

French translation expert or Polish translation plagiarist?

Plagiarism, under the Polish Copyright Act, is subject to prosecution ex officio, without the necessity of the victim to file a complaint

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The month of June 2012 was coming to an end when the Polish-born Canadian scholar, Prof. Aurelia Klimkiewicz, returned from her trip to Opole, Poland, where she participated in the conference *Cultural Distinctions and translation from French into Polish*. Like many researchers the Director of Glendon College Graduate Program in Translation at York University, Toronto, does not have enough time to read all the publications appearing in her field of expertise but the conference, still fresh in her mind, made her eager to explore the Polish book *Translation as a product and the context of its reception*, issued in 2011 by Rys Publishing House in Poznań. It was a gift she had received more than one and a half years previously from one of the publication's editors and comprised the papers presented at the 1st Translation Studies Conference organised in September 2009 by the Institute of Roman Philology at the Adam Mickiewicz University³ (AMU) in Poznań. The volume had been edited by Dr. Iwona Kasperska and Dr. Alicja Żuchelkowska, both of whom the Canadian scholar knew well from her work in the field of translation studies. With great interest she started to browse through the book. While reading the article *Translation of feminist literature in the multicultural social context* by Dr. Żuchelkowska, to her surprise she realised that the section *Socio-cultural approach to translation*, on pages 357-361, is a reasonably faithful translation of *L'inscription sociale de la traduction*, a section from her own paper *Que signifie la liberté en traduction littéraire? Entre le produit, le processus, l'activité et la réflexion critique* which appeared in the journal *Studies Romanica Posnaniensia*, 2008, Vol. 35, pp. 192-194, published by AMU Scientific Publishers.

The thought that Dr. Żuchelkowska might have appropriated more than three pages of her text upset Prof. Klimkiewicz because she had known her the Polish colleague for nearly six years. In 2009, they co-edited *An anthology of contemporary Canadian francophone literature* and in 2011, when Dr. Żuchelkowska came to Toronto for a conference, she was Prof. Klimkiewicz's guest for an entire week. Disturbed by her discovery, the Canadian

1 The author (b. 1951) is a Polish physician and a cancer researcher, an author of 70 peer-reviewed journal articles, with a Hirsch-Index of 19. In 1997 working in New York, Dr. Wronski used Medline to discover plagiarism in 49 papers written by a Polish biochemistry professor, Andrzej Jendryczko. Since that time he has been involved in fighting scientific misconduct in Poland.

2 This is an English translation of an article published originally in the Polish language in a monthly magazine for Poland's academics, *Academic Forum* (circulation 3000), in September 2013. (Plagiat z przekładu, Marek Wroński FA 09/2013 Forum Akademickie, Lublin: Akademska Oficyna Wydawnicza, ISBN:1233-0930). The publication is from a series of more than one hundred articles that have been appearing continuously since 2002 in the magazine's section called 'From the Archives of Scientific Misconduct' [Z archiwum nieuczciwości naukowej] Retrieved on 29 Sep 2013 from <http://forumakademickie.pl/publicystyka/nauka/z-archiwum-nieuczciwosci-naukowej/> <http://forumakademickie.pl/fa/2013/09/plagiat-z-przekladu/>).

3 Adam Mickiewicz University is one of the most important Polish universities, located in the city of Poznań in the western part of Poland and well known for its Faculty of Modern Languages.

professor notified the Vice-Chancellor⁴ of AMU, Prof. Bronisław Marciniak. To the email she attached both texts and CCed the communication to the Dean of the Faculty of Modern Languages at AMU, Prof. Teresa Tomasziewicz, who was the supervisor of the plagiarist's PhD thesis defended in June 2005. Prof. Tomasziewicz is also Head of the Department of Translation Studies and Studies in Canadian Francophonie, where Dr. Żuchelkowska is currently employed as an Assistant Professor.

In response to the email, the Vice-Chancellor instructed the Disciplinary Officer, Dr. Maciej Gutowski, to initiate a disciplinary investigation while the Deputy Vice-Chancellor for Science and International Collaboration, Prof. Jacek Witkoś, wrote to Prof. Klimkiewicz, saying that the University would make every effort to investigate the allegations. Despite the quiet summer months of July and August, when most people go on holiday, the Disciplinary Officer quickly completed his inquiry and, on 18 October 2012, filed with the Chairman of the University Disciplinary Committee a recommendation for the penalty of disciplinary reprimand. His decision was supported by the expert opinion of Prof. Małgorzata Tryuk from the Department of Translation Studies at the University of Warsaw who stated that *“the section of the paper by Dr. Żuchelkowska under investigation is a translation of the corresponding section of the article by Prof. Aurelia Klimkiewicz. It is a copy with regard to the content, the theses as well as the structure.”* Moreover, *“the translation by Dr. Żuchelkowska is divided into the same paragraphs and uses the same terms as the original. Dr. Żuchelkowska's theses are not new, they had been copied from Prof. Klimkiewicz's work. She appropriated them to introduce her own thoughts and concepts, which she developed further on pages 361-371, and which are not related to the theme of the article by Prof. Klimkiewicz.”*

How did this happen

Dr. Żuchelkowska was interviewed by Dr. Gutowski on 16 October 2012 but when asked about copying from the Canadian professor's work, she denied the allegation and refused to answer questions as well as to testify.

