HISTÓRIA DO DIREITO

Migrating Legal Texts.
Notes on Interpretative Categories and Juridical Translations in the Nineteenth Century

Textos jurídicos migrantes.
Notas sobre categorias interpretativas e traduções jurídicas no século XIX

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RESUMO:

Na história do direito, não conhecemos nenhuma época imune aos fenômenos de migração jurídica. Diferentes componentes do discurso jurídico - teórico, prático, normativo - viajam pelo tempo e pelo espaço e se transformam, às vezes assumindo fisionomias nacionais e funções identitárias, em relação estreita com a sua dimensão linguística. Em outras ocasiões, os trânsitos culturais do direito produzem resultados de internacionalização e padronização do saber jurídico. Em relação a um fenômeno atemporal de proporções globais, aqui se repercorrem sinteticamente as etapas principais do caminho ao longo do qual foram construídas e desconstruídas as principais categorias interpretativas empregadas pela historiografia do direito na análise de transferências de cultura jurídica, com foco no tema das traduções jurídicas na Europa do século XIX, sobre a base de alguns exemplos relativos à obra de F. C. von Savigny.

Palavras-chave: Cultura jurídica europeia do século XIX, Savigny, traduções jurídicas, recepção, transplantes jurídicos.

ABSTRACT:

Within the history of law, we do not know of any age immune to phenomena of legal migration. Different components of legal discourse - theoretical, practical, normative - travel through time and space and mutate, sometimes assuming national physiognomies and identity functions, in close relationship with their linguistic dimension. On other occasions, the cultural transitions of law instead produce outcomes of internationalisation and standardisation of legal knowledge. Within a timeless phenomenon of global proportions, here we briefly recap the main stages of the journey along which the primary interpretative categories employed by legal historiography in the analysis of transfers of legal culture have been constructed and deconstructed, focusing on the theme of legal translations in nineteenth-century Europe, based on some examples related to the work of F.C. von Savigny.

Keywords: Nineteenth-Century European Legal Culture, Savigny, Reception, Legal transplants, Legal translations.

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1. Cultural transfers of law: interpretative paths

Moving through the history of law from a Western, mainly (and often guiltily) Eurocentric, perspective[2], we do not know of any ages that are immune to phenomena of normative transfer, of migration of legal contents or components of legal culture, whether technical, cultural, or sapiential, from one time to another, from one place to another, from one language to another.

We might therefore come to think of the entire history of law as the history of the continuous proclivity of legal discourse to shift in time and space, crossing the structures of different languages. And, consequently, as the history of the continuous reappearance of problems of adaptation of texts in different linguistic, as well as social contexts. A history, made up of many stories, that can obviously be read from various perspectives. The phenomenon of the cultural migration of law can indeed be observed from the point of view of texts and, above all, the paratexts which shape the legal discourse, but also, for example, by tracking the physical migration of intellectuals or the communicative networks that ensured the long-distance relationships between jurists of all latitudes. A fascinating perspective, the latter, which holds great significance for the history of the forms of organization of legal knowledge on a supranational scale[3], though we don't delve into it here. Recognizing the extreme difficulty of establishing a robust theoretical field to frame events that are frequently relevant yet often fragmented and elusive, we'll limit ourselves for now to explore certain avenues for interpreting and narrating the "voyages" of legal texts across borders within the varied landscape of nineteenth-century legal culture (Costa, 2013).

To embark on such a journey, although I am convinced that the task of the legal historian is to tell history by applying his or her methodological toolkit rather than lingering in declaring and describing it, it will perhaps be useful to revisit some past debates that, on the level of method, inevitably interfere with the theme of the cultural transfer of law.

In the broader context of the crisis affecting the traditional disciplinary frameworks of many historical and humanistic fields of knowledge, the current thematic orientations of European legal historiography have indeed strongly converged towards the study of cultural migration phenomena, thus contributing to the erosion of old paradigms. If we take contemporary history, or - should I say - postmodernity as an example, many of the thematic trends à la page presents a common denominator. I am thinking of relatively "new" themes such as the colonial legal universe, international law and judicial practices, the governance of migratory phenomena, and the so-called human rights. But I'm also thinking of more traditional topics, such as the recent revival of studies on the international dissemination of theoretical foundations of nineteenth-century European legal culture and in particular of Savigny and his School

2 The persistent and well-founded wave of criticism that has long invested the obtusely Eurocentric character of much of traditional historiography, accused of cultural imperialism, has resulted, as is known, in heated debates with varied outcomes (Nuzzo, 2018a). It seems to me, however, that an attempt should be made to legitimise a 'European', and not necessarily Eurocentric, point of view in order to address the issues covered in this paper.

3 To measure the importance of studying communicative networks in nineteenth-century European legal culture, it is sufficient to recall the names of jurists such as K. A. J. Mittermaier, F. C. von Savigny, or P. S. Mancini, who each constructed, within their own scope, veritable circulatory systems of legal knowledge, based on highly articulated epistolary networks. These are all cases that have given rise to significant fields of research and produced many editorial initiatives. For example, one might mention the series *Juristische Briefwechsel des 19. Jahrhunderts* coordinated by Aldo Mazzacane and Barbara Dölemeyer at the Max Planck Institute (Frankfurt am Main: Vittorio Klostermann). See also Vano (1990); Vano (2008); Mazzacane (2001).

on the one hand, and the codification wave of the early nineteenth century, on the other hand[4].

These are all areas of research marked by the strong "multicultural" load that goes with every spatio-temporal displacement of law. In other words: the very topics currently driving new research agendas and garnering the most interest in the scholarly community of legal historians, are also the source of important methodological discussions and conceptual uncertainties.

Indeed, many initiatives in recent years tried to critically rethink some "old and new" historiographical categories (Duve, 2014; 2016; 2020; 2022; Brutti & Somma, 2018). However, some older categories, apparently superseded by the renewal of theoretical fields, historiographic lexicon, and disciplinary paradigms, re-emerge from time to time, both implicitly or explicitly, precisely in the study of micro- and macro-phenomena of legal hybridization.

For this reason - even at the risk of partly saying acknowledged things - it seems useful to briefly recapitulate the journey of some of these instruments of analysis, before giving a few examples of stories of texts. Let us then take a few steps back.

2. A brief journey through interpretative categories

Expressions such as reception, influence, transplants, exportation-importation, grafting, diffusion, even before assuming conceptual depth, bearing in themselves evidently different nuances, have long been used in a descriptive way to indicate different shades of similar phenomena and often, indistinctly, to represent the same phenomenon of transposition of legal contents. Let us consider now only the thread of theoretical discussion that has concerned what we can familiarly refer to as the good "old categories" of Reception and Legal Transplant.

Both have lent themselves to multiple uses and remain connoted by interdisciplinary vocations, but they conceal diverse viewpoints and leave room for ambiguities. Simplifying very schematically, we distinguish at least two initial disciplinary approaches to transplant/reception: a) one coming from comparative law, tending to be synchronic; b) the other, more connected to legal-historical reconstructions, tending to be diachronic. In a nutshell:

a- The perspectives of comparatists have been mainly geopolitically oriented, considering the phenomena of transferring entire institutional settings, or individual normative components and sectoral rules, in socio-economic, political, and institutional contexts distant from each other to measure or guide their efficiency, mostly aiming at constructing legal-institutional models, and eventually to assess, de iure condendo, the appropriateness of transplants.

b- The perspectives of legal history originally contemplated very broad interpretative goals, aimed at explaining (or, if you wish, narrating) the empirical historical fact that the same set of rules (order, ordinamento, system) was traceable - and enforced - in different periods and social contexts, seeking to identify the channels and limits of the process of transposition in time and space of a corpus or even of individual dogmatic or practical cores.

