undergone substantial changes which supports the fact that it is not such a stiff genre after all.

In order to illustrate the most recent changes and development, it is probably most useful to ask an expert in the field who observes the change on the everyday basis because literature does not always provide us with the really up-to-date explanations. For this reason we have carried out an interview with such person. It is Dr. Terrace Hale, a translator, editor, publisher of French fiction as well as scholar and university professor at the University of Hull, Great Britain. Terry Hale holds degrees in Law (Nottingham Law School), Applied Linguistics (University of Wales) and French Literature (University of Liverpool). His interest in translation developed as a result of teaching undergraduate and postgraduate courses in British and American law as part of a degree programme at a French university in the mid-1980s. He was editorial co-director of a small publishing house largely specialising in translations of the French and German avant-garde (including Expressionism, Dada, and Surrealism) and for several years he was Director of the British Centre for Literary Translation at the University of East Anglia. He edited numerous publications such as *Great French Detective Stories* or, for instance, contributed to Mona Baker´s *Routledge Encyclopedia of Translation.* Nowadays, he is in charge of the new MA programme in Translation Studies and supervises PhD students at the University of Hull. Summarised findings from the interview are presented in the following part and the interview itself is in its full form enclosed in the Appendix 1.

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[49] see Bhatia, 108.

Firstly, according to Dr. Terrace Hale specific qualities and skills that a legal translator should posses are connected with distinction between translators and lawyers and their specific skills and abilities. A lawyer could become translator but a translator cannot become lawyer. The problem is that translators usually are not familiar with law and this may lead to various problems. Nowadays, legal translators should concentrate on requirements of particular clients who have specific needs according to their education, for instance, but most of them require informative text. Therefore, generally Terrace Hale recommends translating into plain understandable language.

He also describes that the most troublesome aspects in legal translation are connected with the fact that lawyers and legal translators want to avoid ambiguity at all cost especially in case of involvement of lay members of the public with lack of knowledge. In addition, even experts cannot comprehend entirely other legal systems and they are often untrained with regard to how they should read a translation. Another real problem is that every country has different terms for everything. It is evident from various clashes between British and American legal system where the same terms mean something entirely different, which arises in particular from the mistaken assumption that they are very similar. It can be seen on the term "leasehold". It is in England a special type of lease which does not exist in the USA. In the USA "lease" means "renting". The inadequate interpretation of British law occurred, for instance, in case of American companies in which they did not fully understood the implications of the advice of the British legal advisors and tended to think that British system behaves as predictably as their own. Some other clashes between cultures we observed, for instance, on one Spanish murder trial where various linguistic battles occurred in interpretation of seriousness of the attack.

Regarding the recent changes in British environment in translation of legal documents, the crucial change is that we are moving to documents which everybody would understand due to more and more relaxed environment in which everything has to be exactly explained and understandable. Moreover, thanks to increasing amount of consumers, the language itself is more and more simplified. In the past due to historical reasons the legal language had to be very complicated and the text had to fill up the whole page in order to avoid frauds. Nowadays, however, we have different systems how to avoid fraud and texts can be simplified. The European Union has also great impact on legal language and it is according to Terrace Hale in a way that documents are usually translated

and not originally written. Another reason is constantly ascending amount of people travelling all around the world that causes a lot of change. On the other hand, European business is still more long-term oriented compared to the American.

At the present time, translation does not concern that much constitution but there are two crucial movements for legal translation – translation of witness statements and documents connected with migration thanks to which British society has become multicultural. On the other hand, due to this tendency translation often involves interviews with police.

4 CZECH LEGAL LANGUAGE

4.1 Specific Features of Legal Czech

Since vocabulary and structure of every language differentiates in plentiful aspects, so does undoubtedly legal language in all different languages. One of the basic rules in translation is that the translator is supposed to acquire in particular the target language. It concerns in particular such specialised style as the legal one where without profound knowledge of terminology the final target text would not be coherent, transparent and consequently would bring serious problems in comprehending the message of the source text.

The target language for our translation in the present study is Czech. Czech legal style is undoubtedly a part of the Czech language itself which means that it is influenced by development of the language itself and by all its historical and cultural impacts. For instance, after the WWI it was necessary to develop full-valued representative state language and after WWII language had to capture development in science and technology and development of new international relationships. Standard Czech was throughout the decades, however, in high contrast to its practical colloquial form which tends to be more and more simplified these days. Generally, as Vachek highlights Czech is synthetic language with verbal tendencies and inflection is a typical morphological feature, in comparison with English with a lot of nominal tendencies.[50] Although this is a basic facet of Czech and concerns not only specialized or legal language, it is essential to point out this very basic aspect of Czech language due to the fact that it manifests in the legal style very frequently.

Hladiš states that Czech legal language or legal language in general is embedded in norms and thus is binding in long term. Therefore, legal documents cannot be altered, renewed or simplified so easily. Legislative Regulations of the Government of the Czech

[50] see Josef Vachek, *A Functional Syntax of Modern English (*Brno: Masarykova Univerzita v Brne, 1994), 22–24.

Republic determine how the legal language should look like. According to this determination, a general rule for comprising legal documents is that the act shall be terminologically precise and unified as well as appropriate in language and facts. The verb used in legal documents is in **the present tense** and in **the singular form**. Although administrative documents are frequently penetrated with foreign words according to the Czech norm foreign words can be used only exceptionally as long as they are part of the legal terminology and cannot be replaced by other expressions.[51]

As regards other **lexical elements** and usage of words, according to the function of the legal style, the expressions chosen ought to be neutral, unambiguous, directly naming and thus comprise often several words. As Čechová et al., moreover, claims such presumption is often fulfilled by terms that have been discussed in connection with the specialised language as a whole. Terms are not only from the legal style but there can be also combination of terms from other specialised styles or disciplines according to an area a legal document deals with. In such a way we can see interconnection of individual specialised fields within the special style. Such terms are for instance: "odběratel," "poplatník," "stanovená lhůta," "platební výměr," "řád," "pojistná událost," etc. In general from the lexical perspective Czech legal style is compared to other ones relatively rather limited with not strictly given vocabulary.[52]

Tomášek distinguishes three areas of vocabulary of legal language – 1. legal terms ("zákon," "právo," věcné břemeno"), 2. word phrases ("přijmout zákon," "vynést rozsudek"), 3. language patterns ("zákon nabývá účinnosti dnem vyhlášení," "tento rozsudek je konečný a není proti němu odvolání," "podle článku . . . zákoníku . . ."). The first area deals with terms which can contain one or more words that have to be non-expressive, understandable, brief and direct. Compared to this, the second group – word phrases – does not name legal reality but only describes it. The last area focuses on language structures that comprise more words or clauses. It is called "language patterns" because such patterns are frequently repeated and in their structure specialised vocabulary

[51] see František Hladiš, "Právní jazyk z hlediska současných diskusí o spisovné češtině," in *Acta Iuridica* (Olomouc: Universita Palackého, Právnická fakulta 1999), 51–53.

[52] see Čechová et al., 171-172.

is combined with the common one. Other distinctive features of language patterns are that they are stable and conventionally used. They also often introduce or close the text or a part of the text or can occur inside the text itself assuring continuation of previous utterance.[53]

From the **morphological** point of view, according to Hladiš word structure in the Czech legal language cannot be simplified even though there was simplification of the system in Regulations of the Czech Language from 1993. Legal Czech, however, has preserved its complexity in the choice of words as well as in the word structure.[54] Moreover, Čechová et al. points out that, as an inherent part of administrative style, in legal language nominal substantives as well as precisely stated numerals are used more frequently than in other styles such as the belles-lettres style, publicistic style or newspaper style. As regards grammatical category of case, genitive and nominative are frequently used. Verbs are used mostly in the 3rd person with the aim to achieve objectivity as is typical also for specialised style in general. Moreover, modals or auxiliaries "být," "mít," "muset," "moci," or "zajistit" and modal predicative phrases "je nutno," "je třeba" indicating obligation or possibility are typical verbs occurring in the Czech legal documents.[55]

Čechová et al. focuses also on **syntactical** elements of legal Czech as well as administrative writing. It is a tendency to express ideas stereotypically and economically but on the other hand explicitly. It is reflected on the occurrence of sentences with nominal structures with ellipsis of verbs, which manifests often in the form of one-member clauses. Although Czech is compared to English more verbal rather than nominal language this tendency reflects the similarity of both languages in this particular style. Moreover, it is fostered by the usage of passive and infinitive structures that are not otherwise natural for Czech. We can point out also various prepositional phrases and conjunctions which support explicit tendency in Czech legal language compared to some other styles. They are, for instance: "v důsledku," "vzhledem k," "se zřetelem k," "jakožto," or "potažmo" and very

[53] see Tomášek, 48–54.

[54] see Hladiš, 51–53.

[55] see Čechová et al., 171.

frequently used "níže," and "výše". These rather archaic words serve the purpose of reference to other parts of the document.[56]

Žváček mentions other syntactical elements in Czech. They are, for instance, complex sentences with dominancy of adverbial content clauses of purpose (with the conjunctions "aby," or "proto aby"), concessional clauses often with archaic conjunctions and, apart from these types, also conditional clauses that occur most frequently. For legal language is, furthermore, typical manifestation of constructions with verbal nouns ("podstatná jména slovesná" in Czech). Following examples can illustrate this tendency: "k **přezkoušení** spolehlivosti," "žádost o **povolení**," or "**porušení** tohoto předpisu se trestá **vyloučením**." The best manifestation of this phenomenon is in the following clause with several verbal nouns: "**Výklad** těchto předpisů spadá do pravomoci (. . .) podle **uvážení** pořadatele za účelem **provedení zkoumání** po **uplynutí** 15 minut po **dokončení** zkoušky."[57]

Furthermore, Hladiš also proposes that Czech language has like English also numerous so called "false relative clauses" ("nepravé vztažné věty" in Czech) which are plentifully used and extended in journalism but are unacceptable in other styles such as the legal one. This phenomenon can be demonstrated on the following example: "SUS vznikla v porevoluční době, kdy tady byla určitá skupina studentů, která odešla." A sentence like that could not appear in official legal documents. Furthermore, another syntactical phenomenon which is "zeugma" cannot occur in legal documents, either. On the other hand, there is a syntactical feature which is frequently used and very typical for the Czech legal language and it is multiple predicate as in: "Prezident republiky a) jmenuje a odvolává předsedu a další členy vlády (. . .)" [58]

[56] see Čechová et al., 170.

[57] see Žváček, 39–44.

[58] see Hladiš, 51–53.

4.2 Interview with an Expert on Law and Legal Language in the Czech Republic - Findings

We have already penetrated into legal environment and nowadays trends in Great Britain. In order to provide an insight into the situation on the opposite site and compare and contrast the situation of the SL and TL and due to the fact that the resources on the Czech legal language are not sufficient it seemed useful to carry out another interview. As the counterpart language of the present study and the TL in the translation is Czech an expert in the field of Czech law was asked to contribute into the study. This expert is Mgr. Pavel Franc who holds degree in law (Masaryk University in Brno) and currently studies for his PhD. degree at the Department of Administrative Studies and Administrative Law. Since 1998 he has been working for Environmental Law Service and currently he is its Managing Director. In 2001 within this organisation he set up a program GARDE – global responsibility – whose leading topic is responsibility of multinational corporations. Concerning his significant cases we can mention Toyota Peugeot Citroën Automobile Czech, Danone, NEMAK or Hyundai. He has also established think-tank Trast for economy and society.

According to Pavel Franc, one of the key facets of legal Czech is that Civil law has its origin in Roman law and legal discourse tends to be more precise than other discourses. This leads to complete rigidity because such language sounds ridiculous while it pretends to be specialised. It is so with foreign expressions with their origin in Latin which are, in his opinion, mostly overused. On the linguistic level the 3rd person is preferred to the 1st or other persons, infinitive structures definitely prevail and the sentences are often too long and clumsy written in passive voice. Concerning language of contracts, he considers present tense to be the typical element with slight differences in agreement about future.

As regards differences of legal style with other specialised styles, it is the length of words and also more complex phrases and complicated sentences are used in legal style in his opinion. It is evident on technical texts with specialised terms but not so many complex and long sentences like in legal contracts. He compares legal Czech to German in the way that it is very precise and rigid.

He has also revealed current trends and tendencies in legal Czech which are moving to more and more complicated language after the Velvet Revolution in 1989. According to him, this turning point in the Czech history means that we returned to Roman law (the tendency before WWII) and all legal terminology was changed. During communist regime with simple private legal relations, the law was more simplified with expressions connected with Marxism and Leninism. These days the legal Czech changes according to legal acts that determine very specific terminology and structure of sentences of every act. Pavel Franc points out that it is time of change of single fields of law but not time of change of the whole legal language. Another big impulse was European Union and he thinks that Legal Czech is not, definitely, being simplified as English because in Czech law it is more advantageous to make everything more complicated. In addition, due to huge competition of lawyers in this occupation, there is tendency to prove better qualities than the others and as a consequence succeed in such competitive environment which also creates complicated legal language.

This leads to distinctive troubles connected with discontinuity in usage of terms and expressions which is also fostered by the fact that during communist times some acts did not exist at all, or had very different meaning than nowadays. Another problem is with interpretation of law of translators who are not lawyers and need to precisely compare and contrast different terms in various contexts, which is very crucial for law. Such language is rather problematic also for experts. Lawyers have to frequently check terms in more languages and very demanding is also to study legal guidelines for a particular act and check whether it complies with the Czech legislation, or not. A good hint enhancing the work of translators could be, in his opinion, checking terminology on the official web-sites of specialised particular organisations, to find out how such official organisation decided to translate the terms. After all, it is always advisable to consult a lawyer.

5 DIFFERENCES BETWEEN LEGAL CZECH AND ENGLISH

The present study has shown what the typical aspects of legal style as part of specialised language are. The focus was given to Czech and English legal environment. As the results have proven both environments systematically differentiate a lot due to various reasons but on the other hand some similarities in both the Czech and the English legal style have been found, too.

One of them is, of course, historical aspect. Events in the history formulate the whole culture of nations as well as the language system which is under constant development and change. Both the Czech and English legal system have their origins in Latin and are compared to other styles strictly bound to rules on how the legal documents should be composed in order to avoid any kind of ambiguity. The language itself is stiff, rigid with little space for any creativity. Moreover, both languages require specialisation in interpretation of legal writing and, in order to facilitate such interpretation, legal writers and translators should rely on proper understanding of the context.

Concerning linguistic elements of legal style and its differences in English and Czech, long complex sentences along with the requirement on omission of any personal authorial style are very typical for both languages. In addition, passive voice common in English and rather stiff and uncommon when used in informal Czech is, however, also one of the key features of the Czech legal style and the specialised style as a whole. In both languages it supports the tendency towards objectivity. Thanks to its nominal tendency, English language can create various compound nouns which would, as opposed to that, sound rather awkward in Czech. In legal discourse such compounds are represented by a great deal of preposition-like expressions such as “hereinbefore,” “hereinafter,” etc. which have two typical counterparts in Czech – “níže” and “výše” – but will be paid more attention in the practical part of the present study. On the other hand, the representative of administrative style – legal language – is compared to other styles in both languages rather similar also as regards the Czech tendency to use nominal structures and omit some verbs.

The contemporary requirements generally all over the world on simplification of language are encountered in many styles and so are in the legal field. It is indisputably true about current leading world language – English – which has been in recent years simplified even in law, in spite of its inflexibility and general tendency of such formal style to rely on

what has been already established. The paradox, however, dwells in the fact that as the study has shown, Czech legal environment goes against this trend after the Velvet revolution because thanks to the change in the legislature, the legal Czech became more complicated than ever before. This is to high degree owing to the tendency of the present legal discourse to be sophisticated and not understandable for the general public. It is in contrast to the British legal environment where the focus moved more on business situations. With regard to this, legal documents are nowadays mostly composed in a way to focus on consumers who are actually those who need to understand contracts and other legal documents. On the other hand, we should always bear in mind that in spite of such tendency, both English and Czech can never resemble or be close to any spontaneous writing with randomly chosen words as the study has proven so far. The reason is that every expression chosen in such legal writing is supposed to serve its purpose with the need to avoid any disputes or fraud.

What is more and should be taken into account as well is the fact that both Great Britain and the Czech Republic have become part of the European Union. This situation has been mentioned by both experts in our study who both pointed out that this institution and its international environment have a great impact on formulating new legal language because the European Union constantly establishes acts that should be valid as well as obligatory for all its member states. Despite this situation, however, English and Czech legal language are developing in the opposite way.

There are not substantial differences only between such diverse languages as English and Czech but even within the frame of English language itself. This fact is in particular evident on the terms which seemingly bear a lot of resemblance in Great Britain and in the United States but according to different legal systems have very different meaning.

Other similarities and differences will be discussed in the later analysis of the ST and the TT.

6 COMPLEXITY OF LEGAL TRANSLATION

The purpose of the present study was not only to analyse British and Czech legal language but mainly to focus on translation of legal texts from English into Czech, to point out what its typical facets are, what needs to be avoided as well as how to translate such specialised documents.

According to Schwartz: "The translator's main task (in translating legal documents) is to translate a text as precisely as possible. S/he has to find linguistic equivalents which in their legal relevance correspond to both the original text of the source language and the translated text of the target language."[59] Basically, for any type of translation it is true that the translator needs to transmit one message of the SL adequately into the TL. As, for instance, Catford claims: "The SL and TL items rarely have 'the same meaning' in the linguistic sense; but they can function in the same situation."[60] In our case the situation is that translation of the ST needs to work in the legal environment and for the legal purposes of the TL.

Vystrčilová claims that since the legal language is a non-personal style, the translator does not take into account any specific style of the author, which would be typical for translation of fiction. Due to absence of any authorial style, translator is also supposed to avoid any attempts to manifest his/her personal style. Legal translation is a transmission of exact meaning from the ST into the TT with no regard to any authorial style paying attention to the level of lexicology, morphology, syntax and pragmatics.[61]

Law can be interpreted in many ways and that is why Vystrčilová also points out that translators of legal texts need to efficiently apply in translation not only language theory and translation theory, as expected in translation of other texts, but also legal theory and comparative legal theory. For this reason legal translators have to properly understand why legal texts are written in the particular way, have to know how to construct and interprete

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[59] H. Schwarz, "Legal Administrative Language," in Babel 23.1 (1997), 19.

[60] A. Catford, *Linguistic Theory of Translation* (Oxford: Oxford University Press, 196), 49.

[61] see Renata Vystrčilová, "Jazyk práva a problematika překladu právnické angličtiny," in *Acta Iuridica* (Olomouc: Univerzita Palackého v Olomouci, 1998), 80.

them and must be familiar with the context of situation, communicative purpose of the text and generic knowledge.[62]

Probably the core problem in translating legal texts is the fact that there is not often equivalent terminology in the TL to the terminology of the ST. What is even more, in the TL there is not an adequate law that would be comparable to the law of the SL. For this reason, Tomášek highlights that a legal translator needs to be familiar with or at least be able to orientate himself in the two legal systems of the SL and the TL and to find an exact or adequate equivalent. Although legal language ranks among the specialised style, its translation basically differentiates from other specialised fields such as medicine, biology, etc. in several aspects. Firstly, it dwells in the fact that the legal system of the SL and of the TL is different and there are not any identical legal systems in the world. Therefore, during the translational process the message from the SL into TL has to be transmitted without breaching legal information and, apart from that, the TT has to comply with the language standards. During translation process a situation can arise that there is equivalent in the TL to the term from the ST. Such equivalent can, however, concern different legal reality which would lead to misinterpretation of it. The example can be "personal property" in British law and its Czech equivalent "osobní vlastnictví" which, however, concerns very different legal reality. Secondly, two terms can have the same content but on the linguistic level they are expressed in a different way. It is in case of "způsobilost k právním úkonům" and its English counterpart "contractual capacity" which is semantically more motivated with the most typical kind of "contractual capacity" – a contract – compared to the semantic motivation of the Czech term. Finally, very frequent situation in legal translation can be that there is not any equivalent term. In such case it is suggested to penetrate into the meaning of the term and uncover its semantic aspect and use it in an understandable and grammatically correct manner. Another Tomášek´s suggestion is to find a similar term and use it in a specific context which can be, however, not as precise as in the context of the SL term.[63]

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[62] see Vystrčilová, "Jazyk práva a problematika překladu právnické angličtiny," 80.

[63] see Michal Tomášek, "K vybraným problémům překladu právního jazyka," in *Translatologica Pragensia IV* (Praha: Univerzita Karlova, 1990), 113–118.

Furthermore, as mentioned above, legal language as the representative of specialised style substantially differs from literary translation. In this aspect we could be tempted to say that legal translation is simpler and does not require such effort as legal translators do not deal with difficulties in translating colourful language intentionally used by the author (slang, dialect, ungrammatical constructions, etc.) and emotional connotation of words. According to Crystal and Davy, this oversimplification of legal translation, however, does not take into account one its aspect which is directness of legal language and preciousness which could, on the other hand, be translated too simply and consequently it would lose its meaning. This would, of course, lead to plentiful difficulties with understanding legal documents and its impropriate application in the legal environment.[64]

On one hand, facets of legal style are clarity, precision and unambiguity, on the other hand, as Vystrčilová claims, it is also inclusiveness which may lead to various misunderstandings and improper translation. In addition, complex prepositional phrases and qualificational insertions must be identified properly to make rules clear and unambiguous but binominal expressions must be made all-inclusive.[65]

A legal translator translating from English into Czech, or vice versa, may come across translation difficulties with legal synonyms or so called neat-synonyms. As described above, they are typical for legal English but, on the other hand, in Czech usage of both synonyms is not needed and one of them is redundant. Therefore, translator can use only one term for both synonyms. It is also stressed by Vystrčilová who also adds that it concerns, for instance, "commercial terms and conditions" in English which would be translated into Czech only as "obchodní podmínky" without a need for seeking another equivalent for either "terms" or "conditions". Another example is "joint custody" which is adequately translated as "společné opatrovnictví" but actually in the Czech legal system this term does not exist because in the Czech family law a child is given to the guardianship of only one parent.[66] There are plentiful other pairs of neat-synonyms in English in which both carry the same meaning. Cao also points out that it may be a "hard nut to crack" in decision-making

[64] see Crystal and Davy, *Investigating English Style*, 204-215.

[65] see Vystrčilová, "Jazyk práva a problematika překladu právnické angličtiny," 80.

