

RESEARCH RESOURCES FOR AN EFFICIENT ROMANIAN- GERMAN COMMUNICATION IN THE FIELDS OF LAW AND ADMINISTRATION

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Abstract:

The first requirement the sender of a message must meet, is to identify the receiver's levels of language and cultural competence. Administrative or legal clerks often overlook this aspect when communicating with the citizens (both in Romania and Germany, as well as in other countries). In the case of intercultural and interlinguistic communication in the legal and the administrative fields, there are also other additional issues determined by the differences between systems and their functioning as well as by the users' different perspectives. The translators', as well as the civil servants' or law clerks' research activity has undergone radical changes during the past twenty years. The main event that has triggered these changes was the replacement of the typewriter with the personal computer, followed by the availability of the Internet connection. The research and data or text processing resources that are currently available for clerks and translators are more comprehensive and more complex than what was at their disposal a few decades ago. Decisions must be reliable and this takes a rather considerable amount of research. The efficiency of the research depends on the adequacy of the research instruments and sources being used. The present paper presents some documentation sources and resources which could be useful for the civil servants and linguistic mediators. For a proper intercultural mediation in this field, the parts involved should improve their skills permanently, and not rely solely on intuition and experience.

Key words: documentation resources, intercultural communication, translation, mediation, legal and administrative fields.

JEL classification: D83, H11, H83, K10, K33, L86

INTRODUCTION

In order to be efficient, communication should not be limited to the mere conveyance of information, but it should also affect the receiver to a certain extent. Communication acts may be defined as failed if:

- they have no effect or
- if they have effects other than the desired ones.

In order to make him/herself understood, the sender should organise the content of the message depending on the receiver's cultural competence, and to express the message by means of a language that agrees with the receiver's language competence. Administrative or legal clerks often overlook this aspect when communicating with the citizens (both in Romania and Germany, as well as in other countries).

In the case of interlinguistic and intercultural communication, the sender does not exert a direct influence on the receiver, but resorts to a linguistic and cultural mediator who, in order to be efficient (Reiß and Vermeer 1984) [1], must possess thorough knowledge of the languages and historical culture of the communication parties and should also be able to identify their levels of cultural and linguistic competence. If the sender is the one who must adjust his message to the receiver's competence (and identify the stimuli that animate the receiver) in intralinguistic communication, in the case of interlinguistic and intercultural communication, the linguistic mediator is the one who assumes this mission.

A speaker's linguistic competence level arises from the particular *functional language* combinations (syntopic, synstratic or synphasic, simultaneously) [2] (Coseriu and Albrecht 2007), (Coseriu 2007), (Coseriu 1988) that s/he uses in speech acts or in developing and writing texts. Similarly, the cultural competence of an individual who belongs to a certain historical culture, i.e. to a historical development stage of a national culture, resides in the combination of cultural aspects (either popular or scientific, regional or national, intellectual or emotional, etc.) that make up the contents of the messages s/he conveys.

Mediation is considered adequate in interlinguistic or intercultural communication if the linguistic mediator manages to:

- a) identify the linguistic and cultural competence of the speaker or author of the text (in the source language and culture) in order to accurately and completely understand the message,
- b) choose (in the target language and culture) the best combination of functional languages and cultural aspects that would prevent the translated communication from being limited to a mere transfer of information and have the desired effects.

The intricacy of the cultural and linguistic varieties generate the most difficult to solve issues in linguistic mediation processes. In the case of intercultural and interlinguistic communication in the legal and the administrative fields, there are also other additional issues triggered by the differences between systems and their functioning as well as by the users' different perspectives.

When making decisions, the civil servant or the linguistic mediator should not rely solely on intuition and experience. Decisions must be reliable and this takes a rather considerable amount of research. The efficiency of the research depends on the adequacy of the research instruments and sources being used.

