CZU: 81`25 **DOI: https://doi.org/10.5281/zenodo.10078679**

FALSE FRIENDS IN THE MEDIATION FIELD

Parascovia CAZACU
MA, Lecturer
Moldova State University, Faculty of Letters
The Department of English and French for Specific Purposes
0000-0002-7291-3138

Mediation is a crucial process for resolving conflicts and facilitating effective communication between parties involved. However, the mediation field is not immune to linguistic pitfalls, particularly the phenomenon known as "false friends." False friends refer to words or expressions that appear similar or identical across different languages but possess distinct meanings. Navigating false friends requires cultural sensitivity, adaptability, and a willingness to explore different linguistic nuances. Mediators and translators should continually expand their linguistic and cultural knowledge, seeking opportunities for professional development and engaging in cross-cultural training to enhance their skills. Furthermore, the presence of false friends highlights the significance of clear and precise communication during mediation. Mediators and translators should strive to create an environment where all parties feel comfortable expressing themselves and have their voices heard. This includes clarifying the meaning of words and phrases to avoid any potential misunderstandings that may arise from false friends.
Keywords: *terminology, translation, false friends, mediation, equivalent*

Five hundred years ago distinguished philosopher Niccolò Machiavelli claimed: *Keep your friends close, and your enemies even closer*. And when talking about enemies, we can´t forget the most dangerous of them all: *the false friends*. As professional translators, Machiavelli's words serve as a true mantra. False friends are confusing, deceptive and misleading, and can be found in every terminological area of the English language. Given that it is very easy to make a mistake by using a false friend, the success of a translator's work will depend on finding the accurate equivalence and translate these words correctly [1, p.42].

False friends occur when words in two languages resemble each other either in sound or appearance, suggesting that they may be literally translated; in fact, however, they have very distinct meanings. Cambridge Advanced Learner's Dictionary & Thesaurus dedicates an entry to false friends, defining them as *a word that is often confused with a word in another language with a different meaning because the two words look or sound similar* [1, p.43].

The origin of this term may be traced to the well-known book *Les faux amis ou les trahisons du vocabulaire anglais* by French linguists Maxime Koessler and Jules Derocquigny, published in 1928. The current term, *false friend* is the shortened version of the English translation of this book *False Friends, or the Treacheries of English Vocabulary*, and englobes an enormous amount of terms, having the same etymological origin or not, constituting a challenge for translators, language learners and linguists [1, p.44].

When translating from English into Romanian, these words may be found in every subject area, from colloquial language to advanced specialized terminology, but the most relevant ones are part of legal and on oath translation terminology.

False friends are treacherous in translation and not only. When an English lawyer refers to a number of parties being "jointly" liable to make payment, the presumption is that each is liable for the full amount (albeit that there is only one obligation, so performance by one will discharge the other). In Scots law, joint liability means that each party is presumed to be liable only for a proportion of the total amount due [3, p.68].

The table below shows some example of law terms, their equivalence and false friends in Romanian:

Table 1. English false friends and their equivalents in Romanian:

English Legal Term	**Romanian Equivalence**	**Romanian false friend**
application	*Cerere*	*aplicație*
criminal (law)	*(drept) penal*	*criminal*
natural (person)	*(persoană) fizică*	*Natural*

crime	*Infracțiune*	*Crimă*
evidence	*Probe*	*evidență*
process	*Procedură*	*proces*
individual	*Persoană*	*individual*
adept	*Expert*	*adept*
(criminal) record	*cazier (judiciar)*	*record*

When comparing English and Romanian legal terms, it becomes evident that there are numerous false friends that should be taken into consideration. According to the *Tabel 1.,* there are several false friends worth noting.

One example is the term "application." In English, "application" refers to a formal request or petition made to a court or authority. However, in Romanian, the word "aplicație" is often used to describe a software application or app, which can lead to confusion in legal discussions.

In English, the term "crime" broadly refers to any unlawful act. However, in Romanian, "crime" translates to "crimă," which specifically denotes a criminal act of murder or homicide. The broader sense of "crime" is encompassed by the Romanian term "infracțiune."

Similarly, the word "evidence" in English denotes material or information presented in a court of law to establish the truth of a fact. In Romanian, the word "evidență" is used more commonly to describe record-keeping or keeping track of information, which can cause confusion when discussing legal evidence.

"Individual" is a term used to refer to a single person or a distinct entity in English. However, in Romanian, "individual" translates simply to "persoană," without the same connotation of distinctiveness.