Nevertheless, at the beginning of December 2012, she sent by registered post an undated letter addressed to Prof. Aurelia Klimkiewicz, in which she said that she was very sorry if what had happened offended her Canadian colleague. She expressed admiration for her academic achievements and deep gratitude for her help. She said that she had never meant to distress Prof. Klimkiewicz—she highly valued their collaboration and would never want to disrupt their relationship. A thorough analysis enabled her to discover where she had made the mistake. It transpired that when preparing notes, she created many files on her computer and used a lot of folders, including those with the source materials, folders with texts to be translated, separate folders with texts already translated, and another folder with her own work. She was not sure if this mistake was due to a heavy workload or perhaps to the lack of diligence—but she transferred the text, written by Prof. Klimkiewicz, that she had already translated into Polish, into the folder where she was storing her own works and then used the translated material as her own. All this was unintentional: she did not want to distress anyone. She was sorry to learn about Prof. Klimkiewicz's unpleasant discovery. It has also been a difficult time for her because she had been accused of acting in bad faith.

Prof. Klimkiewicz has never replied to the letter. She has never been contacted by the

4 The university's chief executive officer in Australia and other Commonwealth countries e.g. England, India, or New Zealand, and equivalent to 'Rector' in Poland and other European countries, or 'University President' in the USA.

Disciplinary Officer whose duty was, according to regulation, to interview her as well. This could have been easily done by email. Moreover, as a victim, the Canadian professor should have been notified about the findings since the Code of Offences, under which this case has been investigated, gives the victim the right to be a party to the proceedings. The last news from Poznań that reached Toronto was an email from mid-November 2012 from the Deputy Vice-Chancellor for Science who said that “*the Disciplinary Officer is still analysing the evidence. The Polish regulations secure the independence of his office from the university authorities and therefore, even though the case has already taken a long time, I would not like to interfere with his work.*” This was not true, as the investigation had formally been concluded the previous month; with regard to the Disciplinary Officer, although these officers enjoy a certain degree of autonomy, the regulations clearly stipulate that they should act only on the instructions of the Vice-Chancellor.

In the early January 2013 Vice-Chancellor Prof. Marciniak, complying with the legal and regulatory requirements, notified the Office of the District Prosecutor about the suspected copyright violation. He submitted the supporting documents, including the opinion of the expert. However, even though the paperwork clearly indicated plagiarism, 14 days later the case was dismissed. A short note was sent from the Prosecutor’s Office and did not include any justification. Unfortunately, the Vice-Chancellor did not pursue the matter further, and when the monthly *Academic Forum* made inquires last August asking for the reasons of the decision, we did not receive a reply in time to include it in this article. I have been informed by journalist Natalia Mazur from the Poznań branch of daily *Gazeta Wyborcza* that according to the Prosecutor’s Office, to investigate and prosecute a plagiarism case the victim is required to file a criminal complaint with the police. Thus the Vice-Chancellor, reporting the offence, could not bring criminal proceedings.

Obviously, this is a serious legal error indicating that the Prosecutor’s Office in Poznań are unfamiliar with law. In mid 2005, the 1994 Act on Copyright and Related Rights was amended in order to ensure respect for the intellectual property of others. The infringement of their rights was a criminal matter and since then an offender may be prosecuted ex officio and not only on a complaint of the victim.

I must add that Mr. Mateusz Pakulski, whose Office did not respond to our inquiries in August, has just informed us that after having revised the earlier decision, the criminal proceedings regarding the alleged plagiarism have been brought.

Disciplinary proceedings

I suspect that the complications described above happened due to bad timing. Prof. Bronisław Marciniak finished his Vice-Chancellor’s term on 31 August 2012. Having received over 90% of the electoral vote in March 2012, he began his new term the very next day, on 1 September 2012. However, despite the fact that his office functioned without interruption, new members of the Senate committees, including the University Disciplinary Committee (UDC), had to be elected under the law.

The new UDC members for the term 2012-2016 were elected by the new Senate only on 26 November 2012. Chaired again by Prof. Tomasz Schramm, a respected and well-known historian, the Committee, at its first meeting in December, approved the disciplinary resolution of 18 October 2012. However, the disciplinary hearing took place much later, i.e. on 3 June 2013, because earlier dates were not convenient to all the parties.