The translators', as well as the civil servants' or law clerks' research activity has undergone radical changes during the past twenty years. The main event that has triggered these changes was the replacement of the typewriter with the personal computer, followed by the availability of the Internet connection. The research and data or text processing resources that are currently available for clerks and translators are more comprehensive and more complex than what was at their disposal a few decades ago. The texts on the web are usually elements (units) of a *hypertext*, i.e. of a network of texts, connected through *links* (Bussmann 2008, 271). If clerks and translators do not acquire adequate search techniques and miss the *purpose of research*, they will surf around uselessly, from one link to another, without finding the information they need. Therefore, they need to find out which electronic portals are indeed useful for research in order to settle a juridical-administrative issue or to translate a certain type or sort of text. We will next present a number of research resources which, if used appropriately, can be considered very useful instruments of interlinguistic and intercultural communication in the legal and administrative fields. Clearly, each of the instruments presented below have their own advantages and drawbacks, which we will specifically outline.

BI- AND MULTI-LINGUAL RESOURCES

IATE – INTERACTIVE TERMINOLOGY FOR EUROPE

IATE (Inter-Active Terminology for Europe) is the specific words bank of all EU organisations. One can basically search for words in the 25 official languages of the European Union. As can be observed on the search interface presented below, users can select both the source and the target language. The data base contains about 1,4 million records that have been imported from the data bases previously developed by each of the central organisations of the EU, namely: *Eurodicautom* (the data base of the EU Commission), *TIS* (the data base of the EU Council), *Euterpe* (the data base of the EU Parliament), *Euroterms* (the data base of the Translations Centre) and *CDCTERM* (the data base of the European Court of Accounts).

This research instrument is mainly useful for understanding and translating administrative or legal texts that make reference to community law. However, the data bank is not exhaustive, as it particularly lacks information on the words in the newest official languages of the EU (such as Bulgarian or Romanian).

As an example, we have listed the search results for the Romanian equivalent of the German word *Berufung* (*appeal*, Ro. *apel*).

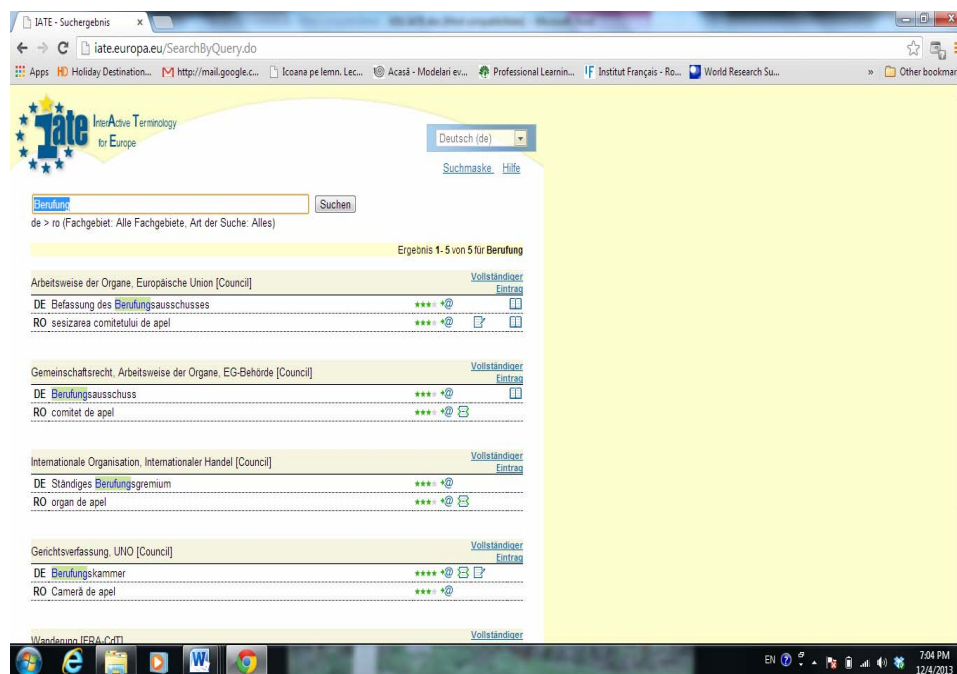


Figure no. 1. Search results of the Romanian translation options for the term “Berufung”

Source: <http://iate.europa.eu/SearchByQuery.do> [accessed on 12.04.2013]

As you can see in figure no. 1, the results are rather eloquent. However, we should mention that the use of the term *Berufung* in the juridical texts of the European Union does not equate with the use of this word in the juridical texts related to the national law of the states and provinces whose official language is German (for instance, in the European law texts there are more compound nouns that include this word than in the German law texts).