At times comparative lawyers and legal historians have observed the same objects, ex-

4 While it is quite a given that new themes naturally challenge old categories, producing very different approaches, it is not as obvious for more traditional themes. Nonetheless, one may consider the partially renewed approaches of Rückert & Duve (2015) and Meder & Mecke (2016).

changing glances and fruitfully overcoming disciplinary boundaries (Pihlajamäki, 2018).[5] In our brief reasoning, we privilege the point of view of legal historiography, considering some interference with other discursive horizons.

Within a Western-perspective legal history, numerous cases of normative transfer have been narrated at first without recognising the need to place their interpretation into strict theoretical frameworks and reading them mainly in terms of influences, inheritance and generic continuity (or discontinuity) (Vano, 2015).

Later, and especially concerning the most outstanding and macroscopic phenomena of medieval and modern legal history, recourse was mainly made to the interpretative category of reception. The use of the term dates back further, but its definition as a methodological concept goes through a major shift in the early twentieth century, when Georg von Below posed the problem of the "causes" of the medieval reception of Roman law in Germany (Below, 1905; Fögen & Teubner, 2005, p. 38), and then became the subject of much attention in the 1950s. In the legal, theological, and philosophical fields the notion of reception kicks in as a tool for renewing historical research and is accompanied by the purpose of freeing it from the dogmatic constraints of positivism and traditionalism in order to develop a new epistemology of history (Jauss, 1989, p. 3). The success of the notion within German humanistic culture of the second half of the twentieth century can be measured by recalling that it represents a rare case of methodological borrowing of legal history from other disciplines. The category was, for instance, at the basis of the turning point in the history of literary theory in Germany in the second half of the 1960s, when Hans Robert Jauss, by coining the term Rezeptionsästhetik (aesthetics of reception), intended to radically renew the relationship with the literary tradition, integrating history with aesthetics, through the use of a notion of Erwartungshorizont (horizon of expectation) closely related to the canons of Gadamer's hermeneutics (Holub, 1984).

Among legal historians, the notion has been neatly reframed and extensively employed by Franz Wieacker in his Privatrechtsgeschichte der Neuzeit (1. ed. 1952, 2. ed. 1967), where, in introducing the chapter devoted to the causes and conditions of "secular" Reception in Germany, he assumed that a people could change their legal system, replacing it with another, and that this represented "a far from exceptional occurrence in legal history"[6]. The reception, by a people, of cultural elements in the elaboration of which they did not originally participate could thus be considered "one of the many forms in which stable cultural transplants, upon which the continuity of human civilization generally rests, can manifest themselves." The term continuity assumes particular importance here. It was used by Wieacker to indicate phenomena of the survival of certain "cultural forms" despite the "carriers" having changed: among such phenomena, the reception of Roman law by modern peoples therefore represented the exemplary case.

According to Wieacker, Reception and Continuity stand in a very close relationship: both "imply the stable survival of certain cultural patterns despite the flow of history".

5 With respect, for instance, to the subject of the reception of Roman law in Germany, a legal-historical theme par excellence, it is worth recalling P. G. Monateri's *Black Gaius* (2000).

6 I quote here and further from the second edition of *Privatrechtsgeschichte der Neuzeit*, published in 1967, which gave rise to numerous and widespread translations into other languages. However, the concept of reception had already been addressed in the first edition of 1952 and in more general terms even earlier in *Vom römischen Recht. Wirklichkeit und Überlieferung (1944)*. The English translations of the quotes provided in the text are mine.

It should be pointed out, however, that Wieacker's Kontinuitätsbegriff (and that of other exponents of the reception theory) is a long way from affirming the persistence of the meanings fixed at the time of the production of the legal text. It relies instead on the idea of a traditio in which the "foreign" legal form would be "completely absorbed and therefore transformed" by the receiving context (Jauss, 1989, p.8 ff.; Hespanha, 2013, p. 41 ff.). And it is in fact with the articulation of the concept into the notions of protoreception, theoretical reception and practical reception that essential chapters in the history of European law have been interpreted, such as the importation and long-term enforcement of Roman law in the Germanic area; or the fate of the ius commune in the Indies, also represented as a striking case of exporting an entire legal system (Wieacker, 1952; Nuzzo, 2008; 2015).

Since the very beginning the category has suffered from some misunderstandings, though we won't address them here, and has come under numerous attacks, now briefly mentioned.

Some studies from the early 1970s strongly denounced the innewohnende Unschärfe (the inherent imprecision) of the concept of Rezeption fremder Rechte (reception of foreign laws), which tended to be applied to an embarrassing multiplicity of macro- and micro-phenomena (Zajtay, 1970)[7]. And indeed, especially regarding the phenomena of so-called Gesamtrezeption (global reception), but not only, a sort of resistant semantic vagueness of the category gradually became more and more cumbersome.

In the 1970s, the Scottish historian Alan Watson, publishing the famous book Legal Transplants: An Approach to Comparative Law, assumed the authorship of a new interpretative category, which on the one hand offered historians and comparatists the opportunity to rely on a common terminology, and on the other hand seemed to offer historians a possible way out of the discomfort of using a contested theoretical tool, which was very Germanic in its original formulation and which was beginning to show its limits. Was reception becoming démodé?

As a matter of fact, starting with Watson's 1974 book, a highly articulated debate was generated that immediately challenged also the new notion. It had indeed already been threatened at the grassroots by the influential voice of Sir Otto Kahn-Freund, raised in parallel from the halls of the London School of Economics in June 1973, with his celebrated Chorley Lecture On Uses and Misuses of Comparative Law, later published in the pages of The Modern Law Review in January 1974. Kahn-Freund, targeting the function of comparative law as "a tool of law reform," thus closely connected to political functions, rather than as a "tool of research or as a tool of education," employed a dual metaphor. By comparing the surgical transplantation of a kidney or a cornea into the human body with the replacement of a carburetor or a wheel in a mechanical vehicle he clarified in a simple way the practical risks and limitations of the category of legal transplant (1974, p. 6):

> Transferring part of a living organism and transferring part of a mechanism are comparable in purpose, but nothing else. This is a platitude - we do not need to formulate it in philosophical terms, and I have no desire to venture into the well trodden but to me inaccessible fields in which the vitalists struggle with the mechanists and in which the concept of "wholeness" or "Ganzheit" is set up as a god to be worshipped or as idol to be destroyed. Our insight into the difference between the kidney and the carburettor is elementary and intuitive, but it is also very practical from the point of view of the

7 Already at a very early stage of the debate, in 1938, A. B. Schwarz, in his studies in honour of the "founding father" of comparative law, Edouard Lambert, had already lamented the inherent discomfort stemming from the excessive diversity of phenomena regarded as objects of reception.

> lawmaker contemplating a use of foreign models. It makes sense to ask whether the kidney can be "adjusted" to the new body or whether the new body will "reject" it - to ask these questions about the carburettor is ridiculous.

However, Kahn-Freund's warning of the significant risks of "rejection" that lurk behind every intervention, referring back to Montesquieu's famous statements, did not entail a definitive condemnation of legal transplant, but rather made visible the "obviously very difficult question" of drawing a line between uses and misuses of the tool[8].

It was then mainly with the 1993 publication of the second edition of Watson's book that *legal transplant* secured its fiercest enemies. The most extreme position was taken by Pierre Legrand, who, criticising Watson's work in detail, went so far as to build a front of supporters of the *The Impossibility of 'Legal Transplants'* (1997), forcing Watson himself to subsequent interventions and clarifications (2000, 2006). Thus, for example, in 2006 he wrote (p. 3):

> I think I have no need to stress that I have long held that a transplanted rule is not the same as it was in its previous home. Nor need I stress my long-held view that it is rules – not just statutory rules – institutions, legal concepts, and structures that are borrowed, not the 'spirit' of a legal system. Rules, institutions, concepts, and structures might almost be termed tangibles, can easily be reduced to writing, and are accessible.