[66] see Vystrčilová, "Jazyk práva a problematika překladu právnické angličtiny," 81.

process how to adequately translate them – whether to avoid one of them in translation from English into some other languages, or not. Several typical neat-synonyms that occur frequently in legal style and that could lead to various translation difficulties can be mentioned:

> "bind and obligate," "deemed and considered," "full and complete," "finish and complete," "null and void," "cease, desist and be at an end," "place, install or affix" or "changes, variations and modifications." [67]

The legal translators do not need to be experts in law but have to know requirements of the client as mentioned before and as also Vystrčilová points out. For instance, an American company uses the term "Limited Warranty". If a client wants to translate it into Czech to introduce a warranty for a product, it would not be translated literary as "omezená záruka" but a proper equivalent used in such case is "záruka" because otherwise it could be misinterpreted. As opposed to that, if a different client wants to translate this expression to understand exactly what it means, it would be translated literally as "omezená záruka".[68] Some other specific problems that could arise even in clash between British and American culture are described above in the interview with the British expert on legal translation.

Some linguists and legal translators offer us insight into how efficient is to understand and thus later translate often from the first sight too complicated and too sophisticated English legal text. When translating a complex legal text a translator is recommended by Crystal and Davy to divide it into several chunks and such chunks should be separated according to particular information which belongs to one specific part of the text. This can, to wide extend, help understanding of the text and its following translation. The following example probably best illustrates this phenomenon:

"Notwithstanding the termination of the hiring under Clause 6 the Hirer shall pay all rent accrued due in respect of the hiring up to the date of such termination and shall be or remain

[67] see Cao, 91-92.

[68] see Vystrčilová, "Jazyk práva a problematika překladu právnické angličtiny," 83.

liable in respect of any damage caused to the Owner by reason of any breach by the Hirer of any stipulation herein contained and on part of the Hirer to be performed or observed."[69]

Crystal and Davy suggest the following dividing of this long sentence:

1. Notwithstanding the termination of the hiring under Clause 6,
2. the Hirer shall pay all rent accrued due in respect of the hiring up to the date of such termination,
3. and shall be or remain liable in respect of any damage caused to the Owner,
4. by reason of any breach by the Hirer of any stipulation herein contained,
5. and on part of the Hirer to be performed or observed."[70]

In the analysis of the present study which focuses on legal translation from English into Czech we can find similar examples of long sentences as well as synonyms in couplets and it would be really questionable whether to avoid the translation of one of them in the pair, or not. There are numerous other linguistic issues that may arise in legal translation owing to clash of two different legal systems – both in historical and cultural sense. It is highly probable that such difficulties arise particularly when translating from and into such different language systems as English and Czech. This phenomenon will be, however, paid more attention to in the analysis itself.

[69] see Crystal and Davy, *Investigating English Style*, 196.

[70] see Crystal and Davy, *Investigating English Style*, 196.

7 THE SOURCE TEXT ANALYSIS

In order to support the theoretical background with practical examples from the legal environment, we decided to translate a contract obtained from a company. The name of the company and all details are hidden but it is a corporation operating in the USA which can be seen on the language – "in favor of" (Appendix 5, p. 6), etc. This contract is Shareholders Agreement written in the SL – English. It substantially demonstrates how the legal language as an inherent part of specialised style looks like, how an agreement is sectioned, what legal terminology is used and last but not the least how the sentences or longer utterances are structured. For this reason the following ST analysis is sectioned into the lexical and morpho-syntactical part as also explained in the Introduction. The proper analysis of lexical (and thus semantic), morphological and syntactical elements has the purpose to faciliate subsequent translation and searching for the appropriate equivalents in the TL, and therefore we paid attention to the most distinctive elements that could be later essential for the translation. For the lexical analysis we also used lexical explanations from *Oxford Dictionary and Thesaurus* and an Internet bilingual dictionary of specialised vocabulary *The Free Dictionary*.

7.1 Lexicological Analysis

Specific features examined already in the theoretical part frequently appeared in the ST and it is probably most evident on the lexical level. In particular, **terms** typical for legal style which do not occur in other styles are used, and such terms from the first sight signalise that the text ranks among the legal style.

Firstly, every agreement is supposed to have a title and the ST of the present study is called "SHAREHOLDERS AGREEMENT". Such title gives us a hint for understanding what the content of the whole agreement is and for its consequent proper translation. In connection with this, the word "to share" which is one of the key words of the agreement should be mentioned. Grammatical category of this word is verb and the semantic meaning of the word is "to have something together with somebody else". In common language it is used with this semantic meaning. Here, in the legal agreement, "**share**" manifests, of

course, as a verb but due to the fact that the ST is "Shareholders Agreement," the word "to share" as a verb converted into noun with semantically very close meaning. It, however, indicates one particular kind of securities – "shares". This aspect should be kept in mind especially when deciding on the proper equivalent in the TL.

Another key word of the ST is "**parties**". Due to polysemantic tendency of English, this expression has different meaning in different styles. It can be "a political party" or "an event". The present meaning is closer to "a political party" than to "an event" because it deals with one "group of people" and generally in contracts it is one "side" or one "subject" of the agreement. Every contract is obliged to have "a party" or in other words assigner/s and assignee/s with their rights as well as obligations. As the legal discourse has terms which should be unambiguous, precise and often repeated, the term in the legal context is always "parties" and not "subjects" or other possibilities.

Throughout the whole ST there are other terms used purely in the legal environment and not in any other style and thus their semantic meaning could be clear and not mixed up with other kinds of semantic meaning from other styles. They are for instance: "vis a vis" (Appendix 5, p. 2), "pro rata" (Appendix 5, p. 9), and "borne" (Appendix 5, p. 13). When we look at their meaning it is very clear, direct, condensed and deals with matter-of-factness which in particular leads to unambiguity that is required in legal writing. It is similar with the expression "deemed" in "shall be **deemed** to have been duly given" (Appendix 5, p. 10). In order to decide on the proper equivalent in the translation, more profound semantic analysis and comparison of its meaning in both languages (the SL and the TL) and context of the whole paragraph will be required. Since also *Oxford Dictionary and Thesaurus* proposes several options for its meaning – "regard, consider, judge"[71] – it is not unambiguously clear which option would be the right one and therefore the expression will be analysed more closely in the TT analysis.

Another term used in legal language is the phrase "**take action**" which occurs multiple times in the whole ST as for instance in:

[Example 1] "The Board can validly deliberate and **take action** . . ." (Appendix 5, p. 6)

[71] Sara Tulloh, ed., *Oxford Dictionary and Thesaurus* (Oxford: Oxford University Press, 1995), 374.

[Example 2] "The General Shareholders Meeting shall not **take** any of the following **actions** . . ." (Appendix 5, p. 7)

In both examples [Example 1, 2] we can see that it carries the same semantic meaning – simply "to act". This fact again proves unambiguity and precision of legal language.

As opposed to that, there are plentiful expressions which may sound familiar for the common reader but, on the other hand, when used in a different discourse they carry entirely different meaning than in the legal style. The very first example is "**shall**". In the ST it occurs on almost every page and in general it ranks among the core specialised terms in the legal style. Knittlová points out that it expresses obligatory result of a legal action/decision.[72] On the other hand, its very basic function is that it is an auxiliary verb expressing future tense or a command or a duty as *Oxford Dictionary and Thesaurus* proposes.[73] This explanation differentiates with its semantic meaning in legal agreements and also in the ST. In the whole ST it indicates that "a person is obliged to take a legal action" every time, no matter in what sentence it occurs.

Another example of the complexity of the legal style and its disparity with the words used in ordinary not specialised language is already at the beginning of the contract "**from time to time**" (Appendix 5, p. 2, p. 4, p. 10). This prepositional phrase is commonly used in common language. Even though on the semantic level in the legal contract we can observe that in each of its occurrence it has similar meaning as in its regular usage, this meaning slightly differentiates and therefore we can presume that it will be complicated also for the translation.

Similar case is with the usage of "**desire**" (Appendix 5, p. 2). As *Oxford Dictionary and Thesaurus* explains, the meaning is "unsatisfied longing or craving," or "libido or passion"[74] which indicates strong emotional connotations. As mentioned above, one of the key features of legal style or specialised style in general is that there is no

[72] see Knittlová, 131.

[73] see Tulloh, *Oxford Dictionary and Thesaurus*, 1419.

[74] Tulloh, *Oxford Dictionary and Thesaurus*, 392.

emotional connotation or it tends not to use words with emotional denotative or connotative meaning. Nevertheless, in the ST – legal contract – the word "desire" with strong emotional flavour has been used. We need to, however, bear in mind that in the legal discourse there can be semantic shift and the emphasis should be laid on its denotative and not the connotative meaning. This once again proves the fact that many expressions occuring in the legal style or specifically in contracts carry very different both denotative and connotative meaning in comparison with ordinary language. This will be also complicated for finding the proper equivalent in the TL. Therefore, it is another expression which will be studied more closely in the TT analysis.

Clash between the semantic meaning of the expression in common language and its usage in the legal style can be seen on the expression "**arrive**". It is commonly most often used with the meaning "to reach the destination" or "to come to the end of the journey,"[75] but in the ST the meaning of "in arriving at their award" (Appendix 5, p. 13) is not close to "come somewhere (physically) from another place" but "shareholders decide to put award". Another example of this phenomenon is the word "**borne**". Its general meaning is "to exist as a result of birth" or "something carried or transported by".[76] Both explanations, however, sound rather awkward in connection with legal contracts and the ST. In the sentence: "The costs of arbitration (. . .) shall be borne by either or both of the Requesting Party (. . .)" (Appendix 5, p. 13), the meaning of "borne" is entirely different and may be a tricky task especially for translation.

Binominal or multi-nominal expressions have been introduced as another indicator of the legal style. The fact that their usage leads to wordiness but, on the other hand, it assures unambiguity and precision of the utterance can be observed in the ST, too. An interesting linguistic element is the fact that some of them are unavoidable and each word in the couple carries individual meaning but, on the other hand, some of them carry in the couple both the same meaning and thus one is redundant. We can see that they are mostly connected by conjunctions "and," and "or". Firstly, it is "terms and conditions" (Appendix 5, p. 4, p. 9) as an inherent part of every contract. Such binominal expressions

[75] Tulloh, *Oxford Dictionary and Thesaurus*, 74.

[76] Tulloh, *Oxford Dictionary and Thesaurus*, 162.

do not occur only in the form of nouns or noun phrases but also as prepositions. It is, for instance, in case of "by and among" (Appendix 5, p. 1). In this case both expressions carry similar meaning and function and in common not specialised language the phrase would have more or less the same meaning and "among" would be probably omitted as a redundant element. When we, however, analyse the semantic elements of this phrase, more closely, we can come to conclusion that "among" in legal style cannot be dropped since it indicates that the Shareholders Agreement is not only "concluded by the parties of the agreement" but also "among such parties". This highlights the mutual contractual relations and the rights and obligations of the parties. Moreover, there is another occurrence of "among" in different position directly after another preposition: "from among". It is not joined by a conjunction "and," or "or". The context is according to the whole clause different than in the previous case as evident from the following example from the ST: "The Principal Shareholders shall be also entitled to nominate the Chairman of the Board **from among** the members of the Board." (Appendix 5, p. 5). Therefore, for the proper understanding it is necessary to reveal that the two expressions in this clause are not binominal expressions carrying the same or similar function and meaning, like in the previous case, but two prepositions following each other. In this situation, "among" could be omitted too without losing the correct meaning. Once again, however, due to the complexity of legal style it cannot be dropped so easily. Many of the discussed expressions will be studied more profoundly in comparison with Czech legal language and translation of the contract because the approaches of the SL and of the TL in this matter substantially differ.

7.2 Morpho-syntactical Analysis

7.2.1 Archaic Preposition-like Expressions

On the lexical level another phenomenon typical for legal documents and contracts in particular are **preposition-like words** which sound very archaic and non-

understandable for a general reader and they serve the purpose of point of reference in the text. They appear almost on every page and they are: "herein, hereto, hereinafter, hereby, hereof and thereafter". On the page 11 of the Appendix 5 there are even several of them in only one sentence:

[Example 3] "This Agreement (including Schedule A attached hereto) constitutes the entire agreement among the parties **hereto** in respect of the matters contained **herein** and **therein**, and supersedes all prior oral or written agreements and understandings between the parties **hereto** with respect to the subject matter **hereof**." (Appendix 5, p. 11)

For proper understanding and later adequate translation it is necessary to analyse these terms not only from the perspective of their semantic meaning but from the morphological point of view. Firstly, the words beginning with "here-" suggest that they are referential words and they refer to "this" text/article/paragraph/section or, in other words, their meaning is the same as in common not specialized style meaning of "this" or "these". As opposed to that, expressions beginning with "there-" refer to a different text or to other parts in the text or simply could be substituted by "that" or "those". What is more, from observing of their occurrence in the ST we can deduce that the second part of the expression is the indicator of the grammatical category of case. It is for instance in "hereof" and "hereto" in which "of" indicates the 2nd case and "to" the 4th case. We will, however, analyse these expression more profoundly in the TT analysis in order to compare them with their usage in the TL.

Similar rather archaic term typical for legal writing is "**notwithstanding**". Again, it is necessary to analyse it from the morphological point of view in order to comprehend its actual meaning and later find an appropriate equivalent in Czech. This term carries great informational load since it is a compound of several words – "not," "with," and "stand" – and the suffix "–ing". The "-ing" suffix indicates that it is a participle which has the purpose of condensation of the whole clause into one word and thus this word contributes to the matter-of-factness and compactness of the legal style. The following example from the ST explains this tendency: "Notwithstanding anything to the contrary in Section 7.1 . . ." (Appendix 5, p. 10). According to such meaning and the context of the whole clause, we

may presume that "notwithstanding" means that "something is in opposition to something else" which can be deduced only from the context of the whole sentence and not just from the morphemes of the word.

7.2.2 Other Morphological Features

Other morphological elements which are distinctive not only for the legal style but for the whole specialised style are suffixes of nouns describing a person or a subject in the agreement. In this sence Baker states that English has many couplets which are distinguished by different affixation.[77] In the agreement there is tendency to distinguish a **superordinate and a subordinate person**. It is presumably in order to clearly state the roles of the parties of the agreement. Such distinction is in English achieved by suffixes "–er" (for an assigner of an action) and "–ee" (for the subordinate assignee who is supposed to fulfil an action). This distinction in morphemes is also significant for translation. This morphological feature appeared couple of times, for example, in the following nouns: "transferee" (Appendix 5, p. 9), "addressee" (Appendix 5, p. 10), and "nominee" (Appendix 5, p. 5, p. 6). As the agreement focuses more on setting up of obligations of the parties of the agreement, we can observe that there is higher frequency of occurrence of these subordinate persons than their superordinate counterparts.

Since the word "**share**" is one of the key words in the ST it is necessary to discuss it also from the morphological point of view. The expression "shareholder" is a compound of two words "share" and "holder". The stem is the lexical verb "to hold" with the additional suffix "-er". With this suffix the verb converts into noun. Therefore, the meaning is "a person who holds/owns something". According to "share", we can deduce that it is "a person who owns shares"[78] as the financial part of *The Free Dictionary* explains. This meaning is clear and unambiguous in the whole ST. What could be, however, unusual with "shareholder" is

[77] Baker, 24.

[78] "The Free Dictionary," accessed August, 10, 2011, http://financial-dictionary.thefreedictionary.com/Shareholder.

the usage of possessive pronoun "its" in the following utterance: "each Shareholder shall vote all of **its** Shares" (p. 5, 6). Since "shareholder" carries the meaning of an animate being we could presume that the respective possessive pronoun would be "his" or "her" but not "its". Nevertheless, a "shareholder" can be both individual and an organisation/company (inanimate entity) and therefore the appropriate pronoun is "its" which involves also such inanimate entity.

7.2.3 Passive voice

As the legal documents and in particular the ST do not deal with only separate words and their structure but they occur in longer utterances such as phrases, clauses, sentences and paragraphs, it is necessary to study also the mutual connections and relations among the words and their specific position within the clauses or sentences in the legal documents.

According to Baker, **passive voice** is a morpho-syntactical element more frequently used in English rather than in Czech and it occurs even more in the specialised style and therefore it is one of the key elements of the legal language as has been already studied.[79]

[Example 4] "THIS SHAREHOLDERS AGREEMENT (this '<u>Agreement</u>') is entered into on the __th of February, 200_ by and among . . ." (Appendix 5, p. 1)

[Example 5] "The replacement shall be nominated by the Shareholders." (Appendix 5, p. 6)

The [Example 4] is a typical passive clause. Thanks to usage of passive voice, subjects of the agreement – the parties that concluded this agreement – are shifted to the end of the clause and in such a way are focused according to the Functional Sentence Perspective.

[79] see Baker, 102.

Similar situation is with the [Example 5]. The subject as well as the agent (in the ST "Shareholders") is from the Functional Sentence Perspective stressed and placed into the position of new or unknown information – rheme – instead of being in the initial position as Baker claims about Functional Sentence Perspective.[80] Accoding to this pressumption, an active counterpart to this clause would be: "Shareholders shall nominate replacement."

[Example 6] "(. . .) Company may (. . .) issue additional Shares that may cause the interests of the Shareholders (. . .) to be diluted." (Appendix 5, p. 2)

[Example 7] "The Company and . . . Shareholders shall use their best efforts to take or cause to be taken all actions . . ." (Appendix 5, p. 4)

Another example is "to be diluted" in the [Example 6]. For the ST analysis and in particular for the subsequent translation it is necessary to understand what or who "is diluted" or, in other words, what the subject or object of the clause is because such passive structure is very ambiguous, which can lead to inappropriate translation. "To be diluted" is a passive infinitive clause. This also explains that the object which the passive infinite clause "to be diluted" is referred to is "interests" because "interests can be diluted". The object from the previous clause is "additional shares" and the clause which it refers to is the following one: "that may cause the interests to be diluted" and not just the separate infinite structure "to be diluted". Due to such infinitive structure, according to Veselovská, this sentence is called "amalgamate structure"[81] and this understanding and analysis was a fine example of importance of the ST analysis.

In the [Example 7] the usage of "cause" is interesting on the linguistic level because it is, like in the previous case [Example 6], connected with the passive voice. Occurence of "take action" has been studied above and another verb with which it can collocate is "cause". When we analyse both the previous [Example 6] and this sentence

[80] see Baker, 160-161.

[81] Ludmila Veselovská, *A Course in English Syntax: Syllabi for the Lectures, Examples and Excercises* (Olomouc: Univerzita Palackého v Olomouci, 2009), 89.

[Example 7], we can see that "cause" in such position indicates passive voice which follows it but such passive voice is in an infinitive structure: "cause the interests of the Shareholders . . . to be diluted" [Example 6] and "cause to be taken" [Example 7]. Since the structures are so condensed with great informational load in a relatively short utterance, we can conclude that both sentences indicate the typical facet of legal language which is matter-of-factness and compactness of sentences which are packed into in this case even passivised infinite structures in order to have as much information as possible in the shortest possible utterance. This is rather opposite to the tendency in Czech which will be discussed in the TT analysis.

7.2.4 Long Sentences and their Word Order

Long and complex sentences are another typical syntactical element of legal documents. In the ST there are many of them and some of them are extended even on several lines as the following one:

[Example 8] "The Company and each of the Shareholders shall use their best efforts to take or cause to be taken all actions within their respective powers (including, but not limited to, as applicable, voting their Shares, holding and attending General Shareholders Meetings (in person, by proxy or by any other lawful means), approving resolutions, amending the Organizational Documents, executing and filing documents and causing Directors nominated by such Shareholders to vote or refrain from voting), both in respect of the Company and its Subsidiaries, as may be necessary or appropriate to implement and ensure compliance with all provisions of this Agreement, and to effectuate to the fullest extent legally possible each of the purposes, terms and conditions of this Agreement." (Appendix 5, p. 4)

The main problem for translation of the [Example 8] is to comprehend the actual meaning of such a long utterance in the SL - English. Therefore, it proves useful as Crystal and

Davy suggest (and is described in the theoretical part of the present study) to divide such long sentence into several chunks, according to the information each one carries. In addition, it is also necessary to find and study the semantic elements – the agent and patient – and syntactical elements – subject, object and predicate – in order to properly understand who the doer of the action is and in order to avoid any kind of ambiguity and possible misinterpretation which is inappropriate in legal documents. The first chunk is: "The Company and each of the Shareholders shall use their best efforts to take or cause to be taken all actions within their respective powers . . ." It is a clause with subject – "the company" and "each of the Shareholders" –, the predicate – "shall use" – and the object – "their best efforts". This object is followed by non-finite sentence (infinitive structure) "to take or cause to be taken all actions within their respective powers . . ." This analysis in particular helps understanding of what "their respective powers" refers to. The subsequent information in the brackets should be separated into not only one but two chunks. The first one is: "including, but not limited to, as applicable, voting their Shares, holding and attending General Shareholders Meetings, (. . .) approving resolutions, amending the Organizational Documents, executing and filing documents and causing Directors nominated by such Shareholders to vote or refrain from voting." In spite of the fact that the utterance is rather long, it is not a full clause with the subject, predicate and object but just a list of actions which the subject specified above has in competence. In other words, it is a list actions "within their respective powers". The next chunk more closely specifies the "holding and attending the general meeting" and therefore needs to be separated as another chunk and not a part of the previous one: "(in person, by proxy or by any other lawful means)". The following forth chunk also more closely specifies the object: "both in respect of the Company and its Subsidiaries," but cannot be combined with the fifth chunk: "as may be necessary or appropriate to implement and ensure compliance with all provisions of this Agreement," because it is a full clause that actually refers to the first one even though it is so distant from it. The last – the sixth chunk – "and to effectuate to the fullest extent legally possible each of the purposes, terms and conditions of this Agreement" – is more complicated because due to the length of the sentence it is not clear what "and to effectuate" refers to. After more profound observation we can lead to the conclusion that this very last part actually refers to the very first one. It is in a way that "to effectuate" is one more predicate or "action necessary to be taken or caused to be taken" for, in this very

long and complex sentence, the only subject – "The Company and each of the Shareholders" – which, however, does not occur until the two last of the ten lines.

