Harmonising Legal Terminology in Four Languages: the Experience of the Alpine Convention

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1. Introduction

The present article focuses on the main objective of an Interreg IIIB ‘Alpine Space’ project called Legal Language Harmonisation System for Environment and Spatial Planning within the Multilingual Alps (LexALP)\(^1\), which was carried out between 2005 and 2008 by an international partnership of public administrations, universities and research centres. The partnership answered the call\(^2\) for more terminological consistency and precision in the texts of the Alpine Convention and strived to analyse, compare and eventually reduce the legal and technical terminology used within those texts to a common denominator.

The following sections will give a brief overview of the Alpine Convention (section 2) and the specific activity of terminology harmonisation in the legal field (section 5) based on legal and terminological equivalence (sections 3-4). Section 5.1 shall illustrate how such complex task was tackled within the LexALP project, describing the challenges faced with the help of concrete examples (section 5.2) and what strategies may be followed when terminology harmonisation is not sufficient to bridge all conceptual differences between terms (section 5.3).

2. The Convention for the protection of the Alps

The Convention for the protection of the Alps (Alpine Convention) is an international agreement that was signed in 1991 by the countries of the Alp-
pine arc in the city of Salzburg, Austria. It then entered into force in 1995. The aim pursued with this convention by the Federal Republic of Germany, the French Republic, the Italian Republic, the Principality of Liechtenstein, the Republic of Austria, the Swiss Confederation, the former European Economic Community and later also by the Republic of Slovenia and the Principality of Monaco\(^3\) was to foster the protection, conservation and sustainable development of the shared mountain environment (cf. art. 2 of the Alpine Convention). Quite interestingly, the Parties did not agree on one or two official language versions of the text, but decided to recognise the four major languages used within the Alps\(^4\). Hence, there are four official versions of the Convention, in French, German, Italian and Slovene. The same holds true for the nine Implementation Protocols that were drafted in the following years on specific subject fields. These are the Protocol on Spatial Planning and Sustainable Development, Conservation of Nature and the Countryside, Mountain Farming, Mountain Forests, Soil Conservation, Tourism, Energy, Transport and Dispute Settlement\(^5\).

### 3. Textual equivalence

One of the statements inserted by the Parties in the preamble to the Alpine Convention is the awareness of the ‘substantial differences’ existing between their national legal systems. Among the challenges facing the Frame Convention and Protocols is to bridge such differences, so as to implement a homogeneous set of legal and environmental measures in the entire territory and ensure common actions across the national borders. In a context where such measures are expressed in four different legal languages, most of which pertain to more than one legal system (such as the legal German of Austria and Germany, for example), it is difficult to draft a text that will produce the same legal consequences in so many different nations.

To overcome some of these difficulties, in 2000 the contents of the Alpine Convention have formally been declared equivalent throughout its four official language versions. However, in practice, the language used in a particular country is determined by its constitutional language policies.

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\(^4\) In fact, with the exception of UN-treaties, most international agreements are bilingual (Šarčević 1997: 195).

\(^5\) The titles of the Protocols used here are the official English translations given by the EU when providing the ratified texts into all the languages of the Union.
cial language versions. The texts had been long discussed and adjusted to suit all Parties. Hence, during the meeting of the sixth Alpine Conference held in Lucerne, Switzerland, the Alpine Conference approved of the linguistic harmonisation of all Implementation Protocols that had been signed at the time, thus assessing that the Protocols on Spatial Planning and Sustainable Development, Mountain Farming, Conservation of Nature and the Countryside, Mountain Forests, Tourism, Soil Conservation and Energy had been fully harmonised from the point of view of both language and style, without any modification of the content.\(^6\)

The consequences of the chosen multilingualism and of this decision taken in Lucerne are that there exist four equally authentic language versions of the Alpine Convention\(^7\) and that the same text (i.e. a text that produces the same legal effects) must fully function within nine different national and supranational legal systems. This is a daunting task, if one considers that not only do some legal systems share the same language (even Slovene is used in two legal systems, i.e. the Slovene national and the European one), but two of the Contracting Parties namely Switzerland and the EU, have multilingual legal systems. Each language version must therefore function within more than one legal frame, but also, some legal systems will adopt more than one language version, due to their intrinsic multilingualism.