The Disciplinary Panel composed of Dr. Piotr Muchowski (Head of the Department of Asian Studies and of the Department of Hebrew, Aramaic and Karaim Studies, Faculty of Modern

Languages) and Dr. Jarosław Grykiel (Assistant Professor, Department of Civil, Commercial and Insurance Law, Faculty of Law and Administration), was chaired by an eminent chemist, Prof. Stefan Lis, Deputy Head of the UDC and Head of the Department of Rare Earths at the Faculty of Chemistry.

The decision issued by the Disciplinary Panel found Dr. Żuchelkowska guilty of the alleged misconduct involving appropriation of the article written by Prof. Aurelia Klimkiewicz. The decision was not unanimous even though the accused did not dispute the charges against her. She explained that the borrowings happened accidentally by negligence and that she had no intention to deliberately violate copyright laws. Therefore, she asked for admonition instead of reprimand, emphasizing that “*she personally gave the book with the disputed article to Prof. Klimkiewicz when she visited her in Toronto in November 2011*”.

Considering the mitigating circumstances, such as the exemplary conduct of the accused in the past and a low seriousness of the offence, the Disciplinary Panel agreed that the sanction Dr. Żuchelkowska suggested was appropriate and conceded to her request to issue only an admonition. Even though the Disciplinary Panel was convinced that the wrongdoing constituted a disciplinary offence, they considered the sanction of reprimand, recommended by the Disciplinary Officer, too severe, especially as Dr. Żuchelkowska showed remorse and clearly regretted her actions, and because any doubt as to the guilt of the accused should be resolved in favour of the presumption of her innocence. As the Disciplinary Officer did not appeal from the decision, it became final and binding.

Commentary

Despite the apparent simplicity of the case, it is in fact quite complex as certain unexpected circumstances that came to light revealed further important facts. When I recently received a copy of the disciplinary decision, it became clear to me that the proceedings were legally flawed for two reasons: there was a lack of student representative in the Disciplinary Panel as required under the Polish Higher Education Act, and moreover, there was a conflict of interest between Prof. Piotr Muchowski and Dr. Żuchelkowska who are both members of the same Faculty headed by the incumbent Dean.

Another striking inconsistency was that the professor who filed the disciplinary complaint had been overlooked in the proceedings. The exclusion of the injured party from the deliberations is a sign of disrespect. This is another case of many that I have come across that clearly shows that in practice the victim has no rights despite the fact that the Code of Criminal Procedure under which such investigations are conducted gives the victim the right of a party while in court proceedings they can serve as a subsidiary prosecutor and thus can be actively involved in hearings, including the submission of evidence and the possibility of appealing the judgement.

I also believe that Dr. Żuchelkowska has an obligation to publicly apologize to Prof. Aurelia Klimkiewicz by publishing a Letter to the Editor of *Studia Romanica Posnaniensia*, the Institute's journal. The Letter should be accompanied by the Editor's Note signed by both editors, Dr. Kasperska and Dr. Żuchelkowska, stating that as a result of accidental copyright violation of Prof. A. Klimkiewicz from Toronto, the article *Translation of feminist literature in multicultural social context*, published in 2011 in the book *Translation as a product and the context of its perception* has been retracted and should not be cited. The publisher and editors should apologize for any inconvenience that this may have caused to readers. And only this would be an appropriate way to conclude the unpleasant incident, especially in view of the fact that the injured party was not a stranger to the plagiarist.

Just before the article submission deadline, Prof. Klimkiewicz informed me that she has come

across another paper by Dr. Żuchelkowska involving intellectual appropriation. This time, the publication contains a dozen odd French sentences lifted from the Master's thesis of her Canadian student and used without attribution. The professor intends to take formal steps to elucidate this matter further.

Plagiarized master's thesis in philosophy.

Half a year ago ("*The pirate maiden and the philosophers*" in FA 1/2013 and "*Pirate exploits*" in FA 2/2013) I described the trials and tribulations related to the plagiarism in the PhD thesis and other publications by Ms. Magdalena Otlewska, a former PhD student of Prof. Janina Gajda-Krynicka, a scholar of philosophy from the University of Wrocław, who is now retired. The case has not been concluded yet, because, due to a large number of borrowings in the dissertation and in over a dozen peer-reviewed papers published by the dishonest PhD candidate, the Institute Council obligated the Director, Prof. Leon Miodoński, to instigate a re-examination of Ms. Otlewska's Master's thesis. And indeed that's what happened.

