Editorial

The relationship between law and language is, implicitly and explicitly, at the core of comparative law research. In its connotation of "intellectual activity with law as its object and comparison as its process"[1] comparison naturally implies language as one of its necessary research tools.

In the past century, comparative law science and language mainly met in the field of legal translation, as the general research approach comparatists complied with was to uncover the expected commonalities underneath different legal rules, to create a system of law reflecting the universal values of humanity.

This was the moment when legal translation emancipated from simply being an innominate, implicit activity of comparative law methodology, having no dignity of existence as a discipline. In the Italian circle, we owe the scientific definition of legal translation to the intuition of Rodolfo Sacco, who denominated it "traductology" ("traduttologia"), also in order to establish the autonomy of this discipline. Sacco's identification of problems and solutions to the difficult art of transferring legal concepts from one language to another[2] proved to be fundamental in making legal translation a relevant field of research of comparative law studies.

Thus, the publication in this first Issue of the CLL journal of the national report on legal translation presented by Rodolfo Sacco to the twelfth International Congress of Comparative Law (Sydney, 1986)[3] is a tribute to a leading scholar who gave scientific content to the apparently simple sentence "in order to know the law, it is necessary to know the language"[4], by also disclosing how deep its implications can run.

Since then, studies of "traductology" have regularly been on the comparatist's agenda. At the same time, comparative law has started to move in a very different environment too, in which the law changes and multiplies its characters: "mute law", "global law", "soft law", "multilingual law" are only some of the new contexts in which the legal phenomenon manifests itself. The law remains the core of comparative law studies, but it's the dynamic relationship between law and language that offers an ever-changing scenario, continuously creating new fields of research.

Notwithstanding all new challenges, comparative law has not however shifted its attention from continuing to uncover differences and similarities among legal systems, nor from relying on its original methodology. It is thanks to its familiar research methods, developed through the transposition of concepts from and to foreign legal systems, that the tools of comparative law remain of a crucial importance also to identify legal rules in new and complex environments. On the other hand, comparative law is becoming the legal science with the greatest potential when interpreting legal choices today, precisely because its methodology is flexible by nature, needing to adapt, today as in the past, to new and constantly changing situations[5].

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[1] K. ZWEIGERT, H. KÖTZ, *An Introduction to Comparative Law*, 3rd edition, translated by T. WEIR, Oxford, 1998, p. 2 (original version *Einführung in die Rechtsvergleichung*, 3e éd, Tübingen, J.C.B. Mohr, 1996).

[2] R. SACCO, *Introduzione al diritto comparato*, Turin, 1980 (partially translation in R. SACCO, *Legal Formants: A dynamic Approach to comparative Law*, in *The American Journal of Comparative Law*, XXXIX (1991): 1 - 34 and 343 – 402).

[3] R. SACCO, *Rapport national italien au douzième Congrès International de droit compare/Italian national report to the twelfth International Congress of Comparative Law*, Italian Association of Comparative Law, Sidney 1986.

[4] Reminded by S. A. DE VRIES, Guest Speech at the Winter School *L.L.I.N.G.U.E, Legal Language in International, Global and Uniform Environments*, Trento Faculty of Law, Utrecht University , TSM (Trento Province), Sird (Società per la Ricerca nel Diritto Comparato, Turin), December 2021.

5 V. GROSSWALD-CURRAN, *Comparative Law and Language*, University of Pittsburgh School of Law Working Paper Series, 2005 (translated by Elena Ioriatti, "*Diritto Comparato e Lingua*" in *Annuario di Diritto Comparato e di Studi Legislativi*, 2016, later published in M. REIMANN AND R. ZIMMERMANN, *The Oxford Handbook of Comparative Law*, Oxford, 2019).

One of the most evident example is the European Union, where EU law expressed in each national legal language is intrinsically destined to become more than the sums of their parts, namely the single linguistic version, and to develop a unique, supranational and authentic meaning of its legal concepts. Here comparative law can definitely be effective in decoding "the" European meaning, allowing for a deeper understanding of the ways in which EU law is expressed beyond the single language version. This is definitely relevant in order to avoid Eu legal language from becoming a barrier[6], rather than a means of interpretation, to the application of harmonized law at the national level.

Thus, both at the national, European and supranational level, uncovering "the legal rule" is one of the targets of comparative law research. However, because of comparative law's implicit connection to language, an indirect effect of this decoding process of the norm is also the attribution of significance to single concepts, which by nature are destined to acquire meanings that goes beyond national borders.

