

# THE DISCOURSE OF THE EUROPEAN COURT OF HUMAN RIGHTS: THE ROLE OF CASE COMMUNICATIONS IN THE INTRODUCTION OF SYSTEM-BOUND ELEMENTS

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**Abstract.** This study overviews how national terms are added to the case-law of the European Court of Human Rights. Contributing to previous literature on the European Court of Human Rights (ECtHR) discourse which focussed on judgments, the study proposes a *system of genres* approach (Bazerman, 1994), analysing how system-bound elements (SBEs), i.e. those terms and phrases that need to maintain their national embedding, move across multiple procedural genres of the ECtHR (application, case communication, written pleadings, decision and judgment) in four cases against Ukraine, Latvia, Italy and Russia. Against the theoretical-methodological framework of discourse analysis, legal terminology and Legal Translation Studies, the analysis emphasises a critical role of case communications. Case communications recontextualise national elements in a supranational context, translate SBEs, and transform lay representation of applicants into legal discourse. The findings demonstrate how factual reconstruction and SBEs migrate verbatim from case communications into judgments, despite different variants exist in other documents. The study identified some country-specific differences in the rendition of SBEs concerning the use of alphabet and the national caseload. SBEs using Cyrillic tend to omit Cyrillic in judgments. SBEs from high-caseload countries seem to have consolidated versions, both translated (from Ukrainian and Russian) and rendered using translation couplets with loanwords (Italy). SBEs from low-caseload countries (Latvia) are subject to noticeable variation. The study foregrounds the importance of the system of genres approach and problematises decision-making practices concerning SBEs at the supranational level.

**Key words:** discourse, legal genres, terminology, system-bound elements, European Court of Human Rights

## INTRODUCTION

Law is language, and modern law in Europe has become increasingly multilingual thanks to the creation and widespread use of international and supranational legal mechanisms. These mechanisms are frequently rooted in cooperation and interaction among various national legal systems (Peruzzo, 2019a: 12), with various national languages, which may be logically expected to leave terminological and phraseological *traces* in the operation of international courts. One of such courts is

the European Court of Human Rights (ECtHR, or the Court). It rules on violations of the European Convention of Human Rights (ECHR, or the Convention) lodged by applicants from 46 Member States of the Council of Europe (CoE) speaking 37 national languages, which creates vast opportunities for the migration of national terms that are bound to the domestic context, also known as system-bound terms (Peruzzo, 2019a; 2019b), into a supranational context.

The ECtHR discourse has received scarce linguistic attention (Nikitina, 2018a; 2018b), mainly focussed on its most representative genre: the judgment (Weston, 2005; Brannan, 2013; 2018; Peruzzo, 2017; 2019a; 2019b). While the presence of loanwords and system-bound terminology in the ECtHR judgments and decision has been previously acknowledged (Brannan, 2013; Peruzzo, 2019a; 2019b), no linguistic study – to the best of my knowledge – has traced the origins and movement of national terminology and phraseology in the ECtHR discourse across its *multiple* genres.

This research supplements the existing gap and overviews the interweaving of national and supranational elements across various procedural genres of the European Court of Human Rights in four cases (against Latvia, Ukraine, Russia and Italy). The notion of *a system of genres*, i.e. ‘the interrelated genres that interact with each other in specific settings’ (Bazerman, 1994: 97) is relied on to explore the ECtHR context and its discursive practices. As anticipated above, concepts and terms migrate from a national domain into a supranational context, and this study focuses on the important juncture for such knowledge transformation, the genre of case communication (Nikitina, 2022a, 2022b). To describe knowledge transformation at this stage of the ECtHR proceedings, a discourse-analytical perspective is applied, along with the notions of entextualisation, recontextualisation and summarisation. Next, the terminological-phraseological continuum at the ECtHR is described as the linguistic focus of the study. The following sections offer descriptions of the study design and materials, findings, and concluding remarks.

