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**ΠΑΝΕΛΛΗΝΙΑ ΕΝΩΣΗ ΜΕΤΑΦΡΑΣΤΩΝ  
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September 26, 2012

**To:** European Commission  
Representation in Greece  
Mr Efstratios Meintanopoulos  
DGT Field Officer in Athens

**SUBJECT: Contracting translation services to translation agencies: Remarks on the current system and suggested solutions to guarantee the quality of translation services provided as well as the fair, just and ethical employment of freelance translators, either directly by DGT (independently or in the form of translator joint ventures) or indirectly (as subcontractors via translation agencies)**

**SHORT BACKGROUND: an example of worst practices**

On 20.01.2009, Archetypon SA, a localization agency in Athens, Greece, signed a contract for the provision of multilingual translation services for the European Parliament and other institutions. The contract value was €2.8 million. By the end of December 2009, Archetypon S.A. had fired all their staff, emptied their offices (after making sure they had collected all outstanding payments from DGT and various Greek ministries) and disappeared, leaving behind over 120 unpaid suppliers, who have suffered collective damages estimated to be over €1.5 million and bringing to the verge of bankruptcy at least 4 smaller EU-based translation agencies. On February 2010, once information started flowing and the translators got organized, a number of freelance suppliers contacted DGT to inform them of the situation and ask for help or intervention.

Letters were also sent to OLAF (European Anti-Fraud Office) with a request to investigate the misuse of European funds, the decision-making procedures for awarding any contracts to Archetypon S.A. between 2008 and 2009 amid rumours of “preferential treatment”, as well as the staff responsible for evaluating the bidding documentation and awarding the contracts, given the alarmingly low profits and high borrowing showing in Archetypon S.A.’s balance sheets despite their high turnover. Furthermore, some subcontractors also contacted the European Ombudsman.



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DGT denied any liability, maintaining that they could not be held responsible for the agreement between the external supplier and the subcontractor, nonetheless indirectly acknowledged the problem since some translators were promised “*some preference in the next round of hiring translators*”. On the other hand, OLAF’s response was also disappointing, informing that they do not investigate claims less than €100.000, even though it was reported in the Greek press that they did investigate the misappropriation of funds by the said company in relation to IT development projects.

Many translators expressed their frustration as it seemed difficult to properly file a complaint and request an immediate audit, they could not find anyone responsible for those contracts, and, in effect, they were left all alone to deal with the aftermath of that disastrous contract, despite the fact that the product of their unpaid work was being used by the recipient bodies (namely the European Parliament).

The above case is typical and by no means the only one. Translator forums are overwhelmed with questions and reports about unreliable agencies throughout Europe refusing to pay external freelance translators for their work on subcontracted EU translation projects.

### **CURRENT GENERAL ISSUES**

- 1) As reported by our colleagues, it appears that there is lack of swift and flexible reporting, auditing and monitoring mechanisms in relation to subcontracting conditions for freelance translators employed by contractors. DGT seems to have rigorous requirements in ensuring that contracted agencies confirm the competencies of their associate external freelance translators. Such requirements may include but not limited to proof of specialized education at BA or MA level, detailed lists of past projects, number of pages previously translated for specialized fields (e.g. education, fisheries, etc – that is usually excessively high and difficult to prove, considering that certain materials, such as purchase orders, are covered by confidentiality agreements), copies of invoices and agreements (despite the fact that sharing this information may well breach the confidentiality agreements the translators have signed with respective companies).

This means that DGT recognizes the practice and expects contractors to employ external translators. It also means that DGT goes to great lengths



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to safeguard their contractual interests. However, this happens to the detriment of subcontracted translators, since there are no requirements ensuring appropriate working conditions, e.g. signed contracts, fair compensation, just treatment etc. In addition, those requirements often force translators to reveal details that are protected by confidentiality agreements, thus breaching those agreements and creating potential competition problems between agencies who bid for the same or similar EU contracts (i.e. disclosing trade/company secrets). Even the requirement of providing reference letters is a challenge considering that no agency will ever provide materials for the benefit of a competitor, while others clearly state that their standard practice is to not provide freelance translators with references.

