

Translating names of constitutional bodies in legal texts: Italian translation of names of Slovenian constitutional bodies in different types of legal texts

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ABSTRACT

This article concisely presents how the names of state bodies may be translated (in this case, from Slovenian into Italian) using various translation strategies that are effective and appropriate for every individual case according to the sometimes varying text type and function of the translated text in the target language and culture. The method consists of research to identify actual translations of these names depending on the type of text and its function (normative, expository, or informative). For research purposes, the texts are divided into: (a) *normative legal texts*: binding for the recipients (e.g., laws and regulations); (b) *expository legal texts*: partially binding or non-binding for the recipients (e.g., scholarly articles, conference acts, lessons, and legal memory); and (c) *informative legal texts*: non-binding for the recipients (e.g., texts from newspaper websites, journals, and television broadcasts for the Italian minority). The results obtained, especially in normative texts, were somewhat heterogeneous and unsatisfactory, and therefore the author proposes his own suggestions based on the experience he has gained in this field as well as taking into account prominent theorists such as Šarčević, de Groot, Cao, Sacco, Megale, and others. In particular, in translations of the names of state bodies, various strategies are applied depending on the type of text and its function: (a) Italian translations of the names of Slovenian constitutional bodies in legislative legal texts, such as the constitution in particular, should be as formal as possible, even literal translations, not only out of respect for the intent of the legislator, but also for reasons of coherence and terminological consistency, which promotes transparency and recognition by recipients, and also safeguards the principle of legal certainty;; (b) Translations of the same names in legal texts of a partially binding or non-binding character, such as expository and informative texts, should be functional and, with regard to the type of text and its specific function, more accessible to the target-language recipients.

KEYWORDS

Names of constitutional bodies, equivalence, translation strategies, legal translator, legal texts, coherence and terminological consistency, legal certainty.

1. Introduction

This article is based on the author's doctoral dissertation, *Translating Names of Slovenian State Bodies in Legal Texts: The Italian Translation of the Slovenian Constitution* (Paolucci 2013b).

Translating names of constitutional bodies is demanding work entailing significant responsibility on the part of a translator. This is also due to the functions and other assignments appointed to these bodies by the constitution. In addition to the experience gained by the author while

teaching translation of legal texts to university students, the conclusions are also supported by practical experience gained through a series of translation seminars and workshops carried out in Ljubljana and Koper, Slovenia and in Trieste, Italy. The author's seminars and workshops were aimed at legal translators and interpreters, and they often addressed a practical problem: translating names of state institutions and bodies. In Slovenia in particular, with independence and the Slovenian constitution entering into force in 1991, translators faced the difficult and very weighty task of translating names of new bodies and institutions, which are distinguished by their own special features as defined by constitutional legislation. More specifically, the question raised during these seminars was how to translate terms into the target language that are based on different types and genres of legal texts, depending on their function (normative, expository, argumentative or informative) and on different legal systems (Cao 2007: 10-11, Madsen 1997: 17-27, Šarčević 1997, Megale 2008: 144-146). Last but not least, the question was raised how to achieve and guarantee the coherence and terminological consistency needed to promote transparency for the recipients and to safeguard the principle of legal certainty¹.

All of these facts led to an in-depth analysis of this subject in order to provide answers that are as thorough and precise as possible, and to be able to offer adequate and relevant translation solutions.

The initial step consisted of analyses from the perspective of linguistics, translation studies and comparative law. This was followed by an empirical study to identify possible tendencies in translating the names of constitutional bodies in Slovenia and to some extent in other countries. In this particular case, the aim was to determine how the names of the Slovenian constitutional bodies are actually translated into Italian, particularly in normative, expository and informative texts.

The results of the empirical research unequivocally show (particularly for normative texts) that in Italian translations of names of constitutional bodies, as stated in the Slovenian constitution, translators do not follow any normative criteria or any logic whatsoever. On the contrary, their decisions are mostly autonomous, incoherent and sometimes even illogical. Considering all the tools and support available to translators and editors today, this is somewhat surprising and absolutely unjustifiable. Apart from being debatable, such an approach also seems unfounded. There is no theoretical basis by which to justify such an incoherent and at times even erroneous *modus agendi* revealed by the research. On the other hand, as shown below, an attempt was made to show that the strategies that should be employed, especially in normative texts such as the constitution, are the ones in which translations of constitutional names

(in this particular case, names of the Slovenian constitutional bodies in Italian) should be as formal as possible, even literal². The motivation for such a translation is not only to respect the intent of the legislator, but it also serves coherence and terminological consistency, which promotes transparency and recognition by recipients. Moreover, such translations should be made in order to safeguard the principle of legal certainty. On the other hand, translation of the same names in legal texts of a partially binding or non-binding character, such as expository and informative texts, should be as functional as possible. In addition, with regard to the type of text and specific function, the translation should be as accessible as possible to the target language recipients and their culture.

2. Methodology

Regarding the method applied, as already indicated, the initial step consisted of analyses of linguistics, translation studies and comparative law, and was followed by empirical research seeking to identify tendencies in translating the names of constitutional bodies in Slovenia and to some extent in other countries as well. For research purposes, the texts are divided based on their type and function into: (a) normative legal texts: binding for the recipients (e.g., laws, regulations and international treaties); (b) expository legal texts: partially binding or non-binding for the recipients (e.g., scholarly articles, conference acts, lessons and legal memory); (c) informative legal texts: non-binding for the recipients (e.g., texts from newspaper websites such as *La Repubblica* or *Il Piccolo*, journals and television broadcasts for the Italian minority such as *TV Koper Capodistria*).

In particular, an attempt was made to verify actual translations of the names of Slovenian constitutional bodies in Italian, especially in normative texts of a binding character for the recipients, expository texts and informative texts.

More specifically, the research consisted of analysis of the following types of texts: a) *normative legal texts*, in particular the official text of the Constitution of the Republic of Slovenia, and all relative translations into Italian as well as into English, French, German and some other languages; monolingual or parallel texts gathered in some corpora (Evrokorpus, etc.); official gazettes of Slovenian bilingual municipalities Koper/Capodistria, Piran/Pirano and Izola/Isola; terminological databases and thesauruses (EUR-Lex, Evroterm, Eurovoc, Curia.eu) and other works; b) *expository legal texts*, in particular legal handbooks, research articles, corpora such as Europarl, where speeches by members of parliament or other politicians are gathered, collections of doctrines and legal collections, legal memory and so on, and c) *informative legal texts* from newspaper

websites such as *La Repubblica*, *Il Piccolo* and *La Voce del Popolo*, journals, television broadcasts (*TV Koper Capodistria*), other websites such as *Portale Slovenia*, *Europa.eu/Slovenia* and *Evropa.gov.si*, and so on.

For practical reasons and for the specific interest at hand as well as considering the purpose of this research, certain constitutional bodies were chosen that best present unresolved questions and traps of translation into Italian and into other languages. The following pages summarise only the results for the terms *Državni zbor* 'National Assembly' and *predsednik vlade* 'prime minister'.

3. Research results

The following pages summarise the results of the research.

3.1. Normative texts

Research was first carried out on some relevant Slovenian normative texts translated into Italian; in particular, normative texts concerning the Italian minority, such as the Constitution of the Republic of Slovenia and other legal provisions and norms.