## THE EUROPEAN COURT OF HUMAN RIGHTS

### 1 THE SYSTEM OF GENRES AT THE ECTHR

Despite covering a vast and multilingual territory of 46 CoE Member States, the ECtHR has only two official languages: English and French, similarly to the UN International Court of Justice and in contrast to the EU European Court of Justice. Bilingualism at the ECtHR is not universal, meaning that the Court does not always rule or communicate in both its official languages (Weston, 2005: 449; Nikitina, 2018b: 15; Brannan, 2018: 171). To explain the linguistic regime, it is necessary to outline the genres and communicative situations at the ECtHR (see Figure 1) that form an interrelated system.

The ‘upstream’ genre that triggers the following proceedings is the so-called *application*, which is drafted in any national or even minority language of the CoE Member States (Brannan, 2018: 171; Nikitina, 2018b: 33; Peruzzo, 2019b: 35). If the application is deemed admissible, it is followed by *case communication* (Nikitina, 2022a, 2022b). As Figure 1 indicates, case communications are drafted by the ECtHR Registry lawyers in one of the official languages, which involves a significant amount of information processing and re-elaboration across different languages and legal systems (see next section).

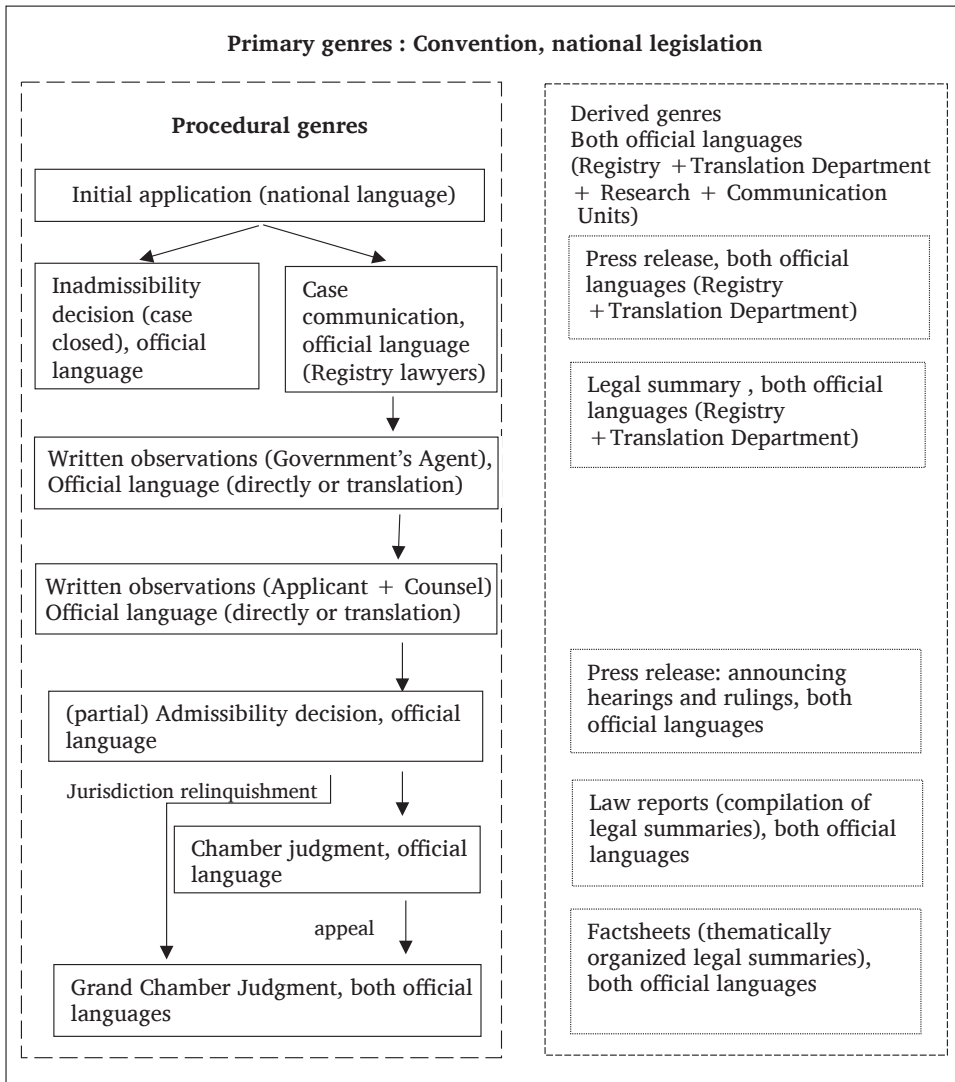


Figure 1 The system of genres at the ECtHR (Nikitina, 2022b)

Written observations or written pleadings (Nikitina, 2018a, 2018b) are the central part of the procedure. In these documents the Government answers the Court's questions formulated at the case communication stage and presents its version. Then the Applicant (or rather the Applicant's Counsel) is given an opportunity to reply. These documents have to be produced in either English or French, so most Parties either recur to a second language (L2) drafting or commission independent translations of a variable quality (Nikitina, 2018a).