We will not follow the details of the debate any further here, which at times resembled a dialogue of the deaf[9], but we can add that there has been no lack, even recently, especially among Comparatists, of proposals that tend to gradually modify the original theoretical formulation of Legal Transplant, through mediating operations with other categories. Thus, for example P.G. Monateri (2006), who connects his own reading of Watson's theory with that of Rodolfo Sacco's Legal Formants (1991). To Monateri's proposal we could add many other interesting readings, inclined, from the respective points of view of political theory and comparative law to reason in terms of the international transfer of institutional models (Rugge, 2012; Mattei, 1994).

It seems to me, however, that the variations and shifts operated on the category of Legal Transplant do not radically transform it.

On the contrary, we know that, in the case of both the category of Reception and Legal Transplant, criticism (more or less well-founded) has not prevented their long-lasting permanence in the lexicon of specialists up to this day, and their "resumption" and readaptation on the most varied occasions. Both share the fundamental function (for historians and comparatists) of representing useful theories of legal change. Nevertheless, they seem to have in common, in the eyes of critics, some important limitations:

a) a radical vagueness and a continuous need for adjustment, expansion, delimitation, and clarification;

b) a poor ability to grasp the component of awareness in the recipient's manipulation.

Particularly this second aspect has weighed in recent times, generating the most interesting and new efforts towards the search for more suitable tools to study the new themes - which

8 Kahn-Freund's celebrated lecture has been the focus of much attention among labour lawyers and legal labour historians (see, most recently, Amorosi, 2023), but it is of interest here primarily in relation to the more general methodological debate on legal transplant.

9 "At best, what can be displaced from one jurisdiction to another is, literally, a meaningless form of words. To claim more is to claim too much" (Legrand, 1997, p. 120). See also Legrand (2001; 2003).

I have already mentioned - that fascinate the scientific community at the moment.

There is no doubt that a conspicuous terminological renewal has taken place meanwhile in the description of the phenomena of legal transfer. New sets of words, new conceptual clusters have been making their way over the last fifteen years. Terminological renewal, of course, does not always correspond to deep changes in the interpretative paradigm. It can happen that the new categories sometimes have an old familiar flavour, or that they retain the same limitations as the old ones.

Among the most ambitious attempts to discuss and reinvent such categories from a theoretical point of view, we can recall the lively debate that appeared in the journal Rechtsgeschichte between 2005 and 2006. Triggered by a methodological four-handed article written by the legal theorist Gunther Teubner and the legal historian M. Th. Fögen, the discussion provided for a (perhaps too) sophisticated notion of the Rechtstranfer (Fögen & Teubner, 2005; Fögen, 2006).

More recently still, a wave of solicitations of a different kind with further conceptual openings has come from the same Frankfurt Institute, especially on the initiative and under the leadership of Thomas Duve. Publications and debates have insistently called for a rethinking of the methods and languages of the "old dear" Europäische Rechtsgeschichte in order to move towards a Rechtsgeschichte Europas in globalhistorischer Perspektive (Duve, 2012; 2014; 2018). The results of the most recent methodological 'laboratories' are relevant: they contribute, in my opinion, to a strong thematic expansion of legal-historical research in Europe, as well as to the gradual dismissal (not always appropriate) of classical themes. Above all, they have opened an interesting avenue for dialogue with the newest South American legal historiography[10] and enable new paths eastward, opening up the Asian research horizons with increasing energy. (for instance Nuzzo, 2018; 2021; 2022).

What is certain is that in place of or alongside the terms reception, influence, transplant, export-import, graft, and diffusion, terms such as irritation, contamination, hybridization, legal mutation and cultural translation have increasingly come to be placed. We shall emphasise that the new vocabulary conspicuously incorporates the need to consider the phenomena of transfer in legal cultures in a plural dimension, observing feedback effects. Above all, it allows to enhance the component of recipient's awareness in the path of cultural contamination of national legal knowledge.

3. Legal translations in Nineteenth-Century Europe and new perspectives

A further criticality of the old categories becomes immediately apparent when we approach the topic of legal translations in nineteenth-century Europe. The use of these categories (and many of their variants) lead us to consider transfer relations most on a bilateral basis (e.g. Mattei, 2012), as if exchange relations took place always one-to-one, involving only two places,

10 To appreciate the relevance of this dialogue and the variety of new avenues of research, it suffices to refer to the recent "collective effort" aimed at identifying a long-term narrative from a global perspective of Latin American societies: Duve & Herzog, 2024.

two cultures, two countries, two systems, two languages or even two jurists. Such an approach represents an insurmountable epistemological limit in the study of phenomena of cultural legal transfers in the nineteenth century, conducted, for instance, with epistolary sources, book series, journals, and translations of doctrinal works.

To give an example, we can recall the many studies that have focused on the international dissemination of the work of influential jurists, such as Savigny, outside their national, linguistic and cultural contexts. Applying the interpretative canons of Reception (or more generically of influence), they kept trying to recognize the original text in the output text and to measure the accuracy of the recipient's understanding, ending up in a sterile game of true/false (good/bad translation)[11].

Working with those types of sources, a theoretical perspective that imagines that cultural transference occurs within bilateral mechanisms of mechanical transposition of the text seems useless to me. Approaches that use the concepts of circulation/hybridisation are probably more suitable for reading the communicative dynamics of change and the multilaterality of the phenomena of cultural legal contamination[12].

My proposal is that we should take into account the special importance of the communicative-linguistic component of law and legal culture. Therefore, I adopt a perspective that privileges the particular relationship that the jurist establishes with the "word" and with the legal text, in reading, interpreting and linguistically re-elaborating it, with respect to different contexts of reference.

It must be added that the emergence of the legal text coincides - in any given era - with the emergence of a multiplicity of endolinguistic and intralinguistic translation practices (Steiner, 1975; Eco, 2003).

Legal texts arise in their original formulation as a translation of a common language into a technical language and then pass from one language to another. In each passage a necessary adaptive interpretation intervenes. Then a further translation is imposed by the fact that legal texts are intended, by their nature, to affect a particular social fabric.

So, we can assume a general identity of the communicative moment of the legal text with its translation. (We will return to this perspective in conclusion.)

The history of the legal text and the history of translations of the legal text are, after all, of the same age. Plinius the Elder, Aulus Gellius, and other ancient writers tell, for example, of Mithridates VI, the Greek-Persian king of the first century BC, "who ruled over twenty-two nations, administered their laws in as many languages (...) without the need for an interpreter."[13] Similar stories are told of Cleopatra, who according to Cassius Dio acted as a judge in trials and, as Plutarch says, "There were few barbarians with whom she dealt through an interpreter, while most she replied for herself...".

11 From Ranieri (1979) to Rückert & Duve (2015). See also Vano (2015).

12 Some enlightening insights in this regard come from interdisciplinary research that assesses what has been called the "generic integrity" of legal discourse in multilingual and multicultural contexts. For example, see Bhatia & Candlin (2008).

13 The quotation is from Plinius the Elder, *Naturalis historia*, VII.4; analogously, Valerio Massimo, *Factorum et dictorum memorabilium libri IX*, 8.7.ext.16 and Aulus Gellius, *Noctes Atticae* xvii.17. For Cleopatra, see Plut. Ant. 27.4-5.

Polyglossia, understood as a pseudo-remediation to avoid the risks of an interpreter's intermediation, confirms the problematic perception of translation that runs through the history of European humanistic culture from ancient times to contemporary. Not surprisingly, the necessary and difficult relationship between translation and interpretation has attracted and fatigued great minds, from Marcus Tullius Cicero to Walter Benjamin and then beyond.[14] In a history so long and so broad, and marked by permanent and very long-lasting features, the problem of periodizing/isolating different areas of reflection thus becomes less trivial.

