

SWORN TRANSLATION OF CHINESE NOTARIAL CERTIFICATES

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Abstract: This article discusses the translation of Chinese notarial certificates from the perspective of sworn translation. Given the challenges of legal translation in general and sworn translation in particular, the issue in question calls for clearly established translation criteria. The author decided to adopt the recommendations included in The Sworn Translator's Code, issued by The Polish Society of Sworn and Specialized Translators, and Adequacy Conditions proposed by Roberto Mayoral (2000, 9-11). The analysis of Chinese notarial certificates focuses on the formal requirements of sworn translation, stylistic adequacy and the transliteration rules for Chinese personal names and addresses.

Key words: sworn translation, notarial certificates, Chinese, transliteration, Pinyin

TLUMACZENIE POŚWIADCZONE CHIŃSKICH AKTÓW I POŚWIADCZEŃ NOTARIALNYCH

Abstrakt: Tematem pracy jest tłumaczenie chińskich aktów i poświadczeń notarialnych z perspektywy tłumaczenia przysięgłego. Dla uściślenia kryteriów tłumaczenia, autorka zdecydowała się obrać jako punkt odniesienia zalecenia zawarte w Kodeksie Tłumacza Przysięgłego, wydanym przez Polskie Towarzystwo Tłumaczy Przysięgłych i Specjalistycznych, oraz warunki adekwatności zaproponowane przez Roberto Mayorala (2000, 9-11). Analiza chińskich aktów i poświadczeń notarialnych skupia się zasadniczo na formalnych wymogach tłumaczenia przysięgłego, odpowiedniości stylistycznej oraz zasadach transliteracji chińskich nazwisk i adresów.

Słowa kluczowe: tłumaczenie poświadczone, poświadczenia notarialne, język chiński, transliteracja, Pinyin

中国公证公正翻译

提要:

本文主要从宣誓翻译的角度介绍中国公证书的翻译。为精确公证翻译准则，作者采用由波兰公证及专业翻译协会出版社（Polskie Towarzystwo Tłumaczy Przysięgłych i Specjalistycznych）出版的《公正翻译规则》（Kodeks Tłumacza Przysięgłego）中的建议以及由Roberto Mayorala（2000, 9-11）提出的适足条件。本文的中国公证书的分析关涉公正翻译正式要求、体例对应性及中文姓名及地址的译音规格。

关键词: 法律翻译、公证书、中文、译音、拼音的等同语

Introduction

The aim of this paper is to examine Chinese notarial certificates in the light of requirements of sworn translation. In the first section, the challenges of legal translation in general are discussed, followed by a presentation of formal regulations regarding the

translation of official documents in EU countries and a short introduction concerning the status of sworn translation in Poland. The second section focuses on Chinese notarial certificates, first outlining the criteria for a successful translation and then proceeding into text analysis. A separate paragraph is devoted to the problem of transliteration of Chinese names and addresses, which continues to be a source of inconsistencies and therefore should be given special attention. The article purports to provide some practical guidelines for sworn translation of Chinese notarial certificates, addressing mistakes decisive for the translation's success or failure (cf. Li Changjiang 2005, 1).

1. Translation of official documents

Due to fast economic development and political opening of China to the world, as well as thriving educational and cultural exchange with Western countries, there is a growing need for translation of official documents (in the general meaning of the term, as in Mayoral 2003) from Chinese. Such an endeavour poses challenges of a twofold nature. First, there are issues common to legal translation in all language pairs that result from the unique qualities of legal discourse. The second category of problems results from Chinese using a non-alphabetic writing system, which necessitates the application of a standardized transliteration scheme. The latter shall be treated with more detail in the final paragraph.

1.1 Challenges of legal translation

There are several aspects of legal discourse that make legal translation especially challenging. First, legal terms cannot be confined to short dictionary definitions, but are rather embedded in complex knowledge structures, being condensed representations of legal rules (Biel 2008, 23). This fact entails the need for a translator to be well-acquainted with the legal systems involved in the process of translation. Secondly, due to the differences between legal systems in different countries, the translator is faced with inevitable incongruity of legal concepts (cf. Biel 2008, Goddard 2009). To make matters worse, the meaning of legal concepts is never fixed, but is being constantly redefined by lawmakers, judges and scholars (Goddard 2009, 178). Moreover, the language of law is bound by strict stylistic conventions, it is full of rigid collocations, often archaic, complex and obscure (Garzone 2000, 3). Finally, the translator needs to take into consideration the performative function of legal texts, especially in case where the target text is to be legally binding.