Decisions – admissibility or inadmissibility – along with Chamber Judgments are prepared in one of the official languages. However, if flagged as key cases, i.e. the most important cases (Brannan, 2021: 219), they are translated into the other official language. Finally, Grand Chamber Judgments, rendered by the highest judicial formation of the Court, are available in both English and French. So, as described above and in Figure 1, the ECtHR adopts a system of alternative bilingualism with few exceptions.

Besides procedural genres, i.e. those genres that are necessary to unravel judicial proceedings, there are also derived genres (Nikitina, 2019: 59), i.e. those genres that aim at knowledge dissemination. These include factsheets, law reports, press releases and legal summaries, and generally are available in both English and French. These documents are drafted in either of the official languages and then translated into the other one by the Translation Department.

## **2 THE CASE COMMUNICATION GENRE: A CRITICAL JUNCTURE**

As mentioned above, the case communication genre marks the passage from an application written in a national language, frequently by a lay person with no legal background, to a typically shorter document prepared by the ECtHR Registry lawyers in either English or French. It is reasonable to expect that this is an important stage to trace the origins of national elements in supranational discourse of human rights. Yet, this genre has not received a lot of scholarly attention, with few exceptions (Nikitina, 2022a, 2022b).

Case communications pursue a twofold function: to notify the Respondent Government about the case (Sicilianos and Kostopoulou, 2019: 98) and to trigger the written procedure through posing questions to the parties. In fact, a manual co-authored by the former president of the ECtHR specifies that

the notice includes detailed questions for the Government, questions which relate to the main aspects of the case. The Court invites the respondent State to submit written replies to these questions within a period of sixteen weeks or, in priority cases, eight weeks. (ibid., 2019: 99)

Case communications produce more or less detailed descriptions of the subject matters and statement of facts (Nikitina, 2022a). The genre is subject to some

variability in terms of its length and contents, which depend on the case complexity and importance, and elude clearcut analytical explanations. In addition to this initial generic instability, the 2018 reform introduced the so-called *immediate and simplified communication of application* (IMSI), i.e. ‘a very short report which states the object of the case and the questions submitted to the parties. It is up to the parties to present their respective version of the facts and assist the Court in establishing the final version of them’ (Sicilianos, 2018: 3).

Regardless of whether a traditional or a simplified model is used, it involves extensive knowledge re-elaboration by Registry lawyers, which was also implicitly acknowledged by the ECtHR when they introduced IMSI. As concerns the transfer of knowledge structures from a national into a supranational context, the concept of *recontextualisation* is highly applicable. It denotes a situation when ‘elements originally embedded in a national legal and judicial system migrate from their natural context into a different environment’ (Peruzzo, 2019b: 71). Not only are there national elements, but there is also a different degree of specialisation involved. The applications are frequently drafted by applicants themselves, not necessarily involving professional legal assistance. For instance, in the present corpus one application was drafted by the applicant’s mother who declared to be a cashier in a supermarket. As a result, when Registry lawyers process applications and draft case communications, there is ‘the extraction of meaning from one discourse and consequent insertion of that meaning into another discourse through a process of de-contextualization or “decentering” and its “re-centering” in another context’ (Garzone, 2014: 79), known as *entextualisation*.

Finally, case communications are shorter than applications, and they may be assessed in terms of *summarisation*, i.e. ‘a task of generating a short summary consisting of a few sentences that capture salient ideas of a text’ (Song, Huang and Ruan, 2019: 857). At the case communication stage, the element of legal translation is involved, too, making it a cross-linguistic summarisation. Next section specifies the linguistic focus of this study covering the legal translation perspective, too.