DICT.CC.

dict.cc is a digital corpus available online and made up of several bilingual dictionaries. This platform is interactive, i.e. it offers its users the chance to contribute to the qualitative and quantitative enrichment of the data base. The translation options suggested by users are not automatically included in the data base, but undergo a thorough assessment. The platform also includes a forum where translators and clerks (or other people with an interest in translations) can exchange views on the various translation issues or can contribute with comments.

The corpus contains over 46.000 corresponding terms in Romanian and German phrases. Some of these equivalent terms refer to the legal or administrative field. The image below presents the search results for the Romanian equivalents of the terminological and lexical element *Berufung*. The equivalent *vocation* is accurately indicated for the word *Berufung*, while *appeal* (Ro. *apel*) is the suggested equivalent for the juridical term *Berufung*. Moreover, one can also find the translation of the phrase *Berufung einlegen* (*to make an appeal*).

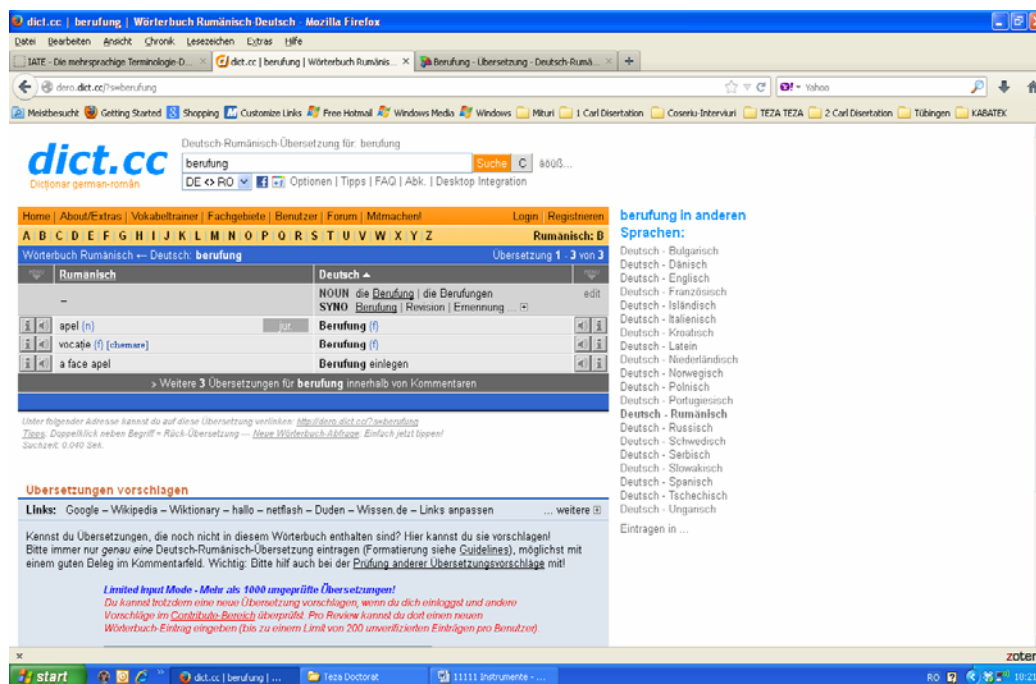


Figure no. 2. Search results of the Romanian translation options for the word/term “Berufung”

Source: <http://www.dict.cc>, [accessed on 7.08.2013]

One drawback of this research instrument is the fact that it cannot guarantee the validity of the suggested translation options. However, the site administrator guarantees that any translation suggestion is overviewed by other users.

GLOSBE - DAS MEHRSPRACHIGE ONLINE-WÖRTERBUCH

Glosbe is self-described on the web as an enormous collection of dictionaries for almost all existing languages in use. This platform also offers correct translation equivalents for the word *Berufung*. As for the juridical term *Berufung*, the equivalents *appeal* (Ro. *apel*) and *recourse* (Ro. *recurs*) are indicated. Unfortunately, only the terminological equivalence *Berufung* - *appeal* is correct.