In such a situation a parallel drafting of the four language versions might be the best solution to achieve full textual equivalence; however, with so many languages and legal systems to take into consideration, it would be quite impossible to proceed at an acceptable speed. In fact, the draft Protocols were elaborated in one language by international working groups, each chaired by a different State, translated and then submitted to the Contracting Parties for review and amendments (Segnali Alpini: 10).

\(^6\) The exact wording in the French minutes of the 6\(^{th}\) Alpine Conference is: “La Conférence alpine prend acte du rapport final sur l’harmonisation linguistique de tous les protocoles d’application convenus à ce jour et l’approuve. Elle constate que les protocoles Aménagement du territoire et développement durable, Agriculture de montagne, Protection de la nature et entretien des paysages, Forêts de montagne, Tourisme, Protection des sols et Energie ont été entièrement harmonisés sur les plans linguistique et stylistique, et ce, sans qu’aucune modification de fond n’ait été apportée” (2000: 5.6).

\(^7\) The closing formula of the Frame Convention reads: “Done at Salzburg on 7 November 1991 in the German, French, Italian and Slovene languages, each text being equally binding [...]” [italics added].
4. Terminological equivalence

Drafting legal texts in one language before having them translated into the other three official languages had at least two consequences, despite the official declaration of harmonisation. As will be shown with the examples in this article, it later became evident that there were several gaps and inconsistencies between the four language versions. Also, an accurate perusal of all the texts revealed the use of synonyms and variants to denote one and the same concept as well as inaccuracies and even some translation mistakes. For example, the German term used to express the concept of *economia agricola* (farming economy) in art. 12 of the Protocol on Mountain Farming is *Bewirtschaftung* (which corresponds to Italian *coltivazione*), instead of *Landwirtschaft* (cf. Chiocchetti & Voltmer 2008: 49).

The quality of the Slovene language texts seems to be the least adequate, partly in consideration that none of the protocols was originally composed in this language. For example, in the Protocol on the Conservation of Nature and the Countryside the Slovene expression used to refer to a ‘genetically modified organism’ is *genetsko spremenjeni organizem*. The Mountain Farming Protocol even uses the paraphrase *z genetskimi tehnikami spremenjeni organizem*, instead of the correct technical term *gensko spremenjeni organizem* (cf. Chiocchetti & Voltmer 2008: 49).

The Frame Convention and Protocols sometimes contain legal terms denoting concepts that are typical of one or two national legal systems and therefore not easily translatable. For example, the Protocols contain terms such as *Verbandsklage* from the German and Austrian legal systems (Prot. Conservation, annex I, 4.3) and *Naturschutzakademie* from the German legal system (Prot. Conservation, annex I, 6). One way of making sure that such concepts are interpreted in the same way by all countries is to provide them with clear definitions, as frequently happens, for example, at EU level. Regarding the Alpine Convention Protocols it is only in the Transport Protocol that this approach has been tried. Article 2 contains a few definitions, yet still leaving the meaning of many terms open for at least partial interpretation by the Parties (cf. Chiocchetti 2008: 20) ⁹.

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⁸ See section 5.2.4 for a definition of *Verbandsklage*. *Naturschutzakademien* (literally: ‘nature protection academies’) are institutions in charge of the education, information and research concerning nature and landscape protection.