The ST is an ideal example of legal style because there are more such long and complicated sentences. Another example is a sentence extended on eight lines below:

[Example 9] "For a period of nine (9) months following the date of this Agreement (the 'Lock-Up Period'), no Shareholder (and no owner of any Shareholder that is a partnership, company or other entity) shall, directly or indirectly, offer, sell, transfer, assign, pledge or otherwise dispose of (collectively 'transfer') its Shares now or hereafter held or acquired by such Shareholder to any person except (i) an affiliate of such Shareholder in accordance with Section 5.3, or (ii) in connection with a public offering or sale of the Company approved by the unanimous consent of the Board and by 90% (ninety percent) of the Shareholders." (Appendix 5, p. 8)

Analysing the sentence, first of all we can see that it is less ambiguous and complicated than the previous one. Even though a reader can understand it without substantial problems, it proves useful to analyse it on the level of SVO analysis in order to help the further translation. When looking at the sentence as a whole unit and searching for the subject and predicate we can see that there is actually only one clause with the subject and predicate. Even though the sentence does not start with the subject (it is preceded with an adverbial phrase "for a period of nine months following the date of this agreement"), the only subject is "no Shareholder" which is more specified in the brackets that follow it: "(and no owner of any Shareholder that is a partnership, company or other entity)". When seeking a predicate, there is also only one which is, however, rather long: "shall offer, sell, transfer, assign, pledge or otherwise dispose of (collectively 'transfer')". As regards an object it is a simple direct object "its Shares" but, compared to that, there is another very complex indirect one – "any person except (i) an Affiliate of such Shareholder in accordance with Section 5.3". We have stated that such long utterance is not several sentences and even neither a complex sentence consisting of several clauses. Apart from that, the whole sentence comprises also several condensed semi-clauses. The excerpt from the Example ". . . held or acquired by such Shareholder to any person" proves again

frequent occurrence of passivisation because it is a semi-clause condensed from a relative clause – ". . .which is held or acquired by . . ."

There is another example of a long complex sentence for which SVO analysis is needed:

[Example 10] "A direct or indirect transfer (in one or more transactions) of any interest in any Shareholder that causes the owners of the Shareholder (as they exist on the date the Shareholder becomes a Shareholder) to own and Control less than 51% (fifty-one percent) of the Shareholder **shall be deemed to be a violation** of this Section." (Appendix 5, p. 8)

In such sentence [Example 10] the question is what the subject to the predicate in bold exactly is because not only in the ST but also is the consequent translation it is necessary to exactly know what is meant by "to be deemed to be a violation". According to Dušková, unlike in Czech, subject is an inherent part of English sentence and it stays before the predicate.[82] From this general approach we may presume that the subject is not only "a direct or indirect transfer" but actually the whole part that precedes the predicate. It contains also a relative restrictive clause - "that causes the owners of the Shareholder (as they exist on the date the Shareholder becomes a Shareholder) to own and Control less than 51% (fifty-one percent) of the Shareholder . . ." – which modifies "a direct or indirect transfer (in one or more transactions) of any interest in any Shareholder".

7.2.5 Condensed Sentences

Throughout the whole ST we can observe many other irregularities from the word order of the structure of English sentences. From one sight the whole document is full of very long and often complex sentences. On the other hand, another aspect of legal language

[82] see Libuše Dušková et al., *Mluvnice současné angličtiny na pozadí češtiny* (Praha: Academia, 1994),

is the tendency to condense the information into the form of participles, infinitives or gerunds as discussed above. Such condensed sentences would have Czech counterparts – dependent clauses. This is due to the nominal tendencies of English compared to verbal tendencies of the Czech sentences as Vachek points out.[83] The examples of this phenomenon in the ST are the following clauses:

[Example 11] ". . .**as provided in** the Organizational Documents." (Appendix 5, p. 5)

[Example 12] "(whether **nominated by** the Principal Shareholders or the other Shareholders)" (Appendix 5, p. 6)

[Example 13] "**In arriving** at their award, the arbitrators shall make every effort to find a solution" (Appendix 5, p. 13)

[Example 14] ". . . by and among XXX, an individual **residing** at _____, YYY, an individual **residing** at _____ and ZZZ an individual **residing** at_____ (XXX, YYY, and ZZZ **being referred** to herein collectively as the 'Initial Shareholders')" (Appendix 5, p. 2)

Proper understanding of participles is not so difficult, compared to the understanding of elements of the previously studied long sentences, but translators need to be aware of such English tendency. The reason is, as Vachek admits, in English participles do not sound archaic at all, unlike in Czech.[84] Interesting is the occurrence of "being referred" in the [Example 14]. It is a participle in passive voice already discussed above as the crucial element of legal style which is supported also by this example.

390–400.

[83] see Vachek, 22–24.

[84] see Vachek, 25.

The theoretical part of the present study has analysed another element of legal style which is a tendency to **post-modification** rather than to pre-modification. In the ST there are also plentiful non-finite/condensed clauses that, in addition, post-modify nominal elements, as the following examples illustrate:

[Example 15] ". . . any person or entity that has not signed a statement **agreeing to be bound** by the provisions hereof. " (Appendix 5, p. 8)

[Example 16] "the mutual covenants and agreements hereinafter **set forth**" (Appendix 5, p. 3)

[Example 17] "terms **defined** above" (Appendix 5, p. 3)

[Example 18] "any shares **owned** by the Company" (Appendix 5, p. 4)

[Example 19] ". . . for the price **offered** by the transferring Shareholder." (Appendix 5, p. 9)

[Example 20] "on the date **written** above" (Appendix 5, p. 13)

All examples [Example 15 – 20] do not manifest only post-modification but they are great samples of combination of various features typical for legal language and the ST. The examples deal with post-modification but it is combined with occurrence of participles or condensed clauses. Moreover, all examples contain passive voice which is in the [Example 15] also with a post-modifying element "agreeing" that preceeds it.

There is, of course, various other demonstration of facets of legal or specialised style in the ST which is either typical or deviates from the regular tendencies. It could be studied from different linguistic points of view and according to various linguistic rules. Nevertheless, it could be discussed in much longer study and we pay attention to many examples and in particular compare them with their equivalents in the TL – Czech – in the following part of the study.

8 THE TARGET TEXT ANALYSIS

The ST analysis has shown typical facets of the language of legal agreement in English and such facets have been analysed from the lexical and morpho-syntactical point of view. This analysis has been useful for the subsequent translation into the TL (Czech). The present part deals with the throughout analysis of the translation of the ST. The translation procedures that were used during translation along with the reasons why we decided like that will be presented. Moreover, more complicated phenomena will be discussed and interesting linguistic differences of both the SL and the TL will be compared and contrasted. The results and conclusions are presented according to what typical features frequently occurred in the ST and the TT or during translational process. The ST and the TT are in the appendices firstly as two separate texts (the ST and the TT) and later in the form of one text as described in the Introduction.

Focusing on the analysis itself, it is firstly essential to point out the register. Language of legal documents as well as the ST needs to be without any personal aspect of the writer. This fact was evident from the ST analysis and was kept in the mind also during the translational process. We avoided any nouns or pronouns which would sound personal and translated the document directly in the matter-of-factness manner.

Since legal language ranks among specialised genres we dealt with numerous terms which were not so problematic for the translation and they were translated literally. This was in the situation as Knittlová suggests that in the TL there is a full equivalent.[85] On the other hand, the most troublesome aspect of legal translation dwelled in something different and that was "the hard nut to crack" and the part that needed the analysis as well as discussion with the dictionary – *Anglicko-český právnický slovník*[86]. When the dictionary did not offer a proper equivalent or proposed solutions were ambiguous or inappropriate in the context of the ST we had to discuss the suitable translation with the Czech legal specialist introduced in the theoretical part.

[85] see Knittlová, 19.

[86] Marta Chromá, *Anglicko-český právnický slovník* (Praha: Leda, 1997).

When it was problematic to find appropriate Czech equivalent to an English expression, phrase or longer utterance, we also used the help of Baker´s suggestion of strategies appropriate to use when dealing with non-equivalence described in the theoretical part. Apart from that, we also kept in mind Tomášek´s stress on seemingly equivalent terms in the SL and the TL which, however, concern very different legal reality. Therefore, we used his proposition how to deal with non-equivalence in legal translation which was to penetrate into the semantic aspect of a given term, phrase or a longer utterance that has been discussed in the theoretical part.

8.1 Denotative and Connotative Meaning in the ST and Its Translation

In the ST analysis we discussed semantic properties of several expressions and their denotative and connotative meaning. It has been stated that legal English is without emotional connotation and that some expressions carry emotional flavour in the colloquial but not in the specialised discourse. This was true in case of "**desire**" in: "parties hereto desire to enter into this Agreement" (Appendix 5, p. 2). This utterance cannot be translated as "smluvní strany **touží** uzavřít tuto smlouvu". The Czech equivalent needs to be completely without any flavour and therefore the suggestion for the translation is: "Uvedené smluvní strany **projevují zájem** uzavřít tuto smlouvu."

Another example is the verb "**arrive**" that was analysed also in the ST analysis. It occurred several times in the ST but always in other than in its general meaning – "to come somewhere". It is, for instance, in the following sentence: "In arriving at their award." (Appendix 5, p. 13). As the excerpt indicates, we cannot translate it as "dojet, dojít" and we should consider it in connection with "award". It is clear that the actual semantic meaning is "to reach a decision" which is semantically similar to "reach a destination". We, however, had to also reduce the English sentence into "při rozhodování". The reason is that such translational equivalent condenses the actual meaning of both words "arrive" and "award" into one "rozhodování" and apart from that we can avoid in Czech any connotation. Having analysed "arrive" in connection with "award", it is also necessary to discuss translation of "**award**" in other sentences:

[Example 21] "**The award** of the arbitrators shall be made by majority vote and shall contain written reasons" (Appendix 5, p. 13)

[Example 22] "**Any award** shall be made in US Dollars . . ." (Appendix 5, p. 13)

[Example 23] "the arbitrators being authorized to grant **pre-award** and **post-award** interest." (Appendix 5, p. 13)

It is firstly clear that we do not deal with the basic denotative meaning of award as "the prize". When studying the first example [Example 21], in order to find the proper translation it is necessary to understand "award" in connection with "vote". "Odměna" would sound awkward and do not correspond to "vote" – "hlasovat". Therefore, the most suitable solution seems to generalise the meaning of "award" to match up with "vote". According to such criteria our suggestion is "rozhodnutí" and not "cena" or "odměna": "**Rozhodnutí** rozhodců musí být dosaženo většinovým hlasováním a musí obsahovat písemné odůvodnění." (Appendix 5, p. 13) In the second case [Example 22], however, "rozhodnutí" would not be sufficient because it is connected with money and we had to choose a noun that would carry the meaning of "price" and, apart from, that its denotative meaning would be connected with payment. The most appropriate Czech equivalent in this context was "pokuta" as in: "Každá pokuta musí být v amerických dolarech . . ." (Appendix 5, p. 13). Finally, the most problematic and ambiguous occurrence of "award" was in the form "pre-award" and "post-award". In this case it cannot be just "pokuta" and in Czech there is not any "před pokuta" or "pozdní pokuta" or something similar in connection with the morphemes "pre-" and "post". "Pre-award" and "post-award" need to be understood as pre-modifiers of the noun "interest" which is in the business vocabulary "úrok". Moreover, the morphological form of these expressions and their prefixes "pre-" and "post-" signalizes that it describes something "before" and "after". To find the translation that would really fit the context of the whole utterance, we had to rely on pragmatic knowledge of Czech business operations and final consultation with our Czech legal expert. The appropriate translation, therefore, is the following one: ". . . jsou rozhodci oprávněni udělit úrok z předčasného či pozdního zaplacení . . ." (Appendix 5, p. 13).

There were, of course, other clashes in denotative and connotative meaning of words and their usage in the common language and the legal style. To point out some of them, where the original meaning shifted in the legal style, it is, for example, "**borne**" in "shall be borne by either or both of the Requesting Party or the Other Party" (Appendix 5, p. 13). It cannot be certainly translated as "zrozeny". Having analysed the semantic properties of the expression "borne" in the ST analysis as "to start something" or even "determine something," the possible translation is "musí být **určeny** jednou či oběma žádajícími stranami či jinou stranou". We, however, have to bear in mind another difference between English and Czech which is in the usage of passive voice discussed in the whole present study. The above mentioned suggestion for the translation had to be therefore changed from the passive voice to the active voice. Despite its common usage in the specialised style also in Czech, in this utterance its active counterpart seems to be more appropriate. Therefore, the very final translation is: "Náklady na arbitráž spolu s odpovídajícími právními poplatky musí **určit** buď pouze Žádající strana, nebo spolu s Druhou stranou" (Appendix 5, p. 13).

In addition, another such term is "**written instrument**" (Appendix 5, p. 10) which has been translated as "písemný dokument". Even though the Czech equivalent for English "instrument" is "nástroj" translation as "písemného nástroje" as the original meaning of "instrument" suggests would not be appropriate.

8.2 Translation of the Specific Terms

As every style has its specific terms we have found plenty of them in the ST which are typical for legal language and in particular for the Shareholders Agreement. Various specialised dictionaries often suggest their adequate equivalents in the TL but as proven during translation process, this suggestion was not sufficient because the context and linguistic knowledge led us often to very different decision.

[Example 24] ". . . any increase or decrease in the **Company's share**;" - ". . . jakékoliv zvýšení či snížení **podílu Společnosti**;" (Appendix 5, p. 8)

[Example 25] ". . . principal Shareholders' aggregate percentage **ownership**" – ". . . souhrnnému percentuálnímu podílu Hlavních akcionářů" (Appendix 5, p. 5)

[Example 26] "ownership of Shares" – "Akciový podíl" (Appendix 5, p. 2)

The first term is the key one in the ST "**share**" in contrast to another semantically synonymous one "**ownership**". The semantic meaning of the word "share" is equivalent to the Czech "podíl" or "sdílet". In this context, however, pragmatic knowledge of the Czech and English legal environment must prevail because the equivalent for the word "share" in specialised business and legal language is "akcie". Although in some sentences it has been translated as "podíl" as in the [Example 24], it is mostly in the TT "akcie". As opposed to that, "ownership" is generally translated as "vlastnictví" but in this context we were led to only possible translation - "podíl". It was not only once but in two occurrences in the [Example 25 and 26].

Another business term occurring in the ST several times is "**General Meeting**". It is interesting to point out semantic differences between it and its Czech equivalent "Valná hromada". English, compared to Czech, has very different approach in this situation. In Czech there is a different expression almost for every phenomenon and so is even truer in the specialised business or legal style. On the word "meeting" we can see polysemantic tendency of English. English tends to use the word "to meet" or "meeting" in many situations and it does not matter whether it is in business environment or if it is just "a meeting of people". *The Free Dictionary* offers explanation of the term "Shareholders Meeting" in its financial part: "any meeting in which the shareholders of a publicly-traded company discuss and vote on matters pertaining to the company."[87] In comparison with that, the Czech expression used always in this context is "valná hromada" and such term is not used just in the colloquial style or in the common language. The approach used here is that "hromada" in back-translation actually means "a heap of something," which is on one hand semantically something similar

[87] "The Free Dictionary," accessed August, 10, 2011, http://financial-dictionary.thefreedictionary.com/Shareholder.

because a “heap” means “grouping of something” like in case of “meeting”. On the other hand, we can agree that if the translator would not be familiar with the specific expressions used in every style and would like to translate this term literary from Czech into English the resulting translation as the “heap” would be completely awkward. What is more, this term is repeated in the ST in one paragraph even several times as only “meeting” without the attribute “General”. In such case the translator should all the time bear in mind that it cannot be translated simply as “schůze” or “setkání” but the Czech equivalent is each time “valná hromada,” no matter how many times it occurs.

Seemingly even simpler (than the previous one) and unambiguous term “**directors**” led us to long decision-making process. In general, it would be translated as “ředitelé” or “vedení”. Nevertheless, we cannot forget to consider “directors” in the context of “the Board of Directors.” According to the Czech applicable law the Czech equivalent of English “Board of Directors” is “představenstvo” and this term carries in business or legal environment entirely the same meaning, which is completely unambiguous as in the case of the previous term “General Meeting”. Thanks to awareness of the context and proper analysis of the ST we can deduce that the “directors” are actually “členové představenstva” and not “ředitelé”. Although it could be disputable, the article 3 of the agreement explains this decision: “The Board shall be comprised of three (3) **Directors**” – “Představenstvo se musí skládat ze tří (3) **členů představenstva**” (Appendix 5, p. 5). In the Czech legal and business terminology “představenstvo” (“the Board”) consits of “členů představenstva” (“Directors”) and not of “ředitelů”. This once again proves the troublesome aspect of legal translation. From one perspective legal or specialised language seems to be in its lexicological features very incomprehensive for a general reader. On the other hand, it is, however, highly probable that such reader or a translator who does not analyse properly the legal text and all the relations inside as well as outside the text would be tempted to translate “directors” as “ředitelé” for the sole reason that it simply looks so simple.

Another phenomenon essential to discuss in this point is the translation of “**shall**”. It has been already analysed as one of the typical facets of legal documents and it may evoke an impression that due to tendency to avoid any misunderstanding and since the terms above are translated every time in the ST in the same way that it should be like that

in case of "shall". Nevertheless, it is other way round. During translation we noticed that as Knittlová stresses "shall" expresses the result of legal decision.[88] It is, of course, true but it may be in the sense of obligation – that a subject "is obliged to take a legal action" – but also that it is "entitled" or "have a right" in a legal action. Therefore, the translation was not only "musí" or "je povinnen" but also "je oprávněn". This is probably the most substantial difference between the usage of "shall" in the context of the SL – English – and the TL – Czech in legal contracts.

8.3 Translation of Preposition-like Words – Hereof, Thereafter, Hereto, Herein, Thereby

In the ST we have already analysed preposition-like words which are one of the key indicators of the legal style and do not occur in any other style. It is even more interesting that in other languages such as Czech there are not any equivalents or similar terms that could substitute them and would work on the level of functional equivalence. During translation we noticed that each of these expressions does not have in translation just one and the same equivalent in the whole text because such translation would very clumsy and did not carry any meaning in the TL. Another finding for the translation purposes, therefore, was that these referential expressions purely rely on the context of the whole utterance and a previous sentence sor or nother sections in the agreement.

Beginning with "**hereof**" which occurs in the ST the most, according to morphological aspect of this expression and the theoretical part of the present study it should refer to the actual part/article/section of the contract and "of" is, as mentioned above, the indicator of the second case. Chromá proposes the Czech equivalent "tohoto (dokumentu)"[89]. The help of this dictionary, however, is not sufficient and in our translation it is almost in every case a different expression. On the other hand, we can find

[88] see Knittlová, 131.

[89] see Chromá, 152.

some similar semantic properties of this expression in English and Czech from which we can deduce how to translate "hereof" into Czech. It is in a situation when "hereof" refers to a section. This can be evident from the following excerpts:

[Example 27] "pursuant to Section 3.2 **hereof**" – "podle odstavce 3.2 **výše**" (Appendix 5, p. 5 – 6)

[Example 28] "Except as otherwise provided in Section 4.2 **hereof**" **–** "Kromě ustanovení v odstavci 4.2 **níže**" (Appendix 5, p. 7)

[Example 29] "with Article 5 **hereof**" – "ve **výše uvedeném** článku 5" (Appendix 5, p. 11)

According to our suggested translation it is evident that "hereof" in this position [Example 27 – 29] refers to some information mentioned above or below. The most surprising element is, however, that in Czech it is not equivalent to either "výše" or "níže," as the English morphological prefix "here-" would suggest, but it is equivalent to both of these expressions. Although "výše" and "níže" are in Czech opposites, "hereof" can be in such position translated by both "výše" and "níže". It is according to the context and in particular whether it refers to a previous part or a part that will follow. Nevertheless, "hereof" has also occurred in the position in which it refers to the provisions of this agreement:

[Example 30] ". . . shall give full effect to all provisions **hereof**." (Appendix 5, p. 13)

[Example 31] ". . . agreeing to be bound by the provisions **hereof**." (Appendix 5, p. 8)

[Example 32] "The Board shall be comprised of three (3) Directors effective as of the date **hereof**." (Appendix 5, p. 5)

Translation as "výše" or "níže" was not possible in Examples [Examples 30, 31, 32] and probably the most generalizing Czech equivalent "tímto" would not contribute to the

coherence of the text, either. When analysing semantic properties of "hereof" in this context, we can assume that it refers not to "this" (paragraph/article/section) but rather to "this agreement". For this reason we have finally decided to choose the Czech contextual equivalent "tato smlouva":

[Example 33] ". . . jsou také povinni do plné míry vykonat všechna **ustanovení této Smlouvy**." (Appendix 5, p. 13)

[Example 34] ". . . že bude vázán na ustanovení **této smlouvy**." (Appendix 5, p. 8)

[Example 35] "Představenstvo se musí skládat ze tří (3) **Členů představenstva pravomocných k datu platnosti této smlouvy**." (Appendix 5, p. 5)

Furthermore, another preposition-like word is "**thereafter**". Its translation was not as complicated as the previous one because it refers not that much to information earlier or later mentioned in the text but to an action in future as we could deduce from the study of the occurrence of this expression. That is the reason why the most suitable translation procedure seemed to be to find an equivalent in the form of an expression of time:

[Example 36] "**Thereafter** the number of Directors may be increased or decreased . . ." – "**Poté** může být počet Členů představenstva zvýšen nebo snížen podle Organizačních dokumentů..." (Appendix 5, p. 5)

[Example 37] "**Thereafter**, at any General Shareholders Meeting, (i) each of the Principal Shareholders shall collectively have the right. . ." – "**Poté** má na každé Všeobecné valné hromadě (i) každý Hlavní akcionář obecně právo . . ." (Appendix 5, p. 5)

From the first sight, "**hereto**" did not seem to be problematic in most cases since it could be equivalent to "by this". Chromá also proposes similar meaning which is "to this (document)" [90]. The following examples [Example 38 and 39] illustrate it:

[Example 38] "The parties **hereto** desire . . ." (Appendix 5, p. 2)

[Example 39] "In witness whereof, the parties **hereto** have signed this Shareholders Agreement . . ." (Appendix 5, p. 13)

The suggestion for the translation was: "Smluvní strany tímto projevují zájem . . ." for the [Example 38] and "V souladu s tímto, smluvní strany tímto podepisují tuto akcionářskou smlouvu . . ." for the [Example 39]. It had to be, however, reconsiderated. The reason is that meaning of "hereto" in such position is rather ambiguous and after more detailed analysis, it seemed it could refer not that much to the whole agreement but rather to the parties. That is the reason for the final translation in both cases: "Uvedené smluvní strany . . ." This can be even more supported by the fact that legal language has tendency to post-modification, as described in the theoretical part, which means that "hereto" could have a function of an adjective post-modifying the expression "parties". The clue for this speculation was "hereto" occurring in a different sentence in a position that was clear and unambigous: "the entire agreement among the parties **hereto** . . ." (Appendix 5, p. 11). From this sentence it is clearly evident that "hereto" cannot be translated as "tímto" but it is bound to and it modifies "parties". From this deduction and after evaluation we eventually decided to change the translation of "hereto" from the first sight clear "tímto" to "**uvedené** smluvní strany".