## LEGAL TERMINOLOGY AND PHRASEOLOGY

Legal terminology is typically recognised as one of the most distinctive features of legal discourse (Cao, 2007: 53), and one of the most challenging from the standpoint of Legal Translation Studies (Peruzzo, 2019a: 15). However, in legal texts, legal terminology is at times difficult to discern from legal phraseology as phraseological units cluster around terms, forming a continuum with fuzzy borders (Scarpa, Peruzzo and Pontrandolfo, 2014: 75). Thus, next to single-word legal terms there are multiword terms (MWT), i.e. terminological phrases consisting of more than one word. MWTs are both terminological and phraseological (Nikitina, 2019: 272) and, along with traditional terms, act as ‘depositories of knowledge’

(Sager, 1998: 259). *Terms* is used collectively in this study to cover both single- and multiword terms.

In international organisations decision-making concerning the adoption of terms, ‘despite its relevance for institutional translation quality, remains largely unexplored’ (Prieto Ramos and Guzman, 2018: 81). Terms may undergo conceptual transformations and re-definitions during their migration from a national setting into an international one. New terminology and phraseology may be developed to denote supranational notions. The resulting terminological-phraseological gradient presents elements with different degree of interaction between the national and supranational dimensions.

To explore this interaction, the study builds on the classification of legal terms at international organisations by Prieto Ramos (2014) and, specifically, at the ECtHR by Brannan (2013, 2018) and Peruzzo (2019a, 2019b), supplementing them with phraseological perspectives, where applicable.

The first category may be defined as supranational terms that ‘transcend domestic realities’ (Brannan, 2013: 909). In a broader context of international organizations, Prieto Ramos (2014: 128) defined this category as ‘terms designating shared concepts created in the international system’. For the ECtHR system, such terms may be of three types:

- a) Convention-specific terms, e.g. *just satisfaction* or *reasonable time*. Convention-specific terms derive from the text of the European Convention on Human Rights as interpreted and applied by the ECtHR.
- b) Jurisprudential creations, which are coined by judges, lawyers and, to a certain extent, translators, e.g. *margin of appreciation* which denotes the degree of discretion States have in certain matters.
- c) Term-related multiword units (frequently binomials), e.g. *practical and effective*, which are typically descriptors applied to nominal terms.

The second category is represented by *legal transplants* (Watson 1974), whose meaning is reassigned in the operation of ‘autonomous interpretation’ (Peruzzo, 2019b: 81). These are terms borrowed from national contexts and redefined in a supranational context so that their meaning is not the same as it was in the system of origin. Some examples would include *criminal charge* and *civil rights and obligations*.

Finally, there are system-bound elements (SBEs) (Peruzzo 2019a, 2019b) ‘designating culture-bound or *system-specific concepts to be identified as such* in the international context’ (Prieto Ramos, 2014: 129, emphasis added). As cases coming to the ECtHR concern violations of the Convention that happened within a *national* context, it is inevitable that a number of nationally-bound terms are to migrate into an international context maintaining their domestic meaning. These terms are used predominantly to refer to national legislation and domestic proceedings. To wit, these are ‘legal terms and concepts that, in a context requiring comparison, appear to be embedded in one legal system, be it national,

regional, or international' (Peruzzo, 2019b: 78). An example of a system-specific concept and term is *civil party* (Brannan, 2013: 922), which is the literal translation of an Italian concept *parte civile*, which denotes an offence victim who takes part in criminal proceedings with a civil claim to obtain monetary compensation. This last category is the primary linguistic concern of this study.

As most frequently the introduction of system-bound terms into the discourse of the ECtHR involves also a passage from a national language into one of the ECtHR official languages, it involves translation. Peruzzo (2019a; 2019b) researching SBEs in the ECtHR judgments against Italy from a Legal Translation Studies standpoint identified a number of translation strategies for their rendition, which include literal translation, translation using a functional equivalent and the so-called loanwords. Another frequent strategy identified by Peruzzo (2019a) adopting Šarčević's (1985: 131) classification of translation strategies is the use of translation couplets or triplets, consisting of a literal or functional translation of a term and a following or preceding loanword. This is the classification adopted in this study.