⁹ NB: If not otherwise indicated, all definitions contained in the present article are taken from the term bank of the LexALP Information System at [http://www.eurac.edu/lexalp](http://www.eurac.edu/lexalp) and have been phrased by the LexALP Harmonising Group in one of the four official languages.
Some other terms are apparently easy to translate, yet at conceptual level there might be discrepancies that — if the term is not clearly defined — leave it up to the Contracting Parties to interpret the correct meaning. In such cases, it is mostly the meaning at national level that is applied to a term such as *zona montana* in Italian or *Berggebiet* in German (mountain area). In fact, from a purely linguistic point of view, the two terms are a perfect translation of each other. However, if the legal background is analysed, some important differences at conceptual level can be detected. In Italy mountain areas can be considered such starting from 600 m above sea level, in Austria and Germany only above 700 m (Schuler, *et al.*, 2004: 150). The Protocol on Mountain Farming refers to *zone montane* in the Italian version and to *Berggebiete* in the German language version without defining the concept. Hence arises a problem of interpretation at national level (cf. Chiocchetti 2008: 21).

Finally, even when considering just one language, the same term might indicate slightly different concepts. If for instance the *Naturparks* (nature parks) in Austria and Germany are compared, it becomes evident that — despite being generally equivalent — the two concepts slightly differ. The Austrian *Naturparks* must usually foresee measures for the education and information of their visitors, their activity thus not being limited to the protection of nature, landscape and species, as it is mostly the case in Germany (cf. Chiocchetti 2008: 20, Chiocchetti: [to be published]).

5. Harmonisation

A way of tackling the above described terminological inconsistencies is to resort to harmonisation. According to the ISO 869:1996 standard, harmonisation can concern concepts or their ‘linguistic labels’ (or both). In the first case it can be defined as the “réduction ou élimination des différences mineures entre deux notions très semblables ou plus” (sec. 3.1). If harmonisation regards the designations with which the concepts are referred to, it is an “activité devant aboutir à la désignation, dans plusieurs langues, d’une même notion par des termes qui reflètent les mêmes caractères ou des caractères similaires dont la forme est la même ou légèrement différente” (sec. 3.2). The results of harmonisation do not necessarily become (legally) binding. Nevertheless, an accurate harmonisation project will easily impose its results due to the high quality of the work produced.

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10 See § 25 of the *Burgenländisches Naturschutz- und Landschaftspflegegesetz* versus § 27 of the German *Bundesnaturschutzgesetz*. 
The linguistic harmonisation carried out within the LexALP project aimed exactly at attaining that each term used within the Frame Convention and its Implementation Protocols express the same or very similar characteristics of the relevant concept. Also, the objective was to reduce the number of variants and synonyms used to refer to the same concept and to eliminate translation mistakes, so as to ensure a better quality of all the future text production.\footnote{The official texts cannot be changed retroactively, having been signed and agreed on at international level and ratified at national level.}

Harmonisation is particularly challenging for legal terminology. Legal terms are strongly embedded in their legal systems of origin, as they express a specific organisation of society that is peculiar to each legal system. As a consequence, full equivalents are only rarely to be found when comparing different legal frameworks (cf. Arntz 1993: 6, Sandrini 1996: 138 ff., Šarčević 1997: 232). For example, the Italian \textit{comunità montana} is an institution which does not exist in the other Alpine countries. The term indicates an aggregation of municipalities that cooperate on the basis of common geographical or social and economic features, thus creating a new public body aimed at jointly developing mountain areas (cf. Pasqualini 2003: 78).

5.1. Harmonisation within the LexALP project

The harmonisation activity within the LexALP project was carried out by a group of legal experts and terminologists representing the legal systems and languages of the Contracting Parties. Also, the composition of this ‘LexALP Harmonising Group’ (HG) ensured the participation of different institutional levels (e.g. state, region, province) as well as the academic world. The presence of representatives of various institutional levels was deemed necessary, since not all domains considered in the Frame Convention and Protocols are regulated at federal or national level. For example, in Italy the protection of the environment is regulated by the State, whereas hunting and fisheries, forests, tourism or agriculture are exclusively of regional competence (cf. art. 117 of the Italian Constitution; Chiocchetti: [to be published]).