Moreover, this platform also offers *translation memories* which enable the search for phrases and words in corpora that provide bilingual versions of certain texts. As we have noted, the Romanian-German corpus is mainly made up of texts from the European Union regulations and jurisprudence.

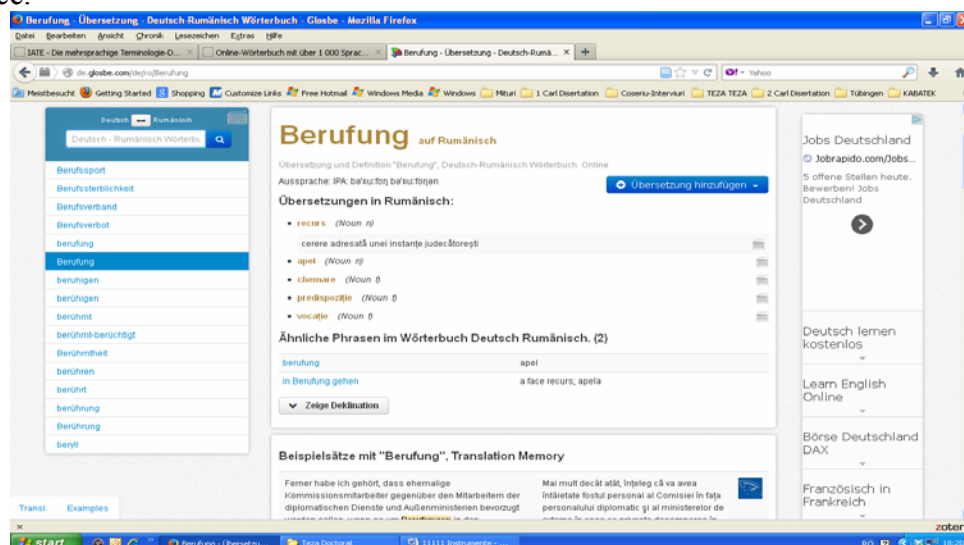


Figure no. 3. Search results for the Romanian translation options for the word/term “Berufung”

Source: <http://de.glosbe.com/>, [accessed on 7.08.2012]

The image below (figure no. 4) is representative of how a German juridical-administrative phrase (the phrase *Massregel der Besserung* was selected as an example) that does not have an acceptable Romanian equivalent, is used in various texts. Alongside, we have presented the Romanian version of the respective texts. One can see how, in a certain context, the phrase *Massregel der Sicherung und Besserung* is translated as *preventive measure*. In a different context, the phrase *Massregel der Sicherung* is translated as *deprivation of freedom safety measure*.

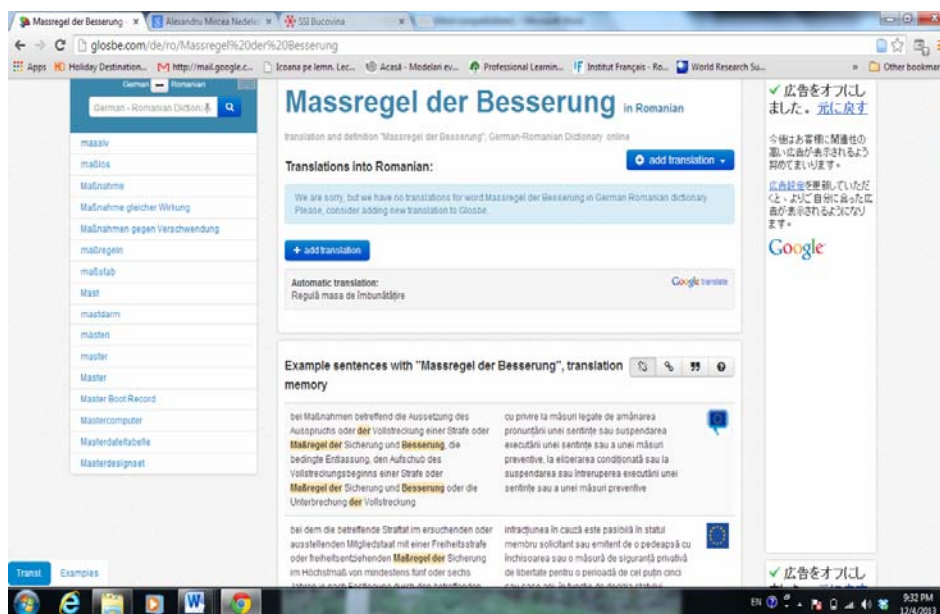


Figure no. 4. Search results for the Romanian translation options for the word/term “Berufung”

