



The market for legal translation in Austria: the financial markets supervision perspective

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- The Financial Market Authority – a brief timeline
- The Supervisory Landscape in Austria
- Language Services at the FMA
- Strengthening cooperation through training with legal professionals
- Knowledge Sharing and Knowledge Management
- The Impact of EU Law
- Rechtsbereinigung / Legislative Consolidation
- Working with other languages
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- Future prospects

FMA: a Brief Timeline

- 2002: FMA established (banking, insurance & securities supervision)
- 2011: [European Supervisory Authorities \(ESAs\) established, namely: EBA, EIOPA and ESMA.](#)
- 2011: Prevention of Money Laundering and Terrorist Financing division established.
- November 2014: [National Competent Authority within the Single Supervision Mechanism \(SSM\) for Banking Supervision](#)
- 2015: [Single Resolution Mechanism \(SRM\) established.](#)
FMA becomes National Resolution Authority (NRA)
- 2015: Responsible for supervising deposit guarantee schemes (DGS)
- 2016: Solvency II regime (Insurance Supervision Act 2016)
- 2018: MiFID II transposition (Securities Supervision Act 2018)

[FMA Organisation Chart](#)

- Initially only **external translation** of courtesy translations of a selection of supervisory laws, **lowest bid procedure**.
- **Prior to internal translation capacity** translation requests were coordinated by the **Communications & PR team**, but limited to non-sensitive translations mainly for publication rather than legal translation.
- With the start of the **Single Supervisory Mechanism, in 2014**, a new need for in-house legal translation emerged (1 FTE), and it was decided to embed a **permanent full-time translator in the banking supervision department**.

[Information about the SSM](#)

- Interpreting, e.g. for **meetings with supervised entities** is arranged by and paid by the supervised institution in question.
- There is an **occasional need for interpreters**, e.g. at meetings with the [Single Resolution Board](#) with individual banks, where the bank's official language is German and the bank insists on only communicating in German and to use an interpreter.
- In isolated cases, foreign banks and payment institutions operating in Austria as branches **appointed (interim) managers with a limited grasp of German or English** (and have used accredited interpreters for supervisory dialogue).
 - The [Banking Act](#) however requires that “*at least one director has a command of the German language*” (§ 5 para. 1 no. 11 BWG).

- Within the SSM: communications from banks to the NCA for the **Joint Supervisory Team** (from NCA & ECB), with a decision being made whether the **entire document** or an **executive summary** is translated.
 - Many **notifications are tabular** – in an attempt to keep translation demand in check. **Standardised processes within banking supervision**, have also been developed to help the **SPOC (Single Point of Contact)** for each bank.
 - Supporting documentation relating to ownership changes, authorisations, sanctioning, internal governance. A lot of reporting, particular for smaller banks is **ex post**, but crisis situations require **ex ante reporting** where possible.

- [EBA Working Groups](#)
 - Currently, assessments are ongoing of many pre-[CRR](#) (i.e. issued before 2014) own funds instruments, **terms and conditions were far from standardised**.

Strengthening cooperation between translators and legal professionals through joint training

- The translator is considered as **an integral part of the policy division and banking supervision department.**
 - Attends **all compulsory courses for *Referentinnen*** (“desk officers”) (soft skills, IT training, balance sheet accounting, introduction to supervisory procedural law).
 - **Previous translation experience fully recognised** in relation to FMA pay-scale.

- The policy division is staffed by legal experts for **individual thematic areas** in relation to banking supervision.
 - Active members of EBA subgroups and ECB working groups, and responsible for **drafting primary and secondary law and soft law.**
 - Legal experts are also **required to hold regular in-house trainings** to share knowledge and expertise, as well as also lecturing externally at various **legal seminar providers** in Austria.

Strengthening cooperation between translators and legal professionals through joint training

- The FMA approach to training (for professional staff):
 - **Frequent “In aller Kurze” trainings**, frequently with a **practical component** in relation to the (changing) application of supervisory law to ongoing supervision. (60 to 90 minutes, frequency fortnightly)
 - Further **in-depth training courses (half or full day)** held internally but also conducted by either **FMA seconded experts** (to the European Commission, ECB, sister authorities) or **external experts** (e.g. from accounting firms, auditing firms), as well as **joint trainings together with OeNB staff** (e.g. in relation to analysis reports and SREP)
 - **Pro-active approach**: often held ahead of new laws entering into force, ahead of changes to soft law.
 - Ongoing **training and learning** is also a **key component of staff appraisals**.
 - Staff are expected to **proactively plan their training schedule**.
 - Failure to complete training within certain timeframes **impedes promotion to the roles of Specialist or an Expert** (for professional staff (ReferentInnen)).