- 2) Contractors awarded DGT contracts are literally "fishing" for the curricula vitae of competent translators in the local or international market, in an effort to fulfil the participation criteria of the bidding process as set by DGT. However, since there is no mechanism to ensure that the signed CVs presented by the contractor belong to the actual translators that perform the translation for a particular project, what actually happens in many cases is one of or a combination of the following:
  - (a) contractors often falsely present adequate "technical competencies" and qualified resources in bidding documentations, only to later drop them for cheaper, unqualified external translators;
  - (b) contractors refuse to provide signed work/project contracts;
  - (c) contractors refuse to pay the external translators at all or pay them at unreasonably low rates compared to the original contract with DGT;
  - (d) contractors re-use/recycle the CVs without the translator's consent.

This is an unfortunate pattern observed by other European translators associations at a local level and it seems to be quite widespread. A signed agreement between DGT and the contractor does not necessarily mean a signed agreement between the contractor and the external supplier/freelance translator. Actually, signed agreements are very rare indeed. Furthermore, according to the latest practices for certain projects, it appears that DGT requires that translators sign a "declaration of willingness" to work for contractors, before even making sure that proper project contracts are offered, thus creating the false impression that a particular translator is willing to work with the contractor; however they may withdraw once they discover the actual compensation for their work,



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or the terms and conditions or that the contractor refuses to sign an agreement. What happens if the freelancer decides not to work for the agency? It is clear that translators are forced to give a “blank cheque” before even signing contracts (if at all) or reading and agreeing to any terms and conditions, rates, work volumes etc. that contractors set unilaterally. DGT is under the impression that the translator is working on the project reassured by the said signed pre-agreement while the contractor may then simply use an unauthorised “replacement translator”, since there is no way for the translator to recall signing the document in the first place just to ensure their participation.

- 3) A great number of external translators working on EU-related projects are being paid by contractors as low as 0.03 euros/word (and often even less). This is a below subsistence and totally unacceptable rate and by no means representative of the skills necessary to translate EU documents, which is a highly specialized and hence time-consuming task, since it requires a wide range of terminology and reference research among other things. It is an insulting rate considering the contract values and the registered profits of contractors.

In particular, regarding the fair and reasonable pricing of translation services, the Greek Tax Code allows for a profit margin of up to 47.5%. However, the profit margins of many European (and Greek) translation agencies often exceed 100%, at the expense of subcontractors who actually get the job done. We believe that this should be investigated further since it may well constitute unreasonable profit and profiteering. We believe that the root cause of such practices may be found in the current bidding system urging or forcing companies:

- (a) to compete by offering unrealistically low prices, tempted by the high contract values, thus putting unreasonable and distorting pressures on the whole supply chain, and/or
- (b) to maximize their profits by squeezing translators' rates to unrealistically low levels. DGT has funded a number of surveys on current industry trends and standards regarding rates and working conditions, however when it comes to bidding and their contractors, it seems that the conclusions of those surveys do not apply or are not even taken into consideration.



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- 4) Another issue that affects translation agencies and is partially rolled over to subcontractors is VAT charges. Translation agencies that have signed contracts on European projects issue invoices that are exempt from VAT, whereas in Greece they are obliged to pay their subcontractors the agreed fee + VAT 23%. As this creates a problem for the agencies when claiming back the VAT from the tax system, it also causes a subsequent pressure on the freelance translators' fees. Given the current financial crisis in Greece, this problem is about to be further aggravated.