Source: <http://glosbe.com/de/ro/Massregel%20der%20Besserung>, [accessed on 7.08.2012]

Even though the Romanian versions of the European juridical and administrative documents give the impression that these are more likely *conjectural translations* that *exemplary translations*, we appreciate the fact that these translation memories can provide clerks and translators with some guidance as concerns the appropriate use of particularly difficult to understand, or translate phrases in a text.

LEGAL RESEARCH RESOURCES

Clerks and translators of legal and administrative texts should also have acquired some specialised knowledge. The global circumstances require specialised knowledge for the civil service in a member state of the European Union and the translation activity to be performed in a competent and efficient manner. Any kind of specialisation entails the use of research materials. We will further present a few research resources, highlighting their utility for the comprehension or translation of German administrative or legal texts.

DEJURE.ORG

dejure.org is a legal research portal whose data bank comprises the texts of about 270 regulatory texts of the German legal system. The portal also provides links to the texts of more than 1.000.000 court orders stored in various official and unofficial data bases. There is also an alphabetical index of the regulatory measures which enable one to find the text when the user knows the official name of the respective document. Moreover, the texts of the regulatory measures are grouped depending on the field they refer to (civil law, labour law, commercial or business law, etc). This application also enables the research of the occurrence of the terms in the texts comprised in the data base. For instance, the term *Berufung* occurs 373 times in the texts listed in this corpus.



Figure no. 5. Occurrence of the term *Berufung* in the *dejure.org* corpus

Source: www.dejure.org [accessed on 12.05.2013]

However, even though it comprises a relatively small number of texts, this corpus is a highly efficient instrument for the translation practice or for legal and administrative research. This example highlights the fact that the utility of a corpus does not necessarily depend on the amount of data it comprises. Even a small corpus can be useful if:

- the texts it contains have been selected depending on their relevancy;
- it is systematically structured;

and

- the search functions are well interrelated and suit the research purpose.

OPENJUR.DE

The *OpenJur* data bank has been developed and is administered by a non-profit organisation in Hamburg. The cornerstone principle of this organisation is as follows: all those subject to the law should benefit from free access to any kind of legal, regulatory or jurisprudence related information. The data base comprises more than 300.000 court orders from all the fields of law and judicial practice. The platform provides a search function by key words or groups of words. As you can see below, the term *Berufung* was found in more than 1000 court orders of various trial courts in Germany.



Figure no. 6. Occurrence of the term *Berufung* in the court orders included in the *openJur* corpus

Source: <http://openjur.de/suche/> [accessed on 12.05.2013]

This collection of court orders is highly important, as it enables one to become familiar with various form related aspects that are specific of the German jurisprudence. There are certain form related differences between German and Romanian court orders. For instance, in German court orders, the ruling formula (disposition of the sentence/decreed) is inserted before the motivation of the order, while in Romanian orders it occurs after the motivation, as a logical conclusion. This jurisprudence corpus enables one to identify standard formulae. Apart from this, the platform user can get a general idea about the way German lawmakers in Germany think as far as the enforcement of the law is concerned. After a thorough analysis of the contents and the logic behind court orders, one can conclude that, more often than not, German judges really do judge and not only rule sentences.

WWW.GEZETZE-IM-INTERNET.DE

The German Federal Ministry of Justice and the private company **juris GmbH**, have created a data base that comprises the entire federal legislation currently in use. The information is available for free to all interested parties, on the website www.gesetze-im-internet.de. The application provides search functions both by title of regulatory measure and by words or phrases. However, as we have mentioned above, such functions are also made available on other electronic platforms as well. The specific feature of this website is the fact that it also provides English versions of the regulatory documents.