The scientific support offered by the HG members working at universities and research centres was necessary to ensure a smooth procedure during harmonisation meetings. Having been responsible for the preliminary contrastive analysis of the terminology both at national level (for all Alpine countries) and...
at supranational level (Alpine Convention texts, EU law, international law) in the four working languages of the Convention, they could contribute both by explaining conceptual differences in detail and by displaying a particular linguistic sensibility when necessary, for example during the elaboration of new translation proposals.

The purpose of harmonisation work within the project was to detect and eliminate legal, linguistic and conceptual differences between the terms used in the four language versions of the Convention and Protocols. For each concept the four terms that express it at best had to be selected or new terms to designate it had to be proposed. Finally, the HG also validated or elaborated clear, commonly agreed-on definitions for all concepts treated.

5.2. Harmonisation criteria

The Harmonising Group followed a set of specific criteria when discussing the term quadruplets (one term per language) used to indicate the Alpine Convention concepts. The following seven criteria were applied and will be illustrated by concrete examples in the following sections:

1) adherence to the national terminology of the Contracting Parties,
2) conceptual/terminological correctness,
3) linguistic correctness,
4) transparency of harmonised terms,
5) coherence of harmonised terms,
6) frequency of use (cf. Chiocchetti 2008: 23 ff.) and
7) working from main concepts to subconcepts.

Notwithstanding these working criteria, sometimes further information was needed to explain or specify the choices made by the Harmonising Group. This was done with the help of different types of notes, as will be explained in section 5.3.

5.2.1. Adherence to the national terminology of the Contracting Parties

Respecting the terminology already in use by one or more of the Contracting Parties fulfils the need for linguistic economy. Whenever possible, the
familiar terminology was maintained. Also, in some cases it was decided to reject a term already present in the text of the Frame Convention or Protocols (sometimes a translation mistake, sometimes just an unusual variant) in order to propose a term that was more commonly understood at national level. For example, the concept of ‘sustainable forest management’\(^\text{12}\) in the Energy Protocol (art. 6, 4) is expressed by the term *gestione durevole delle foreste* in Italian. The Italian term most commonly used at national level would be *gestione sostenibile delle foreste*. The other variant is understood, but rather sounds like a calque from French.

Applying this criterion favours a more immediate access to the contents conveyed by the text and fosters a smooth implementation at national level. Also, it ensures that the harmonised terms are widely accepted and understood, thus supporting the dissemination of the harmonised terminology. Finally, thanks to this approach neologisms are created only when strictly necessary. It must be added that this criterion obviously has a limit: the harmonised terminology must still be understood by *all* Contracting Parties sharing the same language but not the same legal framework.

5.2.2. Conceptual/terminological correctness

It is clearly a paramount requirement that all terms in the four languages indicate the same concept. If for any reason this is not the case, serious misunderstandings can arise. The task of the Harmonising Group is to check that all four terms referring to a concept share the same meaning and to propose alternatives where inappropriate terms have been used. For example, the German term used in art. 7, sec. 1 of the Transport Protocol, *Transportleistung*, does not correspond to the Italian and Slovene terms, *servizio di trasporto* and *prevozna storitev* respectively.\(^\text{13}\) In fact, whereas the latter terms indicate an activity which concerns the transport of passengers, goods or mail (definition by the LexALP Harmonising Group) the German term is rather referred to ‘transport capacity’ and then indicates a completely different concept! To

\(^{12}\) “[M]anagement and use [of] forests and wooded lands in a way, and at a rate, that maintains their biodiversity, productivity, regeneration capacity, vitality and their potential to fulfil, now and in the future, relevant ecological, economic and social functions, at local, national, and global levels, without causing any damage to other ecosystems.” (European Council reg. 3062/95, art. 2, sec. 3)

\(^{13}\) The French text has a different wording and does not contain the term as such.
solve the problem the HG proposed a new German term, namely *Transportdienstleistung*, thus ensuring that all four harmonised terms express the same meaning (cf. Chiocchetti 2008: 24).