### **SUGGESTED SOLUTIONS AND REMEDIES**

- 1) Performing a global review of the clauses/provisions included in contracts entered into with translation contractors: this seems to be essential in order to safeguard the working rights, just treatment, fair compensation and legal protection of external freelance translators. We believe that DGT should consider the inclusion of criteria that will provide adequate monitoring of contractors employment practices and the fair compensation of external freelance suppliers. To avoid issues such as the ones presented above (i.e. CVs and unreasonable fees), the following measures could be considered:
  - (a) replacement of the aforementioned "declaration of willingness" by an actual signed and comprehensive/detailed agreement between the external freelance translator and the contractor, determining the agreement term, rates, estimated volumes and remedies. i.e. contractors should be required to submit full agreements so that their terms may be checked against certain standards and best practices. This would be a preventive measure that might minimize further auditing by DGT at later stages; or
  - (b) inclusion of a contractual clause that would force translation agencies to submit to DGT copies of the actual invoices issued by each subcontractor. This way, DGT could check the identity of the actual translator against the CVs submitted by the contractor and the translators' signed declarations of willingness, as well as the translator's compensation in comparison with the contractor's fees and the contract value.
- 2) Introducing measures that would allow translators' joint ventures (or similar forms of co-operation) to participate actively in DGT competitions by setting realistic requirements for the translators that form part of the



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joint venture. In particular, the performance bonds tend to be unmanageable and unbearable for freelancer joint ventures.

- 3) Establishing an indicative range of fair and just translation and editing rates, which could be agreed upon discussion with local and international translators' associations, so that freelance translators are properly compensated for their work in EU projects.
- 4) Determining maximum allowable profit margins for contractors, ensuring a fair allocation of the contract value between the agency managing the work and the translator performing the actual translation.
- 5) Setting up special mechanisms for the reception and immediate investigation of complaints against contractors' malpractices reported by external freelance suppliers, including provisions for immediate contract termination once established that the contractors are violating working rights and move beyond the sphere of morality in their dealings with their external freelance translators. Such audit mechanisms could also act as an arbitration authority in case of conflicts between the counterparties.
- 6) Establishing a point system, a guide of best practices, standards, a Code of Ethics or any other policies and equivalent guidelines that would promote the ethical and professional behaviour of contractors and subcontractors in all their dealings, demonstrating some level of social responsibility. Good practices should be rewarded; a disciplinary process should be initiated against agencies for which complaints have been received and investigated and non-compliant agencies should be blacklisted and excluded from future bids; pecuniary or other fines should be imposed.
- 7) Deliberations with national/trans-national professional associations of translators in order to obtain a realistic, non-academic but professional view of the translation industry at a European and local level, the current translation rates and malpractices. As members of the International Federation of Translators, we believe that either FIT International or the local network FIT-Europe are in the best position to contribute to this dialogue.
- 8) Ensuring a safer work environment for e-workers: specifically, e-workers is a group requiring special consideration and protection since they find





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themselves isolated and they put their trust on the professionalism and ethics of the employer when it comes to receiving their payment. As a result of their inherent introvertism, they tend to keep quiet when their working rights are violated or they are reluctant to take action for fear of losing their source of income. Our experience with Archetypon has showed that the said contractor was trying to get away with fraud and was counting on (i) the limited reflexes of translators who were disseminated across Europe and had minimal to inexistent communication between them; (ii) the difficulty of understanding Greek as an obstacle to information gathering; and (iii) the high legal costs as a deterrent to filing a complaint against the company.

- 9) Investigating and clarifying the copyrights situation and ownership of our translations, especially when no payment has been received and as such the transaction for the contracted or agreed work is not considered as concluded and finalised. In specific, DGT could ensure that:
- a) relevant clauses are included in contracts;
  - b) the contractor shall receive no payment unless they furnish proof that they have used indeed the translators included in the bidding folder and that the latter have been paid against the amounts invoiced.

A suggested model (as described above) would be for the contractor to provide periodically aggregate tables of bank transfers against supplier names and invoices to be audited randomly (if not at their entirety) while the project/contract is running and not some years later, by which time the offending contractor has disappeared and the external supplier is already burdened with taxes, legal fees and embroiled in civil or even criminal proceedings.

## **IN CONCLUSION**

DGT is entitled to protect their own contractual interests but not at the detriment of freelance/external/subcontracted translators. As a major employer and one of the biggest translation services worldwide, they should incorporate Social Responsibility clauses in their contracts, set up the necessary reporting, auditing and monitoring mechanisms and adopt appropriate standards to ensure the smooth, lawful and ethical execution of contracts in relation to freelance/external/subcontracted translators.



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