To circumscribe a history of legal translation in the contemporary age, and in particular in the nineteenth century, a starting point can be placed when the translation phenomenon experienced an entirely new dimension. It was both in quantitative terms and in terms of the pervasiveness it assumed in many scholarly and cultural circles, inextricably linked to the relevance of the idea of Nation in the nineteenth-century. After the definitive abandonment of Latin as the common language of jurists, in the universe of law translations challenged the construction of national identities, allowing texts to bypass the borders of new nation-states.

The intensity of the phenomenon was linked on the one hand to the processes of nationalisation and codification of legal systems, and on the other to the first attempts to theoretically approach the problem of translation regarding the legal text.

At the beginning of the nineteenth century, in fact, the debate *sulla maniera e la utilità delle Traduzioni* (1816), to recall Madame de Staël's famous article, took on a choral and polemical dimension on the European scene, in the literary debate but not only, and found in the cultural and scientific renewal of Romantic Germany a special strategic location.

The reflections of early nineteenth-century German intellectuals, litterates and scientists on translation are usually regarded as the very beginning of a "modern" theoretical reflection on translation. In fact, the most current theories of the birth of Translation Studies as a scientific discipline take as their common starting point early nineteenth century in Germany and the dialectical confrontation that the Romantic exponents of the journal *Athenaeum* engaged in with their contemporaries, among whom one need only mention the name of Goethe.

"The experience of the foreign" (to quote the title of a famous Berman's book, 1984, engl. transl. 1992) marked the definition of National Styles and connoted the historical consciousness of identity and difference. This would later be one of the key topics in the Translation Studies of the 20th century[15].

The phenomenon of the quantitative explosion of legal translations of nineteenth-century legal texts was thus placed in a much broader context.

At this point it is worth giving a few examples. In order to delimit the scope of our reflections, let us set aside (and not consider here) translations of some precise, though important, legal literary genres (ancient sources, legislative or paralegislative texts) limiting our gaze to the translation of works of doctrine and "excerpts" of legal theory, and try to focus on the landing

14 A useful anthology of the most famous texts is the one edited by Nergaard (1993), with texts from Cicerone, San Gerolamo, Bruni, Lutero, Goethe, von Humboldt, Schleiermacher, Ortega y Gasset, Croce, Benjamin; which is complemented by Nergaard (1995), with texts from Jakobson, Levý, Lotman, Toury, Eco, Nida, Zohar, Holmes, Meschonnic, Paz, Quine, Gadamer, Derrida.

15 A strong point in Berman's argument (1984) that fixes the genesis of methodological reflection on translation in that context is Schleiermacher's famous 1813 lecture *On The Different Methods of Translating*. In this regard he points out that the text "constitutes a systematic and methodological approach of translation" (Berman, 1992, p. 144).

contexts (libraries, journals and book series).

4. The Savigny case: translations, adaptations and contaminations

We choose Friedrich Carl von Savigny because he was probably the most famous European jurist of his time and because, as an author, he was widely translated throughout the world. Finally, because he is a widely studied author in European and non-European historiography, precisely with regard to the history of translations of his writings.

The "Savigny case" serves us, therefore, as a tool to indicate some of the typical features of the translation experience of legal doctrines in the nineteenth century and to point out some types of recurring problems in the use of this kind of source.

The modalities, timings, and extent of the translations of Savigny's work into non-German-speaking contexts sharply contrast with the linearity and coherence of his intellectual profile. Elsewhere I have attempted to reconstruct this dynamic in detail (Vano, 2016); here I limit myself to a few examples[16].

To approach it, it is sufficient to consider a set of "external" data of the translation phenomenon at the "global" level, even without diving into the texts. The general bibliography of all known translations of Savigny's works (published by Joachim Rückert, 2015), divided by countries and target languages, simplifies the quantitative approach to an elusive problem. The list includes translations up to the present day and distributes them within each language area according to the order - predetermined and constant - in which the originals were published[17].

The resulting picture, which conforms to the adopted ordering criteria, partially neutralises the disorder of history, and allows us to grasp some macroscopic trends in the itinerary of translations, although it conceals some peculiar aspects of the phenomenon, which will be discussed below.

Scrolling through the titles, there is a total absence of translations for the North European and Baltic language areas. This finding, far from excluding a spread of Savigny texts, instead testifies to the existence of areas of diffusion not submitted to the mediation of translation (Sandström, 2015, p. 345). Adding up the search results for the Italian, French, English, Spanish, Japanese, Chinese, Russian and Portuguese language areas, we reach the remarkable, but not astounding, number of 103 partial or full translations of Savigny texts published between 1803

16 I draw the casuistry mostly from my previous work (Vano 2008; 2016), as it serves here an essentially illustrative function of different forms of *traditio* of texts and tends to identify standards and patterns.

17 See Rückert's *Anhang* to the volume edited by Rückert & Duve (2015, pp. 455–476). See also the comment from Haferkamp (2015, pp. 443-452). The inventory reproduces the structure of the volume by geographical areas and brings together the result of the authors' and editors' research.

and 2011[18]. The ordered list of translations, if we cross the data of the different linguistic areas, following the succession of the original works (and the different editions of them), opens up comparative perspectives of some interest[19].

Italian, with 49 out of 103 publications, turns out, in frequency and number, to be by far the main language of destination of Savigny texts across the border, followed by French with 12 translations (three of them very recent), while English (10 translations) holds singular records of promptness (Reimann, 2015, p. 52 ff.). Even without considering the precocious but singular affair of the text *On the Present State of the German Universities* (1803), intended for English audiences and remained outside of the German language circuit until H. Marquardt's (posthumous) 1951 edition, the first translations of *Geschichte* in 1829 and *Beruf* in 1831 are English. It is also noteworthy the variegated editorial geography of the 10 English-speaking translations: Boston, London, Edinburgh, Calcutta, Madras.

Compared with the original sequence of the first editions of some major works (*Besitz* 1803, *Beruf* 1814, *Zweck* 1815, *Geschichte*, vols.1-6, 1815-31, System, vols. 1-8, 1840-49), it is easy to see that the sequence of translations instead has varied significantly, with little respect for the succession of re-editions. The order of publication turns out to be different in each language of destination, conditioned of course by numerous local and external factors. It thus becomes clear that the logical--chronological coherence of the author's intellectual path, essential to comprehend his role within German legal culture, was instead regularly misrepresented in the different linguistic universes, almost impossible to recognize in any other place.

It was not unusual that early texts were approached in retrospect as some Italian translators did, for example, sometimes verging on paradox[20]. These include those who, in presenting a translation of the *Beruf* (1814), in order to clarify its theses, went so far as to use as a premise part of Savigny's Introduction to the first volume of the *System* (1840) (Savigny, 1857, pp. 59-80). This is the singular case of the preface to *La vocazione del nostro secolo per la legislazione e la giurisprudenza, opera di F. C. de Savigny preceduta da una introduzione generale, e da un discorso sugli scritti di lui, e sulla scuola storica*, published by the lawyer Giuseppe Tedeschi, when the *System* was a pretty unknown work to the Italian public, although excerpts and partial translations were available (1853). In fact, the remarkable complete Italian translation of the *Sistema del diritto romano attuale*, linked to the name of Vittorio Scialoja, appeared many years later, between 1886 and 1888, at a much more

18 The brief observations that follow are confined to the analysis of the initial phase alone in the history of translations of Savigny, in the 19th century. However, it should be noted that the phenomenon of translations of Savigny's texts, long dormant, has regained momentum in some geographic areas on both sides of the Atlantic, in times very close to us, for various reasons. See, for example, the three translations into Portuguese in the Brazilian area: *Metodologia jurídica* (2001; 2006); *Sistema do direito romano atual,* vol. 8 (2004). On the topic, see Reis e Souza (2015, p. 369 ss.). The most recent translations are those in the Russian language: in 2011, the first volume of the *System* appeared in Moscow, and its translation is being continued under the supervision of the *Savigny-Centre of Law Research* in Odessa (see Gnitsevich & Chestnov, 2015, pp. 105 ss.). On the nineteenth-twentieth-century phase of the relationship between Savigny, the Historical School and Russia, however, see the powerful work of Avenarius (2014).