The first term researched was *Državni zbor RS* 'National Assembly of the Republic of Slovenia', with the following results (see Table 1).

Table 1. *Državni zbor* 'National Assembly'

<i>Translation of the Constitution of the Republic of Slovenia, 1992, DZ RS: Camera dello Stato</i>
<i>Translation of the Constitution of the Republic of Slovenia, 1992, Regional Council of Veneto: Camera di Stato</i>
<i>Revision, 2009, of the Translation of the Constitution of the Republic of Slovenia, 1992, DZ RS: Camera di Stato</i>
<i>Official gazettes (1992–2015) of the bilingual municipalities of Koper, Piran and Izola: Camera di Stato (exceptions: Camera dello Stato 3 occurrences, Assemblea Nazionale 2)</i>
State portal website of the RS (Italian version): http://e-uprava.gov.si/euprava/it (consulted: 15 December 2015) <i>Državni zbor</i> : Camera dei Deputati: 3

The second term researched was *Predsednik vlade RS* 'prime minister of the Republic of Slovenia', with the following results (see Table 2).

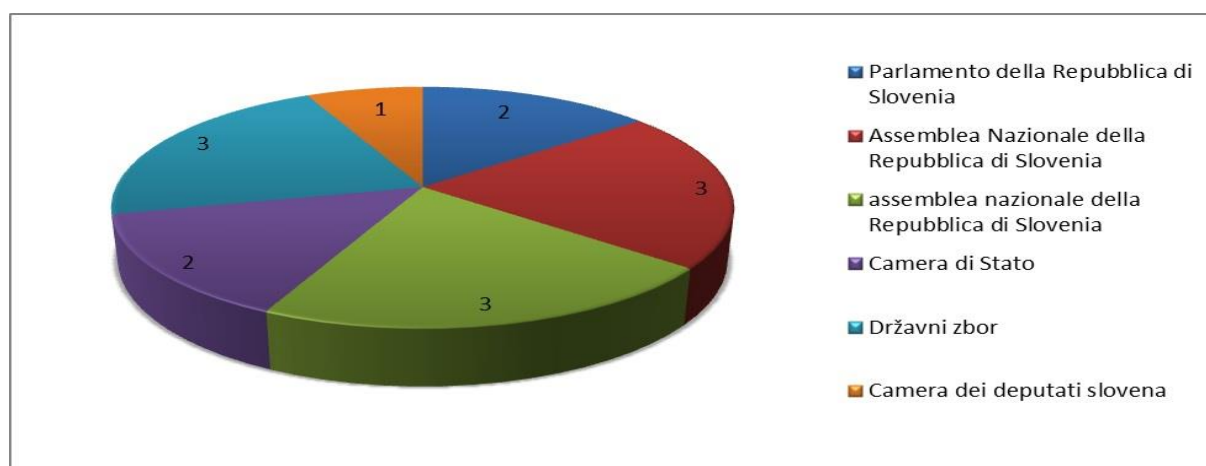
Table 2. Predsednik vlade 'prime minister'

<i>Translation of the Constitution of the Republic of Slovenia, 1992, DZ RS: Presidente del Governo</i>
<i>Translation of the Constitution of the Republic of Slovenia, 1992, Regional Council of Veneto: Presidente del Governo</i>
<i>Revision, 2009, of the Translation of the Constitution of the RS, 1992, DZ RS: Presidente del Governo</i>
<i>Official gazettes (1992–2015) of the bilingual municipalities of Koper, Piran and Izola: Presidente del Governo (exceptions: Presidente sloveno 3 occurrences, Primo ministro sloveno 4)</i>
<i>State portal website of the RS (Italian version): http://e-uprava.gov.si/euprava/it (consulted: 15 December 2015) Predsednik vlade: Presidente del governo: 1</i>

As seen from the results presented (Table 1 and 2), in particular on the Slovenian side and particularly in normative texts concerning the Italian minority, it was possible to observe — for example, in the Italian translations of the constitution and other norms published in various official gazettes of the three municipalities in the Slovenian Littoral — that the translation of the official source texts is rather coherent and somewhat faithful, albeit with various exceptions.

Below is an analysis of the EUR-Lex corpus; in particular, of the translation of the names of Slovenian constitutional bodies in normative texts in Italy as well as in the entire EU.

The first term that was researched (consulted 16.12.2015) was *Državni zbor RS* 'National Assembly of the Republic of Slovenia', with the following results (see Figure 1).

**Figure 1. Državni zbor 'National Assembly'**

The second term researched on EUR-Lex (consulted 16.12.2015) was *Predsednik vlade RS* 'prime minister of the Republic of Slovenia', with the following results (see Figure 2).

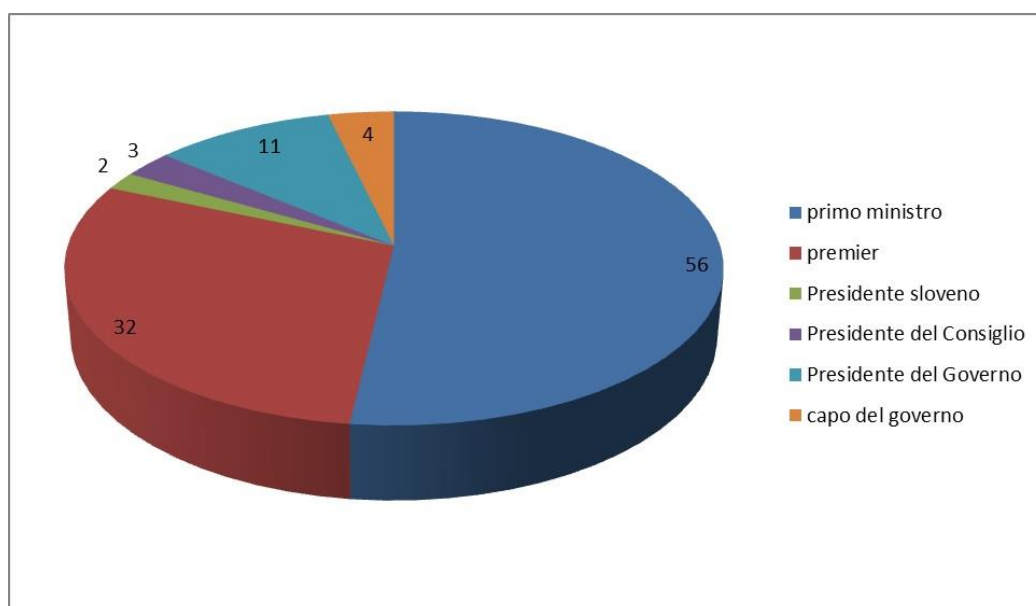


Figure 2. *Predsednik vlade* 'prime minister'

As seen from the Figure 1 and 2, the research carried out on the EUR-Lex corpus in particular has revealed that translating the names of Slovenian constitutional bodies in normative texts in Italy as well as in the entire EU is to some extent approximate. Therefore, the translations are characterised by significant terminological inconsistency, which may be confusing and in any case is misleading for the recipients. This issue is addressed in the discussion.

3.2. Expository texts

The research on expository legal texts was primarily carried out on the EUROPARL corpus, which gathers the speeches of members of parliament and other politicians. The following figures summarize the results.

The first term that was researched (consulted 16.12.2015) was *Državni zbor RS* 'National Assembly of the Republic of Slovenia', with the following results (see Figure 3).

