

Financial-Legal Weasel Words Revisited: An Interactive Discussion and Analysis for German>English Translators

Additional comments

There was one more term that I didn't get round to mentioning in Miami: Beherrschung.

In the company law context, Beherrschung means "control". Nothing more, nothing less. So does beherrschender Einfluss. And a Beherrschungsvertrag is a "control agreement".

Unfortunately, many German lawyers seem to insist that Beherrschung has to be translated as "domination". I'm not entirely sure how this misunderstanding arose. Maybe they just take the first word in a dictionary (sound familiar?), or maybe some eminent German law professor used it a long time ago, so nobody's going to disagree with them. So often, we have seem mistranslations like this take on a life of their own, with the excuse that "XYZ AG used it, so we also have to use it". Of course, Beherrschung can mean "domination" in a political or a psychological (especially a psychosexual) sense, and I do wonder sometimes if lawyers' insistence on using "domination" doesn't perhaps in some way reflect their own psychological fantasies J

And one of our clients (a German corporation that had until its IPO been subject to a Beherrschungsvertrag) did tell me last year that, while they agreed with me that "control" is the correct translation, it sure as hell felt like "domination" to them!! Be that as it may, please insist to your own clients that the only correct translation of Beherrschung in a company law context is "control".

One specific issue that did arise in Miami was that of Umsatzsteuer and Mehrwertsteuer. I would like to point out yet again that these are the same thing, at least in the German context. Umsatzsteuer is the formal legal term for VAT, while Mehrwertsteuer is the term more commonly encountered in practice. Of course, Umsatzsteuer is also the term used for the pre-VAT sales tax in Germany, and also for the type of "cascade" sales tax still encountered in countries like the United States. And the Swiss, very sensibly, stuck to Mehrwertsteuer when they introduced VAT. I did draw attention to this in my presentation on German tax at the 2006 ATA conference in New Orleans, and I shall certainly address it again in any future seminar or presentation I give on the subject of German taxation, as it evidently still seems to cause some confusion.