19 An instrumental synoptic table, which, in relation to the original editions, places all translations in time and space, showing in parallel where, when, and by whom each work has been translated, is not published. Comparative historiographical perspectives on a "global" scale, increasingly solicited in the scientific community, especially in research on Savigny and the Historical School, could perhaps benefit from it. A different summary table, also divided by language areas, is instead at Rückert (2015, p. 475). For the complete chronology of Savigny's works, we always refer to Rückert (2010).

20 The Italian Savigny - very voluminous and complex - must be placed within the framework of a broader discussion of Italian legal translations in the 19th century and cannot be addressed here. See at least Napoli (1987); Ranieri (1979); Moscati (2001); Bertani (2015). See also Moscati (2015); Mazzacane & Vano (2015).

mature stage in the history of the circulation of Savigny's texts in Italy[21].

Each translation into a different language could constitute the worthy subject of a microhistory rich in its own protagonists, causes and effects: insofar examples could multiply here *ad infinitum*.

In other words, as we delve deeper into verification and sampling, many of the less limpid aspects of the nineteenth-century translation phenomenon come to the fore, shedding light to the remarkable contradictions of the processes of transfer, which characterised the dissemination of technical, dogmatic, and political content of Savigny's work in ever different and articulated ways.

The prismatic effect produced by the mirror of translations, which shatters the monolithic image of the German Savigny into so many other "foreign" Savignys and which can be clearly perceived already on the basis of external data could be greatly amplified by taking into consideration the content and technical-linguistic qualities of each translation. Another far more complex issue concerns the possibility of evaluating their repercussions on the ground in the receiving institutional and cultural legal contexts.

On the other hand, if it is true that translations are privileged sources for tracing Savignian paths beyond the German-speaking area, it is equally true that the mere translation of a single work tells us little or nothing about its eventual consequences in the community of reference, just as, conversely, the absence of the translation of a text into a particular language does not necessarily imply that it has remained excluded from scholarly and political discussion.

In this sense perhaps the most relevant example is again offered by the *Beruf*: the most cited and least translated of Savigny's writings. Throughout the nineteenth century, it was never translated in France, where, however, it did not fail to arouse reactions (Laboulaye, 1839, pp. 24-32)[22].

Actually, the *Beruf* (1814) was translated during the nineteenth century into only three languages: for the first time into English in 1831 by Abraham Hayward (reprinted in 2002)[23], for a country that was alien to the continental tradition of codification; several times into Italian, in distant contexts before Italy's unification (Naples, 1847; Verona, 1857)[24], and finally into Spanish in 1896 on the initiative of Adolfo Posada (Petit, 2020, p. 16; Petit, 2023, p. 368 ff.).

This publication of the Spanish - very late - version gives us an opportunity to hint at a small but significant provincial history, and thus to provide a typical example of the transversal modes of dissemination of this and other Savigny's writings in terms of content.

Indeed, many years before Posada's translation, one of the very first reviews of the *Beruf* printed outside Germany had already appeared in Spain. The magazine *El Censor* in 1820 had published, anonymously, a short article in which "Señor de Savigni"'s anti-codification theses were harshly criticised, while recognizing him as a "*jurisconsulto de ráro merito*" and of clear reputation. The criticism had an immediate echo in the *Miscelánea de comercio, política y literatura* of Madrid,

21 On Scialoja translator of Savigny, see Brutti (2011); Stolfi (2012).

22 The only French translation of the *Beruf – De la vocation de notre temps pour la législation et la science du droit* – is from Alfred Dufour (2006), and thus falls outside the limits of our discussion. On the fortunes of programmatic writings in France in the nineteenth-century, see Dufour (2007; 2015).

23 On the topic, see Moscati (1982). On Hayward in the English context, Vogenauer (2015, pp. 256–286).

24 *Della vocazione del nostro secolo per la legislazione e la giurisprudenza di F. C. de Savigny*. *Prima versione sulla terza edizione tedesca del 1840 per L. Lo Gatto e V. Janni* (1847) and *La vocazione del nostro secolo per la legislazione e la giurisprudenza, opera di F. C. de Savigny preceduta da una introduzione generale, e da un discorso sugli scritti di lui, e sulla scuola storica*. Biblioteca giuridica teorico-pratica pubblicata per cura dell'avv. Giuseppe Tedeschi (1857).

in a contribution by Javier de Burgos (1778-1848) that already in its title, *Sobre la paradoja de F. C. Savigni, relativamente á la formación de nuevos códigos*, ventured a not entirely respectful commentary on the German professor, and then praised the argumentative superiority of the mysterious articulist of *El Censor*, who "*después de una analisis delicada de la obra de Savigni*" had "*respondido victoriosamente à sus principales argumentos*" (1820, p. 1).

On closer inspection, however, the critical review, which appeared in Spanish in *El Censor*, to which Burgos's assessments referred, was itself the result of a little trickery: it in fact translated - without declaring it! - an identical paper, except for the deletion of a few notes on Thibaut and Bentham, which had already been published a few months earlier in France, in the *Revue Encyclopédique*, by August Dufrayer. Dufrayer, an adjunct professor at the Faculty of Law in Paris, on the other hand, is also known to us to be among the editors of *Thémis* in those years, the journal that was a recognized stronghold of the Germanophile orientation in French-speaking areas, directed first by Athanase Jourdan and then by Leopold Warnkönig. A small "paradox" still arises then: no surprise that codification was advocated in France, but is it not a little strange that the attack on the *Beruf* came precisely from an editor of the *Thémis*? To further emphasise the paradoxical nature of the episode, it suffices to add that from the same circuit of Themis, shortly thereafter would emerge the figure of Eugène Lerminier, one of Savigny's most ardent supporters in France.

The marginal story of *El Censor*, with its bizarre contradictions, is not an isolated episode; rather, it represents a mechanism of manipulation of Savigny arguments frequent in early nineteenth-century Europe. It is one of many instances in which the debate on a German text began before and regardless of the translation of the original, generating standpoints and interpretations based on a 'ghost' book in the legal culture of destination.

There are so many stories such as those that we will not tell here[25]. In this perspective, however, we must at least reconsider the typical phenomenon of "chain translations," often dismissed by historiography with disdain, in judgments of cultural modesty or linguistic ignorance. Important testimonies to this were the Italian translation of the *Geschichte* and the Spanish translation of *System*, both derived from Guenoux's French one[26].

As an effect of the translation chain, it is quite obvious that the text that moves away from the original language, passing through one or more intermediate languages, may incorporate an increasing degree of content alteration. However, over and above the obvious considerations that may arise from this, both of the examples cited must be read instead as choices defined by their respective cultural contexts. The choice to approach the stranger through a mediator that is perceived as more familiar.

The journey of Savigny's texts out of Germany ultimately appears less and less "linear" when

25 Similar cases include, for example, the detailed analysis of the *Geschichte* signed by Luis Meynier, but promoted by Pellegrino Rossi, between 1820 and 1822 in the pages of the *Annales de législation et jurisprudence*; or again, the contribution of Angelo Ridolfi with his *Prospetto generale della letteratura tedesca*, in which he illustrated the contents in 1818 in Padua of the first two issues of Savigny's *Zeitschrift*, with a timeliness worthy of note, even in relation to the precocious knowledge of the German language in legal circles on the peninsula.