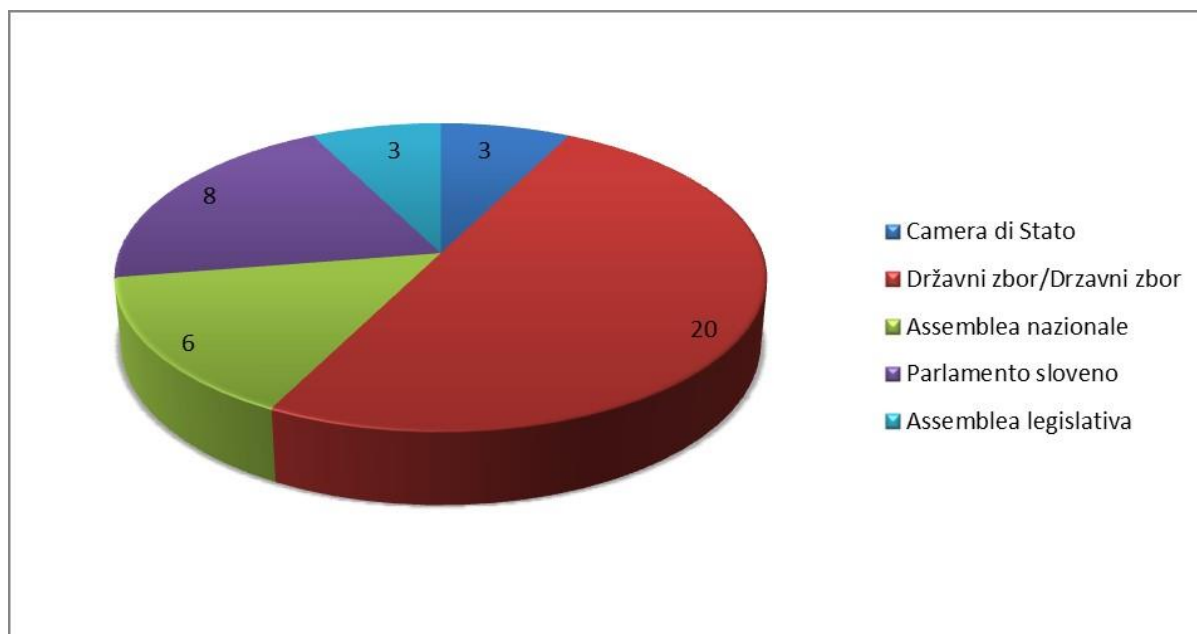


Figure 3. *Državni zbor RS* 'National Assembly of the Republic of Slovenia'

The second term researched (consulted 16.12.2015) was *Predsednik vlade RS* 'prime minister of the Republic of Slovenia', with the following results (see Figure 4).

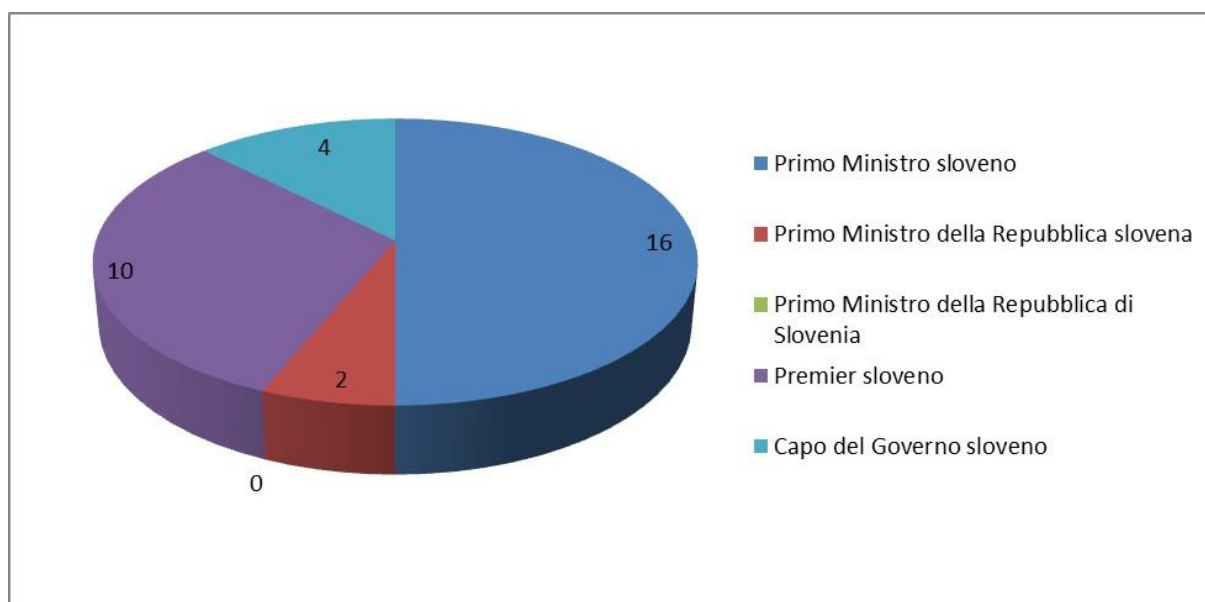


Figure 4. *Predsednik vlade RS* 'prime minister of the Republic of Slovenia'

The research has shown substantially similar results and tendencies of the names in question in some legal treaties, essays, doctoral dissertations, conference acts, legal memory and other partially binding texts primarily intended for recipients familiar with the subject.

As far as expository texts are concerned (in the way one interprets them; i.e., in terms of partially binding or non-binding legal texts with an explanatory and argumentative function intended for specific recipients specialised in the field; see section 4.4., this research (Figure 3 and 4) has shown that, because the materials were written or translated by specialists in the field and because they are mostly intended for recipients that are also experts and experienced in the field, multiple translations solutions are possible.

The purpose of expository texts is obviously to illustrate, explain and clarify a particular concept or notion, and their content has a partially binding or even non-binding character for the recipients. Considering this fact, it is obviously appropriate to express or translate such names in various ways that may be, depending on the context or on a specific case, more suitable for illustrating a concept, theory or idea in general.

3.3. Informative texts

The following figures summarise some of the results of the research carried out on corpora and newspaper websites, journals, television stations and other sources where legal informative texts (mainly non-binding for the recipients) appear, potentially addressing as large and general a public as possible.