As regards "**herein**", it is a different expression than "hereto" but it actually carries the meaning of "tímto" originally proposed for the translation of "hereto". After consultation with the Czech legal expert, the proposition "tímto" shifted to "zde": ". . . the Other Party shall, upon receipt of the Arbitration Request, be obligated to refer such dispute to arbitration proceedings as set out **herein**." – ". . . Druhá strana je povinna po

[90] see Chromá, 152.

obdržení **takového** Požadavku na arbitráž odkázat tento spor smírčímu **řízení**, jak je **zde** ustanoveno." (Appendix 5, p. 12).

In some other cases we did not only used generalisation and substituted an expression by a hyperonymy but the most suitable translation seemed to be compensation which meant to express the meaning of a term in a different position in the sentence. The example is "**thereby**" in: "to fill the vacancy **thereby** created". (Appendix 5, p. 6) Beginning the analysis with "vacancy," it means "prázdné místo" in Czech. It is not, however, skilful and coherent to decide for the word for word translation as would be: "aby se vyplnilo prázdné místo tímto vytvořené." More suitable is to omit "created" in the TT and compensate it with a different word in a different part of speech on a different place in the clause. Since "thereby" carries a lot of informational load, it is able to substitute "created" in the Czech translation when it is also restructuralised and placed in a different position. For more fluency and coherence of the TT and cohesion in the reference to the previous sentence, probably the best solution seemed to be to add "tak" to form the clause: ". . . aby se **tak** vyplnilo uvolněné místo" (Appendix 5, p. 6).

The most distinctive example of very frequent usage of these preposition-like words are the following sentences (from the ST and the TT):

[Example 40] "This Agreement (including Schedule A attached hereto) constitutes the entire agreement among the parties **hereto** in respect of the matters contained **herein** and **therein**, and supersedes all prior oral or written agreements and understandings between the parties **hereto** with respect to the subject matter **hereof**."

- "Tato Smlouva (spolu s připojeným Dodatkem A) tvoří kompletní smlouvu mezi smluvními stranami zde uvedenými ve výše a níže uvedených záležitostech a nahrazuje veškeré předchozí ústní či písemné dohody a srozumění mezi uvedenými smluvními stranami ve zde uvedených záležitostech." (Appendix 5, p. 12)

Firstly, the position of “hereto” that is in this sentence explanatory for its occurrence in other sentences has been already explained. Regarding “herein” and “therein,” their morphological properties “here” and “there” suggest that the best solution would be to translate them as “níže” and “výše”. Last but not the least, “hereof” is the most freely translated expression without any pattern as “zde uvedené”.

To summarize the translation of these preposition-like words, we can conclude from all their occurrences that it is often a very demanding task to understand and deduce their meaning. Even a specialised dictionary is in this case just a little hint. Without linguistic knowledge and analysis such translation would be probably non-understandable and clumsy. Paradoxically, in spite of the fact that these preposition-like words are in English very stiff and archaic, in Czech they must be translated in a very liberated manner depending purely on the context and its semantic meaning within a given clause, sentence or the whole paragraph.

8.4 Number - Translation of Singular and Plural Nouns

The word “**number**” ranks among one of the basic in the English vocabulary. Thanks to the polysemantic tendency in English “number” also carries various meanings, which also leads to plentiful translations in different languages. In the ST it was, however, translated as “počet” each time when it occurred as in “number of directors,” “number of shares,” etc.

We, however, not only focused on the word “number” itself but we also observed differences in translation of singular and plural word forms. Due to such difference between English and Czech, the nouns in plural are often translated into singular form and vice versa. The idea of countability is also according to Baker an issue in translation in attitude to number in different languages.[91] This phenomenon also manifested during our translation process. It was, for example, with the translation of “**meanings**” (Appendix 5,

[91] see Baker, 87.

p. 3) which despite not being very typical English form in plural would not sound natural in Czech in plural form and thus more appropriate translation is singular form "význam". Moreover, the similar situation was with the plural form "**laws**" in the following clause: "the substantive (not the conflicts) **laws** of the State of New York . . ." (Appendix 5, p. 13). "Law" is a term that has equivalent in Czech "právo" but, apart from that, it can have also slightly different meaning as, for instance, Vystrčilová proposes. The Czech equivalent to "generally binding local law" is according to her "obecně závazná vyhláška" [92]. In our case the meaning was clearly "právo" but we had to translate it from the plural English form into the singular Czech form: "nezávislé hmotné (nikoliv konfliktní) **právo** státu New York" (Appendix 5, p. 13).

Another occurrence of this phenomenon is in "Amendment, Modification . . ." (Appendix 5, p. 10). Both words have different equivalents. "Amendment" is in legal terminology often connected with law, acts and in Czech means "Novela zákona". We had to rely on the context and translated it as "Dodatky, změny . . ." (Appendix 5, p. 11). In the context of the ST and the respective paragraph in the ST "Amendment" does not concern amendment of law, acts established by government or a legal authority but just "amendment of the agreement (the ST)". Moreover, a singular form "dodatek," or "změna" would not fit to the context because the paragraph does not deal just with one "dodatek," or "změna".

In addition, another problematic word which could be seemingly an easy one was "communications". The general meaning of "**communication**" which is also in English usually in singular form is not definitely "korespondence" but it has semantic meaning of "speak to somebody". According to the context, however, we deduced that it deals with not spoken communication but with the written one as visible on the following clause: "All notices and **communications** required to be given under this Agreement . . ." (Appendix 5, p. 10). Therefore, also after discussion with the Czech legal expert who also supported this idea the most suitable Czech equivalent in this context is "korespondence".

Different approach of Czech and English to the usage of plural and singular form can be demonstrated also on the translation of "**proceedings**" in ". . . the language of such

[92] see Renata Vystrčilová, *English for Specific Purposes for Administrators* (Olomouc: Hanex, 2006), 13.

proceedings . . .” (Appendix 5, p. 13). It has been translated into singular form “postup“ and the reason is that the Czech form “postup” semantically already includes the whole trial procedure and all actions that need to be taken and that is why it does require a plural form, as opposed to the English “proceedings”. The same is true about “**written reasons**” (Appendix 5, p. 13) which has been translated as “písemné odůvodnění” and not literally as “písemné důvody” because, despite its grammatical correctness, it would be stylistically rather clumsy.

8.5 Repetition

Generally in translation it is recommended to substitute the terms which occur several times with different ones. A typical example is the translation of “He said” in the translation of fiction which should be substituted by different words in Czech in order to avoid repetition and have the text more readable, thrilling and artistic and in particular to express Czech verbal tendency and focus on verbs which is contrary to the English nominal tendency. Therefore, “he said” is substituted by words such as “poznamenal, vyprávěl, and even “zeptal se” as also Knittlová proposes.[93]

Nevertheless, in the legal translation the focus is more on unambiguity and precision of words than on the stylistic aspect and smoothness of the text and therefore the trend is to repeat the words even several times although stylistically in a different style this would be inappropriate. It can be demonstrated on the example of the main subjects in the contract which have been discussed already several times. They are “parties” which are no matter how often they occur always “smluvní strany”. Apart from this, “the Board” has to be each time “Představenstvo” and “Shareholder” is always “Akcionář” and cannot be altered because otherwise this could lead to problems with interpretation of the agreement and subsequent legal disputes.

[93] see Knittlová, 49.

On the syntactical level there are several structures that are repeated several times and such tendency must be preserved in the TT as well. We can, therefore, observe in the ST the tendency of legal language to repeat such structures for the purpose of memorising the information and highlighting it. It is, for instance, in: "'First Stage Investment' **means**," "'Public Offering' **means**," or "'Second Stage Investment' **means**" (Appendix 5, p. 3 – 4). It was several more times repeated and it is not altered by any other synonymy. That is the reason why this tendency must be preserved in the translation as: "znamená". There were, however, some other cases which did not follow this pattern of repetition and we decided for different translation:

[Example 41] "'Board' **means** the board of directors of the Company." – "'**Představenstvo**' **označuje** představenstvo společnosti." (Appendix 5, p. 3)

[Example 42] "'Directors' **means** the duly elected directors of the Company." – "'Členové představenstva' **označuje** náležitě zvolené členy představenstva Společnosti." (Appendix 5, p. 3)

[Example 43] "'Founding Shareholders' **means** the Initial Shareholders and each other Shareholder." – "'Zakládající akcionáři' **označuje** Původní akcionáře a všechny další Akcionáře." (Appendix 5, p. 3)

[Example 44] "'General Shareholders Meeting' **means** an ordinary or extraordinary general meeting of the shareholders of the Company." – "'Všobecná valná hromada' **označuje** všeobecnou nebo mimořádnou valnou hromadu akcionářů Společnosti." (Appendix 5, p. 3)

[Example 45] "'Shareholders' **means** any holder from time to time of any Shares" – "'Akcionáři' **označuje** pro určité období všechny držitele těch Akcií . . ." (Appendix 5, p. 4)

The reason for such decision is that English does not distinguish whether the verb "means" is in the clause a predicate for an animate or inanimate being or a thing or what case follows it. In Czech, however, it is more natural to substitute (in case of an animate being) "znamená" with "označuje" because "označuje" can be followed by the Czech morphological category of the 4th case. Regarding the usage of "označuje" instead of "znamená", in case of [Example 41] and [Example 44] this statement may be questioned due to the fact that it is not an animate being. On the other hand, semantically "Board" and "Shareholders Meeting" is actually a collection or grouping of animate beings – people.

Furthermore, repetition also manifested in: "The Board **can validly deliberate** and take action only at a meeting at which . . ." and in "The General Shareholders Meeting **can validly deliberate** and take action only at a meeting at which . . ." (Appendix 5, p. 6 – 7). This pattern of repetition was in the TT entirely preserved without any reasons for searching for any substitution.

8.6 Extension X Reduction

Differences between English (the SL) and Czech (the TL) manifested in particular on the nominal level as already mentioned in the previous parts. Since English, compared to Czech, tends to use more nominals, compressed clauses, participles, etc. and as Czech, on the other hand, tends to create clauses always with a verb, such tendency manifested in the translation also in the form that we had to frequently add or, as opposed to that, reduce an expression from a phrase or sentence as also Knittlová suggests.[94]

The first example of English nominality is on the following ST sentence and its translation:

[Example 46] "'Public Offering' means (. . .) **a registration by the Company of the Shares** on a recognized securities exchange..."

[94] see Knittlová, 42.

- "'Veřejná nabídka' znamená (. . .), **že Společnost nabídne Akcie** na uznávaném trhu cenných papírů..." (Appendix 5, p. 3 – 4)

Although as discussed above in the legal style more nominal and condensed utterances are used even in Czech, literal translation such as: "Veřejná nabídka znamená registraci společnosti akcií na . . ." would not be both coherent and understandable because when in Czech we say "znamená" it is more natural when it is followed by a clause and not just by a nominal.

Similar situation when an expression needed to be added in the translation is the following excerpt from a sentence: "(whether **nominated by** the Principal Shareholders or the other Shareholders)" – "(**nezáleží na tom, zda je jmenují** Hlavní akcionáři nebo ostatní Akcionáři)" (Appendix 5, p. 5 – 6). In this case the English clause is actually not only a semi-clause but it is also a condensed form of the passive structure "whether they are nominated by . . ." We replaced the passive verb with the Czech verb in the active form. Apart from that, the semi-clause had to be restructured to follow the appropriate Czech word order and the pronoun "je" had to be added to it although it is not necessary in the English version.

Extension manifested especially in the form of addition of a noun or a noun phrase. It is for instance in: "**except** where the context otherwise requires" – "**s vyjímkou situací**, kdy to vyžaduje kontext jinak" (Appendix 5, p. 3). It is not possible just to use in Czech "s vyjímkou, kdy to vyžaduje kontext jinak" because the time clause cannot directly follow "s vyjímkou" and "s vyjímkou" is bound in Czech to a noun in the second case – "situací".

"**Capitalization** of the Company" (Appendix 5, p. 3 – 4) is another example of English nominality in the ST. In Czech there is not a term such as "kapitalizování" that would be translated literary and from the context it is also clear that this term deals with initial phase of creation of the company. For this reason the appropriate translation seems to be "**tvoření kapitálu** Společnosti".

We have already discussed translation of "Shares" as "akcie" as a term in this style. During translation of "voting their Shares" (Appendix 5, p. 4) it had to be, however, reconsidered from a different perspective. Of course, in most cases it is "akcie" but in this phrase we cannot say "hlasovat akcie". It is necessary to, firstly, understand the meaning of

the phrase, find an equivalent in Czech and re-modify it. Therefore, again a very nominal English phrase had to be in Czech if not verbalised (which in this clause would not work) but extended and "akcie" exchanged for "podíl" = "hlasování podle svého podílu" (Appendix 5, p. 4).

There were also several terms that are used in English as one word but in Czech should be extended. This has gradually created in the Czech legal terminology a set phrase. It is first of all true about one of the key words of our ST "**parties**" discussed in the ST analysis. English does not need an explanatory adjective to explain what kind of parties it is – whether "a political party" or simply "an event". In Czech we need these explanatory adjectives otherwise just "strany" would not have any meaning in the legal text. In the political language it would be "politické strany" and in the legal language it is extended to the final translation "smluvní strany."

"Miscellaneous" (Appendix 5, p. 10) as a separate title of one article of the contract (the ST) is another manifestation of this phenomenon. It is a separate adjective without a following noun which is rather unusual in English. When seeking an equivalent in Czech the translation can be "různý/á" but it is not so common in Czech that an adjective would stay on its own without a following noun, in particular as a title of a contractual article. Legal section of *The Free Dictionary* also offers explanation of this term as an adjective "various" or "diverse," or "of various kinds"[95]. It has to be, therefore, extended with the usage of a noun to form an appropriate Czech title of a legal article. The dictionaries do not offer a proper two-word translation in a form of a noun phrase which seems to suggest that there is not still a set phrase in Czech for English "miscellaneous". The proper equivalent used in such position would be "různá ustanovení" and therefore we decided for such translation.

According to findings above we can see that extension as a translational operation has occurred frequently. Due to the differences between the SL and TL, we may presume that **reduction** would be as the opposite translational operation also frequent in the translation of the ST. English is also known to be the analytical language and therefore some expressions are redundant in the Czech translation. Reduction, of course, occurred several times but, on

[95] "The Free Dictionary," accessed August, 10, 2011, dictionary.thefreedictionary.com/miscellaneous.

the other hand, we could observe that, compared to extension, it was rather rare phenomenon. When reduction occurred it was in particular on the syntactical level where wordiness of English legal clauses had to be reduced into understandable Czech clauses which would not sound awkward. This is probably best illustrated and most evident on the following clause:

[Example 47] "shall **be deemed to** have been duly given" - "musí být (. . .) řádně doručeny" (Appendix 5, p. 10).

We translated it simply as "musí být (. . .) řádně doručeny". There is no need to translate "be deemed to" (which has been already discussed in the ST analysis) in the form of one more word added to the utterance because "musí být" already carries the meaning of it.

It is similar case with the following clause: "required to be given under this Agreement" (Appendix 5, p. 10) which has been translated just as "vyžadované touto smlouvou". We can point out semantic properties of "give" which cannot be translated in its original meaning "dát" but, according to this context, in the [Example 47] it was "doručeny". In this situation it does not need to be translated since "doručeny" is already redundant in the clause.

The last occurrence of this phenomenon is "Shareholders shall cause a General Shareholders Meeting to be called" (Appendix 5, p. 6). We have already discussed frequent usage of "cause" in the ST which is not always needed to be translated. That is why we have decided to omit it as our proposed translation is: "jsou Akcionáři povinni **svolat** Všeobecnou valnou hromadu," which already carries full appropriate meaning without any possibility of misinterpretation which has been also proven by our Czech legal specialist.

As regards the lexical level, we have come across even less reductions than on the morpho-syntactical level. The most evident and known is "terms and conditions of the agreement" which is "podmínky smlouvy". Both English expressions "terms" and "conditions" have semantically the same meaning but in legal terms need to be in the contract both. Nevertheless, in Czech we do not distinguish them and one Czech expression "podmínky" is able to describe both English ones. It is the same with "shareholders agreement **by and among**" (Appendix 5, p. 1) studied already in the ST analysis. Although both "by" and "among" have different meaning and in the ST have to be preserved, we cannot translate them both as "akcionářská smlouva uskutečněná (kým) a mezi . . ." because

in Czech “mezi” already includes meaning of “by” and translation of it would not be correct on the stylistic level.

8.7 Other Translational Operations

As the SL and the TL differs so much on a lot of levels, we had to often **substitute** information from the ST with something that would pragmatically suit the Czech legal environment and would make the text more coherent. It occurred especially on the textual level and it is evident on the following example: “the transferring Shareholder” (Appendix 5, p. 9) which occurred in one paragraph four times. It was later substituted by the word “tento” and “tímto” in the TT. These two expressions are an appropriate cohesive device in Czech that refers to already known information. It was used several other times as, for instance, in: “on which **the transferring Shareholder** is willing to transfer such Shares.” - “za nichž je **tento akcionář** ochoten takové Akcie převést” (Appendix 5, p. 9). It can, without any problems of legal misinterpretation, substitute “transferring Shareholder” that preferably will not be repeated so many times.

It is similar case with the following excerpt:

[Example 48] “(XXX, YYY, and ZZZ being referred to herein collectively as the ‘Initial Shareholders’)” – “(**kteří** jsou obecně označeni jako ‘Původní akcionáři’)” (Appendix 5, p. 2)

We have already discussed that the names and description of the parties are very significant for the legal contract and should not be substituted by other expressions. In the [Example 48], however, the substitution can be used. “XXX, YYY and ZZZ” are described explicitly enough in the previous clause and this excerpt is still continuation of the previous clause. That is the reason why we decided for the substitution with “kteří” which without any problems involve all three subjects of the contract (XXX, YYY and ZZZ) and also according to the legal expert in no way leads to incorrect legal interpretation of this part of the contract.

It was not also necessary to translate literally "cease to be a Director" in the following sentence but to substitute it by a different word:

[Example 49] "In the event that a Director appointed pursuant to this Section 3.3 shall cease to be a Director for any reason . . ." – "Pokud Členu představenstva, **jmenovanému** podle tohoto odstavce 3.3, z jakéhokoliv důvodu **zanikne funkce**. . ." (Appendix 5, p. 6)

"**Zanikne funkce**" in Czech is the exact equivalent which corresponds to English "cease to be Director" even though "director" is not preserved in the translation. It is very similar to the following sentence: "shall cause a General Shareholders Meeting to be called as soon as **reasonably** possible." – jsou akcionáři povinni svolat všeobecnou valnou hromadu v **nejbližší možné době**." (Appendix 5, p. 6). "Reasonably" has almost the same meaning as "možně" in Czech but actually the basic meaning of it is "rozumně". It would sound awkward in Czech and therefore "nejbližší možná doba" as Czech collocation in this situation seemed as the best translational solution.

Substitution of a noun with a pronoun was probably the most frequent. The following example best illustrates this phenomenon: "a merger or consolidation of the Company with or into another corporation or entity that is not an **Affiliate of the Company**" – "fúze či konsolidace Společnosti s jinou korporací či subjektem nebo do jiné korporace či subjektu, který není **její Přidruženou společností**" (Appendix 5, p. 9).

Apart from substitution of the words we had to focus on whole clauses. Some of them had to be not only substituted by also the whole perspective had to be transformed – from negative point of view into the positive one or vice versa – that is also typical for translation from English into Czech or from Czech into English. The need for this translational operation is evident on the following examples from the ST and the TT:

[Example 50] "unless it first offers the Shares to be **sold** . . ." – "pokud však nejprve své Akcie nenabídne **k odkupu** . . ." (Appendix 5, p. 9)

[Example 51] "This Agreement **may not** be amended or modified except by a **written instrument** signed by the Shareholders." - "Tato smlouva **smí** být

upravena či pozměněna **pouze** písemnými dodatky podepsanými Akcionáři." (Appendix 5, p. 10 – 11)

Regarding the [Example 50], even though the Czech equivalent of "sell" is "prodat" we decided to change the perspective with the usage of the Czech antonym "odkoupit". The reason is that it better collocates with "nabídnout" because once again despite grammatical correctness of "prodat," "nabídnout k odkupu" is stylistically more appropriate than "nabídnout k prodeji". Furthermore, in this utterance there was also shift of part of speech – the English verb "sold" converted into the Czech noun "odkup". In the [Example 51] we also decided to change the perspective but from the negative English sentence into the positive one in Czech. The reason is that "smí" better connects both parts of the sentence and "nesmí" would not tie the whole sentence together.

8.8 Problematic Translation, the Most Difficult Parts

Some expressions, phrases and longer parts in the ST were ambiguous or had more possibilities for translation which was not clear from the context as it was in many cases already discussed. Therefore, after the analysis and usage of dictionaries which was, of course, helpful but not in all cases, we were seeking appropriate equivalents with the help of the Czech legal expert and together decided on the proper translational solution.

The first one is the translation of "**outstanding shares**". According to Chromá "outstanding" is something that "is not paid" or in Czech means "nesplacený" [96]. The Czech equivalent is "akcie v oběhu" but also "nesplacené akcie". In legal context, however, both terms do not carry exactly the same meaning (in comparison with a plain business document). The suggestion for translation manifested after discussion with the Czech legal expert who had to interpret it according to the applicable law and the solution therefore was "akcie v oběhu" because it stresses the fact that shares "are already emitted". This situation was

[96] Chromá, 210.

complicated because despite such decision, both terms are legally appropriate but they must be also legally interpreted in the given context.

Other terms that needed legal analysis were "**amalgamation**" which occurred along with two other business terms in: "consolidation, amalgamation or merger of the Company with or into any other company or entity" (Appendix 5, p. 7). All three terms have very close meaning and "amalgamation" and "merger" are in Czech practically the same – "sloučení"[97]. In legal terms, however, we cannot simply choose one of the possibilities which a dictionary offers. The expert finally suggested the equivalent "sloučení" since "konsolidace, sloučení a fúze" are the three possibilities of the winding-up of the public limited corporation in the Czech commercial law which is also supported by Commercial Code. The same situation was with "**winding up**" which occurred with other three expressions in "taking or instituting any proceeding for the winding up, reorganization or dissolution of the Company" (Appendix 5, p. 7). "Winding up" carries the same meaning as "cancellation". The legal advice of the expert and the Czech Commercial Code was more complex because our legal system distinguishes between "cancellation of the company with liquidation and without it". Eventually, the expert proposed "transformace" because according to legal practice, this is the most practical and unambiguous expression and in such way we can avoid legal disputes with misinterpretation of the translation. What is more, this is the exact order in the process of cancellation of the public limited corporation. Therefore, the final translation is the following one: "**přijetí** či zavedení jakéhokoliv opatření pro **transformaci**, reorganizaci či **zrušení** Společnosti" (Appendix 5, p. 7).