## STUDY DESIGN AND MATERIAL DESCRIPTION

The aim of this research is to overview the movement of SBEs across various procedural genres of the ECtHR. Specifically, the following research questions are formulated:

1. Do linguistic choices made by case communication drafters 'migrate' further into other genres in the ECtHR system?
2. Are there any country-specific differences?

In order to answer these research questions, an ad hoc corpus of four cases (against Latvia, Ukraine, Russia and Italy) was compiled (see Table 1; the corpus was compiled before March 16, 2022, when Russia was still a CoE member.). These texts were gathered using the HUDOC database, i.e. the official database of the ECtHR case-law. There were four selection criteria: (1) time; (2) language; (3) Respondent State and (4) subject-matter.

The temporal criterion concerned the date of the final judgment: all judgments were delivered between February 1, 2022, and March 3, 2022, covering a period of 31 days. The second criterion related to the language in which the final judgment was rendered: only judgments in English were selected. As regards the third criterion, four different Respondent States with four different languages of the initial applications were chosen. Finally, the fourth criterion was the subject of the case: only cases dealing with violations of Article 6 ECHR (right to a fair trial) were selected to ensure thematic consistency.

After collecting all the materials available in the HUDOC in open access, access to initial applications and written observations has been requested. These are referred to using Swales' notion of *occluded genres* because they remain 'out of sight'



of general public and are intended for ‘specific individual or small-group audiences’ (Swales, 1996: 46). Despite the final judgment had been already rendered, access to the Italian and the Russian applications and written observations was not granted, but they may become available for consultation at a later stage.

Table 1 Corpus composition

Case name	<i>Martynenko v. Ukraine</i>	<i>Pilāgs v. Latvia</i>	<i>D’Amico v. Italy</i>	<i>Kramareva v. Russia</i>
Application no.	40829/12	66897/13	46586/14	4418/18
Judgment date	24/02/2022	17/02/2022	03/03/2022	01/02/2022
Application	ca. 6,000	ca. 4,000	n/a	n/a
Case communication	1,903	1,025	221 (French)	629
Observations by the Government	2,745	4,728	n/a	n/a
Observations by the Applicant	1,746	ca. 4,900	n/a	n/a
Additional observations by the Government	–	1,739	n/a	n/a
Decision	–	–	–	–
Judgment	1,632	1,596	4,129	8,122
Press release	–	–	–	131
Legal summary	–	–	653	–
Total texts	5	6	3	3
Total tokens	14,026	17,988	5,003	8,882

Texts belonging to the occluded genres were provided as graphical files (.jpg, .tif and .pdf) and required optical recognition. Unfortunately, it did not manage to recognize successfully Cyrillic characters in Ukrainian and diacritics in Latvian, so parts of these documents had to be retyped. As a result, mainly the graphical files were used for the analysis, with an approximate number of characters indicated in Table 1 (marked ‘ca’) for informational purposes. Finally, the case communication in *D’Amico v. Italy* was drafted in French, which is the most frequently chosen language by the Italian Registry lawyers (Nikitina, 2022b), so it was kept for the analysis.



## FINDINGS

### 1 RELIANCE ON CASE COMMUNICATIONS

Three of out four case communications in the corpus follow the traditional format and range between 16-32 per cent of the original application in terms of their length (see Table 2), whereas the fourth amounts to ca. 5 per cent of the original application, which shows an extensive amount of summarisation as part of the translation/entextualisation/recontextualisation process.

Table 2 Case communications

Case name	Communication year	Format	Proportion to the original application (%)
<i>Martynenko v. Ukraine</i>	2020	Traditional	32
<i>Pīlāgs v. Latvia</i>	2015	Traditional	26
<i>D'Amico v. Italy</i>	2019	IMSI	16*
<i>Kramareva v. Russia</i>	2019	Traditional	5*

\* Data marked with an asterisk represent an estimated value which was calculated based on statistics available in Nikitina (2022a, 2022b) analysing similar corpora.