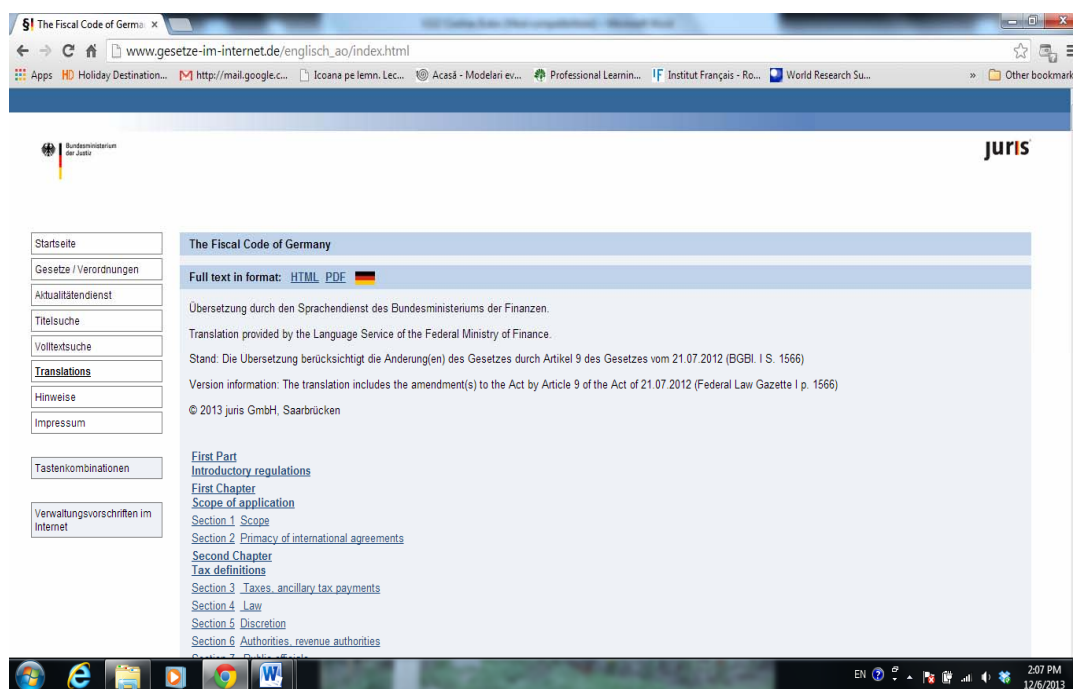


Figure no. 7. Caption of the contents of the German Fiscal Code. English official version

Source: http://www.gesetze-im-internet.de/englisch_ao/index.html [accessed on 12.06.2013]

Polyglot translators usually manage to translate a text in the target language sooner and more accurately if, apart from the original source text, they also have versions of the same text in different languages. This ability can be explained as follows: the original text is the *object* of the translation act, while the translations into various languages are *images* of this object (i.e. projections in other linguistic systems). When apart from the object (i.e. apart from the original text in the source language A) the translator also has an image of it (i.e. a translation into a language B that s/he knows), he can create another image (i.e. a translation into the target language C) faster and more accurately than if s/he had only the object at their disposal. The following corollary ensues is we apply this reasoning to the present situation:

For the translators of legal texts who have English and German as basic work languages, but who also know English (more or less) as well, the English version of a German legal text is of great assistance for a more efficient translation into Romanian and for a better outcome of the translation process.

THE OFFICIAL JOURNAL OF ROMANIA, THE LEGISLATIVE DATA BASE OF THE CHAMBER OF DEPUTIES AND LEGAL INFORMATION SYSTEMS PROVIDED BY PRIVATE COMPANIES

The Internet also provides numerous research sources related to Romanian regulations and jurisprudence. The safest sources are, clearly, the official ones, such as *The Official Journal* or the *Legislative data base of the Chamber of Deputies*.

While the legislative array developed by the *Legislative Committee of the Chamber of Deputies* can be accessed for free, the information provided by the electronic platform of the *Official Journal* is only partially free of charge. From an ethical perspective, this can be deemed as unfair, since any individual who is subject to a certain regulatory standard should have free and easy access to the contents of that particular standard [3].