The discussion also concerned "**lock-up period**" (Appendix 5, p. 8) which does not have any equivalent in the dictionary. The expert, however, appreciated our suggestion as "období zmrazení kapitálu" which corresponds to the Czech law (even though this term does not officially exist in the Czech Commercial Code) since it semantically as well as legally covers the scope of the agreement. This was also in case of "**Covered Shares**" (Appendix 5, p. 8). According to the expert´s explanation, there is not any equivalent in the

[97] Chromá, 28.

Czech Commercial Code any more but he suggested the previous term that used to be used in the Czech law – "zajištěné akcie" – because it still covers the meaning of "Covered Shares".

Another problematic and archaic term or a preposition-like word was "**notwithstanding**" studied in the ST analysis. According to Chromá, the Czech equivalent is "přes/nehledě na"[98]. Such explanation is not, however, enough because this translation would be awkward and entirely non-understandable. Thanks to the morphological analysis in the previous part, we could get a direction in which to approach the translation of this expression as the meaning is that "something is not against something else" in "**Notwithstanding** anything to the contrary in Section 7.1, this Agreement shall in any event terminate with respect to any Shareholder . . ." (Appendix 5, p. 10). Translation according to the dictionary as: "Přes/nehledě na něco proti odstavci 7.1.," gives us a hint for the translation but it is not definitely the final appropriate translational equivalent. The final solution is to use reduction and simply translate it as: "Není-li nic v rozporu s odstavcem 7.1 . . ." (Appendix 5, p. 10). The reason is that according to the clause that follows it this clause (the first one in the whole sentence) must be conditional.

The time expression "**from time to time**" seemed to be easy for translation but, as the ST analysis has already uncovered, it was other way round. We have analysed the following occurrences:

[Example 52] ". . . together with issued and outstanding shares as may exist **from time to time**, the 'Shares'." - ". . . spolu s dalšími vydanými akciemi a akciemi v oběhu, které se mohou objevit, označeny jako 'Akcie'."
(Appendix 5, p. 2)

[Example 53] "'Shareholders' means any holder **from time to time** of any Shares" – "'Akcionáři' označuje **pro určité období** všechny držitele těch Akcií . . ."
(Appendix 5, p. 4)

[98] Chromá, 206.

[Example 54] "'Shares' means the issued and outstanding shares of the Company **from time to time**" – "'Akcie' znamená vydané akcie a akcie v oběhu Společnosti **v určitém období**" (Appendix 5, p. 4)

[Example 55] ". . . as any of the parties hereto shall **from time to time** specify." – ". . . kterou může každá smluvní strana **průběžně** specifikovat." (Appendix 5, p. 10)

It is not possible to translate this expression in this specialised legal discourse simply as "čas od času" or "občas". The legal dictionary does not suggest any proper legal equivalent, either. According to the meaning of these clauses, the possible translation is "v určitém období" [Example 54] or "pro určité období" [Example 53]. One translational option was also to omit the translation since the utterance would not lose its meaning and we decided for it in the first case [Example 52]. The reason to drop "from time to time" is that we chose the Czech expression "objevit" which is better solution than just "existovat" and it also already carries in its form meaning of "from time to time" unlike the English "exist". In the final case [Example 55] we decided for "průběžně" although its basic denotative meaning slightly differs from "from time to time". Nevertheless, according to the contex, the sense of the expression has been in "průběžně" preserved.

Focusing on other legal interpretation, the following clause was problematic not from the linguistic point of view but from the legal one: "Each of the Principal Shareholders shall **collectively** have the right to nominate two (2) Directors" (Appendix 5, p. 5). The agreement comprises rights and obligations of the shareholders and they need to know exactly what their rights and obligations are. In this clause it is not clear whether "each principal shareholder can nominate two Directors" or (owing to the word "collectively") "all principal shareholders together can nominate two Directors". Of course, the word "collectively" suggests the second option but in Czech the statement: "Každý **hlavní akcionář má společně? právo** nominovat dva (2) členy představenstva" sounds rather ambiguous and even incoherent from the linguistic point of view. The discussion took long time and the legal expert even suggested that he would in this case object about non-validity of the agreement because this sentence is ambiguous. We had to analyse the rest of the agreement to reach the conclusion. Eventually, the legal advice was in favour of

the meaning of the contract in the Czech legal environment and therefore he suggested to translate "collectively" as "obecně". The clue that finally supported this idea was in a very different section: "offer, sell, transfer, assign, pledge or otherwise dispose of (**collectively** 'transfer') its Shares" (Appendix 5, p. 8), which has been translated as "nabídnout, prodat, převést, pověřit, přislíbit či jinak disponovat (obecně 'převést') se svými akciemi".

There was another discussion with interpretation of "First Stage Investment" and "Second Stage Investment" (Appendix 5, p. 3 – 4). Our original suggestion was to translate it as "Původní vklad" and "Další vklad" which would also correspond to the context of the whole agreement. The expert, however, explained that the Czech Commercial Code has a clear and only term for it and it is "První upisování kapitálu" and "Druhé upisování kapitálu" and even though there is "původní vklad" as an inherent part of setting up of every corporation it is given into a company by each owner separately whereas "První upisování kapitálu" and "Druhé upisování kapitálu" are the terms that describe investment of all shareholders collectively.

9 CONCLUSION OF ANALYSIS AND RECOMMENDATION FOR TRANSLATORS OF SPECIALISED LANGUAGE

At the beginning we stated that translation of legal documents ranks among one of the most wide-spread in the specialised style and is not given enough attention. The whole study has proven that it is a very complex matter which definitely requires specialised translators, who are on one hand linguists and are able to analyse the legal documents from the lexical, morphological, syntactical and other perspectives, and are aware of all possible tricky parts which may require longer evaluation and decision-making process. On the other hand, such translators (unless they have also legal education) need to be at least familiar with the law, its development and its relations to other disciplines within the specialised style.

Our goal in the analysis itself was to investigate and highlight typical features of not only legal style but of composing legal contracts, and more importantly to focus on the most troublesome parts of the translation from English into Czech and find out what translators of legal documents should focus on in translation and what typical mistakes they should avoid.

In order to achieve the desired goals we had to firstly analyse the theoretical background of the translation of specialised texts and particularly legal language. The insight into the Czech and British legal environment has shown that these two legal systems are due to cultural, historical and other reasons very opposite despite nowadays trends to globalisation and existence of the European Union which tends to generalise the systems and make them universal for every country. Both interviews with legal experts have proposed the reasons which dwell in the contradictory historical and cultural development which is consequently reflected on the language level. Surprisingly due to this fact, as we have found out, the legal English is gradually simplified and, as opposed to that, in the legal Czech there is current tendency to make the language more complicated. During the research of theoretical studies it has been proven that English legal language was investigated on the linguistic level more profoundly by many scholars compared to legal Czech. That was the reason why we carried out an overview of historical development of legal English and not legal Czech. Moreover, from the historical perspective English legal style was far more distinctive and important for current form of

the language. This fact also indicates English supremacy as the dominant language in the world.

Various typical facets of legal language (English and Czech) and specialised style described by theoreticians have been also indentified in the ST and contrasted with the theoretical background. This finding has supported the fact that knowledge of such facets is inevitable for the legal translators. The distinctive features were always connected with unambiguity and precision which lead to expressions and language structures (phrases, clauses and sentences) that would be otherwise stylistically clumsy in other discourses. Another significant representative of such features was a tendency to post-modification. This awareness also led us to the correct decision during translation which otherwise seemed ambiguous. Moreover, another finding was also connected with passive voice that definitely outnumbered its active counterpart in its occurrence in the ST and also contributed to better understanding of the ST and its later translation. Although it is a typical element also for the Czech legal style (unlike other styles), in translation it still, however, had to be sometimes transformed into active sentences. All these facets have shown that Czech language in the legal style is with its tendencies closer to English than in other styles.

Concluding the ST analysis we can see that this document is also liberalised not with so many old legal Latin or French expressions as it was the goal of Plain English Campaign and thus we can observe the influence of everyday English on it. On the other hand, the archaic highly specialised expressions are still preserved which manifested, for instance, in the form of preposition-like words that are difficult for understanding and need appropriate linguistic analysis. The reason is that, as proven in the analysis, they are used in the SL and the TL in a very different way. Another tricky part was with semantic analysis of business expressions which looked seemingly simple but after closer study it was clear that their usage in legal style substantially differ from their usage in common English. Moreover, although on the lexical level also other complex archaic expressions with great informational load occurred, the most distinctive feature of the legal style was considered to be the long sentences extended on several lines in which it was often difficult to analyse the main syntactical properties.

During the translation process itself general pragmatic knowledge of the business and legal terminology was essential but despite this we had to many times re-evaluate our

decisions. Of course, specialised dictionaries were helpful but surprisingly this translation tool was not only insufficient, as it generally deals only with the lexical level, but it alo provided in most cases very ambiguous solutions which were many times incorrect in the context of the ST. As we could observe in the whole study – both in the theoretical part and in the practical analysis – this seemingly great tool and helper in the translation of the specialised language and of the legal language is often overestimated and cannot be considered to be the key tool for translation. Of course, the legal dictionary by Marta Chromá has been proved to be useful aid but without linguistic knowledge, specialised competence and historical awareness of both language systems (the system of the SL and the TL) the final translation would not be appropriate at all. Furthermore, another rather bewildering phase in the translational process was that some expressions seemed clear and unambiguous from the first sight but, after evaluation and analysis of the rest of the utterance in the ST and the context, the final translational solution was different. The best solution for translation of some terms or phrases sometimes manifested when the term or phrase occurred in a different position in the ST. The most troublesome attribute of English has been therefore in this case proven to be the fact that the used words may seem simple but they have different meaning in different contexts or in different styles and thus different equivalents in the TL (Czech). This was not true only about lexical items but also about, for instance, morphological category of number that as evident from the TT analysis has to be used in Czech often other way round than in English. Our aim was to stick to the ST as much as possible and even though omission (in the form of reduction) or generalisation or, on the other hand, extension as translational operations were not used so often, it was the best solution in several cases. Moreover, as the legal style do not depend only on the lexical, morphological, syntactical, pragmatic and intertextual understanding but, compared to many other styles and as demonstrated in the analysis, legal interpretation is essential although it may often be very distant from what an experienced translator and linguist in would suggest. Therefore, everything even the seemingly simple parts had to be re-evaluated several times with the help of the Czech legal expert.

For all these reasons final recommendation for the translators of such specialised style as legal one is that such translators should always bear in mind that it is a process of constant evaluation and combination of his own knowledge and specialisation in a given specialised field and it is the core feature of legal translation. It means that the legal

translator is bound to rely on his linguistic knowledge with the focus on the profound awareness of the lexical, morphological, syntactical, pragmatic and textual aspects of the ST and the TT combined with historical knowledge of the legal style. In order to be a specialised translator he needs to have philological education despite nowadays trends to oversimplify translation as a process in which knowledge of the vocabulary of the ST is sufficient. Moreover, such well-educated and trained translator can never consider himself to be trained or experienced enough because, since the history and culture of every nation is under constant development (even in seemingly such stiff style as the legal one), translators should always bear this fact in mind and aspire to constantly educate themselves and extend their knowledge in this discipline. In addition, in specialised translation specialised dictionaries as already discussed and as has been proven cannot be used as a substitution for the missing pragmatic knowledge of the translator but only as a very little hint. Finally, the study also led us to the conclusion that legal translators should ask specialists in the given field for advice and even for checking of parts which may seem clear from the first sight. During translation we could observe and reconsider many tendencies which are in other styles different in English and in Czech but in the specialised and in particular the legal style these two languages have in common.

APPENDICES

APPENDIX 1: Interview with an expert on legal language and translation in Great Britain

APPENDIX 2: Interview with an expert on legal language in the Czech Republic

APPENDIX 3: The source text

APPENDIX 4: The target text (translation)

APPENDIX 5: The source and the target text for the analysis

APPENDIX 1: INTERVIEW WITH AN EXPERT ON LEGAL LANGUAGE AND TRANSLATION IN GREAT BRITAIN

What specific qualities and skills should a legal translator according to your experience posses? How does he differ from other translators?

In legal translation there is one real issue and it is to distinguish if we are translators or lawyers. Obviously, we are translators which means that we cannot make legal documents. The problem is that a lawyer could become translator but a translator cannot become lawyer. Concerning, for example, when you translate from English into Czech it is important to translate only into plain Czech. The reason is that translators are not lawyers and therefore are not so much familiar with the law and do not know exactly how the document should look like in the target language. What is more, clients just want to know what the document means. They ask questions such as: "What´s going to happen?" "Will I win?" That is the crucial thing they want to know, therefore it is important to avoid obscure words and add anything to the text. The decision about the type of the text - whether it will be operative or informative – depends on clients who mostly want to have the translation informative. It is always essential to ask the client what he wants and in 99% cases he will want informative text. Of course, there are differences between clients; it can be a university professor or an average person and such person will have different requirements.

What problems do you think could legal translators encounter nowadays?

Every legal translation has the potential of introducing ambiguity (which, of course, lawyers want to avoid at all cost). The risk is greatest when members of the public are involved (because they cannot interprete documents through lack of training). However, solicitors and other legal representatives are not always equipped to understand nuances in other legal systems either. Likewise, poor translations can introduce errors and mistakes - which means that they should always be read sceptically (though lawyers themselves are untrained with regard to how you should read a translation). Another real problem probably is with the fact that every country has different terms for everything. Concerning English environment we – British – have for example the same word for something like Americans but it means something different. It can be seen for example on the term "leasehold". In

England it is a special type of lease which does not exist in the USA. In the USA “lease” means renting and if a translator would look it up in a specialized dictionary he would find probably this explanation. Personally, I suspect (though I have no hard evidence for this) that when companies such as MacDonalds fight expensive and potentially damaging libel cases in the UK (there was an important one some ten years ago) it is because the American legal advisors have not fully understood the implications of the advice (itself perhaps not that credible) of the British legal advisors. There's always a tendency to imagine that a foreign legal system behaves as predictably as your own, especially when the two legal systems are as apparently similar as that of the UK and US. In patent cases - always an unpredictable field - minute interpretations can have huge financial consequences. In a murder trial, such as that of O. J. Simpson's first trial, much of the key evidence was provided by a Spanish maid who said O. J. struck her - though the Spanish term involved did not really differentiate between push, shove, slap or punch. Indeed, the various lawyers involved fought a covert linguistic battle over the interpretation that needed to be given to this evidence. If it hadn't been for the matter of the glove, this might have been sufficient to persuade the jury to convict.

What is new and how does recent development in British environment in translation of legal documents look like?

Probably the most visible change is that we are moving to documents which everybody would understand because everybody actually needs to understand them. Everything is increasingly more and more relaxed and everything has to be exactly explained. It always comes down to what would happen and what to do and the language has changed as well. Of course, the language is more and more simplified which is especially thanks to consumers who need to understand everything. We can nowadays understand far more expressions than 20 years ago. It is due to historical reasons that the legal language had to be so complicated – with very long, complex sentences. Text had to fill up the whole page without any space so that nobody could commit a fraud and write in something. It is not like that anymore because we have different systems how to avoid fraud and therefore the text does not need to be so complicated.

What are the reasons for such development?

It is because of the European Union and also due to the fact that people travel more and more and that is why more and more is happening. In the European Union, for example, documents are usually translated, they are not originally written in different languages of the European Union. It is interesting that, for example, our European business is more long-term focused but compared to it American companies are focused on "quick bucks" which has also influence on such development.

What is nowadays mostly translated in the legal field in Great Britain?

There are two crucial movements for legal translation – 1st is translation of witness statements and 2nd happened during last 15 years because of explosion of migration thanks to which our society is multicultural. Britain has most Hindu people from India because they are part of the old empire. For all these reasons translation does not involve that much for example constitution but rather interviews with police.

APPENDIX 2: INTERVIEW WITH AN EXPERT ON LEGAL LANGUAGE IN THE CZECH REPUBLIC

What are according to you specific features of legal language and in particular Czech legal language?

One of the key features in Czech legal environment is for instance that foreign expressions that sound like specialised ones are used too often. Such expressions have origins in Latin and are usually used due to historical reasons but they are in legal field used more than necessary. Even though all these terms often sound awkward some of them carry historically some important meaning such as for example „In dubio pro reo“ which is a respected and well-known legal expression necessary to use. The main reason for usage of it is that the basis of Civil law (between the state and individuals) has origin in Roman law. In the light of history there are several well-known codexes already from medieval times. Legal discourse tends to be more precise than other discourses, which leads sometimes to complete rigidity because such language sounds ridiculous while pretends to be specialised. In the linguistic point of view I would say that the 3rd person is preferred to the 1st or other person, infinitive structures prevail and the sentences are often too long and clumsy and they are written in passive voice. I would also say that especially what concerns contracts present tense is typical. Regarding contracts about a future agreement it is little bit different, there is future tense used only for arrangements which will be done in future but the rest is in general in the present tense. It is for example the obligation of one subject to take an action and the acceptation of the second subject which is also in the present tense.

In what aspects is according to you legal language different from language of other specialised fields?

On the linguistic level the difference is I suppose in the length of words and also more complex phrases and sentences are used. Technical texts are full of specialised terms but do not involve so many complex sentences like legal contracts, for instance. Concerning syntax sentences in legal texts are also more complicated and I would say that legal Czech tends to be similar to German in the way that it is precise and rigid and due to its complexity. Of course, it depends on every lawyer if he wants to be very precise or not.

In Great Britain legal English has changed a lot in recent years. Is it the same with legal Czech? If it is so, why? What are the current trends and tendencies?

I am not sure about the situation in Great Britain but Czech legal language definitely became more complicated after the Velvet Revolution in 1989. We returned to Roman law and all terminology changed. In the years before and in particular during communist regime the law was more simplified as a result of the fact that private legal relations were more simple than in the western countries. The language was constituted according to communist ideology and there were many expressions connected with Marxism and Leninism. After the revolution, however, lawyers tried to continue with the tendency before the WWII and therefore there were substantial changes and the legal Czech became more complicated. As regards these days the legal Czech changes according to legal acts that determine terminology. When we for instance take as an example Energy Act, all the terms are already defined and they determine the language itself and structure of sentences. The legal Czech also changed a lot between 1990 and 1995 but today it is time of change of single fields of law due to which there are more and more specialized terms but it is not time of change of the whole legal language. Another big impulse for the change in law and legal Czech was, of course, European Union.

Generally in the world there is a tendency to simplify language and even in present day legal English it is like that. According to what you have just said does it mean that Czech legal language is nowadays developing in opposite way?

Yes, it seems like that. Definitely legal Czech is not being simplified like English as you said. There is not such tendency nowadays at all. In Czech law it is more advantageous to make everything more complicated. In my opinion one reason is about completely different historical development and situation after the Velvet Revolution as I have already said. Another reason is that at the beginning of 1990s there were approximately 300 lawyers, today there are around 50 thousand which means huge competition and the lawyers have tendency to prove that they are good at something and better than others in order to be able to promote themselves and succeed in such competitive environment.

Does it involve any difficulties for lawyers or legal translators?

Yes, definitely. Discontinuity in usage of terms leads to problems such as for example when we want to solve a case from the years before 1989 we have problems with the property right. During communist times such law did not exist at all and it had completely different meaning than nowadays. Concerning translation it is a problem for translators who are not lawyers because we can have some specialised terms which are defined in a different way than in another language. During translation such terms need to be compared and contrasted in defined context to carry the same meaning. Such terms seem to be very similar from the first sight but actually we need to find their meaning which is usually understandable only from a given context. Context is very typical for law because all terminology is used in some context and without understanding it we can make mistakes. Take as example "Corporate accountability" and "Corporate responsibility" which are terms in English. The latter is voluntary activity but we do not have any Czech context how to distinguish between these two terms. Therefore it is necessary to translate them and explain them in footnotes. In order to explain it properly we cannot just say that it is a kind of social responsibility but we must define it as "a legal responsibility defined by a certain legal frame which gives a certain obligation."

Is such language for you as a lawyer advantageous or disadvantageous? Does it enhance your work or is it other way round?

I would say that for us lawyers it is rather problematic, we have more and more terms which are less and less understandable both to people and to us experts - lawyers. We deal with terminology taken over from guidelines which are originally in English. Somebody who does not understand it translates it and we – lawyers – have to check it with the original guidelines. We have a term which must be checked in two languages and then it is necessary to check the guideline itself if it complies with the Czech legislation. This is not related only to the law but we need to investigate other relations as well. It means that it requires additional specialisation. The guideline gives an obligation or a right to a subject and without relatively detailed knowledge of such related legal field we are not always able to find out what was meant by it, for instance, what European Union meant by it, etc. Therefore explanation of some terms is very demanding.

Do you have some experience with translation of legal language? What would you as a lawyer recommend to translators of legal language?

I do not translate because it is not my branch. What I would recommend is to really check the right terminology on the Internet if it is really used in a given field because there are official websites of some organisations and they decided to use the term in one way and not in the other one. Moreover, if translators are not sure about the translation they should consult it with a lawyer. This would probably be the best option.

APPENDIX 3: THE SOURCE TEXT

SHAREHOLDERS AGREEMENT
by and among
_____
_____,
as "Initial Shareholders"
and
a X,
as the "Company"
February __, 200_

SHAREHOLDERS AGREEMENT

THIS SHAREHOLDERS AGREEMENT (this "Agreement") is entered into on the __th of February, 200_ by and among XXX, an individual residing at _____, YYY, an individual residing at _____ and ZZZ an individual residing at_____ (XXX, YYY, and ZZZ being referred to herein collectively as the "Initial Shareholders"), and X, a Cyprus private company limited by shares (the "Company").

WHEREAS:

A. The issued and outstanding shares of the Company consist of CY£ _____ (_____ Cyprus Pounds) divided into ___ ____ shares, each with a nominal value of CY£ _____ (_____ Cyprus Pounds) (together with any other issued and outstanding shares as may exist from time to time, the "Shares"). The parties recognize and agree that the Company may from time to time issue additional Shares that may cause the interests of the Shareholders (as defined below) to be diluted, provided that any such issuance of additional Shares shall be subject to the terms of this Agreement.

B. The parties hereto desire to enter into this Agreement to govern their relationship as shareholders of the Company, to provide for certain Company management and operational matters, to establish certain restrictions on the transfer and ownership of Shares and to govern the relationship of any future Shareholders vis a vis the Initial Shareholders, the Company and each other.