Searched term: *Državni zbor RS* 'National Assembly of the Republic of Slovenia'. Consulted: 16 December 2015

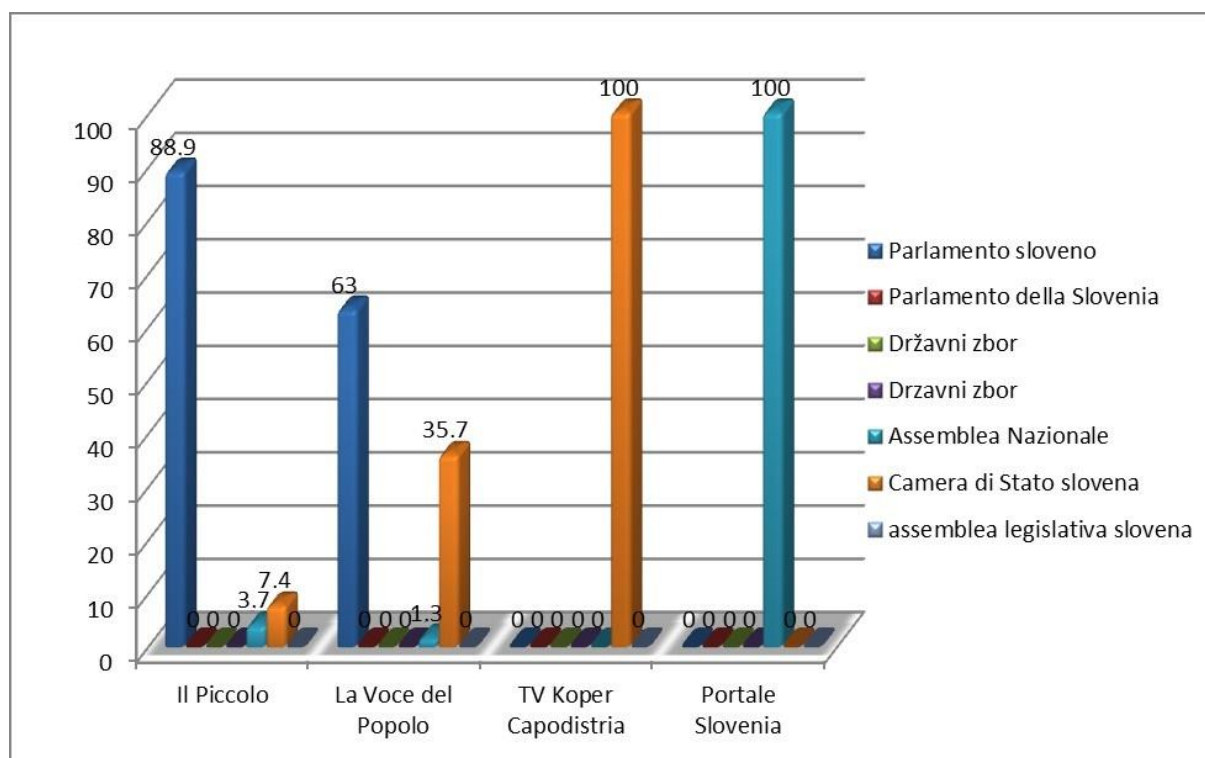


Figure 5. Državni zbor RS 'National Assembly of the Republic of Slovenia'

La Repubblica: Searched term: *Predsednik vlade RS* 'prime minister of the Republic of Slovenia'
 Consulted: 16 December 2015

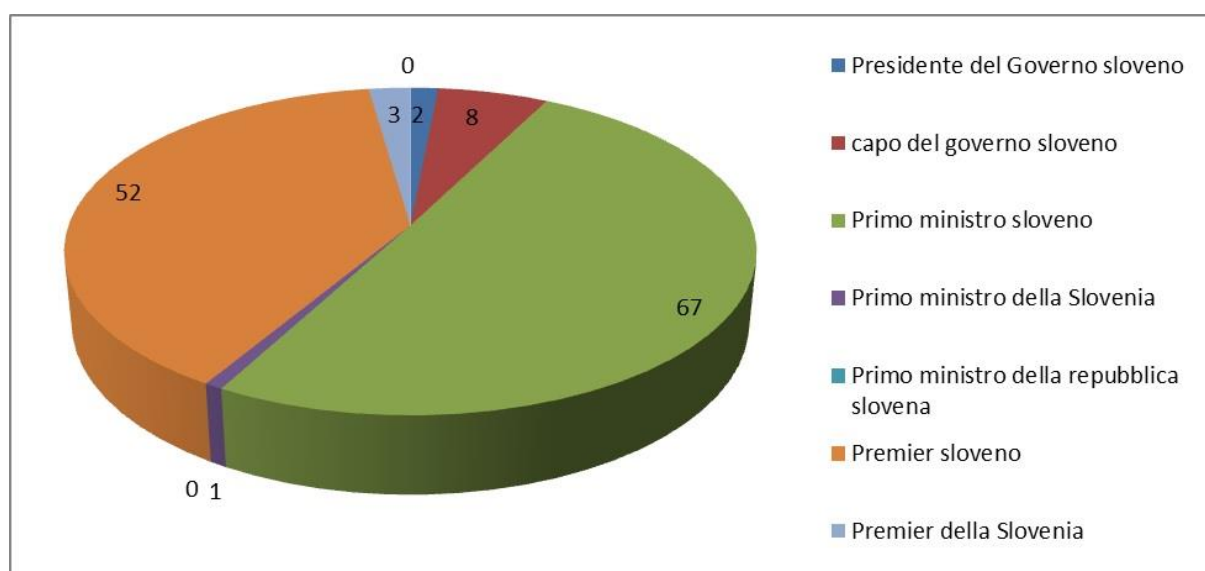


Figure 6. Predsednik vlade RS 'prime minister of the Republic of Slovenia'

Il Piccolo and La Voce del Popolo: Searched term: Predsednik vlade RS
 'prime minister of the Republic of Slovenia'
 Consulted: 16 December 2015

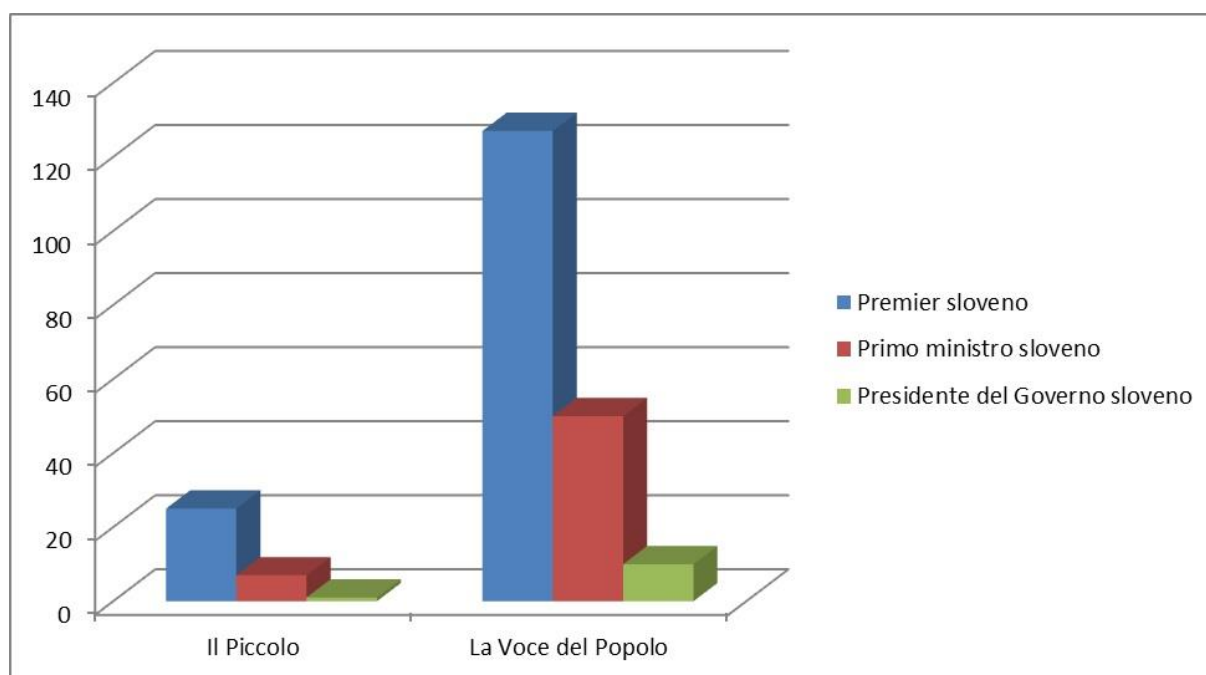


Figure 7. *Predsednik vlade RS* 'prime minister of the Republic of Slovenia'.