Regarding "(criminal) record," the Romanian term "cazier (judiciar)" is used to describe an official document that contains a person's criminal history or past offenses. However, the English word "record" is a more general term that can refer to various types of recorded information, not necessarily limited to criminal history.

These false friends highlight the importance of understanding the specific nuances and contexts of legal terminology in different languages to avoid potential confusion and misinterpretation.

Terminology in the mediation field refers to the specific words and concepts used to describe and discuss various aspects of the mediation process. These terms help mediators, participants, and other stakeholders effectively communicate and navigate through the mediation process. Clear and consistent terminology in mediation makes the process more accessible to a diverse range of participants. When terms and concepts are well-defined, individuals from different cultural, professional, or linguistic backgrounds can better understand and engage in the mediation process. It reduces the potential for confusion and ensures that all parties can actively participate and contribute to the resolution of their conflicts.

Although the English mediation terms and their Romanian equivalents have an ancestor in most cases common - Latin / French, their semantics have evolved differently in the two languages, resulting situations in which they have nothing in common. Currently, under the influence of English, particularly thriving in the media and in corporate environments, speakers often misinterpret Romanian terms, choosing meanings based on phonetic similarity. Due to language interference, speakers, for example, identify the mediation term in a language as having the same meaning as the term in a translated language. Translation problems of these terms and their translation difficulties should not be overlooked, as they can have a negative effect on the translation, creating problems of ambiguity and ignoring conceptual accuracy, and, moreover, on the mediation process itself.

The table below shows some example of mediation terms, their false friends in Romanian and their accurate translation in Romanian:

Table 2. Mediation false friends in English and Romanian

English term	Romanian false friend	Romanian translation
Record	*record*	*Înregistrare*
Evidence	*evidență*	*probă, dovadă*
natural person	*persoană naturală*	*persoană fizică*
Interview	*interviu*	*Audiere*
Data	*dată*	*Fapte*
process	*proces*	*procedură*

offence	*ofensă*	*faptă penală*
session	*sesiune*	*Ședință*
delay	*întârziere*	*Tergiversare*
Tort	*tort*	*Prejudiciu*
Routinely	*de rutină*	*în mod obișnuit*

A term that conclusively illustrates conceptual differences in the terminology system in English and Romanian is *record/ înregistrare.* Although both terms come from the French language, they refer to different realities from one culture to another. According to *Collins English Dictionary and Thesaurus,* the term *record* is defined as *a piece of information or a description of an event that is written on paper or stored in a computer so that it can be looked at and used in the future* [4, p.764].

Consulting the lexeme in the Romanian explanatory dictionary [5, p.236], we identified the same meaning for the translation of: 1. *A reține prin scris un fapt, un eveniment; 2. a imprima (cu mijloace tehnice) sunetele, fenomenele luminoase etc.* The direct and accurate meaning of the specified concepts can be distinguished in the following examples:

In accordance with Mediation policy, the Mediator's notes and ***records*** *of the mediation content, if any, are routinely destroyed.*

În conformitate cu politica de mediere, notițele și ***înregistrările*** *mediatorului aferente medierii, dacă există, sunt distruse de regulă .*

Taking into account the facts exposed above we can conclude, the meanings that emerge from these examples, fully relate to the definitions provided by the consulted dictionaries.

Another term *evidence,* represents a false friend for Romanian *evidență,* even though they have similar forms but designate partially different concepts. The correct translation for the term *evidence* in mediation domain is *dovadă.* From the etymological point of view the word *evidence,* derives from the Latin and French, while the Romanian *dovadă* from the Slavic language. In order to better expose the particularities of meaning that these concepts possess in the field of mediation, we will refer again to the definitions in the dictionaries. According to *Oxford Dictionary of Law,* the term evidence is explained as follows: *proof refer to information furnished in a legal investigation to support a contention*

[2, p.244]. The Romanian term *dovadă* is defined in the Romanian explanatory dictionary [5, p.421] as: *probă juridică.* In the following we will present the terms in contexts extracted from mediation agreements:

The signing of this Agreement is ***evidence*** *that the Parties intend to conduct this Mediation in an honest and forthright manner and to make a serious attempt to resolve the dispute.*

Semnarea acestui acord este o ***dovadă*** *că părțile intenționează să desfășoare această procedură mediere într-un mod onest și direct și să facă o încercare serioasă de soluționare a litigiului*.