1.2 Formal regulations concerning the translation of official documents in the EU

Given all the difficulties inherent in legal translation, the translation of official documents is commonly considered to be a field that requires some kind of formal regulation. In European Union countries, this regulation usually takes one of the following three forms (cf. Pym et al. 2012, 25-26):

- (i) *Certified translations*: in this system no special qualifications are required of a translator, since the translations of official documents need to be certified by a

- notary or similarly qualified legal professional.
- (ii) *State authorised sworn translators*: in some countries translations of official documents are legally binding without the mediation of a notary, provided that they are produced by a “sworn” or “state authorised” translator. A sworn translator needs to pass a state examination, usually organised by the Ministry of Justice or the Ministry of Foreign Affairs. These state administrative institutions should maintain an official register of sworn translators, as required by Directive 2010/64/EU.
 - (iii) *Academically authorised sworn translators*: another form of authorisation is based on educational qualifications. In this system translators are not required to sit a special examination in order to become “sworn”, but they normally need to have a degree in translation, which covers courses in legal translation and/or legal systems.



Fig. 1. Geographic distribution of systems for certified translations, state authorised sworn translators and academically authorised sworn translators (Pym et al. 2012, 29).

1.3 Status of Sworn Translation in Poland

Poland belongs to countries which embraced the system of state authorised sworn translators. Polish sworn translators are accredited by the Ministry of Justice, after having taken a state examination, as specified in the 2004 Act on the Profession of Sworn Translator. Their translations are legally binding and each document contains a formula certifying its fidelity to the source text. Some formal requirements that sworn translators are expected to abide by can be found in ‘The Sworn Translator’s Code’ (hereinafter referred to as STC), a set of recommendations issued by The Polish Society of Sworn and Specialized Translators. The Code includes rules of ethics and good practice.

2. Sworn Translation of Chinese Notarial Certificates

In order to illustrate some of the difficulties sworn translators face when translating Chinese legal documents, the translation of notarial certificates will be discussed. The analysis is based on a sample of ten Chinese notarial certificates, investigated in the light of recommendations provided in the STC and Adequacy Conditions proposed by Mayoral (2000, 9-11), who combined relevant contributions made by Austin (1962), Grice (1991) and Ferrara (1980). Notarial certificates are issued for the purpose of authentication of commercial and personal documents and are often required for the documents to have legal effect in other countries. Therefore, the purpose of translation is also to make the document acceptable to the final recipient.

The conditions that need to be met for the translation to be acceptable can be summarized as follows (cf. Mayoral 2000, 10):

- (i) the information transmitted has to be relevant, comprehensible and complete
- (ii) the translation has to comply with the stylistic conventions practiced in the target culture
- (iii) the target text should enable clear identification of the party/parties
- (iv) there should be no grammatical or spelling mistakes.

Apart from these success conditions, there are also some requirements that ought to be met in order to ensure high quality of sworn translation. Mayoral discusses them under the term of Effectiveness Conditions. They are also listed in the STC. Below are several examples (Mayoral 2000, 11):

- (i) The translator's exegesis must be clearly differentiated from the information given in the source document, within square brackets (cf. STC §25).
- (ii) In addition to the text, other informative elements present in the source text must be included, such as illustrations or signatures (within square brackets, cf. STC §27, 29-31).
- (iii) All the incidents of the source text must be indicated, such as any changes that may have been made, information that has been rubbed out or added, tears, illegible words, or incomplete text (within square brackets, cf. STC §28, 32).
- (iv) Any elements of the source text that may be due to an attempt to falsify the original document must also be noted (within square brackets).
- (v) The official translation must offer the client the most economical solutions in relation to the translation rates. This means that the translated text should be as brief as requirements allow.

2.1 Text analysis

The term for notarial certificates in Chinese (公证书 *gōngzhèngshū*) encompasses both notarial deeds (Polish *akty notarialne*) and notarizations (*poświadczenia*), which should be taken into consideration when translating the heading (cf. Bu Yanli 2010:275). In Poland a notarized copy of a document is made by placing the name and address of the Notary Office, reference number, certifying clause, information about notary fees, date and place of issue, signature and stamp of the Notary on the copy itself, while Chinese notarial certificates are drafted on separate pieces of paper and include the following basic elements (see Fig. 2):

- (i) Heading
- (ii) Reference number
- (iii) Basic personal information identifying the party/parties (found in Polish notarial deeds, but not in notarized copies of documents)
- (iv) Content of the certificate
- (v) Name of the Notary Office
- (vi) Signature and/or stamp of the Notary
- (vii) Stamp of the Notary Office
- (viii) Date of issue.