Strengthening cooperation between translators and legal professionals through joint training

■ Training opportunities for translators

- While there are a number of **training providers for financial and legal translators** that provide **longer “residential” courses** (often 2-5 days in duration) for various facets of financial markets and legal translation, they are **focused more towards the needs of freelancers than in-house translators** and can be very general in their approach.
 - **Training opportunities are also more frequent in Germany than Austria** – some Austrian providers also provide courses in Frankfurt and Munich.
- The **European Central Bank offers a “Supervision for non-supervisors” course** which provides an overview of the supervisory setting.
 - Has been **used by some Central Banks as an introductory training for translators** who are due to increasingly take on supervision-based translation.

- The translator has an additional knowledge management and knowledge sharing role.
 - In addition to translation of amendments to laws and regulations for publication on the FMA's website, **prior to publication of translations of legislation they are also available as working versions** to help legal experts working in committees and fostering cooperation.
 - Translator handles **coordination of quality assurance process**
 - With the introduction of [stakeholder consultation for secondary legislation and soft law in 2018](#), mirroring the practice for primary legislation, the consultation process has helped translation of legislation to change from a **reactive to proactive approach towards translation of secondary legislation and soft law**.
 - Helps to **increase transparency** of the supervisor.

- The vast majority of new supervisory laws (*Aufsichtsgesetze*) in Austria (as with other Member States) **transpose EU law into national law**, although **national specificities from previous existing legislation** mean that such laws also continue to contain **issues that are specific to Austria**.
- While **wording remains very close to the wording of the Directive** that is being transposed, **historically established terminology tends to be persist**, rather than adopting terminology used in the German version of EU Directives.
 - E.g. banking licences / licensing (AT: Konzession / Konzessionierung; DE: Zulassung / zulassen)

- While EU legislation emphasizes harmonization of legislation in EU Member States, possibilities still exist for Member States to argue their case for “Options and Discretions”, so in some areas **divergence continues.**

- Supervisory law for financial markets is one area in particular that is targeted by the new government in Austria for a **“Legislative Consolidation”**
 - All primary and secondary legislation that entered into force prior to 2000 is currently being considered. Among the primary legislation affected, there also some very important banking supervisory laws:
 - **Austrian Banking Act (BWG)**
 - Savings Bank Act (SpkG)
 - Building Societies Act (BSpG)
 - Mortgage Bonds Act (PfandbriefG)
 - Mortgage Banks Act (HypoBG)
 - Such a legislative consolidation would have **considerable fall-out in terms of demand for legal translation**

- Austrian banks and insurance companies were among the first to start to establish cross-border operations in CESEE. Many use **English for communications**, but sometimes the FMA needs to provide translations in official languages rather than English (in particular in relation to **on-site inspection reports** in third countries).
- **Seasonal availability of legal translators** in Austria for outsourcing of translations, can be **particularly scarce for sworn translators in certain language pairs**, and a **general scarcity** for languages **where no translation/interpreting degree courses** are offered in Austria.
 - Shortages leads to considerable **“last mile issues”**, particular in relation to the sworn translation of documents intended for submission to foreign courts.
 - Three universities (Vienna, Graz and Innsbruck) current offer Bachelor or Master level translation and interpreting degrees. **Potential for a “talent bottleneck”**.
 - **Supervisory law is still a relatively niche area among translators**, and the depth of the issues to be translated, and deadlines involved are very challenging.

- Larger language services units also have:
 - Project Managers (Front Office staff)
 - coordination of outsourcing of translation and interpreting
 - coordination of **translation of primary/secondary legislation and soft law** with respective specialist departments
 - Editor
 - Revising of texts written in English by **staff 2nd language authoring (2LA)**
 - **Revising of existing translations** of supervisory laws, to increase consistency and checking the consistent usage of core terminology.
 - Terminologist
 - Establishing a **bilingual glossary for various supervisory fields**
 - Establishing a **standardised core terminology** throughout an organisation.

● Involvement in knowledge and process management

- **Operative banking/insurance/securities supervision is process-based** and with the more international dimension of the SSM, it has made sense to involve the translator in reviewing **processes** and **translation of templates**.
- **Optimization of legal translation destined for the website**. There are many **standardised “News items”** (e.g. investor warnings, licencing and **authorisation changes**) that are **required by law to be published**, that can be very **efficiently translated in CAT systems**.