Within this context, to the extent that comparative law goes so far as to contribute – even if indirectly – to the meaning of legal concepts, how should this field of comparative law science be qualified? For certain, comparatists are not "legal translators", since a translator communicates what has already been defined, at least in part, in a descriptive manner. In his/her mission of decoding meanings, the comparatist identifies what does already exists, but is yet to be defined. If the aim is to describe, the process is to build up (meanings)[7].

This is the implicit message of Flavio Guella's contribution, *Translating the idea of "prééminence du droit": divergent origins and homogeneous evolutions of "État de droit, Rechtsstaatlichkeit, Stato di diritto and Rule of law"?* in which the Author analyses the different constitutional and national backgrounds of these concepts, all implying subjection of political power to the law.

Thus, when dealing with languages, attention in comparative law is paid to language meaning hindrances, which could also lead to limitations on the exercising of citizenship rights.

This is what Van der Jeught underlines in his article *Regulatory Linguistic Requirements for Product Labelling in the Internal Market of the European Union. How the curious Case of the Irish Dog demonstrates the Need for a more coherent EU Language Policy language.* The Author's focus is on the relationship between language policy and multilingualism, a phenomenon that shapes the effectiveness of EU law at the national level too. As the Member States develop their own language regulation, both in the private and public sectors, the EU's linguistic diversity can be an obstacle when specific regulatory linguistic requirements are imposed on the labelling of products on a national or even subnational level. By recommending an unifying approach, the contribution suggests a balance between two relevant principles, the "freedom of language" to market specific products in the EU Internal Market and the "territoriality principle" on the use of languages established nationally, in order to protect end-users and consumers.

As noted by Vivian Grosswald Curran, a relevant aspect of the parallelism between law and language is the innumerable similarities between the evolution of language and the development of law, which may originate in many non-linguistic and non-legal sources[8]. This field is explored by Silvia Ferreri in the essay *The unpredictable path of legal transplants: some analogy with language evolution*. In the current framework in which cultural expressions are mostly un-predictable, the Author investigates a traditional area of comparative law, the legal transplants, through some parallelisms between the evolution of languages and that of legal institutions.

Even if law's most visible connection to language is given by the texts of the various legal systems being written in different languages, comparative law studies have their own intense focus on

[6] On language as a barrier to the enjoyments of EU citizenship rights see S. DE VRIES, E. IORIATTI, P. GUARDA, E. PULICE (eds.), *EU citizens' economic rights in action. Rethinking legal and factual barriers in the internal market,* Edward Elgar, 2018.

[7] On the relationship of comparative law and legal translation see J. ENGBERG, *Comparative Law for Legal Translation: Through Multiple Perspectives to Multidimensional Knowledge,* in *International Journal for the Semiotics of Law - Revue internationale de Sémiotique juridique,* 2020, 33 (2), p. 263-282.

[8] GROSSWALD-CURRAN, *Comparative Law and Language,* cit., p. 37.

monolingual areas too. Comparison also takes place within single national legal systems and in one single legal language: Sacco's "legal formants" (originally "components") are the typical example of comparative law research as a way to identify the various elements composing a legal system (legislation, case law, scholarly writing) and contributing to shape its characters. Although the language is the same, comparative law is a tool to visualize the various elements at work within a specific national environment.

But the frontiers of law de-codification touch contexts of non-verbal legal communication too. Traditional e among comparatists, legal anthropologist and ethnologist is nowadays very productive. "Mute law"[9] is a very wide territory where traditional law and customs are only the tip of the iceberg of a world of "silent" legal rules, since they are not yet (and are not supposed to be) put into words: in this framework, the contribution *The legal recognition of sign languages in an intersectional perspective* by Lucia Busatta offers a very interesting overview of the regulations of sign languages and of their recent legislative acknowledgement in various European legal systems.

The content of the first Issue of the CLL journal is meant to offer an overview of the kaleidoscope of subjects that "Comparative Law and Language" implies. For this reason, given comparative law's mission – the acquisition of knowledge - and its intrinsic connection with language, this journal does not have a predefined area of analysis, if not that to focus on the relationship between language and law today "under the umbrella of comparative law".

This Issue was published also thanks to the collaboration of the Assistant Editorial Board and particularly of Caterina Bergomi (AEB coordinator), Kerry H. Hellmuth, Virginie O. S. Alnet, Cezary Węgliński and of advice of prof. Luca Pes (Global Jurist journal executive editor).

We would also like to express our gratitude to the Dean of Trento Faculty of Law prof. Fulvio Cortese for his invaluable support to the establishment of the journal.

Prof. Elena Ioriatti, Editor – in – Chief, on behalf of CLL Editorial Board

[9] R. SACCO, *Il diritto muto. Neuroscienze, conoscenza tacita, valori condivisi*, Bologna, 2015.