We have also identified another drawback in terms of the legislative range of documents developed by the Legislative Committee and published on the website of the Chamber of Deputies: users are warned that the “published information” as well as the “texts of the regulatory documents are not official” and, therefore, they cannot be brought into question with the administrative or legal officials. On the other hand, the same page that specifies this piece of information, the *Legislative*

Committee presents itself as a “specialised consultative office of the Parliament” which has, among other things, the obligation to “develop and publish legal documents”, an obligation that “is founded on the principle of a single official regulatory registry existing in Romania that would allow one to know the exact juridical status of each regulatory measure at a given moment in history”. And, since the *Legislative Committee* has this obligation, it would not have the right to claim any competency in guaranteeing the official nature of the regulatory documents it publishes.

Another aspect to be taken into account is that the data base is not updated in real time. As can be noted in the image below, on 17.09.2013 the platform only displayed the regulatory documents issued before 20.05.2013.

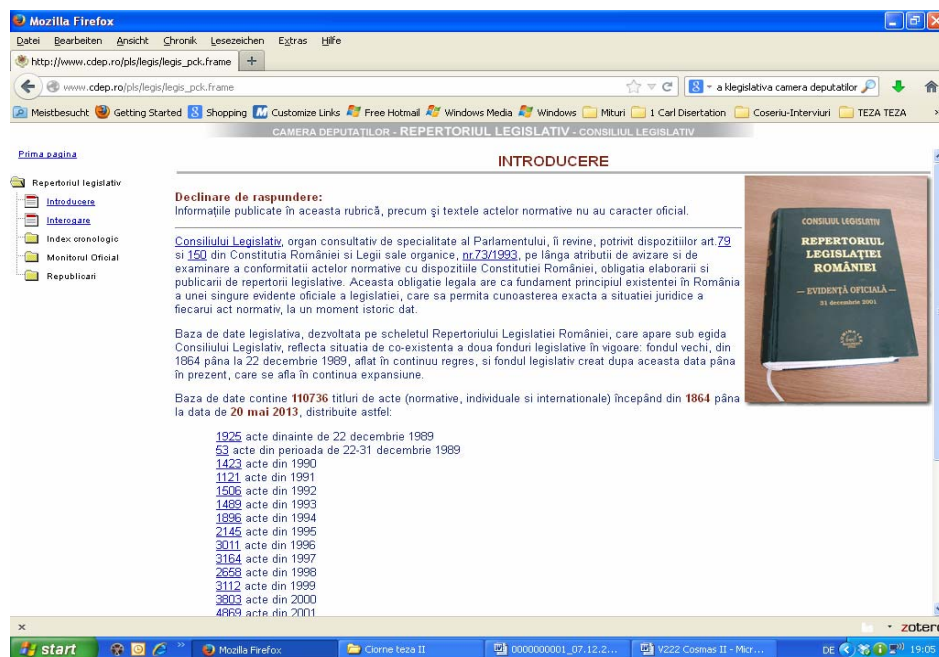


Figure no. 8. Portal of the legislative array published online by the Legislative Committee of the Chamber of Deputies [4]

Source: http://www.cdep.ro/pls/legis/legis_pck.frame [accessed on 17.09.2013]

The electronic portal of the Official Journal provides search functions according to the following criteria: type and/or number of the document, date and/or number of the issue, application range of the regulatory measure. One can also search by words, phrases or parts of text. The example below shows the search results for the “key word” *appeal* (Ro. *apel*), which occurs over 4000 times in this corpus.