NOW THEREFORE, in consideration of the foregoing and of the mutual covenants and agreements hereinafter set forth, the parties hereby agree as follows:

1. Definitions

In this Agreement, in addition to the terms defined above in the preamble to this Agreement and elsewhere in this Agreement, the following terms shall have the meanings given to them below, except where the context otherwise requires:

"Board" means the board of directors of the Company.

"Directors" means the duly elected directors of the Company.

"First Stage Investment" means the initial capitalization of the Company, in one or more stages, in an amount up to USD 550,000 (or the equivalent thereof in CY£).

"Founding Shareholders" means the Initial Shareholders and each other Shareholder that acquires shares in the Company at any time during the First Stage Investment Period.

"General Shareholders Meeting" means an ordinary or extraordinary general meeting of the shareholders of the Company.

"Public Offering" means (without guarantying that a public offering will occur) a registration by the Company of the Shares on a recognized securities exchange based on a public offering.

"Second Stage Investment" means the capitalization of the Company from the level of the First Stage Investment to a capitalization (in equity or through Shareholder loans), in one or more stages, of up to USD 5,000,000 (or the equivalent thereof in CY£).

"Shareholders" means any holder from time to time of any Shares that are (or are required to be) subject to the terms of this Agreement.

"Shares" means the issued and outstanding shares of the Company from time to time (including, without limitation, any shares owned by the Company).

2. Compliance

2.1 Necessary Actions
The Company and each of the Shareholders shall use their best efforts to take or cause to be taken all actions within their respective powers (including, but not limited to, as applicable, voting their Shares, holding and attending General Shareholders Meetings (in person, by proxy or by any other lawful means), approving resolutions, amending the Organizational Documents, executing and filing documents and causing Directors nominated by such Shareholders to vote or refrain from voting), both in respect of the Company and its subsidiaries, as may be necessary or appropriate to implement and ensure compliance with all provisions of this Agreement, and to effectuate to the fullest extent legally possible each of the purposes, terms and conditions of this Agreement.

3. Board of Directors

3.1 Number
The Board shall be comprised of three (3) Directors effective as of the date hereof. Thereafter the number of Directors may be increased or decreased as provided in the Organizational Documents.

3.2 Designation of Nominees
Each of the Principal Shareholders shall collectively have the right to nominate two (2) Directors. All other Shareholders shall collectively have the right to nominate one (1) Director. Thereafter, at any General Shareholders Meeting, (i) each of the Principal Shareholders shall collectively have the right to nominate that number of Directors (rounded up to the nearest whole number) as shall be equivalent to such Principal Shareholders' aggregate percentage ownership of all of the outstanding and issued Shares, times the number of Directors comprising the entire Board, and (ii) all other Shareholders shall collectively have the right to nominate the remaining Directors of the Board. The Principal Shareholders shall be also entitled to nominate the Chairman of the Board from among the members of the Board.

3.3 Voting Agreement
Each Shareholder shall nominate for election to the Board at each applicable General Shareholders Meeting the number of Directors which it is entitled to nominate pursuant to Section 3.2 hereof. At each such General Shareholders Meeting, each Shareholder shall vote all of its Shares in favor of all nominees to the Board nominated pursuant to this Section 3.3 (whether nominated by the Principal Shareholders or the other Shareholders) in order to assure that such nominees shall be elected. In no case shall any Shareholder vote its Shares in favor of the removal of a Director nominated by another Shareholder pursuant to this Section 3.3 unless the other Shareholders shall have so requested. In the event that a Director appointed pursuant

to this Section 3.3 shall cease to be a Director for any reason, the Shareholders shall cause a General Shareholders Meeting to be called as soon as reasonably possible to fill the vacancy thereby created. The replacement shall be nominated by the Shareholders that originally nominated the exiting Director. At such General Shareholders Meeting, each Shareholder shall vote all of its Shares in favor of the nominee of the Shareholder entitled to fill the vacancy on the Board in order to assure that such nominee shall be elected.

3.4 Valid Meeting; Voting
The Board can validly deliberate and take action only at a meeting at which at least two (2) Directors are present, in person or by telephone. Any action of the Board shall require either the affirmative vote of a majority of the Directors present at a validly constituted meeting, at which the Chairman of the Board shall have a casting vote, or a unanimous written consent of the Directors.

4. General Shareholders Meeting

4.1 Valid Meeting; Voting
The General Shareholders Meeting can validly deliberate and take action only at a meeting at which more than 66% (sixty-six percent) of the issued and outstanding Shares are represented. Except as otherwise provided in Section 4.2 hereof, any action of the General Shareholders Meeting shall require the affirmative vote of holders of a majority of the issued and outstanding Shares represented at a validly constituted meeting.

4.2 Matters Requiring Supermajority Consent of the Shareholders
The General Shareholders Meeting shall not take any of the following actions except by the affirmative vote of holders of more than 80% (eighty percent) of all issued and outstanding Shares:

a) consolidation, amalgamation or merger of the Company with or into any other company or entity;

b) taking or instituting any proceeding for the winding up, reorganization or dissolution of the Company;

c) issuance of any Shares or other securities of the Company or of any rights, warrants or options to acquire such Shares or other securities and any purchase by the Company of such Shares or securities; or any increase or decrease in the Company's share.

5. Restrictions on Transfer of Shares

5.1 Covered Shares
All Shares issued by the Company during the First Stage Investment Period and the Second Stage Investment Period shall be covered by this Agreement, and the Company shall not issue any such Shares to any person or entity that has not signed a statement agreeing to be bound by the provisions hereof.

5.2 Lock-Up Period
For a period of nine (9) months following the date of this Agreement (the "Lock-Up Period"), no Shareholder (and no owner of any Shareholder that is a partnership, company or other entity) shall, directly or indirectly, offer, sell, transfer, assign, pledge or otherwise dispose of

(collectively "transfer") its Shares now or hereafter held or acquired by such Shareholder to any person except (i) an affiliate of such Shareholder in accordance with Section 5.3, or (ii) in connection with a public offering or sale of the Company approved by the unanimous consent of the Board and by 90% (ninety percent) of the Shareholders. A direct or indirect transfer (in one or more transactions) of any interest in any Shareholder that causes the owners of the Shareholder (as they exist on the date the Shareholder becomes a Shareholder) to own and control less than 51% (fifty-one percent) of the Shareholder shall be deemed to be a violation of this Section. Notwithstanding anything to the contrary in this Section 5.2, the Company shall have the right to transfer up to 5% (five percent) of its Shares to any third party during the Lock-out Period and such transfer shall not be subject to any of the restrictions set forth in Article 5.

5.3 Right of First Opportunity
No Shareholder shall transfer any of its Shares to a third party, unless it first offers the Shares to be sold to the other Shareholders pursuant to the terms of the Organizational Documents. The transferring Shareholder shall notify the other Shareholders of the number of Shares to be transferred and the price and other terms on which the transferring Shareholder is willing to transfer such Shares. All the other Shareholders shall be entitled to acquire the Shares, pro rata in proportion to their respective ownership of all Shares not held by the transferring Shareholder, on the terms and for the price offered by the transferring Shareholder. No Shareholder shall sell any of its Shares to a proposed transferee unless the proposed transferee shall agree in writing to be bound by all of the terms and conditions of this Agreement.

6.Termination

6.1 Limited Termination
The provisions of this Agreement shall terminate on the earlier of: (i) a public offering, (ii) a merger or consolidation of the Company with or into another corporation or entity that is not an Affiliate of the Company as a result of which the Shareholders own less than a majority of the voting power of the outstanding capital stock of the surviving or resulting corporation, (iii) the sale or other disposition of all or substantially all the assets of the Company to a corporation or entity that is not an Affiliate of the Company.

6.2 Shareholder Termination
Notwithstanding anything to the contrary in Section 7.1, this Agreement shall in any event terminate with respect to any Shareholder when such Shareholder no longer holds any Shares (except as to liabilities existing as of, or relating to the period prior to, the date of termination).

7. Miscellaneous

7.1 Notices
All notices and communications required to be given under this Agreement shall be in writing and shall be deemed to have been duly given if sent by registered mail, internationally recognized overseas courier (such as FedEx, UPS, TNT or DHL) or by telefax with a confirmation by registered mail to such party at its address and/or telecopy number set forth on Schedule A hereto or such other address as any of the parties hereto shall from time to time specify by notice in writing to the other Shareholders in accordance with this Section 8.1. Notices and communications shall be effective upon receipt (with receipt of notices made by fax being evidenced by electronic answerback generated by the receiving machine) or upon refusal of the addressee to accept delivery.

7.2 Amendment, Modification and Waiver
This Agreement may not be amended or modified except by a written instrument signed by the Shareholders. The waiver by a Shareholder of (or) a breach of any provision of this Agreement shall not operate as a waiver of any subsequent or different breach of this Agreement.

7.3 Successors and Assigns
This Agreement shall be binding upon and inure to the benefit of the Shareholders and their respective successors and permitted assigns.

7.4 Assignment
The respective rights and obligations of a Shareholder shall not be assigned, transferred or disposed of, in whole or in part, to any other person or legal entity, except:

a) with the prior written authorization of the Principal Shareholders; or
b) in accordance with Article 5 hereof.

7.5 Entire Agreement
This Agreement (including Schedule A attached hereto) constitutes the entire agreement among the parties hereto in respect of the matters contained herein and therein, and supersedes all prior oral or written agreements and understandings between the parties hereto with respect to the subject matter hereof.

7.6 Governing Law
This Agreement shall be governed and construed in accordance with the **laws** of the State of New York.

7.7 Settlement of Disputes - Arbitration
a) All disputes arising in connection with this Agreement that cannot be settled by mutual agreement shall be finally settled by arbitration under the Rules of Conciliation and Arbitration of the International Chamber of Commerce ("ICC"). Any Shareholder(s) hereto as the case may be (the "Requesting Party") may, by written notice (the "Arbitration Request") to any other Shareholder(s) (the "Other Party") refer such dispute to arbitration, and the Other Party shall, upon receipt of the Arbitration Request, be obligated to refer such dispute to arbitration proceedings as set out herein. In the event of any conflict between the ICC Rules and this Agreement, the provisions of this Agreement shall prevail.

b) The arbitral tribunal shall consist of three arbitrators (each of whom shall be fluent in English), one appointed by the Requesting Party in the Arbitration Request and one appointed by the Other Party in writing to the Requesting Party within thirty (30) days of the date of receipt of the Arbitration Request. The arbitrators so selected shall, within sixty (60) days of the date of appointment of the second arbitrator, agree on a third arbitrator. If any of the arbitrators shall not be appointed within the time limits specified above, such arbitrator shall be appointed by the President of the ICC Court of Arbitration at the written request of either the Requesting Party or the Other Party.

c) In arriving at their award, the arbitrators shall make every effort to find a solution to the dispute in the language of this Agreement (English) and shall give full effect to all provisions

hereof. However, if a solution cannot be found in the language of this Agreement, the arbitrators shall apply the substantive (not the conflicts) laws of the State of New York. The arbitration proceedings shall take place in New York City, New York and the language of such proceedings, including arguments and briefs, shall be English.

d) The award of the arbitrators shall be made by majority vote and shall contain written reasons. Any award shall be made in US Dollars, the arbitrators being authorized to grant pre-award and post-award interest at commercial rates.

e) The costs of arbitration, including reasonable legal fees, shall be borne by either or both of the Requesting Party or the Other Party in whatever proportion as the arbitral tribunal may award.

IN WITNESS WHEREOF, the parties hereto have signed this Shareholders Agreement on the date written above.

By_____
Name:_____
Title:_____

By_____
Name:_____
Title:_____

APPENDIX 4: THE TARGET TEXT

AKCIONÁŘSKÁ SMLOUVA
mezi
_____
_____,
„Původní akcionáři“,
a
X,
„Společnost“,
_ února 200_

AKCIONÁŘSKÁ SMLOUVA

Tato Akcionářská smlouva (tato „Smlouva“) vstupuje v platnost __ února 200_ mezi XXX, fyzickou osobou s bydlištěm _____, YYY, fyzickou osobou s bydlištěm _____, a ZZZ, fyzickou osobou s bydlištěm_____ (kteří jsou obecně označeni jako „Původní akcionáři“), a X, kyperskou soukromou akciovou společností s ručením omezeným („Společnost“).

PŘIČEMŽ:

A. Jsou vydané akcie a akcie v oběhu v hodnotě _____ CY£ (_____ kyperských liber) rozděleny na _____akcií, každá s nominální hodnotou _____ CY£ (_____ kyperských liber) spolu s dalšími vydanými akciemi a akciemi v oběhu, které se mohou objevit, označeny jako „Akcie“. Smluvní strany uznávají a souhlasí, že Společnost může občas vydat dodatečné Akcie, které by mohly snížit podíl Akcionářů (definovaných níže), a to za předpokladu, že každé takové vydání dalších Akcií bude odpovídat podmínkám této smlouvy.

B. Uvedené smluvní strany projevují zájem uzavřít tuto Smlouvu za účelem spravování svých vztahů jako akcionářů Společnosti, pro stanovení určitých provozních záležitostí a záležitostí vedení Společnosti, pro zavedení omezení převodu Akcií a Akciového podílu a pro úpravu vzájemných vztahů všech budoucích Akcionářů s Původními akcionáři a Společností.

PROTO SE NYNÍ s ohledem na výše zmíněné a dále ustanovené vzájemné úmluvy a dohody smluvní strany tímto dohodly na následujícím:

1. Vysvětlení pojmů
Následující termíny mají spolu s termíny vysvětlenými výše v preambuli k této Smlouvě i jinde v této Smlouvě takový význam, který je jim přiřazen níže, s vyjímkou situací, kdy to vyžaduje kontext jinak:

„Představenstvo“ označuje představenstvo Společnosti.

„Členové představenstva“ označuje náležitě zvolené členy představenstva Společnosti.

„První upisování kapitálu“ znamená původní vklad kapitálu Společnosti v jednom či více stádiích v částce až do 550 000,- amerických dolarů (nebo jeho ekvivalentu v kyperských librách).

„Zakládající akcionáři“ označuje Původní akcionáře a všechny další Akcionáře, kteří ve Společnosti získají akcie kdykoliv během Období prvního upisování kapitálu.

„Všeobecná valná hromada“ označuje všeobecnou nebo mimořádnou valnou hromadu akcionářů Společnosti.

„Veřejná nabídka“ znamená (bez zaručení, že se bude veřejná nabídka konat), že Společnost nabídne Akcie na uznávaném trhu cenných papírů na základě veřejné nabídky.

„Druhé upisování kapitálu“ znamená tvoření kapitálu Společnosti od Prvního upisování kapitálu do vytvoření kapitálu (v podobě vlastního kapitálu nebo prostřednictvím Akcionářských úvěrů), a to v jednom či více stádiích až do částky 5 000 000,- amerických dolarů (nebo v odpovídající ekvivalentní částce v kyperských librách).

„Akcionáři“ označuje pro určité období všechny držitele těch Akcií, ke kterým se vztahují podmínky této Smlouvy.

„Akcie“ znamená vydané akcie a akcie v oběhu Společnosti v určitém období (a také bez omezení jakékoliv akcie vlastněné Společností).

2. Podmínky

2.1 Povinnosti
Společnost a všichni Akcionáři se musí snažit dělat to nejlepší, aby v rámci svých pravomocí podnikli všechny kroky nebo se postarali o jejich podniknutí (k čemuž se vztahuje podle příslušnosti také hlasování podle svého podílu, pořádání a účast na Všeobecné valné hromadě, – osobně, v zastoupení či jinými právními prostředky – dále schvalování rozhodnutí, upravování Organizačních dokumentů, vyhotovení a evidence dokumentů a zajištění toho, aby Členové představenstva nominovaní těmito Akcionáři hlasovali nebo se vzdali hlasování) s ohledem na Společnost a její pobočky, a k tomu podle potřeby zavedli a zajistili plnění všech ustanovení této Smlouvy, a co nejvíce ve shodě s právem uskutečnili všechny záměry a podmínky této Smlouvy.

3. Představenstvo

3.1 Počet
Představenstvo se musí skládat ze tří (3) Členů představenstva pravomocných k datu platnosti této smlouvy. Poté může být počet Členů představenstva zvýšen nebo snížen podle Organizačních dokumentů.

3.2 Určení kandidátů
Každý Hlavní akcionář má obecně právo nominovat dva (2) Členy představenstva. Všichni ostatní Akcionáři mají obecně právo nominovat jednoho (1) Člena představenstva. Poté má na každé Všeobecné valné hromadě (i) každý Hlavní akcionář obecně právo nominovat takový počet Členů představenstva (zaokrouhleno na nejbližší celé číslo), který bude odpovídat souhrnnému percentuálnímu podílu Hlavních akcionářů na všech Akciích v oběhu a vydaných Akciích, krát počet Členů představenstva v celém Představenstvu, a (ii) všichni další Akcionáři mají obecně právo nominovat zbývající Členy představenstva. Hlavní akcionáři jsou také oprávněni nominovat ze členů představenstva Předsedu představenstva.

3.3 Hlasovací dohoda
Každý Akcionář je oprávněn nominovat do voleb Představenstva při každé platné Všeobecné valné hromadě takový počet Členů představenstva, ke kterému je oprávněn podle odstavce 3.2 výše. Při každé takové Všeobecné valné hromadě smí každý Akcionář hlasovat všemi svými akciemi ve prospěch všech nominovaných do Představenstva podle odstavce 3.3 (nezáleží na tom, zda je jmenují Hlavní akcionáři nebo ostatní Akcionáři), a to tak, že zajistí, že budou tito nominovaní zvoleni. V žádném případě nesmí žádný Akcionář hlasovat svými akciemi pro odvolání Člena představenstva nominovaného jiným Akcionářem podle tohoto odstavce 3.3, pokud však o to ostatní Akcionáři nepožádají. Pokud Členu představenstva, jmenovanému

podle tohoto odstavce 3.3, z jakéhokoliv důvodu zanikne funkce, jsou Akcionáři povinni svolat Všeobecnou valnou hromadu v nejbližší možné době, aby se tak vyplnilo uvolněné místo. Tuto náhradu musí navrhnout Akcionáři, kteří původně odcházejícího Člena představenstva nominovali. Na takové Všeobecné valné hromadě má každý Akcionář právo volit všemi svými akciemi ve prospěch toho nominovaného, kterého navrhl Akcionář oprávněný nominovat kandidáta na uvolněné místo v Představenstvu tak, že zajistí, že bude tento nominovaný zvolen.

3.4 Platná schůze; hlasování
Představenstvo je usnášeníhodné a může činit kroky pouze na schůzi, jíž se zúčastní alespoň dva (2) Členové představenstva osobně nebo po telefonu. Každé rozhodnutí představenstva vyžaduje buď kladný hlas většiny Členů přítomných na platně svolané schůzi, na níž musí mít předseda Představenstva rozhodující hlas, nebo musí Členové představenstva jednohlasně písemně souhlasit.

4. Všeobecná valná hromada

4.1 Platná valná hromada: hlasování
Všeobecná valná hromada je právoplatně usnášenihodná a může učinit kroky pouze na schůzi, na níž jsou zastoupeny vydané akcie a akcie v oběhu ve výši výše než 66% (šedesát šest procent). Kromě ustanovení v odstavci 4.2 níže vyžaduje každé rozhodnutí Všeobecné valné hromady kladný hlas akcionářů vlastnících většinu vydaných Akcií a Akcií v oběhu, které budou zastoupeny na platně svolané Valné hromadě.

4.2 Záležitosti vyžadující souhlas kvalifikované většiny Akcionářů
Všeobecná valná hromada nesmí bez kladného hlasu držitelů více než 80% (osmdesáti procent) všech vydaných Akcií a Akcií v oběhu učinit žádný z následujících kroků:
a) konsolidaci, sloučení či fúzi Společnosti s jakoukoliv jinou společností či subjektem;

b) přijetí či zavedení jakéhokoliv opatření pro transformaci, reorganizaci či zrušení Společnosti;

c) vydání jakýchkoliv Akcií či jiných cenných papírů Společnosti či jakýchkoliv práv, záruk nebo možností získat takové Akcie či jiné cenné papíry, a také jakýkoliv nákup takových Akcií nebo cenných papírů Společností; nebo jakékoliv zvýšení či snížení podílu Společnosti.

5. Omezení převodu akcií

5.1 Zajištěné akcie
Tato smlouva se musí týkat všech Akcií vydaných Společností během Období prvního a druhého upisování kapitálu. Společnost také nemůže vydat žádné takové Akcie žádné osobě či subjektu, který by nepodepsal souhlasné prohlášení, že bude vázán ustanoveními této Smlouvy.

5.2 Období zmrazení kapitálu
Po dobu devíti (9) měsíců od data podpisu této Smlouvy („Období zmrazení kapitálu“) nesmí žádný Akcionář (ani žádný vlastník Akcionáře, který je partnerem, společností či jiným subjektem) přímo či nepřímo nabídnout, prodat, převést, pověřit, přislíbit či jinak disponovat (obecně „převést“) se svými Akciemi drženými či obdrženými v tomto okamžiku nebo později jakékoliv další osobě, kromě toho, pokud se jedná o (i) společnost přidruženou k takovému

Akcionáři v souladu s odstavcem 5.3 nebo (ii) situaci spojenou s veřejnou nabídkou či prodejem Společnosti schváleným jednohlasným rozhodnutím Představenstva a 90% (devadesáti procenty) Akcionářů. Přímý či nepřímý převod (v jedné či více transakcích) jakéhokoliv podílu na jakémkoliv Akcionáři, který zapříčiní, že majitelé akcionáře (kteří existují k datu, kdy se Akcionář stane akcionářem) budou vlastnit a spravovat méně než 51 % (padesát jedna procent) Akcionáře, se považuje za nedodržení tohoto odstavce. Není-li nic v rozporu s tímto odstavcem 5.2, má Společnost právo převést až 5 % (pět procent) svých Akcií jakékoliv třetí straně během Období zmrazení kapitálu. Takový převod nesmí být v rozporu s žádným omezením ustanoveném v článku 5.