26 For the *Geschichte*, compare *Histoire du droit romain au Moyen Age par F. C. de Savigny, traduite de l'allemand et précédée d'une introduction par M. Charles Guenoux, docteur en droit* (1830-1839) with the *Storia del diritto romano nel Medio Evo scritta da Federigo Carlo Savigny con una biografia dell'autore, una notizia delle di lui opere e note del traduttore* (1844–45). For the *System*, compare the *Traité de droit romain par M. F. C. de Savigny traduit de l'allemand par M. Ch. Guenoux* (1840–1851); with the Spanish *Sistema del derecho romano actual*, *traducido del alemán por M. Ch. Guenoux, vertido al castellano por Jacinto Mesía y Manuel Poley, y precedido de un prólogo de Manuel Durán y Bas* (1878–1879). And also *Il diritto romano di F. C. Savigny*. *Prima versione italiana col confronto della legislazione delle Due Sicilie del giudice Ciro Moschitti, I–III* (1847–48–55) (also indebted to Guenoux).

one thinks of such stories as those of Antonio Turchiarulo[27], the Neapolitan lawyer who in 1848 had ventured to translate Georg Wilhelm Hegel's *The Philosophy of Law* and then had given voice to Anton F. Justus Thibaut, but who, above all, had made himself the interpreter and admirer of Savigny's worst enemy: Eduard Gans[28].

It is, however, to the same Turchiarulo that we owe - for better or worse -, a successful anthology of selected and translated writings in 1852 under the title *Ragionamenti storici di diritto del Prof. Federico Carlo Savigny*, (a book that never existed in that composition in Germany). The anthology was presented as an attempt to offer a comparison between schools (Turchiarulo, 1852, p. XL):

> La nostra è Simpatia per la scuola filosofica […] pure per convincimento astratto crediamo il concorso e il complemento delle due scuole troppo necessario, perchè si potesse tenere esclusivamente da una di esse senza falsare la scienza e la storia del diritto. Per essere conseguenti a questa nostra persuasione facciam seguire alla pubblicazione del libro del più forte oppositore della scuola storica, il lavoro del prof. Savigny[29].

The wish to bring about a compromise between opposites certainly would not have pleased Savigny. It speaks volumes, however, about the translator's aims, which were strongly oriented toward domestic needs (Petit, 2018).

5. A game of words

Let us try to draw some conclusions (obviously partial and provisional) for a history that recognizes in the intense comparative practice and the propensity for mutual cultural contamination, a distinctive feature of the process of construction of national legal knowledge in nineteenth-century Europe and opens up to the varied American paths[30].

Some dominant features of our itinerary can be summarised as follows:

1- The migration of nineteenth-century legal texts is located within a complex communicative process: translations stand alongside, and sometimes get confused with, other types of transit of technical content in discourse.

In the exemplary case of Savigny, we have seen that, privileging the functional point of view of the receiving communities, all those minor and particularly pervasive literary genres that crowded around the good and bad integral translations of his works gain increasing weight in the analysis: partial translations, compendia, anthologies, reviews and reductions of originals

27 On Turchiarulo (Monopoli, 1825 – Napoli, 1898), see Lovato (2013); Mazzacane & Vano (2015, p. 212); Bertani (2015, p. 218).

28 It may be useful to draw an even quantitative first impression of the translator's profile by listing his or her translations-commentary and/or reductions (Hegel, 1848; Gans, 1851; Thibaut, 1853; Puchta, 1854). In Turchiarulo (1853), several texts by Eduard Gans. are freely interpreted and brought together.

29 "Ours is Sympathy for the philosophical school [...] nonetheless by abstract conviction we believe the concurrence and complement of the two schools too necessary so that one could take exclusively one of them into account without distorting the science and history of law. To be consequent to this persuasion of ours we follow up the publication of the book by the strongest opponent of the historical school with the work of Prof. Savigny" (translation by the author).

30 Very interesting suggestions in López Medina (2004). From the different perspective of N. Luhmann's systems theory, see Fögen & Teubner (2005). Some observations in support of the necessity to make use of translation studies are offered in Vano (2015) and Vano (2012). Finally, see Foljanty (2015).

never translated.

United by the essential function of use, proper to any legal discourse, those translations undeniably accomplished cultural hybridizations and indispensable adaptations through the invention of new texts.

2- Within the much broader phenomenon of nineteenth-century translation, marked by a strong theoretical tradition, in the world of law, "translation practices" have historically carried far more weight than theories.

Translators of legal texts sometimes still today are mostly jurists, and often come from the world of legal practices, bringing with themselves the language of a judge or of a lawyer. They have been intensely active in the nineteenth century, certainly not oblivious, but seemingly disinterested in the theoretical implications of language mediation, indeed inclined to "forget" that the passage of text through the linguistic filter cannot be - and in many cases should not and will not be - neutral or painless.

I do not allude, by this, to mere lack of awareness (albeit noticeable in some cases), but rather want to emphasise that the discussion of the methods and consequences of translating law remains distinct and separate from more widespread practices and - above all - from the use of translated texts.

In the history of legal culture, the translator's transgressions end up in oblivion, and by tacit convention becomes invisible beyond the borders[31].

The confident reader can in turn exercise his or her own cannibalistic rituals and unleash his or her own discursive strategies on the translated text *as if* it were the original.

All this is possible because the tradition of the legal text, after all, is a word game, and the history of law a history of very special words.

A game of words: kind of like the ones Jorge Luis Borges imagined: "*Cuando se acerca el fin, escribió Cartaphilus, ya no quedan imágenes del recuerdo; sólo quedan palabras. Palabras, palabras desplazadas y mutiladas, palabras de otros, fue la pobre limosna que le dejaron las horas y los siglos*" (Borges, 1949).

31 On the topic of invisibility, it is necessary to refer to Venuti (English edition, 1995; Italian edition, 1999), who strongly argues in the literary context against the widespread notion that the translator can and should be an invisible "sheet of glass." Venuti develops and utilises the concepts of domestication and foreignization, inherited from Schleiermacher and Goethe, and further studied, in particular, by Antoine Berman (French edition, 1984; Italian edition, 1997).

References

Amorosi, V. (2023). Uniform plots. Comparative and Labour Problems in the Legal Culture of Journals at the beginning of the twentieth century. *Diritti Lavori Mercati International,* 2, 185-201.

Avenarius, M. (2014). *Fremde Traditionen des römischen Rechts: Einfluss, Wahrnehmung und Argument des "rimskoe pravo" im russischen Zarenreich des 19. Jahrhunderts*. Wallstein.

Below, G. (1905). *Die Ursachen der Rezeption des römischen Rechts in Deutschland*. Oldenbourg.

Berman, A. (1984). L'épreuve de l'étranger: Culture et traduction dans l'Allemagne romantique: Herder, Goethe, Schlegel, Novalis, Humboldt, Schleiermacher, Hölderlin. Gallimard;

Berman, A. (1992). The experience of the foreign: Culture and translation in romantic Germany. Translated by S. Heyvaert. State Univ. of New York Pr.

Berman, A. (1997). La prova dell'estraneo. Cultura e traduzione nella Germania romantica. Trad. di G. Giometti. Quodlibet.

Bertani, C. (2015). Italienische Übersetzungen von Savignys Schriften im 19. Jahrhundert. In: J. Rückert & Thomas Duve (Eds.), *Savigny international?* (pp. 217-250). Vittorio Klostermann.

Bhatia, V. K., & Candlin, C. N. (2008). Interpretation across Legal Systems and Cultures. In V. K. Bhatia, C. N. Candlin, & J. Engberg (Eds.), *Legal Discourse across Cultures and Systems* (pp. 126–143). Hong Kong University Press.

Borges, J. L. (1949). El Inmortal. In: *El Aleph.* Editorial Losada.