As for informative texts — which refers to texts that as a rule are not particularly technical and address a wider public (see section 4.4.), but also include legal terms or names — this research (Figure 5, 6 and 7) has revealed many particularly different occurrences that were often synonyms but nevertheless correct and suitable. In other cases, on the other hand, especially in some texts available online, the choices were inadequate and in some cases even erroneous.

As will explained in greater detail below, because these texts have a general informative character and therefore address the entire community, including recipients with no technical knowledge of a particular field, such names can be expressed or translated in several different ways depending on the context, function and specific situation.

3.4. Problems evident from the empirical research

As seen from the results presented, in particular from the research carried out on *normative texts*, they surprisingly appear to be somewhat heterogeneous. On the Slovenian side and particularly in normative texts concerning the Italian minority, it was possible to observe — for example, in the Italian translations of the constitution and other norms published in

various official gazettes of the three municipalities in the Slovenian Littoral — that the translation of the official source texts is rather coherent and somewhat faithful, albeit with various exceptions. These examples therefore concern translation within a multilingual legal system (i.e., the Slovenian legal system, which uses Slovenian, Italian and Hungarian), that involves three different legal languages but only one legal system. On the other hand, regarding the translation between two different legal languages as well as two different legal systems, the research on the EUR-Lex corpus in particular has revealed that translating the names of Slovenian constitutional bodies in normative texts in Italy as well as in the entire EU is to some extent approximate and unsatisfactory. The motivation for this is unclear and therefore debatable. Moreover, the translations are characterised by significant terminological inconsistency, which may be confusing and in any case is misleading for a particular recipient or for an individual citizen.

4. Fundamental questions and possible strategies to adopt in translating legal texts in general and the names of constitutional bodies in particular

Below, some proposals are presented that are supported by the ideas of prominent theorists in the field such as Šarčević (1997, 2000), de Groot (2000), Cao (2007), Sacco (2000) and Megale (2008, 2011) with regard to fundamental questions that need to be addressed and solved when translating legal texts in general and when translating the names of constitutional bodies in particular.

Because legal translation is a particularly structured and complex activity, which is the result of a dynamic evaluation of a wide range of elements and factors, not all of which have been specifically analysed in this research, the main questions or key elements are the following:

- (a) Different legal systems;
- (b) The specific nature of legal language;
- (c) Equivalence;
- (d) Types of text;
- (e) Function.

To support the proposal, each of these is briefly presented in the following sections.

4.1. Different legal systems

Each legal order is unique and is therefore different from any other legal order. Even when two orders belong to the same legal family (e.g., the

Italian and Slovenian legal orders) and one has been particularly influenced by the other (e.g., the Italian and French legal orders), a series of differences (which in fact manifest and express the sovereignty of each state) are inevitable and therefore require the translator to also be a specialist in comparative law. The differences obviously also originate from different historical and cultural developments of legal orders. In this respect, as underscored by Šarčević (1997: 13) and confirmed by Cao (2007: 25): “Due to the differences in historical and cultural development, the elements of the source legal system cannot be simply transposed into the target legal system.”

Nevertheless, it is of great importance to point out, in the case at hand, the distinction between two essentially different cases, mentioned only briefly in paragraph 3.4: (a) Translation within a multilingual legal system (i.e., the Slovenian legal system, which uses Slovenian, Italian and Hungarian), which involves two or three different legal languages but only one legal system; and (b) Translation within two different legal languages and at the same time two different legal systems (i.e., between the Slovenian legal language and legal system as well as the Italian legal language and legal system (Šarčević 2000: 15, Kocbek 2006: 239, Cao 2007: 23, Prieto Ramos 2014: 313)).

Let me initially present the first case mentioned above. As has substantially also emerged from my research, particularly in the translation of normative texts destined for the Italian minority in Slovenia, the translators of these texts chose a source-oriented approach, opting for a calque or literal translation. In the second case, which is evidently also more complex, translators had to make use of other strategies, too; for example, neologisms or functional equivalence.

As far as this latter case is concerned, the passage from one given legal system to the other (in this specific case, from the Slovenian legal order to the Italian one) puts the legal translator, just like the specialist in comparative law, into one of the following situations and faces them with the necessity of translating or interpreting:

- (1) A term or an institute has a formal equivalent in the target language in which it is substantially regulated in a similar way; this case is somewhat rare and does not present particular difficulties (e.g., *Vlada*, *Governo* ‘government’; *Minister*, *Ministro* ‘minister’);
- (2) A term or an institute has a formal equivalent in the target system in which, however, it is regulated differently (e.g. *Predsednik republike*, *Presidente della Repubblica* ‘president’);
- (3) A term or an institute does not have a formal equivalent or a similar regulation in the target legal system (e.g., in Slovenia *Vrhovno*

državno tožilstvo, Procura Suprema dello Stato 'state prosecutor general'; in Italy *Procura Generale della Repubblica presso la Corte di Cassazione*);

- (4) A term or an institute exists in the source legal system but is not present in the target legal system (e.g., *Varuh človekovih pravic RS* 'human rights ombudsman of the Republic of Slovenia', *Tutore dei diritti umani della RS* or *Difensore dei diritti umani della RS*).

As can be seen, even the Slovenian and Italian legal systems, despite belonging to the same legal family of *civil law*, are distinguished by their formal and substantial differences, which sometimes prove to be highly marked.

One of the most marked differences between the two systems relates exactly to different legal provisions and to the relations between the Parliament and the Government in Slovenia and in Italy. The Parliament in Slovenia, in fact, is characterised by a bicameral system in which the lower house (*Državni zbor* 'National Assembly') is elective and its primary function is a legislative one. The upper house (*Državni svet* 'National Council'), on the other hand, is the representative body for social, economic, professional and local interests, is not elective and its primary function is advisory as well as supervisory. In Italy, there is a so-called perfect bicameralism in which both houses are elective and carry legislative, supervisory and other, virtually identical, functions. However, there is an important constitutional reform underway that will also result in a more effective bicameral system in Italy, which in any case is different in both form and substance from the bicameral system in Slovenia. As far as the Government is concerned, in Slovenia it consists of the President of the Government and of the ministers (Art. 110 of the Constitution of the Republic of Slovenia). In Italy, on the other hand, the Government is made up of the President of the Council and the Ministers, who together form the Council of Ministers (Art. 92 of the Constitution of the Italian Republic). As for the relations between the two constitutional bodies, for example, one of the most significant differences concerns appointing the ministers proposed by the head of government: in Italy, as in Germany, the ministers are appointed formally by the President of the Republic. In Slovenia (although the legal system is heavily inspired by the German system), on the other hand, the ministers are appointed by the *Državni zbor* (Bavcon et al. 2007: 36).