In early July 2013, the Director of the Institute of Philosophy, the University of Wrocław, received, as per his request made a few months earlier, reviews of Ms. Otlewska's Master's thesis *Desiderium — the story of the lost harmony. God, the world and man in the eyes of St. Hildegard of Bingen* which she defended in June 2007. The two experts — Prof. Agnieszka Kijewska from the Faculty of Philosophy, the Catholic University of Lublin, and Prof. Małgorzata Kowalewska from the Institute of Philosophy, the Maria Curie-Skłodowska University in Lublin — each came independently to the same conclusion that Magdalena's work was plagiarised as the thesis consists predominantly of fragments of texts lifted from other authors' publications with many excerpts copied word for word using the 'copy and paste' method. Most of the material was appropriated from the book by Fr. Błażej Matusiak *Hildegard of Bingen. The Theology of Music*, published in Cracow in 2005. To begin with, Magdalena's 'Introduction' to the thesis is, to a large degree, a copy of the priest's 'Foreword'. A lot of plagiarised text comes from another work: the 'Preface', written by T. Stepień for the book *Pseudo-Dionysius the Areopagite. Biblical theology. Volume 2* (translation by Maria Dzielski, Cracow 1999). Ms. Otlewska also borrowed extensively from C.S. Lewis' work *The Discarded Image: An Introduction to Medieval and Renaissance Literature* as well as from the article by Fr. Prof. Marian Kurdziałek *The medieval doctrines of man as a microcosm* published in *The Middle Ages in search of balance between Aristotelianism and Platonism*, a book which was printed in Lublin in 1996. Further, Magdalena plagiarized from Prof. Kowalewska's works the following pages: pp. 709-719 from the article *Hildegard of Bingen, song composer*, printed in the book titled *Hominem Quaero*, Lublin, 1999; pages 103-117 from the paper *The symphony of glory*, published in the journal *Ethos* 73-74/2006, issued by the Catholic University of Lublin; and pages 29-46 from the treatise *Prophetissa teutonica — The life and works of Hildegard of Bingen*, which appeared in the book *Women, spirituality and religion. Past and present*, printed by Humaniora Foundation, Poznań 2000. Prof. Kijewska stated that: "*Ms. Otlewska's research is limited to copying fragments of the books she had read and pasting them to create a collage composed of chunks of various foreign texts, to which, admittedly, she refers in the footnotes or in the bibliography, but without specifying that the excerpts are quotations*".

The reviews were the basis for the Vice-Chancellor of the University of Wrocław to initiate the administrative proceedings to re-examine Magdalena Otlewska's Master's degree. The re-assessment process will probably commence shortly. Within a few months – the actual length of the period depending on the rate of progress of the deliberations – the Master's degree that had been awarded by the University of Wrocław should be formally rescinded by the Dean.

A few months earlier, on 11 March 2013, the Disciplinary Officer filed with the University Disciplinary Committee for PhD Students a motion to penalise Ms. Magdalena Otlewska. A few days later, the Vice-Chancellor, Prof. Bojarski reported the offence of plagiarism to the Prosecutor's Office in Wrocław. An investigation was launched, and the witnesses, including the reviewers of the PhD thesis, are now being interviewed by the police.

Because of the police investigation, the disciplinary proceedings have been discontinued by the University Disciplinary Committee for PhD Students, although, to be precise, the two processes are separate and independent from each other — there is no formal connection between them. In my view the decision not to pursue disciplinary action is irrelevant to the final outcome of this case, anyway, due to the fact that the Committee has no measures to punish Ms. Otlewska. The harshest penalty would be to expel Magdalena but she dropped out from the University already in February 2013. Formally, the Disciplinary Officer should have discontinued the investigation in January 2013 when Ms. Otlewska withdrew from her next PhD program.

Because of the plagiarism in the PhD thesis, the National Science Centre⁵ (NSC) in Cracow, who funded Magdalena's special scholarship, demanded return of the grant money. The Spokesman for Wrocław University informed me in July that Ms. Otlewska, who was the sole financial beneficiary, had to pay PLN 23 000 to the University as financial restitution for the amount that the academic institution had to return to the NSC. From another source I have learned that with regard to compensating Prof. Małgorzata Kowalewska for repeatedly breaching her copyright, the former PhD student agreed to an out-of-court settlement, and subsequently had to pay the Lublin scholar around PLN 40 000.

The conclusion is that copyright infringement can be very expensive, and this is not yet the end of Magdalena's problems.

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5 The National Science Centre (NSC) is a Polish government funding agency located in Cracow supervised by the Minister for Science and Higher Education. The structure and procedures of this executive agency are based on standards established by the European Research Council. It opened officially in March 2011 and supports fundamental research in all the fields of science and engineering i.e. experimental or theoretical work undertaken primarily to acquire new knowledge, without any direct practical application. More than 20% of the NCN's budget is allocated to pre-doctoral and doctoral researchers like Magdalena Otlewska.