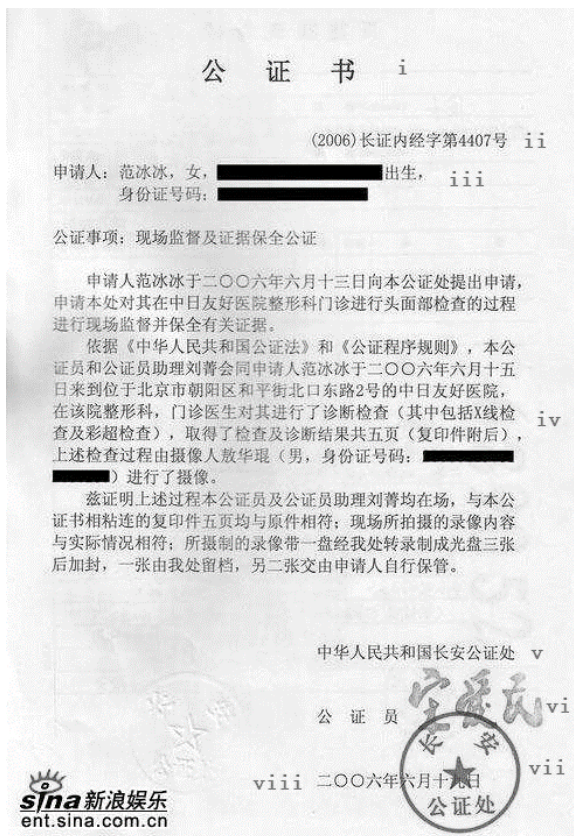


Fig. 2. Example of a Chinese notarial certificate.

The reference number consists of the year of issue, placed in brackets, followed by several characters referring to the place of issue and type of document, and a serial number. The characters are not full words but abbreviations and serve as an internal reference, therefore it is common practice to substitute each character with its initial in

translation (cf. Huang Ningxia 2004). In this way, the principle of economy can be sustained.

Table 1. Translation of reference number.

Source text	(2006) 长证内经字第4407号
Transliteration	(2006) chang zheng nei jing zi di 4407 hao
Target text	(2006) CZNJ Zi, No. 4407

In the example above 长 refers to the city of Chang'an, 证 stands for Notary Office (公证处 *gōngzhèngchù*), while 内经 specifies the type of notarial certificate. There are four main types of notarial certificates in China (cf. East Law):

- (i) Certificates for domestic use concerning civil affairs 国内民事 (内民)
- (ii) Certificates for domestic use concerning economic affairs 国内经济 (内经)
- (iii) Certificates for foreign use concerning civil affairs 涉外民事 (外民)
- (iv) Certificates for foreign use concerning economic affairs 涉外经济 (外经).

As can be seen, example 1 shows a reference number of a notarial certificate for domestic use, concerning economic affairs, and issued by a Notary Office in the city of Chang'an.

The signature and stamps should all be mentioned in the target text and described in square brackets. According to 'The Sworn Translator's Code' (§29), the translator should state the shape of the stamp, content of the inscription and the colour of ink, without describing graphic elements, unless it is a country's emblem or a company's logo. As for the dates, in order to avoid ambiguities resulting from different conventions, 'The Sworn Translator's Code' suggests to write the name of the month in words (§50).

The register of Chinese notarial certificates is formal, which is most evident in the use of formal prepositions, such as 与 *yǔ* and 于 *yú*, and pronouns, e.g. 本 *běn*, 此 *cǐ* and 其 *qí*. The archaic use of 所 *suǒ* as a nominaliser is also very characteristic of formal style and commonly found in notarial certificates. The body usually opens with a fixed phrase 兹证明 *zī zhèngmíng*, which is an equivalent of: *This is to certify*. The first character in this phrase means *now*, and its use is generally restricted to legal texts. In order to achieve stylistic adequacy, it is necessary to maintain formal style in the TT.

2.2 Transliteration

In translation of Chinese notarial certificates, transliteration of proper names and addresses often causes much controversy (cf. Yu Chaoyong 2009, Lai Shaolian and Li Dankai 2005, Cao Yun 2009, Bu Yanli 2010, Chen Xinrong 2006).