5.2.3. Linguistic correctness

Besides the correctness at conceptual level, the Harmonising Group also put great efforts into optimising the linguistic form of some terms. For example, some German multiword terms (prepositional complements) that were used in the text actually have a corresponding compound, which is shorter and generally sounds better. In fact, it is not incorrect to term ‘soil erosion’ with the multiword term *Erosion von Böden* (noun + prepositional complement) in German. However, *Bodenerosion* is definitely more compact and has a more term-like character. This is the reason why the HG promoted the latter variant.

The linguistic aspect may also represent a discriminating factor in choosing between competing variants. For example, the French texts use both *transport de longue distance* and *transport à longue distance* to refer to ‘long distance transport’. Yet actually it is only the second variant that is used on its own and was consequently harmonised by the HG. The variant with the preposition *à* may appear in multiword terms (cf. *transport à longue distance des marchandises* in Prot. Transport, art. 10, 1), so as to avoid the repetition of the preposition *de* at such short distance and within the same term, this being not considered very elegant or even bad syntax in French (cf. Chiocchetti 2008: 24).

5.2.4. Transparency of harmonised terms

To favour the dissemination of the harmonised terminology it is essential to take into consideration the degree of transparency of the terms considered. The more simple, clear and easily understandable the terms, the easier it will be to implant them and to foster their usage. The limit to this requirement of maximum transparency is posed by term length: a long designation might be clear but too cumbersome to be remembered and used (cf. Laurén, *et al.*, 1998: 296).

A very difficult case to solve for the Harmonising Group was the German term *Verbandsklage*, for which the equivalents in the other languages had to
be selected. The term refers to an administrative lawsuit filed by (environmental) associations on behalf of their associates to protect the interests of the latter (definition by the LexALP Harmonising Group), which is a concept known only to the German and Austrian legal systems so far. The HG faced two possibilities for Italian, either adopting a short and catchy but potentially misleading term or opting for a longer but definitely less ambiguous one. In the first case, it would have meant deciding for *azione collettiva*, a term used in Italy to refer to a type of collective action that has been discussed, but never introduced into the Italian legal system. Furthermore, by adopting this translation there was the risk of creating confusion and suggesting a US-style class action, *azione collettiva* being the most commonly used translation for that concept. The second option, which is the one the HG actually decided for, was to adopt a neologism, *azione legale intentata da un’associazione*. Given the current legal framework the HG opted for the more transparent designation, because it partly explains the German term and at the same time avoids misunderstandings.

5.2.5. Coherence of harmonised terms

The Harmonising Group screened about 700 concepts. With such a large wealth of terminology, coherence with past decisions becomes a quality requirement. For every decision taken the HG kept referring back to past decisions so as to make sure no contradictions or inconsistencies might ensue. As a consequence, once decided, for example, that the adjective ‘sustainable’ was to be expressed with *nachhaltig* in German and *sostenibile* in Italian, the same adjective reappeared in all relevant compounds: *nachhaltige Politik, nachhaltiger Tourismus, nachhaltige Waldverwaltung, nachhaltiger Verkehr*, etc. and *politica sostenibile, turismo sostenibile, gestione sostenibile delle foreste, trasporto sostenibile*, etc. respectively.

5.2.6. Frequency of use

This criterion has been applied for the selection between competing variants which, despite being all correct, differ in terms of frequency of use. For example, the term ‘biomonitoring’, i.e. the “direct measurement of changes in the biological status of a habitat, based on evaluations of the number and distribution of individuals or species before and after a change” (GEMET),
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has several equivalents in all languages: Biomonitoring, biologisches Monitoring and biologische Beobachtung in German, observation biologique and biomonitorage in French, biomonitoraggio and monitoraggio biologico in Italian. For each language only the most commonly used term was kept: Biomonitoring in German, observation biologique in French and biomonitoraggio in Italian (cf. Chiocchetti 2008: 26). This partly clashes against the desire of validating terms “dont la forme est la même ou légèrement différente” (cf. the definition of harmonisation of terms in section 5). However, this decision was taken exactly on the basis of frequency of use, thus refusing to impose biomonitorage in French, it being the least used variant in that language.