Brutti, M. (2011). Vittorio Scialoja. Diritto romano e sistema nel tardo Ottocento. *Bullettino dell'Istituto di diritto romano Vittorio Scialoja*, 105 (1) 13-87.

Brutti, M., & Somma, A. (Eds.). (2018). *Diritto: Storia e comparazione: nuovi propositi per un binomio antico*. Max Planck Institute for European Legal History.

Burgos, F. J. de. Sobre la paradoja de F. C. de Savigni, relativamente á la formacion de nuevos códigos. *Miscelanea de Comercio, Política y Literatura,* 223, 1-2.

Costa, P. (2013). Uno *spatial turn* per la storia del diritto? Una rassegna tematica. *Max Planck Institute for European Legal History Research Paper*, 7, 1-30.

Dufour, A. (2015). Savigny-Übersetzungen und Savigny-Bilder in Frankreich. In: J. Rückert & Thomas Duve (Eds.), *Savigny international?* (pp. 7-48). Vittorio Klostermann.

Dufour, A. (2007). Savignys "Stimmen für und wider neue Gesetzbücher": eine wenig studierte Programmschrift des Begründers der historischen Rechtsschule. In: P. Pichonnaz (Ed.), *Spuren des römischen Rechts*. Festschrift für Bruno Huwiler zum 65. Geburtstag (pp. 171-191). Stämpfli.

Duve, T. (2012). Von der Europäischen Rechtsgeschichte zu einer Rechtsgeschichte Europas in globalhistorischer Perspektive. *Rechtsgeschichte - Legal History*, 20, 18–71.

Duve, T. (Ed.). (2014). *Entanglements in legal history: Conceptual approaches*. Max--Planck-Institute for European Legal History.

Duve, T. (2016). Global Legal History – A Methodological Approach. *Max Planck Institute for European Legal History Research Paper Series,* 4, 1-22.

Duve, T. (2018). Global Legal History: Setting Europe in Perspective. In H. Pihlajamäki, M. D. Dubber, & M. Godfrey (Eds.), *The Oxford Handbook of European Legal History,* Oxford University Press, 1-26.

Duve, T. (2020). What is global legal history? *Comparative Legal History*, 8(2), 73–115.

Duve, T. (2022). Legal History as a History of the Translation of Knowledge of Normativity. *Max Planck Institute for European Legal History Research Paper Series,* 16, 2-12.

Duve, T., & Herzog, T. (Eds.). (2024). *The Cambridge History of Latin American Law in Global Perspective*. Cambridge University Press.

Eco, U. (2003). *Dire quasi la stessa cosa: Esperienze di traduzione*. Bompiani.

Fögen, M. T., & Teubner, G. (2005). Rechtstransfer. *Rechtsgeschichte - Legal History*, 07, 038–045.

Fögen, M. T. (2006). Vom Raum zur Zeit. *Rechtsgeschichte - Legal History*, 08, 12–13.

Foljanty, L. (2015). Legal Transfers as Processes of Cultural Translation: On the Consequences of a Metaphor. *Kritische Vierteljahresschrift für Gesetzgebung und Rechtswissenschaft*, 2, 89-107.

Gans, E. (1851). *Dello svolgimento del dritto di successione nella storia romana da Eduardo Gans. Tradotto dall'originale Tedesco ed annotato da A. Turchiarulo. Tipografia all'Insegna del Diogene.*

Gnitsevich, K. V. & Chestnov, I. L. (2015). Friedrich Carl von Savigny im Spiegel der Russischen Jurisprudenz. In: J. Rückert & Thomas Duve (Eds.), *Savigny international?* (pp. 105-144). Vittorio Klostermann.

Haferkamp, Hans-Peter. (2015). Savigny in der Fremde – einige summarische Betrachtungen. In: J. Rückert & Thomas Duve (Eds.), *Savigny international?* (pp. 443-452). Vittorio Klostermann.

Hayward A. (1831). *Of the Vocation of Our Age for Legislation and Jurisprudence translated from the German of Frederick Charles von Savigny*. Littlewood.

Hegel, G. W. F. (1848). *Filosofia del Diritto.* Tradução de A. Turchiarulo. Stamperia e Cartiere del Fibreno.

Hespanha, A. M. (2013). *La cultura giuridica europea* (3. ed). Mulino.

Holub, R. C. (1984). *Reception theory: A critical introduction*. Methuen.

Jauss, H. R. (1989). *Studien zum Epochenwandel der ästhetischen Moderne*. Suhrkamp.

Kahn-Freund, O. (1974). On Uses and Misuses of Comparative Law. *The Modern Law Review*, 37 (1), 1–27.

Laboulaye, E. (1839). *Histoire du droit de propriété foncière en Occident*. A. Durand.

Legrand, P. (1997). The Impossibility of 'Legal Transplants'. *Maastricht Journal of European and Comparative Law*, 4, 111-124.

Legrand, P. (2001). What "Legal Transplants"? In. D. Nelken & J. Feest (Eds.) *Adapting Legal Cultures* (pp. 55-70). Oregon.

Legrand, P. (2003). The Same and the Different. In: P. Legrand & R. Munday (Eds.). *Comparative Legal Studies: Traditions and Transition* (pp. 240-311). Cambridge University Press.

López Medina, D. E (2004). *Teoría impura del derecho: La transformación de la cultura jurídica latinoamericana*. Legis.

Lovato, A. (2013). Antonio Turchiarulo. In: *Dizionario Biografico dei Giuristi Italiano* (pp. 1988 ff.). Il Mulino.

Mattei, U. (2012). Trapianti giuridici. Alcune questioni preliminari. In F. Rugge (Ed.), *Il trasferimento dei modelli istituzionali*. Il Mulino.

Mattei, U. (1994). Efficiency in Legal Transplants: an Essay in Comparative Law and Economics. *International Review of Law and Economics*, 14, 3-19.

Mazzacane, A. (2001). Alle origini della comparazione giuridica: i carteggi di Carl Joseph Anton Mittermaier In: P. Schioppa (Ed.) *La comparazione giuridica tra Otto e Novecento. In memoria di M. Rotondi* (pp. 15-38). Istituto Lombardo di Scienze e Lettere.

Mazzacane, A., & Vano, C. (2015). Über die italianieschen Übersetzungen zu Savigny. In: J. Rückert & Thomas Duve (Eds.), *Savigny international?* (pp. 211-216). Vittorio Klostermann.

Meder, S., & Mecke, C.-E. (Eds.). (2016). *Savigny global 1814-2014: "vom Beruf unsrer Zeit" zum transnationalen Recht des 21. Jahrhunderts*. V & R unipress.

Monateri, P. G. (2000). Black Gaius: A Quest for the Multicultural Origins of the 'Western Legal Tradition'. *Hastings Law Journal,* 51 (3), 1-71.

Monateri, P. G. (2006). The Weak Law: Contaminations and Legal Cultures. *Rechtsgeschichte - Legal History*, 08, 39–51.

Moscati, L. (2000). *Italienische Reise. Savigny e la scienza giuridica della Restaurazione*. Viella.

Moscati, L. (1982). Of the vocation of our age. *Clio*, 28, 587–597.

Moscati, L. (2015). *Savigny in Italien: zwanzig Jahre später*. In: J. Rückert & Thomas Duve (Eds.), *Savigny international?* (pp. 203-210). Vittorio Klostermann.

Nergaard, S. (Ed.). (1993). *Teoria della traduzione nella storia*. Bompiani.

Nergaard, S. (Ed.). (1995). *Teorie contemporanee della traduzione*. Bompiani.

Napoli, M. T. (1987). *La cultura giuridica europea in Italia. Repertorio delle opere tradotte nel secolo XIX*. Jovene. 3 voll.

Nuzzo, L. (2008). Dall'Italia alle Indie: Un viaggio del diritto comune. *Rechtsgeschichte - Legal History*, 12, 102–124.