Despite the IMSI format is available since 2018 ‘to shift the burden of factual reconstruction onto the Governments and *prevent factual objections*’ (Sicilianos and Kostopoulou, 2019: 100, emphasis added), only *Martynenko v. Ukraine* applied it. The Government in their written observations ‘respectfully ask[ed] the Court to supplement its exposition of the factual matrix of the present case with the following facts’ (*Martynenko v Ukraine*), showing how Governments indeed object to factual reconstruction. Yet, when the facts section across various genres were compared, it emerged that the judgment used a verbatim account of the case communication (see examples (1) and (2) that differ only by the spelling of *eyewitnesses*, emphasis added).

- (1) According to the police reports on *a test purchase of drugs*, on 12 and 30 January 2009 the applicant sold a small quantity of cannabis to his acquaintance P. used by the police as their undercover agent. The supposed purchases took place in the apartment house where the applicant lived, in the absence of any *eye-witnesses*. (*Martynenko v. Ukraine*, case communication)
- (2) According to the police reports on *a test purchase of drugs*, on 12 and 30 January 2009 the applicant sold a small quantity of cannabis to his acquaintance P. used by the police as their undercover agent. The supposed purchases took place in the apartment house where the applicant lived, in the absence of any *eyewitnesses*. (*Martynenko v. Ukraine*, Judgment)

Interestingly enough, potentially system-bound elements in the Ukrainian case are not rendered through the use of translation couplets featuring any loanwords. In no texts (besides the application written entirely in Ukrainian by the applicant's mother) are there any loanwords or otherwise non-translated elements. The SBEs present are somewhat domesticated using functional equivalents (such as *a test purchase of drugs* in (1) and (2) for *оперативна закупка*) or translated literally (e.g. *Criminal Code of Ukraine* for *Кримінальний кодекс України* or *appeal and cassation proceedings* for *апеляційне та касаційне провадження*).

A similar scenario appears in *Kramareva v. Russia*, another case using Cyrillic. Despite multiple references to national legislation and proceedings in the judgment, no words are left in Russian. The names of numerous judiciary bodies mentioned are translated literally with the transliteration of the toponym (*the Preobrazhensky District Court of Moscow*), which undoubtedly maintains its system-bound character. In contrast to the Ukrainian case communication, the case communication in *Kramareva v. Russia* applied the strategy of translation couplets, introducing both a literal translation and a source expression in brackets (the Preobrazhenskiy District Court of Moscow (*Преображенский районный суд г. Москвы*)) or even transliterating an acronym followed by a proper name (GUP Mosecostroy (*ГУП 'Мосэжстрой'*)). At the same time, a type of a legal entity (AO) was translated with a functional equivalent (JSC), followed by the loan acronym (Mosinzhproekt JSC (*АО 'Мосинжпроект'*)), which indicates a hybrid translational strategy. Nevertheless, none of loanwords migrated into the final judgment, where the drafters chose to maintain only the translations.

In *D'Amico v. Italy*, in line with Peruzzo's (2019a) findings, a translation couplet with a loanword was introduced both in the case communication (*l'indennité intégrative spéciale* ('*indennità integrativa speciale*')) and in the judgment (*a special supplementary allowance* (*indennità integrativa speciale* – '*the IIS*')), with the only difference concerning the use of quotation marks in French vs English and the introduction of a loan acronym in the judgment, making the expression a translation triplet.

In *Pīlāgs v. Latvia*, as Table 3 below illustrates, the judgment adopts the same multiword term as proposed in the case communication, again signalling the almost verbatim reliance on this source, as the only difference between these two texts is in the use of the definite article before the loan acronym *KNAB*.

Table 3 Example of a SBE across different genres in

Judgment	Case Communication	Government's Observation	Applicant's Observations
the Bureau for the Prevention and Combating of Corruption ( <i>Korupcijas novēršanas un apkarošanas birojs</i> – ‘the KNAB’)	the Bureau for the Prevention and Combating of Corruption ( <i>Korupcijas novēršanas un apkarošanas birojs</i> – ‘KNAB’)	the Office for the Prevention and Combating of Corruption (“the KNAB”)	the Corruption Prevention and Combating Bureau ( <i>Korupcijas novēršanas un apkarošanas birojs</i> ) (hereinafter referred to as the KNAB)
Translation triplet: literal translation + loan multiword term + loan acronym	Translation triplet: literal translation + loan multiword term + loan acronym	Translation doublet: functional translation + loan acronym	Translation triplet: literal translation + loan multiword term + loan acronym with an introductory phrase