4.2. Specific nature of legal language

Legal language is generally considered a technical, formalised and complex language, dependent on its legal system. In the strict sense, it could be defined as a language by means of which legal norms are

formulated. Nevertheless, in the broad sense, it could be defined as a language by means of which all legal matters are formulated. In particular, legal language is a tool by means of which a legislator communicates precepts, judges deliver sentences, lawyers debate and argument, and lecturers organise and propose solutions for interpretations. Legal language should therefore more appropriately be referred to in the plural; that is, *legal languages* (Caterina and Rossi 2008, cited in Pozzo and Timoteo 2008: 202; Pezzin 1996: 71; Pavčnik 1997: 359).

A common opinion tends to define legal language as a language that is only partially “technicalised”. That is to say, it mainly contains terms belonging to natural language, and only a few terms are technical and specifically legal (Ajani 2006: 23).

Cao (2007: 28) also observes that “(e)ach legal language is the product of a special history and culture.” Another fundamental fact to emphasise is that legal language depends not only on the language in which it is expressed, but also on the individual legal system to which it is related. There is thus not only one legal language for each language, but there are as many legal languages as there are existing legal systems (Sacco 2000: 75).

Because this article cannot thoroughly and systematically illustrate the topic of legal language and go into morphosyntactic, lexical, textual and other features, a key point regarding the specific topic is highlighted here: the use of synonyms.

Similarly to special languages, legal language shows some degree of reluctance to synonymy. A legislator in particular always prefers repetition or other (albeit less elegant) strategies to synonymy when preparing normative texts in order to ensure the highest degree of precision, unambiguity and legal certainty. Synonymy, on the other hand, is in fact never identical and often indicates uncertainty and ambiguity. As pointed out below, however, expository, argumentative and especially informative legal texts are characterised by more frequent use of synonymy for different purposes. In informative legal texts in particular, the use of synonyms is often more common in order to make texts less technical and more accessible even to an average recipient that would otherwise not fully understand them. Such examples of synonymy include *timbrare* ‘to stamp’, *convalidare* ‘to confirm’, *annullare* ‘to cancel’ instead of *obliterare* ‘to validate’; *interrogare i testimoni* ‘to question the witnesses’ instead of *escutere i testi*; or, relevant to this particular case, names such as *Premier* ‘premier’ or *Primo ministro sloveno* ‘Slovenian prime minister’ instead of

Presidente del Governo sloveno; Pubblico ministero 'state prosecutor' instead of *Procuratore di Stato* and so on.

4.3. Equivalence

Although it is a subject of continuous discussion and a frequent source of controversy, the concept of equivalence is still a central topic in legal translation studies. The solution to any translation problem is obviously far beyond the mere linear transposition of a source text into a target language and, particularly when translating legal texts, specialists in comparative law and legal translators continuously strive to find the most equivalent term or concept in the target language.

Some theorists such as Šarčević (1997: 237-239, 2000: 238) distinguish between *near equivalence*, *partial equivalence* and *non-equivalence*; others, such as de Groot (2006: 430), divide them into *full equivalent*, *closest approximate equivalent* (*acceptable equivalent*) and *partial equivalent*; Ajani (2006) and Megale (2008: 90-101) distinguish between *equivalenza completa* 'complete equivalence' or *quasi completa* 'almost complete equivalence', *equivalenza parziale* 'partial equivalence' and *equivalenza funzionale* 'functional equivalence'. Others yet, such as Beaupré (1986: 179) and Garzone (2007: 201), talk about *legal equivalence*.

With regard to the distinction of equivalence, the author's proposal (Paolucci 2011: 81) is the following:

- **Formal and substantial equivalence** — when an institution or a body has a homonymous formal denomination (due to a literal translation of a neologism or a calque) and similar assignments and functions in the respective legal orders (e.g. *Cour de Cassation*, *Corte di Cassazione* 'Court of Cassation'; *Ministero degli Affari esteri*, *Ministrstvo za zunanje zadeve* 'Ministry of Foreign Affairs').
- **More formal than substantial equivalence** — in cases in which the translation of certain legal institutes, names of institutions, offices, bodies or other terms is equivalent in the form, but not completely in the content or substance (e.g. *Presidente della Repubblica*, *President de la Republique*, *Predsednik Republike* 'president').
- **Merely substantial equivalence** — when two institutions or bodies, although having similar assignments and functions, have a *nomen iuris* that does not correspond in the form. For example, the Italian *Sottosegretario di Stato* (in Italian public law, the direct collaborator of a minister within a certain ministry) is a substantial equivalent of the Slovenian *Državni sekretar* (literally, 'state

secretary') in Slovenian public law; or *Cancelliere* (a clerk of the court assisting the judge in all acts and activities that have to be documented in minutes, etc.) to *Sodni tajnik* (literally, 'judicial secretary', who has similar functions in the Slovenian system).

In light of the above, it can be deduced that in cases of formal equivalence foreignising strategies such as literal translation or calque translation are used, whereas in cases of substantial or functional equivalence it is appropriate to use domesticating strategies to convey a term or concept corresponding to the target culture (Paolucci 2013a).

4.4. Types of text

Types of text have a decisive importance in this context. Various theorists have concentrated on dividing texts into various types. Following the aims of this research and their order of importance, the first theorist is Sabatini (1990, 1998), who divides texts in general into three large categories:

- (1) **Highly binding texts**, into which he places, among others, *normative texts* (laws, decrees, regulations and other normative texts);
- (2) **Average binding texts**, into which he places *expository texts* (treaties, study materials, encyclopaedias, essays, legal memory, political speeches, conferences, class materials and other texts) and *informative texts* (popular science texts and texts on current affairs, journalistic texts and all legal texts that do not have legal effect because of their purely informative function);
- (3) **Partially binding texts**, into which he places literary texts, irrelevant for the purposes of this article.

Within a purely legal context, inspiration is taken particularly from Madsen (1997: 17–27) and Šarčević (2000), who basically divide legal texts into performative (laws, regulations, decrees and other types of texts with a prescriptive function, thus having an obligatory and binding character for their recipients) and non-performative texts (other texts or parts of them with an expository, argumentative or informative function in a legal context, the content of which does not have an obligatory and binding character for their recipients).

As previously mentioned, text classification (depending on the type) assumes central importance in order to support the ideas in this article. For this purpose, the author has established his own classification, which is presented below. This classification has been created based on that established by Sabatini (1998:129). However, unlike Sabatini's classification, the main focus was on legal texts alone and was limited to

the first general distinction of these texts into binding and partially binding or non-binding for the recipients. The classification is as follows:

- Normative texts: acts binding for the recipient (laws, decrees, regulations, international treaties, etc.);
- Expository texts: non-binding or partially binding texts with an explanatory and argumentative function intended for specific recipients that are experts in the field (legal handbooks, essays, scholarly articles, doctoral dissertations, lessons, conferences, legal memory, etc.);
- Informative texts: non-binding texts that as a rule have a general legal and non-technical character and are generally intended for all recipients (e.g., newspaper, magazine or website texts on internal or foreign political affairs, and texts and materials with a popular, promotional etc. character with legal content).