5.2.7. From main concepts to subconcepts

Working coherently from the superordinate to the subordinate concepts allows minimising the risk of mistakes and inconsistencies and saves time during the harmonisation process. For example, when working on the glossary on mountain forests, the Harmonising Group decided from the very beginning that the Italian term foresta montana was going to be harmonised (and not foresta di montagna, foresta alpina or anything else). As a consequence, this term was kept in all subordinate concepts, such as rinnovazione naturale di foreste montane, funzione economica delle foreste montane, etc.

5.3. Use of notes

Even when following all the criteria described in this article, there will be some aspects that go beyond the mere choice of a term, but are still important for the harmonisation process. In this case, the use of notes to one or more of the harmonised terms of the quadruplet might be a viable and simple solution. The LexALP Harmonising group used notes to underline:

a. conceptual differences,

b. terminological differences and

c. grammatical/linguistic differences between terms.

Making the user aware of existing conceptual differences may help guide a correct translation of the term. For example, it is important to be fully conscious that the German term Zuchttier may indicate two different concepts: either an animal that was raised on a breeding farm (animal d’élevage in
French) or an animal that is used for breeding (*animal reproducteur* in French). The two German homonyms have obviously been provided with different definitions. Also, a note was added to remind translators of the two possible interpretations, thus allowing them to choose the correct translation according to the context.

Notes are also quite useful in highlighting terminological differences between concepts that would otherwise be difficult to explain in a definition. For example, while the German and French terms *Eingriff in Natur und Landschaft* and *atteinte à la nature et aux paysages* have a clear negative connotation, their Italian and Slovene equivalents *intervento nella natura e nel paesaggio* and *poseg v naravo in krajino* are quite neutral (cf. Chiocchetti 2008: 27). The term basically indicates public or private projects or measures that might cause long term and relevant damage to nature and the landscape (cf. Prot. Conservation, art. 9). In such cases it is important to know about the different connotations of the terms, so as to be able to evaluate the originally intended meaning and, if necessary, be explicit in the translation.

Finally, notes may simply be of use when terms have some peculiar grammatical or linguistic feature. For example, in German the term *Bodenkataster* (a sort of ‘soil registry’) has an oscillating grammatical gender, i.e. it can be male (*der Bodenkataster*) or neuter (*das Bodenkataster*). It is interesting to notice that, according to the Duden dictionary (2001: 885), in Austria only the male article is used, whereas in Germany both genders are considered acceptable. This does not influence the meaning of the term, but is a very useful piece of information for translators.

### 6. Conclusions

The results of the harmonisation work described in this article are available online via the database contained in the LexALP Information System (http://www.eurac.edu/lexalp). This article lists the main difficulties faced and the solutions envisaged for harmonisation work within the LexALP project. The suggestions ensuing for future similar projects are to ensure a close collaboration between legal experts and linguists, so as to guarantee both linguistic and legal adequateness and correctness. A coherent and clear methodology should be set during harmonisation work and followed throughout the entire project. Naturally, some criteria will collide and in some cases it will be almost impossible to decide which criterion should be considered more important.
Usually it is a combination of different criteria that guides decisions. In the end, some decisions will remain open for criticism, according to the different weighing that might be given to one or the other criterion.

Summing up, it is needless to say that harmonisation might help solve and remove terminological inconsistencies \textit{a posteriori}. The lesson to be learnt from the experience of the Alpine Convention is rather that the only sustainable strategy for the balanced and correct drafting of multilingual texts is far-sighted linguistic planning with a thorough contrastive terminological analysis.

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GEMET Thesaurus of the EIONET European Environment Information and Observation Network — http://www.eionet.europa.eu/gemet


LexALP Information System — http://www.eurac.edu/lexalp