The Applicant opted for a very similar strategy in his observations selecting a translation triplet composed of a literal translation (maintaining even the same nominal structure) followed by a loan multiword term with a loan acronym and an introductory phrase. At the same time, the Government offered a different strategy: they changed the head noun in the multiword SBE from a phonologically closer ‘Bureau’ to its functional equivalent ‘Office’ and omitted the loanword. As the SBE at hand is an administrative body with probably an existing official English translation of its name known to the Government, it is remarkable that the judgment chose to rely on the translation provided by the Registry lawyers and not the Government.

## 2 SBES: TERMINOLOGICAL VARIATION AND INTERTEXTUALITY

Courtroom interaction is inherently heteroglossic (Bakhtin, 1981) in that it incorporates a plethora of different voices. There have been multiple studies that applied the paradigm of dialogism to courtroom interactions (Rubinson, 1996; Etxabe, 2022), also from the standpoint of judgment intertextuality (Vázquez-Orta, 2010; Peruzzo, 2019b). In the ECtHR context, the inherent intertextuality and heteroglossia are complicated by the multitude of languages and legal systems involved. The Court frequently refers to its previous judgments on similar cases or in relation to the same legislation (Peruzzo, 2019b: 99), thus in a case on undercover operations in one member state, other case-law dealing with the same issue in relation to another state is often quoted. Moreover, different national laws may interpret and define undercover operations in a different way. In other words, the same term may have different legal consequences across different systems. This highlights the importance of system-bound terminology adopted in

judgments. As the evidence adduced in this study suggests, these choices tend to migrate with little modifications from case communications.

Table 4 below illustrates the terminological variation concerning the SBE *operatīvais eksperiments* in *Pilāgs v. Latvia* (the numbers in brackets indicate the number of occurrences).

Table 4 SBE and terminological variation in

Application	Case Communication	Government Observations	Applicant's Observations	Judgment
<i>operatīvais eksperiments</i>	undercover operation ( <i>operatīvais eksperiments</i> ) undercover operation (3); operations (1)	the special operative experiment	investigative test ( <i>operatīvais eksperiments</i> )	undercover operation ( <i>operatīvais eksperiments</i> ), undercover operation (6); operation (4)
	operational investigation ( <i>operatīvās uzskaites lieta</i> ), operative investigation (2)	the special investigative experiment		
<i>operatīva darbība (slepenu nolūkā iesaistīt mani noziedzīgu darbību veikšanā)</i>	incitement claim; incitement; allegation; KNAB officials had incited him (2)	incitement plea	repeated investigative test (incitement)	incitement (11); incitement plea (2)
				Entrapment (2); plea of entrapment (1)

Already in the application drafted in Latvian two similar multiword terms are used, which are both maintained in the case communication as translation couplets *undercover operation* (*operatīvais eksperiments*) and *operational investigation* (*operatīvās uzskaites lieta*). After the first mention of the translation couplets, the case communication goes on by using only the translated part in English, which in the second case presents a small inconsistency (*operational* vs *operative*). The Government in its observations uses two translations without any loanwords: *the special operative experiment* and *the special investigative experiment*, which seem to be variants of the same concept. The Applicant in his observations, which are drafted in L2 English or translated by his own means in accordance with the rules concerning written pleadings, refers to the concept using a different translation

couplet: *investigative test (operatīvais eksperiments)*. Finally, the judgment replicates the translation couplet used in the case communication, again demonstrating full reliance on this genre as concerns the rendition of SBEs.

There are altogether four Latvian cases in the ECtHR case-law that deal with *operatīvais eksperiments*: *Baltiņš* (2013), *Taraneks* (2014), *Meimanis* (2015), and *Vinks and Rubicka* (2020). Curiously, the two earlier cases render it in their judgments as *investigative test (operatīvais eksperiments)* (same as the Applicant's version), while the two later cases use *undercover operation (operatīvais eksperiments)*, i.e. the multiword term with a loanword used in the case communication and in the judgment. As *Pīlāgs v. Latvia* was communicated in 2015, it is possible to hypothesise that the current version of the SBE was consolidated in 2015, when, probably, the Latvian lawyer of the Registry changed. This illustrates how terminology in a supranational court is still very much subject to human factors, especially when SBEs are involved, which deserves future inquiry.