It is, however, necessary to emphasise that Sabatini (1998: 129), Madsen (1997: 21) and all other experts on text types agree on the fact that (similarly to how general texts are always or almost always “mixed texts”, comprising narrative, descriptive, normative, expository, informative and other elements) legal texts also often consist of narrative, descriptive, normative, expository, argumentative and informative elements. For this reason, a typical example is the text of the sentence in which the text of the disposition is normative, the text of the legal motivation usually consists of normative and argumentative elements and the text of the factual motivation primarily contains expository, argumentative and informative elements (see also Di Benedetto 2003; Megale 2011b).

4.5. Function

As previously mentioned, another crucial aspect for the purposes of this research is function (see Vermeer 1982; Reiss 1989; Nord 1997), which is necessary for a given text in a target language and culture.

As discussed below, a text (in this case, a legislative one) can be translated into another language in order to perform the same function (e.g., a normative function) or in order to carry out a different function (e.g., informative function) from the one it has in its source language.

In this respect, Nord (1997: 47) makes a distinction in *Skopostheorie* regarding general translation; that is to say, between *instrumental* and *documentary translation*. Later, the same distinction was again proposed by Garzone (2007: 204) and Cao (2007: 10-11), but was narrowed down to legal translation alone. Cao in particular briefly asserts that “there is legal translation for normative purpose” (Cao 2007: 10) and that “there is

legal translation for informative purpose, with constative or descriptive functions” (Cao 2007: 11). For the first case, Cao states examples of translation of legislation in bilingual or multilingual jurisdictions such as Canada, Switzerland, Belgium, the EU and so on. For the second case, Cao’s examples include statutes, judicial sentences, essays and other academic or scholarly material translated for informative purposes for the benefit of the recipients. Later, Megale (2008: 144–146) discusses *traduzione con valore giuridico* ‘translation with legal value’ and *traduzione con valore informativo* ‘translation with informative value’.

In order to conclude this point, I highlight the importance of a phenomenon termed by German functionalists as *Funktionveränderung* ‘functional shift’ by providing a classic example: the source text (a law) has a normative function, whereas the target text has an informative function. With the passage from a source language to a target language, in fact, depending on the purpose, the function changes. As clearly shown by various theorists such as Cao (2007), Sandrini (ed.) (1999), Garzone (2007), Kocbek (2009) and Biel (2009), with the functional shift, the translation strategy itself changes.

In order to illustrate this in terms of names of bodies, consider the term *Državni tožilec* ‘state prosecutor’, which, observing its normative function, one would translate into Italian as *Procuratore di Stato*. Should the same term need to be translated for an expository and explanatory function — that is, in order to convey the status and the responsibilities of this subject, such as in a conference meeting of magistrates or other legal professionals — one could translate it by using a non-translation (a loanword) or perhaps, better yet, by using a paraphrase or other explanatory form. If, on the other hand, the translation of the same term were necessary for an informative function in a broader sense, despite not providing full equivalence, but in order for every recipient to understand what the term corresponds to, one could translate it as *Procuratore della Repubblica* (literally, ‘republic prosecutor’) or, better yet, with the more common term *pubblico ministero* ‘public prosecutor’.

5. Discussion. Proposals for the particular case

Particularly in the case of normative texts, the research has revealed, surprisingly, that the results obtained were somewhat heterogeneous. On the one hand, on the Slovenian side, in the case of two different legal languages but only one legal system, particularly in normative texts relative to a minority, such as in Italian translations of the constitution and other norms published in various official gazettes of the three municipalities in the Slovenian Littoral, one can observe a rather coherent and faithful translation of the official source text. On the other hand, in

the case of translation between two different legal languages as well as two different legal systems, as has been particularly revealed by research on the EUR-Lex corpus, it is undoubtedly clear that the Italian translation of the names of constitutional bodies in normative texts in Italy as well as in the entire EU is often autonomous, thus creating heterogeneous, nonconforming and misleading results, which are debatable. In fact, the translations are characterised by significant terminological incoherence, which may be a source of confusion and in any case misleading for particular recipients or for individual citizens.

In practice, this research showed that the translation of *Državni zbor* 'National Assembly' and *Predsednik vlade* 'prime minister' in normative texts in particular is sometimes domesticated (Venuti 1995, Paolucci 2013a: 83) (e.g., *Camera dei Deputati*, *Presidente del Consiglio*) and is frequently neutralised or even "sterilised", (e.g. *parlamento sloveno* or *primo ministro* and *premier*). Had they wished to do so, the Slovenian legislators could have easily and autonomously chosen to name these bodies *Parlament* 'parliament', *Prvi minister* 'prime minister' or *Premier* 'premier.' However, because the legislators opted for *Državni zbor* 'National Assembly' and *Predsednik vlade* 'prime minister' (literally, 'president of the government'), it appears that the translator does not have the power or the authorisation to intervene with regard to a choice that belongs exclusively to the constitutional legislators themselves or to the popular sovereignty of a given state. In fact, for the very reason that a constitution in its basic form consists of the state, the translator should not ignore or in any other way try to domesticate, adapt or modify the intent expressed by the legislator. The legislator has in fact required his own constitution, which in its essence – although in some points it may normally be influenced by other fundamental norms or constitutions – is unique, original and independent, and contains and reflects the historical, social and cultural developments of the past centuries of its people.

In light of the above, the translation of the names of constitutional bodies – in particular, those in the Slovenian Constitution in Italian, especially in normative texts – should be as technical and formal as possible. It should, moreover, strictly observe the content of a legislative text in the source legal order. This should be done (if necessary) even at the expense of reduced fluency or at the expense of immediate accessibility.

In the author's view and the virtually unanimous opinion of theorists and experts in legal translation, the approach that emerged from the research is unfounded, not sustained and not justified. On the contrary, the names of constitutional bodies should be translated formally and especially in a coherent way; specifically, *Camera di Stato* (or, provided that it is unanimously unequivocal, *Assemblea Nazionale*) for *Državni zbor* 'National Assembly' and *Presidente del Governo* for *Predsednik vlade* 'prime

minister'. As for the translation — in particular in normative texts — of these two bodies in Slovenia, some additional explanations are needed. First, the initial official translation of *Državni zbor* into Italian was *Camera dello Stato* (Italian Translation of the Constitution of the Republic of Slovenia, 1992, DZ RS). Immediately after, this translation was modified to *Camera di Stato* (which, in any case, is a literal translation). In some other normative acts, this expression was translated as *Assemblea Nazionale*; in certain cases, this translation was associated with the translation of the same body in English (i.e., the National Assembly); in others, on the other hand, it was referred to the translation of the former *Skupščina Republike Slovenije*, a Slovenian parliamentary body that existed when Slovenia was part of Yugoslavia (Kaučič and Grad 2008: 198). As for the second expression, *Predsednik vlade*, the official translation into Italian in Slovenia was nearly unanimously *Presidente del Governo*. The reason for this is, first of all, because the approach was identical to other constitutional bodies employing the same strategy of a literal translation; and second — as confirmed by distinguished constitutionalists such as Bavcon, Bučar and Cerar (2007) — the translation needed to highlight the fact that the functions of this body — given the fact that Slovenia has no Council of Ministers such as in Italy or in France — are different and only partially coincide with those of other prime ministers; for example, the English, French, German or Italian ones.