5.3 Právo první příležitosti
Žádný akcionář nesmí převést žádnou ze svých Akcií třetí straně, pokud však nejprve své Akcie nenabídne k odkupu dalším Akcionářům na základě podmínek Organizačních dokumentů. Převádějící akcionář musí obeznámit další akcionáře o počtu Akcií, které budou převedeny, a o ceně a dalších podmínkách, za nichž je tento akcionář ochoten takové Akcie převést. Všichni další Akcionáři jsou oprávněni obdržet Akcie poměrným dílem ekvivalentním ke svému poměrnému vlastnictví všech Akcií, které převádějící akcionář nevlastní, a to za podmínek a za cenu nabízenou tímto Akcionářem. Žádný Akcionář nesmí prodat žádné ze svých Akcií novému navrženému držiteli akcií, pokud však ten nebude písemně souhlasit, že bude vázán všemi podmínkami této Smlouvy.

6. Zánik

6.1 Omezený zánik
Ustanovení této smlouvy musí zaniknout dříve, než nastane: (i) veřejná nabídka, (ii) fúze či konsolidace Společnosti s jinou korporací či subjektem nebo do jiné korporace či subjektu, který není její Přidruženou společností, jejímž následkem Akcionáři vlastní méně než většinu hlasovací síly nesplaceného kapitálu zůstávající nebo výsledné společnosti, (iii) prodej či jiné ponechání všech aktiv Společnosti či jejich podstatného množství korporaci či subjektu, který není její Přidruženou společností.

6.2 Zánik Akcionáře
Není-li nic v rozporu s odstavcem 7.1, musí tato Smlouva v každém případě pozbýt platnosti u každého Akcionáře, který již nevlastní žádné Akcie (kromě závazků existujících v, či vztahujících se k období před dnem zániku).

7. Různá ustanovení

7.1 Oznámení
Všechna oznámení a korespondence vyžadované touto Smlouvou musí být v písemné podobě a musí být v případě zaslání řádně doručeny doporučeně mezinárodně uznávaným zámořským dopravcem (jako např. FedEx, UPS, TNT nebo DHL) nebo faxem spolu s potvrzením zaslaným doporučeně na adresu této strany a/nebo na číslo faxu uvedené na Dodatku A k této smlouvě či na takovou adresu, kterou může každá smluvní strana průběžně specifikovat prostřednictvím písemného oznámení dalším Akcionářům podle odstavce 8.1. Oznámení a korespondence vstupuje v platnost po obdržení (s potvrzením o doručení faxem s automatickým elektronickým potvrzením) nebo na základě odmítnutí příjemcem.

7.2 Dodatky, změny a zřeknutí se práv
Tato Smlouva smí být upravena či pozměněna pouze písemnými dodatky podepsanými Akcionáři. Pokud se akcionář zřekne svých práv vyplývajících z některého ustanovení této Smlouvy nebo dojde k porušení jakéhokoliv ustanovení této Smlouvy, tak toto zřeknutí se nebo porušení ustanovení neznamená zřeknutí se práv vyplývajících z jiného ustanovení nebo porušení jiného ustanovení této Smlouvy.

7.3 Právní nástupci a nabyvatelé
Tato Smlouva je závazná a nabývá platnosti pro dobro Akcionářů a jejich příslušných nástupců a oprávněných nabyvatelů.

7.4 Pověření
Odpovídající práva a povinnosti Akcionáře nesmí být předána, převedena či ponechána (vcelku i částečně) jakékoliv další osobě či právnímu subjektu s vyjímkou:
a) předchozího písemného souhlasu Hlavních akcionářů; nebo
b) ustanovení ve výše uvedeném článku 5.

7.5 Celá smlouva
Tato Smlouva (spolu s připojeným Dodatkem A) tvoří kompletní smlouvu mezi smluvními stranami zde uvedenými ve výše a níže uvedených záležitostech a nahrazuje veškeré předchozí ústní či písemné dohody a srozumění mezi uvedenými smluvními stranami ve zde uvedených záležitostech.

7.6 Upravující právo
Tato Smlouva musí být vedena a vyložena v souladu s právem státu New York.

7.7 Vyřešení sporů – arbitráž
a) Všechny spory vzniklé ve spojení s touto Smlouvou, které nemohou být vyřešeny vzájemnou dohodou, musí být nakonec vyřešeny arbitráží vedenou Pravidly smírčího řízení a arbitráže Mezinárodní obchodní komory. Každý smluvní Akcionář („Žádající strana“) smí spolu s písemným oznámením („Požadavek na arbitráž“) jakémukoliv dalšímu Akcionáři/Akcionářům („Druhá strana“) postoupit vzniklý spor na arbitráž a Druhá strana je povinna po obdržení takového Požadavku na arbitráž odkázat tento spor smírčímu řízení, jak je zde ustanoveno. V případě jakéhokoliv konfliktu mezi pravidly Mezinárodní obchodní komory a touto Smlouvou mají přednost ustanovení této Smlouvy.

b) Arbitrážní soudní dvůr se musí skládat ze tří rozhodců (z nichž každý musí mluvit plynule anglicky), jednoho musí pověřit Žádající strana v Žádosti o arbitráž a druhého musí pověřit Druhá strana písemně pro Žádající stranu, a to do třiceti (30) dnů od data obdržení Požadavku na arbitráž. Takto vybraní rozhodci jsou povinni se do šedesáti (60) dnů od data pověření druhého rozhodce dohodnout na třetím rozhodci. Nebude-li žádný rozhodce pověřen během výše specifikovaného časového období, musí takového rozhodce jmenovat prezident Arbitřážního soudu Mezinárodní obchodní komory na základě písemné žádosti Žádající strany nebo Druhé strany.

c) Při rozhodování jsou rozhodci povinni udělat to nejlepší, aby našli řešení sporu v jazyku této Smlouvy (angličtina), a jsou také povinni do plné míry vykonat všechna ustanovení této Smlouvy. Pokud však není možné nalézt řešení v jazyku této Smlouvy, musí rozhodci použít nezávislé hmotné (nikoliv konfliktní) právo státu New York. Arbitrážní proces se musí konat

ve městě New York, ve státě New York, a jazyk takového postupu spolu s argumentacemi a souhrny musí být angličtina.

d) Rozhodnutí rozhodců musí být dosaženo většinovým hlasováním a musí obsahovat písemné odůvodnění. Každá pokuta musí být v amerických dolarech, s tím že jsou rozhodci oprávněni udělit úrok z předčasného či pozdního zaplacení podle obchodních tarifů.

e) Náklady na arbitráž spolu s odpovídajícími právními poplatky musí určit buď pouze Žádající strana, nebo spolu s Druhou stranou, a to v jakékoliv výši podle rozhodnutí arbitrážního soudního dvora.

V SOULADU S VÝŠE UVEDENÝM, podepisují uvedené smluvní strany tuto Akcionářskou smlouvu k datu, které je uvedené výše.

Subjekt:_____
Jméno:_____
Titul: _____

Subjekt:_____
Jméno:_____
Titul: _____

APPENDIX 5: THE SOURCE AND THE TARGET TEXT FOR THE ANALYSIS

1.

SHAREHOLDERS AGREEMENT

by and among

_____
_____,

as “Initial Shareholders”

and

a X,

as the “Company”

February __, 200_

Akcionářská smlouva
mezi

_____
_____,

„Původní akcionáři“,
a
X,
„Společnost“,

_ února 200_

SHAREHOLDERS AGREEMENT

THIS SHAREHOLDERS AGREEMENT (this "Agreement") **is entered into on the __th of February, 200_ by and among** XXX, an individual **residing** at _____, YYY, an individual **residing** at _____ and ZZZ an individual **residing** at_____ (XXX, YYY, and ZZZ **being referred** to **herein** collectively as the "Initial Shareholders"), and X, **a** Cyprus private company limited by shares (the "Company").

AKCIONÁŘSKÁ SMLOUVA

Tato **Akcionářská smlouva** (tato „Smlouva") **vstupuje v platnost** __ února 200_ **mezi** XXX, fyzickou osobou s bydlištěm _____, YYY, fyzickou osobou s bydlištěm _____, a ZZZ, fyzickou osobou s bydlištěm_____ **(kteří jsou** obecně **označeni** jako „Původní akcionáři"), a X, kyperskou soukromou akciovou společností s ručením omezeným („Společnost").

WHEREAS:

A. The issued and **outstanding shares** of the Company consist of CY£ _____ (_____ Cyprus Pounds) divided into _____ shares, each with a nominal value of CY£ _____ (_____ Cyprus Pounds) (together with any other issued and outstanding shares as may exist **from time to time**, the "Shares"). The **parties** recognize and agree that the Company may **from time to time** issue additional Shares **that may cause the interests of the Shareholders** (as defined below) **to be diluted**, provided that any such issuance of additional Shares **shall be subject** to the terms of this Agreement.

PŘIČEMŽ:

Jsou vydané akcie a **akcie v oběhu** v hodnotě _____ CY£ (_____ kyperských liber) rozděleny na _____akcií, každá s nominální hodnotou _____ CY£ (_____ kyperských liber) spolu s dalšími vydanými akciemi a akciemi v oběhu, které se mohou objevit, označeny jako „Akcie". **Smluvní strany** uznávají a souhlasí, že Společnost může **občas** vydat dodatečné Akcie, které by mohly snížit podíl Akcionářů (definovaných **níže**), a to za předpokladu, že každé takové vydání dalších Akcií bude **odpovídat** podmínkám této smlouvy.

B. The parties **hereto desire** to enter into this Agreement to govern their relationship as shareholders of the Company, to provide for certain Company management and operational matters, to establish certain restrictions on the transfer and **ownership of Shares** and to govern the relationship of any future Shareholders **vis a vis** the Initial Shareholders, the Company and each other.

Uvedené smluvní strany **projevují zájem uzavřít** tuto Smlouvu za účelem spravování svých vztahů jako akcionářů Společnosti, pro stanovení určitých provozních záležitostí a záležitostí vedení Společnosti, pro zavedení omezení převodu Akcií a **Akciového podílu** a pro úpravu **vzájemných** vztahů všech budoucích Akcionářů **s** Původními akcionáři a Společností.

3.

NOW THEREFORE, in consideration of the foregoing and of the mutual covenants and agreements **hereinafter set forth**, the parties **hereby** agree as follows:

Proto se nyní **s ohledem** na výše zmíněné a dále ustanovené vzájemné úmluvy a dohody smluvní strany **tímto** dohodly na následujícím:

1. **Definitions**

In this Agreement, in addition to the **terms defined above** in the preamble to this Agreement and elsewhere in this Agreement, the following terms shall have the **meanings** given to them below, **except where the context otherwise requires**:

Vysvětlení pojmů

Následující termíny mají spolu s termíny vysvětlenými výše v preambuli k této Smlouvě i jinde v této Smlouvě takový **význam**, který je jim přiřazen níže, **s vyjímkou situací, kdy to vyžaduje kontext jinak:**

"Board" means the board of directors of the Company.
„Představenstvo" označuje představenstvo Společnosti.

"Directors" means the duly elected directors of the Company.
„Členové představenstva" označuje náležitě zvolené členy představenstva Společnosti.

"First Stage Investment" means the initial capitalization of the Company, in one or more stages, in an amount up to USD 550,000 (or the equivalent **thereof** in CY£).
„První upisování kapitálu" znamená původní vklad kapitálu Společnosti v jednom či více stádiích v částce až do 550 000,- amerických dolarů (nebo jeho ekvivalentu v kyperských librách).

"Founding Shareholders" means the Initial Shareholders and each other Shareholder that acquires shares in the Company at any time during the First Stage Investment Period.
„Zakládající akcionáři" označuje Původní akcionáře a všechny další Akcionáře, kteří ve Společnosti získají akcie kdykoliv během Období prvního upisování kapitálu.

"General Shareholders Meeting" means an ordinary or extraordinary general meeting of the shareholders of the Company.

„Všeobecná valná hromada" označuje všeobecnou nebo mimořádnou valnou hromadu akcionářů Společnosti.

"Public Offering" means (without guarantying that a public offering will occur) a registration by the Company of the Shares on a recognized securities exchange based on a public offering.

„Veřejná nabídka" znamená (bez zaručení, že se bude veřejná nabídka konat), **že Společnost nabídne Akcie na uznávaném trhu cenných papírů na základě veřejné nabídky.**

4.

"Second Stage Investment" means the **capitalization** of the Company from the level of the First Stage Investment to a **capitalization** (in equity or through Shareholder loans), in one or more stages, of up to USD 5,000,000 (or the equivalent **thereof** in CY£).
„Druhé upisování kapitálu" znamená tvoření kapitálu Společnosti od Prvního upisování kapitálu do **vytvoření kapitálu** (**v podobě** vlastního kapitálu nebo prostřednictvím Akcionářských úvěrů), a to v jednom či více stádiích až do částky 5 000 000,- amerických dolarů (nebo v **odpovídající** ekvivalentní částce v kyperských librách).

"Shareholders" means any holder **from time to time** of any Shares that are (or are required to be**) subject to the** terms of this Agreement.
„Akcionáři" označuje pro určité období všechny držitele těch Akcií, **ke kterým se vztahují** podmínky této Smlouvy.

"Shares" means the issued and outstanding shares of the Company **from time to time** (including, without limitation, any **shares owned** by the Company).
„Akcie" znamená vydané akcie a akcie v oběhu Společnosti **v určitém období** (a také bez omezení jakékoliv akcie vlastněné Společností).

2. Compliance

2.1 Necessary Actions

The Company and each of the Shareholders shall use their best efforts to take or cause to be taken all actions within their respective powers (including, but not limited to, as applicable, **voting their Shares**, holding and attending General Shareholders Meetings (in person, by proxy or by any other lawful means), approving resolutions, amending the Organizational Documents, executing and **filing** documents and causing Directors nominated by such Shareholders to vote or refrain from voting), both in respect of the Company and its subsidiaries, as may be necessary or appropriate to implement and ensure compliance with all provisions of this Agreement, and to effectuate to the fullest extent legally possible each of the purposes, **terms and conditions** of this Agreement.
Podmínky

Povinnosti
Společnost a všichni Akcionáři se musí snažit dělat to nejlepší, aby v rámci svých pravomocí podnikli všechny kroky nebo se postarali o jejich podniknutí (**k čemuž se vztahuje** podle příslušnosti také **hlasování podle svého podílu**, pořádání a účast na Všeobecné valné hromadě, – osobně, v zastoupení či jinými právními prostředky – dále schvalování rozhodnutí, upravování Organizačních dokumentů, vyhotovení a **evidence** dokumentů a zajištění toho, aby Členové představenstva nominovaní těmito Akcionáři hlasovali nebo se vzdali hlasování) s ohledem na Společnost a její pobočky, a k tomu podle potřeby zavedli a zajistili plnění všech ustanovení této Smlouvy, a co nejvíce ve shodě s právem uskutečnili všechny záměry a podmínky této Smlouvy.

3. Board of Directors

3.1 Number

The Board shall be comprised of three (3) **Directors** effective as of the date **hereof**. **Thereafter** the number of Directors may be increased or decreased **as provided in** the Organizational Documents.

Představenstvo
Počet
Představenstvo se musí skládat ze tří (3) **Členů představenstva** pravomocných **k datu platnosti této smlouvy. Poté** může být počet Členů představenstva zvýšen nebo snížen podle Organizačních dokumentů.

3.2 Designation of Nominees

Each of the **Principal Shareholders** shall **collectively** have the right to nominate two (2) Directors. All other Shareholders shall collectively have the right to nominate one (1) Director. **Thereafter**, at any General Shareholders Meeting, (i) each of the Principal Shareholders shall collectively have the right to nominate that number of Directors (rounded up to the nearest whole number) as shall be equivalent to such **Principal Shareholders' aggregate percentage ownership** of all of the **outstanding and issued Shares**, times the number of Directors comprising the entire Board, and (ii) all other Shareholders shall collectively have the right to nominate the remaining Directors of the Board. The Principal Shareholders shall be also entitled to nominate the Chairman of the Board **from among** the members of the Board.

Určení kandidátů
Každý **Hlavní akcionář má obecně právo** nominovat dva (2) Členy představenstva. Všichni ostatní Akcionáři mají obecně právo nominovat jednoho (1) **Člena představenstva. Poté** má na každé Všeobecné valné hromadě (i) každý Hlavní akcionář obecně právo nominovat takový počet Členů představenstva (zaokrouhleno na nejbližší celé číslo), který bude odpovídat **souhrnnému percentuálnímu podílu** Hlavních akcionářů na všech **Akciích v oběhu** a vydaných Akciích, krát počet Členů představenstva v celém Představenstvu, a (ii) všichni další Akcionáři mají **obecně** právo nominovat zbývající Členy představenstva. Hlavní akcionáři jsou také oprávněni nominovat ze členů představenstva Předsedu představenstva.

3.3 Voting Agreement

Each Shareholder shall nominate for election to the Board at each applicable General Shareholders Meeting the **number** of Directors which it is entitled to nominate **pursuant** to Section 3.2 **hereof**. At each such General Shareholders Meeting, each Shareholder shall vote all of **its** Shares **in favor of** all nominees to the Board nominated pursuant to this Section 3.3 (**whether nominated by** the Principal Shareholders or the other Shareholders) in order to assure that such nominees shall be elected. In no case shall any Shareholder

vote its Shares in favor of the removal of a Director nominated by another Shareholder pursuant to this Section 3.3 unless the other Shareholders shall have so requested. In the event that a Director appointed pursuant to this Section 3.3 shall **cease to be a Director** for any reason, the Shareholders shall **cause** a General Shareholders Meeting **to be called as soon as reasonably possible** to **fill the vacancy thereby created**. **The replacement shall be nominated by** the Shareholders that originally nominated the exiting Director. At such General Shareholders Meeting, each Shareholder shall vote all of **its** Shares in favor of the nominee **of the Shareholder** entitled to fill the vacancy on the Board in order to assure that such nominee shall be elected.

Hlasovací dohoda

Každý Akcionář je oprávněn nominovat do voleb Představenstva při každé platné Všeobecné valné hromadě takový **počet** Členů představenstva, ke kterému je oprávněn podle odstavce 3.2 **výše**. Při každé takové Všeobecné valné hromadě smí každý Akcionář **hlasovat všemi** svými akciemi ve prospěch všech nominovaných do Představenstva podle odstavce 3.3 (**nezáleží na tom, zda je jmenují** Hlavní akcionáři nebo ostatní Akcionáři), a to tak, že zajistí, že budou **tito nominovaní** zvoleni. V žádném případě nesmí žádný Akcionář **hlasovat svými** akciemi pro odvolání Člena představenstva nominovaného jiným Akcionářem podle tohoto odstavce 3.3, pokud však o to ostatní Akcionáři nepožádají. Pokud Členu představenstva, **jmenovanému** podle tohoto odstavce 3.3, z jakéhokoliv důvodu **zanikne funkce**, jsou Akcionáři povinni **svolat** Všeobecnou valnou hromadu **v nejbližší možné době**, **aby se tak vyplnilo uvolněné místo**. **Tuto náhradu musí navrhnout** Akcionáři, kteří původně odcházejícího Člena představenstva nominovali. Na takové Všeobecné valné hromadě má každý Akcionář právo volit všemi svými akciemi ve prospěch **toho** nominovaného, **kterého** navrhl Akcionář oprávněný **nominovat kandidáta na uvolněné** místo v Představenstvu tak, že zajistí, že bude tento nominovaný zvolen.

3.4 Valid Meeting; Voting

The Board can validly deliberate and take action only at a meeting at which at least two (2) Directors are present, in person or by telephone. Any action of the Board shall require either the affirmative vote of a majority of the Directors present **at a validly constituted meeting**, at which the Chairman of the Board shall have a casting vote, or a unanimous written consent of the Directors.

Platná schůze; hlasování

Představenstvo je **usnášeníhodné a může činit kroky** pouze na **schůzi,** jíž se zúčastní alespoň dva (2) Členové představenstva osobně nebo po telefonu. Každé rozhodnutí představenstva vyžaduje buď **kladný hlas** většiny Členů přítomných na platně svolané schůzi, na níž musí mít předseda Představenstva rozhodující hlas, nebo musí Členové představenstva jednohlasně písemně souhlasit.

4. General Shareholders Meeting

4.1 Valid Meeting; Voting

The General Shareholders Meeting **can validly deliberate and take action** only at a meeting at which more than 66% (sixty-six percent) of the issued and outstanding Shares are represented. Except as otherwise provided in Section 4.2 **hereof**, any action of the General Shareholders Meeting shall require the affirmative vote of holders of a majority of the issued and outstanding Shares represented at a validly constituted **meeting**.

Všeobecná valná hromada
Platná valná hromada: hlasování
Všeobecná valná hromada **je právoplatně usnášenihodná a může učinit kroky** pouze na schůzi, na níž jsou zastoupeny **vydané akcie a akcie v oběhu ve výši výše než** 66% (šedesát šest procent). Kromě ustanovení v odstavci 4.2 **níže** vyžaduje každé rozhodnutí Všeobecné valné hromady kladný hlas akcionářů vlastnících většinu vydaných Akcií a Akcií v oběhu, které budou zastoupeny na platně svolané **Valné hromadě**.

4.2 Matters Requiring Supermajority Consent of the Shareholders

The General Shareholders Meeting shall not take any of the following actions except by the affirmative vote of holders of more than 80% (eighty percent) of all issued and outstanding Shares:

Záležitosti vyžadující souhlas kvalifikované většiny Akcionářů
Všeobecná valná hromada nesmí bez kladného hlasu držitelů více než 80% (osmdesáti procent) všech vydaných Akcií a Akcií v oběhu učinit žádný z následujících kroků:

a) consolidation, **amalgamation** or merger of the Company with or into any other company or entity;
konsolidaci, **sloučení** či fúzi Společnosti s jakoukoliv jinou společností či subjektem;

b) taking or instituting any proceeding for the **winding up**, reorganization or dissolution of the Company;
přijetí či zavedení jakéhokoliv opatření pro **transformaci**, reorganizaci či zrušení Společnosti;

c) issuance of any Shares or other securities of the Company or of any rights, warrants or options to acquire such Shares or other securities and any purchase by the Company of such Shares or securities; or any increase or decrease in the **Company's share**;
vydání jakýchkoliv Akcií či jiných cenných papírů Společnosti či jakýchkoliv práv, záruk nebo možností získat takové Akcie či jiné cenné papíry, a také jakýkoliv nákup takových Akcií nebo cenných papírů Společností; nebo jakékoliv zvýšení či snížení **podílu Společnosti**;

5 Restrictions on Transfer of Shares

5.1 Covered Shares

All Shares issued by the Company during the **First Stage Investment Period** and **the Second Stage Investment Period** shall be covered by this Agreement, and the Company shall not issue any such Shares to any person or entity that has not signed a statement agreeing to be bound by the provisions hereof.