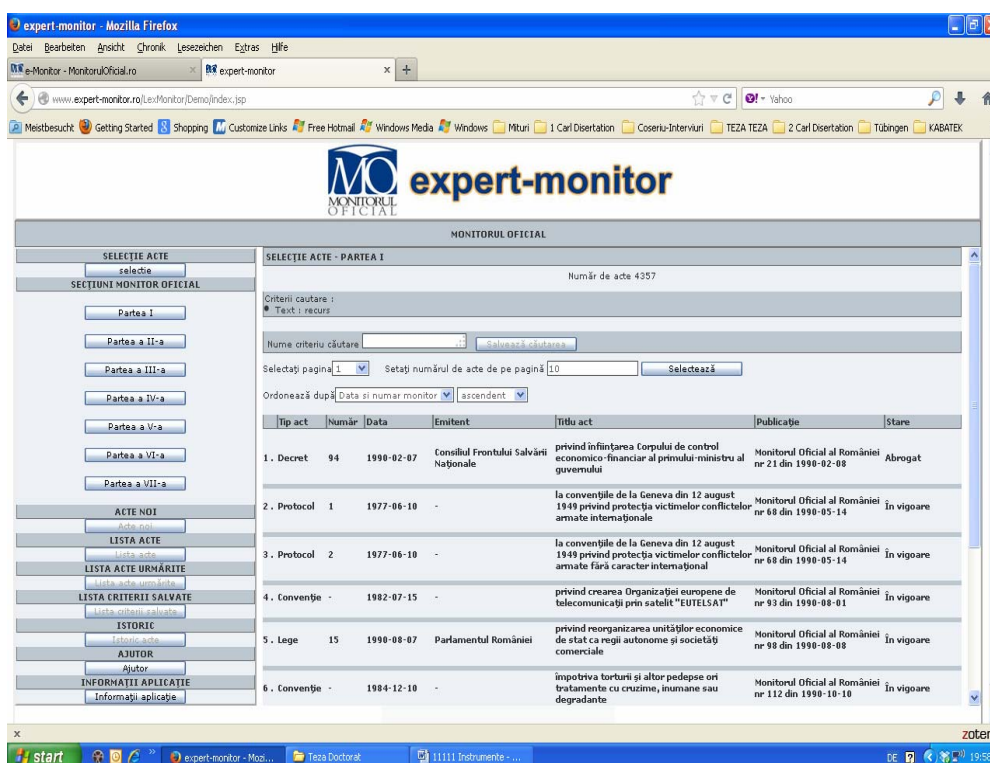


Figure no. 9. Search results of key word “appeal” (Ro. apel) on the portal of Official Journal

Source: <http://www.expert-monitor.ro/LexMonitor/Demo/index.jsp> [accessed on 17.09.2013]

Generally, the data and the functions provided by these two official platforms are sufficient for the research undertaken by the translators of legal texts (certainly, in the field of legal regulations and not in jurisprudence).

However, clerks and legal experts (i.e. specialists whose activity, unlike that of translators, has direct administrative or juridical consequences) believe these information systems to be less efficient. Therefore, their research relies on online resources provided (often on a fee basis) by private companies, such as: *Lex Expert* (a product developed by the Information Company Neamț, see www.lexexpert.ro), *Legis* (a legislative software provided by S.C. Territorial Centre of Electronic Calculus S.A. from Piatra Neamț, see www.legis.ro) or *Lege* [5] (a solution developed by Indaco Systems from Bucharest, see www.lege5.ro).

These research systems have emerged on the market and sell really well especially due to the fact that the *Official Journal* does not provide efficient search instruments for the administrative or legal practice. The user licenses for these legislative information systems are not very cheap either. However, as we stated before, these instruments are not mandatory in the legal text translation practice. In this respect, translators are exempt from the payment of costly subscriptions. We can, however, most positively state that this would be about the only financial perk translators of legal or administrative texts have, as compared to clerks or legal experts.

CONCLUSIONS

The professional profile of both translators and clerks (from the Prime Minister to the town hall secretary) has changed: only those who pursue further training and demonstrate intercultural competence will succeed in the administrative system, in politics or on the translation market. Efficiency has become a prerequisite criterion in the assessment of administrative or translation activities [5]. Similarly, the research activity should be completed in a short time interval. The large amount of available information (electronic corpora, thesauri, word data bases, etc.) can also raise certain difficulties for clerks and translators. They may get confused in the abundance of connections in the *World Wide Web* if they don't know WHERE and HOW to find relevant pieces of information.

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ENDNOTES

- [1] That is to complete the *purpose* of the translation process (see Reiß and Vermeer 1984).
- [2] We are using the phrases *functional language, syntopic, synstratic and synphasic* as defined by Coseriu. See (Coseriu and Albrecht 2007), (Coseriu 2007), (Coseriu 1988).
- [3] Ideally, there should also be versions of the regulatory documents written in terms that any individual subject to such standards would understand.
- [4] As noted in the figure no. 8, the administrators of this data base do not use diacritical marks consistently.
- [5] Unfortunately, this criterion has become even more important than quality in several cases.

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