According to 'The Sworn Translator's Code' (§ 36), transliteration needs to follow the rules adopted by the relevant institution in the target culture. In 1958, the People's Republic of China introduced Pinyin as the official phonetic system for transcribing the Mandarin pronunciations of Chinese characters into the Latin alphabet (Scheme of the Chinese Phonetic Alphabet). The ISO adopted Pinyin as the standard Romanization for modern Chinese in 1982 (ISO 7098:1982), and the United Nations followed suit in 1986. In 1990 the Notarization Department of the Ministry of Justice

issued a letter advising all the Notarization Administrative Offices to use Pinyin in rendering Chinese personal and geographical names (Letter of the Notarization Department of the Ministry of Justice Concerning Spelling of Personal Names in Translations of Notarial Certificates).

Despite these clear instructions, there are still many inconsistencies in transliterations of Chinese names, resulting largely from ignorance of Pinyin spelling rules. Therefore, it is of great importance that translators get acquainted with the pertinent instructions. Below are some basic spelling rules, as specified in the Instructions for Implementing Spelling of Chinese Personal and Geographical Names in Pinyin (1978):

- (i) The last name and first name should be written separately, without any punctuation marks;
- (ii) The family name comes first, followed the given name;
- (iii) Two-syllable surnames should be written jointly;
- (iv) The initials of last name and first name should be capitalized;
- (v) Tone marks can be omitted.

Separating the last name from the first name can be challenging at times, and consequently should be given special attention. It results from the fact that both family names and given names can be either one-syllable or two-syllable. E.g. in case of the name 公玉训, the translator needs to decide if it consists of a two-syllable family name and one-syllable first name, or of a one-syllable family name and two-syllable first name. Both options are plausible, since there is a two-syllable family name 公玉 Gongyu, but there also is a popular one-syllable family name 公 Gong (Yu Chaoyong 2009, 46). On the other hand, if a child bears a double family name, consisting of his father's surname and his mother's surname, it is treated as one-syllable surname (e.g. 公孙函 Gong Sunhan, where the father's surname is 公 Gong and the mother's surname is 孙 Sun; Yu Chaoyong 2009, 46).

Another aspect of translating from Chinese which causes much confusion and is a source of many discrepancies is the translation of addresses. According to the Rules for Spelling Chinese Geographical Names with Pinyin (1974), geographical names should be transliterated, with specific terms and generic terms written separately. E.g. 北京市 Beijing Shi. However, after modifications from 1978 (Instructions for Implementing Spelling of Chinese Personal and Geographical Names in Pinyin), it has been agreed that specific terms should be transliterated, while generic terms need to be translated. E.g. 北京市 ought to be written as Beijing City. It does make sense at higher levels of administrative division, but gets very complicated when it comes to translating specific addresses, especially names of streets. Let us take 东直门外大街 as an example (Lai Shaolian and Li Dankai 2005, 39). It is often translated as Outer Dongzhimen Street. But 大街 can be translated as Main Road, Main Street, Avenue or Boulevard. It gets even more complicated when we consider the fact that there are many terms describing 'street' in Chinese, including 路、道、街、巷、里、弄、胡同. If 路 is translated as road, and 街 is a street, then translation of 巷、里、弄 remains problematic, since all of these words convey the meaning of lane or alleyway.

Lai Shaolian and Li Dankai proposed a solution that seems very convenient and could lead to unification of translation practice. Namely, they suggest to translate names of administrative divisions from province, down to city district or township. The remaining part of the address should be transliterated (Lai Shaolian and Li Dankai 2005, 40):

广东省揭阳市榕城区东山10号街以东6号路以北工行住宅小区D幢604房

[604/D, Gonghai Zhuzhai Xiaoqu, Liuhaolou Yibei, Shihaojie Yidong, Dongshan Shihao, Rongcheng District, Jieyang City, Guangdong Province]

3. Conclusions

By way of conclusion, it should be emphasized that sworn translation demands adhering to formal requirements and stylistic conventions specific to a given target culture, in order to meet the expectations of the final recipient.

Moreover, one of the core conditions for a successful sworn translation of official documents is that it needs to enable clear identification of the parties, hence the importance of correct transliteration of Chinese personal names and a unified strategy for translating addresses. The former calls for training in Pinyin spelling rules, while the latter requires either discussion, followed by some kind of agreement in the translation circles, or guidelines issued by a relevant state institution.

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