Omezení převodu akcií

Zajištěné akcie

Tato smlouva **se musí týkat** všech Akcií vydaných Společností během **Období prvního a druhého upisování kapitálu.** Společnost také nemůže vydat žádné takové Akcie žádné osobě či **subjektu**, který by nepodepsal **souhlasné prohlášení**, že bude vázán ustanoveními **této Smlouvy**.

5.2 Lock-Up Period

For a period of nine (9) months following the date of this Agreement (the "Lock-Up Period"), no Shareholder (and no owner of any Shareholder that is a partnership, company or other entity) shall, directly or indirectly, offer, sell, transfer, assign, pledge or otherwise dispose of (**collectively** "transfer") its Shares now or **hereafter** held or acquired by such Shareholder to any person except (i) an affiliate of such Shareholder in accordance with Section 5.3, or (ii) in connection with a public offering or sale of the Company approved by the unanimous consent of the Board and by 90% (ninety percent) of the Shareholders. A direct or indirect transfer (in one or more transactions) of any interest in any Shareholder that causes the owners of the Shareholder (as they exist on the date the Shareholder becomes a Shareholder) to own and control less than 51% (fifty-one percent) of the Shareholder **shall be deemed to be a violation** of this Section. Notwithstanding anything to the contrary in this Section 5.2, the Company shall have the right to transfer up to 5% (five percent) of its Shares to any third party during the Lock-out Period and such transfer shall not be subject to any of the restrictions set forth in Article 5.

Období zmrazení kapitálu

Po dobu devíti (9) měsíců od data **podpisu** této Smlouvy („Období zmrazení kapitálu") nesmí žádný Akcionář (ani žádný vlastník Akcionáře, který je partnerem, společností či jiným subjektem) přímo či nepřímo nabídnout, prodat, převést, pověřit, přislíbit či jinak disponovat (obecně „převést") se svými Akciemi drženými či obdrženými v tomto okamžiku nebo později jakékoliv další osobě, kromě toho, pokud se jedná o (i) společnost přidruženou k takovému Akcionáři v souladu s odstavcem 5.3 nebo (ii) situaci spojenou s veřejnou nabídkou či prodejem Společnosti schváleným jednohlasným rozhodnutím Představenstva a 90% (devadesáti procenty) Akcionářů. Přímý či nepřímý převod (v jedné či více transakcích) jakéhokoliv podílu na jakémkoliv Akcionáři, **který zapříčiní, že majitelé akcionáře** (kteří existují k datu, kdy se Akcionář stane akcionářem) budou vlastnit a spravovat méně než 51 % (padesát jedna procent) Akcionáře, **se považuje za nedodržení tohoto odstavce. Není-li nic v rozporu** s tímto odstavcem 5.2, má Společnost právo převést až 5 % (pět procent) svých Akcií jakékoliv třetí straně během Období zmrazení kapitálu. Takový převod nesmí být v rozporu s žádným omezením ustanoveném v článku 5.

5.3 Right of First Opportunity

No Shareholder shall **transfer** any of its Shares to a third party, **unless it first offers the Shares to be sold** to the other Shareholders pursuant to the terms of the Organizational Documents. **The transferring Shareholder** shall notify the other Shareholders of the number of Shares **to be transferred** and the price and other terms on which **the transferring Shareholder** is willing to transfer such Shares. All the other Shareholders shall be entitled to acquire the Shares, **pro rata** in proportion to their respective ownership of all Shares not held by the **transferring Shareholder**, on the terms and **for the price offered by the transferring Shareholder.** No Shareholder shall sell any of its Shares to a proposed transferee unless the proposed **transferee** shall agree **in writing** to be bound by all of the terms and conditions of this Agreement.

Právo první příležitosti

Žádný akcionář nesmí převést žádnou ze svých Akcií třetí straně, **pokud však nejprve své Akcie nenabídne k odkupu** dalším Akcionářům na základě podmínek Organizačních dokumentů. **Převádějící akcionář** musí obeznámit další akcionáře o počtu Akcií, které budou převedeny, a o ceně a dalších podmínkách, za nichž je **tento akcionář** ochoten **takové** Akcie převést. Všichni další Akcionáři jsou oprávněni obdržet Akcie **poměrným dílem** ekvivalentním ke svému poměrnému vlastnictví všech Akcií, které **převádějící akcionář** nevlastní, a to za podmínek a za cenu nabízenou **tímto** Akcionářem. Žádný Akcionář nesmí prodat žádné ze svých Akcií novému navrženému **držiteli akcií**, pokud však **ten** nebude **písemně** souhlasit, že bude vázán všemi podmínkami této Smlouvy.

6.Termination

6.1 Limited Termination

The provisions of this Agreement shall terminate on the earlier of: (i) a public offering, (ii) a merger or consolidation of the Company with or into another corporation or entity that is not an **Affiliate of the Company** as a result of which the Shareholders own less than a majority of the voting power of the outstanding capital stock of the surviving or resulting corporation, (iii) the sale or other disposition of all or substantially all the assets of the Company to a corporation or entity that is not an **Affiliate of the Company**.

Zánik

Omezený zánik

Ustanovení této smlouvy **musí** zaniknout dříve, než nastane: (i) veřejná nabídka, (ii) fúze či konsolidace Společnosti s jinou korporací či subjektem nebo do jiné korporace či subjektu, který není **její Přidruženou společností**, jejíž následkem Akcionáři vlastní méně než většinu hlasovací síly nesplaceného kapitálu **zůstávající nebo výsledné** společnosti, (iii) prodej či jiné ponechání všech aktiv Společnosti či jejich podstatného množství korporaci či subjektu, který není **její Přidruženou společností**.

6.2 Shareholder Termination

Notwithstanding anything to the contrary in Section 7.1, this Agreement shall in any event terminate with respect to any Shareholder when such Shareholder no longer holds any Shares (except as to liabilities **existing as of**, or relating to the period prior to, the date of termination).

Zánik Akcionáře

Není-li nic v rozporu s odstavcem 7.1, musí tato Smlouva v každém případě pozbýt platnosti u každého Akcionáře, který **již** nevlastní žádné Akcie (kromě závazků existujících v, či vztahujících se k období před dnem zániku).

7. Miscellaneous

7.1 Notices

All notices and **communications** required **to be given under this Agreement** shall be in writing and shall **be deemed to have been duly given** if sent by registered mail, internationally recognized overseas courier (such as FedEx, UPS, TNT or DHL) or by telefax with a confirmation by registered mail to such party at its address and/or telecopy number set forth on Schedule A **hereto** or such other address as any of the parties **hereto** shall **from time to time** specify by notice **in writing** to the other Shareholders in accordance with this Section 8.1. Notices and communications shall be effective upon receipt (with receipt of notices made by fax being evidenced by electronic answerback generated by the receiving machine) or upon refusal of the **addressee** to accept delivery.

Různá ustanovení
Oznámení

Všechna oznámení a **korespondence vyžadované touto Smlouvou** musí být **v písemné podobě** a **musí být v případě zaslání řádně doručeny** doporučeně mezinárodně uznávaným zámořským dopravcem (jako např. FedEx, UPS, TNT nebo DHL) nebo faxem spolu s potvrzením **zaslaným** doporučeně **na adresu této strany** a/nebo na číslo faxu uvedené na Dodatku A k této smlouvě či na takovou adresu, **kterou může** každá smluvní strana **průběžně** specifikovat **prostřednictvím** písemného oznámení dalším Akcionářům podle odstavce 8.1. Oznámení a korespondence vstupuje v platnost po obdržení (s potvrzením o doručení **faxem s automatickým elektronickým potvrzením**) nebo na základě odmítnutí příjemcem.

7.2 Amendment, Modification and Waiver

This Agreement **may not** be amended or modified except by a **written instrument** signed by the Shareholders. **The waiver by a Shareholder of (or) a breach of any provision of this Agreement shall not operate as a waiver of any subsequent or different breach of this Agreement.**

11.

Dodatky, změny a zřeknutí se práv

Tato Smlouva **smí** být upravena či pozměněna pouze písemnými dodatky podepsanými Akcionáři. **Pokud se akcionář zřekne svých práv vyplývajících z některého ustanovení této Smlouvy nebo dojde k porušení jakéhokoliv ustanovení této Smlouvy, tak toto zřeknutí se nebo porušení ustanovení neznamená zřeknutí se práv vyplývajících z jiného ustanovení nebo porušení jiného ustanovení této Smlouvy.**

7.3 Successors and Assigns

This Agreement shall be binding upon and **inure** to the benefit of the Shareholders and their respective successors and permitted assigns.

Právní nástupci a nabyvatelé

Tato Smlouva je závazná a **nabývá platnosti** pro dobro Akcionářů a jejich příslušných nástupců a oprávněných nabyvatelů.

7.4 Assignment

The respective rights and obligations of a Shareholder shall not be assigned, transferred or disposed of, in whole or in part, to any other person or legal entity, except:

(a) with the prior written authorization of the Principal Shareholders; or

(b) in accordance with Article 5 **hereof**.

Pověření

Odpovídající práva a **povinnosti** Akcionáře nesmí být předána, převedena či ponechána (vcelku i částečně) jakékoliv další osobě či právnímu subjektu s vyjímkou:

b) předchozího písemného souhlasu Hlavních akcionářů; nebo

c) ustanovení ve **výše uvedeném** článku 5.

7.5 Entire Agreement

This Agreement (including Schedule A attached hereto) constitutes the entire agreement among the parties hereto in respect of the matters contained herein and therein, and supersedes all prior oral or written agreements and understandings between the parties hereto with respect to the subject matter hereof.

Celá smlouva

Tato Smlouva (spolu s připojeným Dodatkem A) tvoří kompletní smlouvu mezi smluvními stranami zde uvedenými ve výše a níže uvedených záležitostech a nahrazuje veškeré předchozí ústní či písemné dohody a srozumění mezi uvedenými smluvními stranami ve zde uvedených záležitostech.

7.6 Governing Law

This Agreement shall be governed and construed in accordance with the **laws** of the State of New York.

12.

Upravující právo

Tato Smlouva musí být vedena a vyložena v souladu s **právem** státu New York.

7.7 Settlement of Disputes - Arbitration

a) All disputes arising in connection with this Agreement that cannot be settled by mutual agreement shall be finally settled by arbitration under the Rules of Conciliation and Arbitration of the International Chamber of Commerce ("ICC"). Any Shareholder(s) **hereto** as the case may be (the "Requesting Party") may, by written notice (the "Arbitration Request") to any other Shareholder(s) (the "Other Party") refer **such dispute** to arbitration, and the Other Party shall, upon receipt of the Arbitration Request, be obligated to refer such dispute to arbitration proceedings as set out **herein**. In the event of any conflict between the ICC Rules and this Agreement, the provisions of this Agreement shall prevail.

Vyřešení sporů – arbitráž

Všechny spory vzniklé ve spojení s touto Smlouvou, které nemohou být vyřešeny vzájemnou dohodou, musí být nakonec vyřešeny arbitráží vedenou Pravidly smírčího řízení a arbitráže Mezinárodní obchodní komory. Každý **smluvní Akcionář** („Žádající strana") smí spolu s písemným oznámením („Požadavek na arbitráž") jakémukoliv dalšímu Akcionáři/Akcionářům („Druhá strana") postoupit **vzniklý spor** na arbitráž a Druhá strana je povinna po obdržení **takového** Požadavku na arbitráž odkázat tento spor smírčímu **řízení**, jak je **zde** ustanoveno. V případě jakéhokoliv konfliktu mezi pravidly Mezinárodní obchodní komory a touto Smlouvou mají přednost ustanovení této Smlouvy.

b) The arbitral tribunal shall consist of three arbitrators (each of whom shall be fluent in English), one appointed by the Requesting Party in the Arbitration Request and one appointed by the Other Party in writing to the Requesting Party within thirty (30) days of the date of receipt of the Arbitration Request. The arbitrators so selected shall, within sixty (60) days of the date of appointment of the second arbitrator, agree on a third arbitrator. If any of the arbitrators shall not be appointed within the time limits specified above, such arbitrator **shall be appointed by** the President of the ICC Court of Arbitration at the written request of either the Requesting Party or the Other Party.

Arbitrážní soudní dvůr se musí skládat ze tří rozhodců (z nichž každý musí mluvit plynule anglicky), jednoho musí pověřit Žádající strana v Žádosti o arbitráž a druhého musí pověřit Druhá strana písemně pro Žádající stranu, a to do třiceti (30) dnů od data obdržení Požadavku na arbitráž. Takto vybraní rozhodci jsou povinni se do šedesáti (60) dnů od data pověření druhého rozhodce dohodnout na třetím rozhodci. Nebude-li žádný rozhodce pověřen během výše specifikovaného časového období, musí takového rozhodce jmenovat prezident Arbitrážního soudu Mezinárodní obchodní komory na základě písemné žádosti Žádající strany nebo Druhé strany.

c) **In arriving at their award, the arbitrators shall make every effort to find a solution** to the dispute in the language of this Agreement (English) and shall give full effect to all provisions **hereof**. However, if a solution **cannot be found** in the language of this Agreement, the arbitrators shall apply the **substantive (not the conflicts) laws** of the State of New York. The arbitration **proceedings** shall take place in New York City, New York and the language of such **proceedings**, including arguments and briefs, shall be English.

Při rozhodování jsou rozhodci povinni udělat to nejlepší, aby našli řešení sporu v jazyku této Smlouvy (angličtina), a jsou také povinni do plné míry vykonat všechna **ustanovení této Smlouvy**. Pokud však **není možné nalézt** řešení v jazyku této Smlouvy, musí rozhodci použít nezávislé **hmotné (nikoliv konfliktní) právo** státu New York. Arbitrážní **proces** se musí konat ve městě New York, ve státě New York, a jazyk takového **postupu** spolu s argumentacemi a souhrny musí být angličtina.

d) **The award** of the arbitrators shall be made by majority vote and shall contain **written reasons**. **Any award** shall be made in US Dollars, the arbitrators being authorized to grant **pre-award and post-award interest** at commercial rates.

Rozhodnutí rozhodců musí být dosaženo většinovým hlasováním a musí obsahovat **písemné odůvodnění**. **Každá pokuta** musí být v amerických dolarech, s tím že jsou rozhodci oprávněni udělit **úrok z předčasného či pozdního zaplacení** podle obchodních tarifů.

e) The costs of arbitration, including reasonable legal fees, shall **be borne** by either or both of the Requesting Party or the Other Party in whatever proportion as the arbitral tribunal may award.

Náklady na arbitráž spolu s odpovídajícími právními poplatky musí **určit** buď pouze Žádající strana, nebo spolu s Druhou stranou, a to v jakékoliv výši podle rozhodnutí arbitrážního soudního dvora.

IN WITNESS WHEREOF, the parties hereto have signed this Shareholders Agreement on the date written above.

V souladu s výše uvedeným, podepisují uvedené smluvní strany tuto Akcionářskou smlouvu k datu, které je uvedené výše.

By_____ Subjekt:_____
Name:_____ Jméno:_____
Title:_____ Titul: _____

By_____Subjekt:_____
Name:_____ Jméno:_____
Title:_____ Titul: _____

SHRNUTÍ

Tématem práce je prozkoumání odvětví právního překladu v rámci překladu odborného, kterému ještě nebyla věnována dostatečná pozornost. Protože bylo třeba práci úzce specifikovat, je odbornému překladu jako takovému z obecného úhlu věnována pouze úvodní kapitola teoretické části. V této úvodní části jsou analyzovány obecné poznatky z teorie stylu. Jsou představeny různé pohledy světových lingvistů na pojem „styl“ a „registr“ a odůvodněna volba konkrétního pojmu pro účely této studie. Odbornému stylu a jeho typickým rysům v překladu z angličtiny do češtiny je věnována nemalá pozornost. Hlavní důraz je však kladen na styl právní, který do odborného stylu spadá a nese v sobě jeho základní prvky, které jsou úzce specializovány pro potřeby jednotlivých právních systémů (v našem případě systému anglo-amerického práva a českého práva). Tento právní styl je nejprve analyzován z teoretického úhlu pohledu a odborných poznatků akademiků, kteří se na tento styl specializují v prostředí právnické angličtiny a právnické češtiny. Jelikož je jazykem zdrojového textu jako praktické ukázky pro praktickou analýzu angličtina, rozbor teoretikých odborných poznatků je zaměřen nejprve na prostředí anglo-americké. Záměření není jen na aktuální anglický právní jazyk jako takový, ale také na jeho historický vývoj a vlivy, které přispěly k jeho současné podobě. Díky tomu jsou popsány důvody, proč tento velmi komplexní, pro oko laika nesruzemitelný styl, takto komplexní je a nemůže tomu být jinak. Český právnický jazyk samozřejmě svůj vývoj také prošel, avšak oproti anglickému není tak specifický a vlivný celosvětově, proto mu není věnována taková pozornost.

Protože je jazyk, i když na první pohled takto rigidního stylu jako styl právnický, pod neustálým vývojem a vlivem moderních technologií a kulturních změn, teoretická část práce představuje také aktuální trendy jak v angličtině, tak i v češtině a také typické rysy a úskalí současného právního překladu. Ten je představen prostřednictvím praktického úhlu pohledu odborníků v dané oblasti, které jsme oslovili a požádali o rozhovor. Tyto rozhovory jsou pak v teoretické části analyzovány v samostatných kapitolách.

Následná kapitola oba jazykové systémy a lingvistické rysy v anglickém a českém právnickém stylu porovnává a ukazuje jejich podobné a spojité prvky, ale i odlišnosti a důvody, proč tomu tak je. V právním stylu se i přes svou celkovou velkou odlišnost oba jazykové systémy mnohdy prolínají. Jak se však ukázalo, oba jsou i navzdory tendenci vedoucí k normalizaci systému, díky celosvětové globalizaci a existenci Evropské unie,

která se snaží právní systémy unifikovat, nadále velmi odlišné. Důvody, proč tomu tak je, jsou vysvětleny mimo jiné v rozhovorech s oběma specilisty.

Poslední část teoretické části se nezaměřuje pouze na právnický jazyk a jeho rysy v obou jazycích, ale na aspekty překladu právnického jazyka a také úskalí, které se mohou projevit při překladu z a do těchto dvou odlišných jazyků a také ukazuje v čem se liší oproti překladu jiných stylů. Tato kapitola se zaměřuje na teoretické poznatky akademiků, které jsou však současné a z praktického prostředí práce s překladem.

Aktuální použití právnického jazyka a specifické rysy tohoto stylu jsou následně představeny v praktické části, na ukázce právnického textu – smlouvě z reálného prostředí americké akciové společnosti, která není pro ochranu osobních údajů blíže specifikována. První kapitola praktické části se zabývá analýzou tohoto konkrétního textu z úhlu lexikálního a morfo-syntaktického. Existuje mnoho možností, jak k analýze přistupovat. Lineární rozbor prvků, které se objevují v textu, byl pro účely této studie nevhodný. Proto se zaměřuje převážně na rozbor lexikálních prvků a také jevů morfologických a syntaktických, které jsou analyzovány současně v jedné kapitole, jelikož se mnohdy prolínají. Jeden z důvodů pro tuto volbu je to, že jsou pro tuto konkrétní ukázku typické, ale také je tento typ analýzy v případě překladu odborného stylu doporučen. Zdůrazněny jsou nejen typické rysy anglického právnického textu (jak je analyzováno v teoretické části), ale také nejrůznější jiné rysy či deviace od tohoto systému.

Druhá kapitola praktického rozboru se věnuje rozboru analýzy překladu tohoto právnického textu do češtiny. Nejedná se o cizí překlad s naším komentářem, ale jde o vlastní překlad a komentář celého překladatelského procesu a výsledku, který v závěru přinesl. Výsledný překlad měl nejprve více variant, které byly neustále přehodnocovány, až se došlo k výslednému řešení. Bylo to proto, že bylo třeba dojít k ideálnímu řešení nejen z jazykového pohledu a znalostí obou jazykových systémů zdrojového a cílového jazyka – angličtiny a češtiny – ale také navázání informací z amerického právního systému zdrojového textu na právní systém České republiky, který je od něj velice odlišný, jak ukazuje teoretická část. Proto z jazykového úhlu pohledu mnohdy na první pohled jasná překladová řešení vypadala v konečné verzi zcela jinak. K tomu dopomohla znalost teoretických poznatků o obou právních systémech a jejich jazykových rysů, protože bez ní vypadala část zdrojového textu zprvu velice nejednoznačne, což by vedlo ke špatnému překladovému řešení. Při hledání pomoci se běžná překladatelská pomůcka –

specializovaný slovník – ukázala jako málo nápomocná. Pro konečnou verzi překladu, který je aplikováním na české právo, jsme využili odborné konzultace s českým právníkem. V samotné analýze je mnoho klíčových rozhodovacích okamžiků zdůrazněno. Analýza se však věnuje také rozboru překladatelských operací, které při překladu proběhly, a v neposlední řadě také rozboru typických ale také zvláštních rysů jazyka, které se objevily v překladu tohoto právnického dokumentu do češtiny. Na praktickém dokumentu jsou oba jazyky porovnány. Této části je věnována největší pozornost, protože v sobě spojuje části předchozí a také porovnává, zda teoretické poznatky lingvistů odpovídájí dnešní skutečnosti tvoření a překladu právnických dokumentů – smluv.

Závěrem jsou poznatky z teoretické části shrnuty a jsou také vyhodnoceny poznatky z praktické analýzy právního dokumentu. Na základě průběhu této praktické analýzy a všech poznatků z této práce jsou nakonec zdůrazněny úskalí, která se mohou překladatelům odborných právnických textů objevit, a je také doporučeno, jak se jim vyvarovat či je překonat. V neposlední řadě je poukázáno na základě poznatků z celé studie, jak by měl vypadat profil překladatele právnického jazyka, který je často podceňován. Dokonalé zvládnutí zdrojového a cílového jazyka je již považováno za samozřejmost. Proto je zdůrazněna schopnost lingvistického uvažování a rozboru jazykových prvků, ale také v případě vysoce odborného stylu právnického je důraz kladen na historickou ale také současnou znalost právního systému obou jazyků se zvláštní pozornosti na právní interpretaci, která může být nahrazena (pokud ne interpretací vlastní) konzultací s odborníkem, který je v ní zběhlý. Jsou také přehodnoceny tradiční překladatelské nástroje a pomůcky, jako specializované slovníky, a je doporučeno jejich lepší využití, které spočívá v tom, že mohou pouze ukázat směr překladu. Díky tomu, že jsou zaměřeny pouze na lexikální úroveň a ne úrovně další (morfologickou, syntaktickou, pragmatickou a textovou) nemohou být považovány v případ překladu právního jazyka za adekvátní nástroj a je třeba upozornit na jejich mnohdy mylná nabízená překladatelská řešení.

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