The following false friend identified in our corpus, which represents a two member terminological phrase, without synaptic ligament is *natural person*, translated in Romanian as *persoană fizică.* According to *Oxford Dictionary of Law,* the two member expression is exposed as: *a human being (natural person) or a group of human beings, a corporation, a partnership, an estate, or other legal entity (artificial person, or juristic person) recognized by law as having rights and duties* [2, p.521]. Its translation in Romanian - *persoană fizică* is defined as: *om considerat ca subiect cu drepturi și cu obligații și care participă în această calitate la raporturile juridice* [5, p.873]. The same meanings can be deduced from the contexts of the following examples:

If a Party is not a ***natural person*** *it must be represented at the Mediation meetings by an officer or employee with full authority to make binding agreements settling the Dispute.*

Dacă una dintre părți nu este o ***persoană fizică****, aceasta trebuie să fie reprezentată la ședințele de mediere de un funcționar sau angajat cu autoritate deplină pentru a încheia acorduri obligatorii de soluționare a litigiului.*

Another false friend identified in our corpus, is process, translated in Romanian as procedură. Although both terms come from the French language, but designates partially different concepts. According to Oxford Dictionary of Law, the term process is defined as: 1. proceedings in a legal matter; 2. the legal means by which a person is given notice of a legal proceeding or required to appear in court [2, p.574]. The Romanian translation of the term – procedură renders the following meanings: 1. Totalitatea actelor și a formelor îndeplinite în cadrul activității desfășurate de

un organ de jurisdicție, de executare sau de alt organ de stat. 2. Ramură a dreptului care are ca obiect studiul procedurii [5, p.923]. The following excerpts provide the meaning of this term in English and Romanian in mediation domain in order to conclude a mediation agreement between parties.

*The parties agree that statements made or documents prepared for the mediation **process** will remain confidential to the fullest extent as permitted by law, except for the limited purpose of implementation and enforcement of a resulting negotiated settlement agreement.*

*Părțile convin că declarațiile făcute sau documentele pregătite pentru **procedura** de mediere vor rămâne confidențiale în cea mai deplină măsură permisă în conformitate cu legea, cu excepția scopului limitat de implementare și executare a unui acord de soluționare privind executarea drepturilor care rezultă din contract.*

A specific term related to the mediation process is session. Obviously we identified it as a false friend, translated in Romanian as ședință. From etymological point of view, both terms derive from French. Conforming to the official definition provided by the dictionary the term session refers to: a meeting or series of meetings of a body (such as a court or legislature) for the transaction of business [2, p.601]. A similar definition is provided in Romanian by the the Romanian explanatory dictionary: adunare organizată a membrilor unui corp constituit, a unui colectiv, a personalului unei întreprinderi, al unei instituții, pentru a discuta, pentru a dezbate și a hotărî ceva [5, p.1032]. Commonly the meanings of the terms is exemplified afterwards:

*Mediation **sessions** will not be recorded or transcribed by the Mediator or any of the Parties.*

***Ședințele** de mediere nu vor fi înregistrate sau transcrise de către mediator sau oricare dintre părți.*

In conclusion, false friends pose a unique challenge in the mediation field, where effective communication and understanding are essential. Moreover, they represent a significant source of error for learners of a language and for translators as well. Mediators working with individuals from diverse linguistic and cultural backgrounds must be vigilant in identifying and addressing false friends. The presence of false friends

emphasizes the importance of active listening, open-ended questioning, and the use of plain language in mediation. Additionally, utilizing language interpreters or bilingual mediators can help bridge linguistic gaps and enhance communication during the mediation process. These professionals can facilitate accurate translations and interpretations, minimizing the risk of false friends leading to miscommunication or misaligned expectations. Moreover, mediators should strive to be mindful of their own language biases and assumptions, remaining open to diverse interpretations and meanings.

Referințe bibliografice:

1. FERNÁNDEZ - VILLAR M. J., "False Friends" in Legal English - Spanish Translation. 2019, 144 p.
2. LAW J., Martin A. E., Oxford Dictionary of Law (7 ed.), 677 p.
3. RACKEVIČIENĖ S., English for Law and Communication, Institute of Humanities, Vilnius, 2016, 167 p.
4. Collins English Dictionary and Thesaurus, 1992, 978 p.
5. DEX 2009 = Dicționar explicativ al limbii române. București: Academia Română, Univers Enciclopedic Gold, 2009. 1230 p.