● Knowledge Management

- **In developing a SharePoint-based solution for assignment tracking**, I included a lot of extra fields about the **thematic nature of requests** (including references to Laws and Regulations), which has proven invaluable for being able to assist colleagues by making existing translations available to them, for similar issues, where standardised processes don't yet exist.

Hiring Practices for SSM Translators in National Competent Authorities (NCAs)

- FMA's embedded banking supervision translator approach
 - **unique approach**
 - **unlikely**, for the foreseeable future, **to increase headcount**
- In some countries, the National Central Bank (NCB) is also the NCA.
 - **Existing language services teams** expanded in some cases
 - Created jobs have **sometimes only been for part-time positions**
 - Often fixed term positions with **varying chances of renewal/extension**.
- In Italy, the Banca d'Italia established a new language unit in 2017
 - **Sustained demand for translators**, in monetary policy and supervision.
 - 14 translators recruited, (2 teams (into IT and into EN))
 - Previously generally had worked with freelancers
- Some independent NCAs have **shared services with the NCB**
 - Usually **where formally linked**, but not a single entity

Hiring Practices for SSM Translators in National Competent Authorities (NCAs)

- Recruiting of SSM Translators on **non-renewable 2 year contracts**.
 - Associated with a **complex application process** (involving assessment centres, vetting of qualifications etc.)
 - Despite large numbers of applications, it has **not been possible to successfully recruit a full quota of translators** on any occasion.
 - Problems relating to non-renewable contracts
 - Some **translators left for permanent positions** at other institutions prior to the end of their contract
 - Reward from the **investment in training often only becomes apparent after a while**.
 - The **steep learning curve when entering the supervisory environment**, makes such positions more difficult.

- Workload shift from translation to revision and post-editing
 - In the SSM environment **translation demand fluctuates.**
 - Younger colleagues are happier drafting legal texts themselves and only having them **edited or revised**, although **increasingly complex issues will still require translation.**
 - **Demand ebbs and flows often due to Joint Supervisory Team composition** (due to **rotations between JSTs** or changes in the banks considered as Significant Institutions).
 - Overall trend: **translation demand is increasing.**
 - Coping with demand.
 - If demand exceeds supply consistently, **recruiting a second translator** could be argued, although costs **would be borne by supervised entities.**
 - An alternative approach, may be to establish a **pool of one or more freelancers** to increase capacity (with a **framework agreement**, with a guaranteed minimum amount of legal translation).

- From Legal Translation with CAT to MT and post-editing
 - CAT helps legal translators in the supervisory setting keep on top of demand.
 - Growing translation memories provide greater assistance in many areas
 - Demand for legal translation in some supervisory authorities has proven unsustainable, so MT with post-editing has been explored.
 - Quality of MT results varies widely between language pairs
 - Level of accuracy and precision required in legal translations still means MT is currently “not fit for purpose” and net benefits still not apparent in supervisory context.

**The market for legal translation in Austria:
the financial markets supervision perspective**

BACKGROUND SLIDES

The SSM

- **118 significant banks directly supervised by the European Central Bank (ECB)**
- **These 118 Significant banks hold 82% of the banking assets in the Euro area**
- **Currently 19 of 28 EU Member States in SSM (i.e. all Euro area Member States)**

- Information about the SSM (available in all official languages of EU Member States except Irish)

<https://www.bankingsupervision.europa.eu/about/thessm/html/index.en.html>

Language Regime of the Single Supervisory Mechanism

Articles 23-24 SSM Framework Regulation (SSM-FR)

Article 23

Language regime between the ECB and NCAs

The ECB and NCAs shall adopt arrangements for their communications within the SSM, including the language(s) to be used.

Article 24

Language regime between the ECB and legal or natural persons, including supervised entities

1. Any document which a supervised entity or any other legal or natural person individually subject to ECB supervisory procedures sends to the ECB may be drafted in any one of the official languages of the Union, chosen by the supervised entity or person.
2. The ECB, supervised entities and any other legal or natural person individually subject to ECB supervisory procedures may agree to exclusively use one Union official language in their written communication, including with regard to ECB supervisory decisions.

The revocation of such agreement on the use of one language shall only affect the aspects of the ECB supervisory procedure which have not yet been carried out.

Where participants in an oral hearing request to be heard in a Union official language other than the language of the ECB supervisory procedure, sufficient advance notice of this requirement shall be given to the ECB so that it can make the necessary arrangements.

FMA Organisation Chart