In these cases, a literal translation is necessary: it sets up the translation strategy (foreignisation) that best respects the legal text in the source language in a way required by the legislator (Paolucci 2013a: 83). At the same time, it is a means to convey and increase the awareness of the special features (such as names and legal institutes) of different legal orders and systems. These are the special features that — if they are a source of difficulty for the translator — should be considered as a true asset to the entire community, and to the entire civil society. In contrast, if a translator tends to domesticate or standardise everything that does not seem to be in line with the two or three legal systems that are considered dominant, one would do nothing but illogically change the dimension of the science of law and impoverish one of the richest and most solemn languages: legal language. Moreover, the translation strategy proposed for normative texts tends to pursue the fundamental aim of unambiguity. In fact, pursuing only one solution and thereby avoiding alternative synonyms allows the translator to avoid misleading and confusing situations among the recipients as well as to maintain the fundamental principle of legal certainty.

In addition, an answer to the following question was sought: how should a translator ensure coherence and terminological consistency in the translation of names in normative texts?

At a national level, in Italy in particular, it may be appropriate to follow the example adopted in France that was well explained by Megale (2011b: 674). In France, in fact, there are dedicated bodies (namely, *le Commissions spécialisées de terminologie et de néologie*) whose main task is to coin equivalent terms in French; such terms have to be used in a mandatory and unambiguous fashion by public administrations and entities and therefore by the translators of these bodies as well. Consequently, the parliament, although it is free or not bound to respect the terms created by these commissions, usually tends to adopt them, most likely for the sake of harmony. In Italy, on the other hand, such terminological harmony is more difficult to achieve because there are no dedicated bodies such as that of *le commissions spécialisées* in France and because the rules and restrictions are less similar.

At the level of the European Union, on the other hand, prior to publication first the translator and later the editor in particular should verify the best available parallel texts (on the same topic) for how a given term has been translated up to that point, and should therefore translate the same term in as formal and adequate a way as possible. This approach should also be required under the rules and agreements provided by various collections such as the manual for translation of European Union acts published by the Directorate General for Translation at the European Commission and by other similar publications that unequivocally show that, in translating terms and concepts, the same expressions should always be used in order to guarantee the utmost consistency and terminological coherence. As an example, see also European Commission-DGT's English Style Guide (2016).

In terms of technical revision, and especially in terms of terminological and lexical revision, it would be useful (or, better yet, necessary) for revision services provided by various EU institutions (such as the Directorate General for Translation at the European Commission) to strive to effectively guarantee coherence and terminological consistency.

As far as expository texts are concerned (in the way one interprets them; i.e., in terms of partially binding or non-binding legal texts with an explanatory and argumentative function intended for specific recipients specialised in the field; see section 4.4., this research has shown that, because the materials were written or translated by specialists in the field and because they are mostly intended for recipients that are also experts and experienced in the field, there are, for example, no obviously wrong domesticated terms (which has been noticed, on the other hand, in some informative and even normative texts), such as *Camera dei Deputati* 'chamber of deputies' or *Presidente del Consiglio* 'council president'. Only

occasionally were there generic expressions, such as *Parlamento* 'parliament'.

The purpose of expository texts is obviously to illustrate, explain and clarify a particular concept or notion, and their content has a partially binding or even non-binding character for the recipients. Considering this fact, it is obviously appropriate to express or translate such names in various ways that may be, depending on the context or on a specific case, more suitable for illustrating a concept, theory or idea in general. For example, the term *Državni zbor* 'National Assembly', depending on the context or on a specific case (such as an international conference on comparative public law, or a scholarly essay), can be translated into Italian in several different ways, such as: *Državni zbor*, *Camera bassa*, *Assemblea legislativa*, *Organo legislativo*, *Camera dei rappresentanti* or *Assemblea nazionale*.

As for *informative texts* — which refers to texts that as a rule are not particularly technical and address a wider public (see section 4.4.), but also include legal terms or names — this research has revealed many particularly different occurrences that were often synonyms but nevertheless correct and suitable. In other cases, on the other hand, especially in some texts available online, the choices were inadequate and in some cases even erroneous. It is due to this last finding that the recommendation to the recipient (and in this particular case to the translator) is to always verify a term in several reliable sources. This should be done when the term was found on an unknown website or on a website known to be unreliable in certain fields, such as law.

As presented above, because these texts have a general informative character and therefore address the entire community, including recipients with no technical knowledge of a particular field, such names can be expressed or translated in several different ways depending on the context, function and specific situation. They can be translated generically (e.g. *Parlamento*), they can be translated with a more technical but unequivocal term that is generally not translated (e.g., *Bundestag* or *Duma*, indicating the lower houses in Germany and Russia, respectively), or they can be translated with a domesticated term (e.g., *Procuratore della Repubblica*, etc.), as long as they always achieve their predetermined purpose in the most efficient way possible. This same tendency has also been shown by this research.

6. Conclusions

Translating names of constitutional bodies is quite demanding work for a legal translator entailing great responsibility. These are the names of the

most important state bodies to which key assignments are appointed by the constitution. This is why their translation must be as appropriate, coherent and efficient as possible. For this reason, in translating normative texts, the names of constitutional bodies (in this specific case, the constitutional Slovenian bodies in Italian) should be translated as formally as possible, even literally, not only respecting the intent of the legislator, but also for reasons of coherence and terminological consistency, which promotes transparency and recognition by recipients, and also safeguards the principle of legal certainty. Translations of the same names in legal texts of a partially binding or non-binding character, such as expository and informative texts, on the other hand, should be as functional as possible. Moreover, with regard to the type of text and its specific function, they should be more accessible to the recipients of the target language and culture.

As the research carried out to identify how such bodies are actually translated has illustrated, a somewhat heterogeneous picture and an arguable *modus operandi* have been presented, particularly in normative texts. Various translators and legal editors have in fact ignored any guidelines or norms set to guarantee a certain level of coherence and terminological consistency; instead, they have tended towards autonomous translation. By doing so, they have created a plurality of equivalents (some of them acceptable, others too general and in some cases even misleading or erroneous), which is counterproductive. In other words, a debatable and erroneous practice has been shown that should be considered and addressed sooner or later.

In fact, the translations of these bodies are characterised by a significant terminological inconsistency that (particularly in normative texts of a binding character) can be a source of confusion and in any case misleading for the recipients or for those that are required to obey the content or are subject to its effects. In the author's opinion and according to the virtually unanimous opinion of theorists and experts in legal translation, the approach that emerged from the research is unfounded, not sustained and not justified. On the contrary, names in normative legal texts of a binding character should be translated formally and especially in a coherent way as well as in accordance with these proposals. Moreover, this view is supported and shared by the most prominent theorists and experts in the field, such as Šarčević, de Groot, Nord, Madsen, Cao, Megale, Sacco, Garzone and others.

On the other hand, in legal texts of a partially binding or non-binding character, such as expository and informative texts, translations of such names should be functional and, with regard to the type of text and its specific function, they should be more accessible to the recipients of the

target language and culture. The results obtained through this research have fundamentally confirmed this practice, which is supported by the unanimous opinion of theorists and experts in the field.

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Biography

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Notes

¹ Slovenia and Italy are neighbouring countries with mutual linguistic minorities in both countries. This contributes to the need for translation of legal texts for normative purposes (laws, administrative acts etc.) as well as for expository and argumentative or merely informative purposes.

² In this regard, Šarčević confirms the statement referring to English institutions: "Names of English institutions and legal acts are usually translated literally to facilitate their identification" (1997: 259).