Finally, Table 4 shows that along with translation couplets a functional equivalent *police incitement* was used by all the parties, with grammatical variants *to incite* and multiword terms *incitement plea* and *incitement claim* to render *operatīva darbība (slepeni) nolūkā iesaistīt mani noziedzīgu darbību veikšanā*. The ECtHR provided a definition of *police incitement* in *Ramanauskas v. Lithuania* (judgment of 5 February 2008 at paragraphs 54-55) as a situation

where the officers involved – whether members of the security forces or persons acting on their instructions – do not confine themselves to investigating criminal activity in an essentially passive manner, but exert such an influence on the subject as to incite the commission of an offence that would otherwise not have been committed, in order to make it possible to establish the offence, that is, to provide evidence and institute a prosecution.

Peculiarly, in the *Pīlāgs* judgment another term appears: *entrapment*, showing that a number of different people worked on the judgment's drafting. It is used as a synonym for *police incitement*. *Guide on Article 6* (Council of Europe 2022: 49, note 6) states that 'The terms entrapment, police incitement and agent provocateurs are used in the Court's case-law interchangeably'. A quick HUDOC search yields 68 hits of *entrapment* (most cases against Russia (18), Romania (10), United Kingdom (9), the Republic of Moldova and Lithuania (6)) and 346 hits of *police incitement* (most cases against Russia (71), Turkey (56), Romania (20), Ukraine and the Republic of Moldova (17), Azerbaijan (16) and Lithuania (11)). At the same time, the already mentioned *Guide on Article 6* (Council of Europe 2022) – prepared by the CoE personnel and drafted originally in English – clearly prefers *entrapment* (38 hits) over *police incitement* (21). The UK cases also demonstrate a preponderance of *entrapment*. It may be hypothesised that the latter term

appeared in the *Pīlāgs v. Latvia* judgment as a result of heteroglossia inherent in the ECtHR system, which requires further investigation from a terminological standpoint.

## DISCUSSION AND CONCLUSIONS

This study zoomed on the discourse of the ECtHR as a system of genres, venturing beyond the familiar turf of judgments, to assess the interaction between national and supranational terminology. The findings adduced evidence corroborating a critical role of case communications in linguistic migration of system-bound elements from their national contexts into the supranational case-law, thus supplementing the scarce literature on the ECtHR genres. System-bound elements in case communications created by Registry lawyers through translation, entextualisation, recontextualisation, and summarisation of information present in the initial application tend to be used verbatim in the final judgments or with few modifications. Naturally, the findings of this study are limited by four cases only, yet they cover four completely different legal systems and languages, which makes this study a valid contribution even with a small corpus size.

While establishing a general tendency of information ‘migration’ from case communication into judgments, the study has also identified several country-specific trends. In cases using the Cyrillic characters (Russian and Ukrainian), there was a tendency to omit loanwords in the text of judgments which contrasts with Peruzzo’s (2019a, 2019b) findings in the Italian context. A possible explanation may be offered by a number of pragmatic factors: (1) a different alphabet may not be accessible to all readers; (2) as both Russia and Ukraine were among the highest-caseload countries, consolidated literal translations have been created over the years, thus decreasing the need to recur to loanwords. On the other hand, Peruzzo’s findings (2019a, 2019b) on Italy, which is another high-count country, would suggest a systematic recourse to translation couplets as a consolidated practice, which supports the different alphabet hypothesis.

In contrast, the Latvian case was marked by some terminological inconsistencies and high variation. As Latvia is among the States with the lowest caseload, it may be hypothesised that the variation observed derived from a lack of consolidated translations and some clashes with terminology from other countries. The analysis cast light on a potential terminological turn triggered by the replacement of a lawyer who dealt with Latvian cases.

Further research into decision-making strategies concerning the choice of terminology and SBEs at the ECtHR is necessary. As many future cases may be expected to adopt the immediate and simplified communication (IMSI) format, the Court will have to rely on information contained in Government’s and Applicant’s observations, confirming the growing importance of the system of genres approach.

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