Nuzzo, L. (2015). Between America and Europe. The Strange Case of Derecho Indiano. In T. Duve, S. Vogenauer (Eds.) *New Horizons in Spanish Colonial Law. Contributions to Transnational Early Modern Legal History*. Max Planck Institute for European Legal History, pp. 161-192.

Nuzzo, L. (2018a). Rethinking eurocentrism: European legal legacy and Western colonialism. In M. Brutti & A. Somma (Eds.), *Diritto: storia e comparazione: Nuovi propositi per un binomio antico* (Vol. 11, pp. 359–378). Max Planck Institute for Legal History and Legal Theory.

Nuzzo, L. (2018b). The Birth of an Imperial Location: Comparative Perspectives on Western Colonialism in China. *Leiden Journal of International Law*, *31*(3), 569–596.

Nuzzo, L. (2021). The Birth of a Colonial City: Tianjin 1860-1895. In S. Dauchy, H. Pihlajamäki, A. Cordes & D. De Ruysscher (Eds.), *Colonial Adventures: Commercial Law and Practice in the Making*. Brill | Nijhoff, pp. 344-396.

Nuzzo, L. (2022). Law and Colonialism in China: A German Perspective. *Max Planck Institute for European Legal History Research Paper Series*, 6, 1-42.

On the Present State of the German Universities. (1803). *The Monthly Register and Encyclopedian Magazine,* 3, 3-6.

Petit, C. (2018). Forma y sustancia del texto jurídico. In: M. P. Fortich Navarro (Ed.), *Derecho, memoria e historia en hispanoamérica* (pp. 269-289). Universidad Libre, Facultad de Derecho, Centro de Investigaciones Sociojurídicas.

Petit, C. (2020). *Un Código civil perfecto y bien calculado: El proyecto de 1821 en la historia de la codificación*. Dykinson.

Petit, C. (2023). *Otros Códigos: Por una Historia de la Codificación Civil Desde España*. Dykinson, S.L.

Pihlajamäki, H. (2018). Merging Comparative Law and Legal History: Towards an Integrated Discipline. *The American Journal of Comparative Law*, 66 (4), 733–750.

Puchta, G. F. (1854). *Corso delle Istituzioni di G. F. Puchta, tradotto e preceduto da un discorso da A. Turchiarulo*. Tipografia all'Insegna del Diogene.

Ranieri, F. (1979). Savignys Einfluß auf die zeitgenössische italienische Rechtswissens-

chaft. *Ius commune, 08, 192–219*.

Reis e Souza, T. (2015). *Savigny-Leser in Brasilien um die Mitte des 19. Jahrhundert*. In: J. Rückert & Thomas Duve (Eds.), *Savigny international?* (pp. 369-408). Vittorio Klostermann.

Reimann, M. (2015). "Wer vieles bringt, wird manchem etwas bringen." Savigny-Übersetzungen und Savigny-Bilder in der Welt des Common Law. In: J. Rückert & Thomas Duve (Eds.), *Savigny international?* (pp. 49-92). Vittorio Klostermann.

Ridolfi, A. (1818). *Prospetto generale della letteratura tedesca*. Valentino Crescini.

Rückert, J. (2015). Anhang. In: J. Rückert & Thomas Duve (Eds.), *Savigny international?* (pp. 455-476). Vittorio Klostermann.

Rückert, J. (2010). Friedrich Carl von Savigny (1779–1861): Friedrich Carl von Savigny – ein Frankfurter in Berlin. In: S. Grundmann, M. Kloepfer, C. G. Paulus, R. Schröder, & G. Werle (Eds.), *Festschrift 200 Jahre Juristische Fakultät der Humboldt-Universität zu Berlin* (pp. 133–178). De Gruyter.

Rückert, J., & Duve, T. (2015). *Savigny international?* Vittorio Klostermann.

Rugge, F. (Ed.) (2012). *Il trasferimento dei modelli istituzionali*. Il mulino.

Sacco, R. (1991). Legal Formants: A Dynamic Approach to Comparative Law (Installment I of II). *The American Journal of Comparative Law*, 39 (1), 1–34.

Sandström, M. (2015). Jenseits der Philosophie. Friedrich Carl von Savignys Begriffswelt in der Übersetzung. In: J. Rückert & Thomas Duve (Eds.), *Savigny international?* (pp. 345-368). Vittorio Klostermann.

Savigny, F. C. (1896). *De la vocacion de nuestro siglo para la legislacion y la ciencia del derecho,* prólogo de Adolfo Posada. *La España Moderna*.

Savigny, F. C. (1847–48–55). *Il Diritto Romano (prima versione italiana col confronto della legislazione delle Due Sicilie del Giudice Ciro Moschitti)*. v. I-III (II ed. 1861).

Savigny, F. C. (2006). *De la vocation de notre temps pour la législation et la science du droit*. Traduction, introduction et notes par Alfred Dufour. Presses universitaires de France.

Savigny, F. C. (1847). *Della vocazione del nostro secolo per la legislazione e la giurisprudenza di F. C. de Savigny*. *Prima versione sulla terza edizione tedesca del 1840 per L. Lo Gatto e V. Janni*. Reale Tipografia Militare.

Savigny, F. C. (1830-1839). *Histoire du droit romain au Moyen Age par F. C. de Savigny, traduite de l'allemand et procedée d'une introduction par M. Charles Guenoux, docteur en droit*. Charles Hingray.

Savigny, F. C. (1847–55). *Il diritto romano. Prima versione italiana col confronto della legislazione delle Due Sicilie del giudice Ciro Moschitti*. Napoli.

Savigny, F. C. (1857). *La vocazione del nostro secolo per la legislazione e la giurispruden-*

za, opera di F. C. de Savigny preceduta da una introduzione generale, e da un discorso sugli scritti di lui, e sulla scuola storica. Biblioteca giuridica teorico-pratica pubblicata per cura dell'avv. Giuseppe Tedeschi. Libreria alla Minerva.

Savigny, F. C. (2001). *Metodologia Juridica*. Tradução de Hebe A. M. Caletti Marenco. Edicamp Editora.

Savigny, F. C. (2006). *Metodologia Juridica*. Tradução de Heloçisa da Graça Buratti. Rideel.

Savigny, F. C. (1878–1879). *Sistema del derecho romano actual*, *traducido del alemán por M. Ch. Guenoux, vertido al castellano por Jacinto Mesía y Manuel Poley, y precedido de un prólogo de Manuel Durán y Bas*. F. Góngora.

Savigny, F. C. (1886–1898). *Sistema del diritto romano attuale di Federico Carlo Di Savigny*. Traduzione dall'originale tedesco di Vittorio Scialoja. Unione Tipografico-Editrice. Naples 8 voll.

Savigny, F. C. (2004). *Sistema Do Direito Romano Atual*. Editora Unijuí.

Savigny, F. C. (1844–45). *Storia del diritto romano nel Medio Evo scritta da Federigo Carlo Savigny con una biografia dell'autore, una notizia delle di lui opere e note del traduttore*. V. Batelli.

Staël-Holstein, Anne-Louise-Germaine Necker baronessa di. (1816). Sulla maniera e la utilità delle Traduzioni. Trad. it. di Pietro Giordani. *Biblioteca Italiana, ossia Giornale di letteratura scienze ed arti*, 1, (1816), 9-18.

Steiner, G. (1975). *After Babel: Aspects of language and translation*. Oxford University Press.

Stolfi, E. (2012). Vittorio Scialoja. In: *Il Contributo italiano alla storia del Pensiero. Ottava appendice* (pp. 397 ff.). Istituto della Enciclopedia Italiana.

Thibaut, A. F. J. (1853). *La dottrina del Codice civile francese conferita coi principii della legislazione romana, seguita dai Trattati di diritto civile di A. F. Thibaut*. Tradotte, annotate e preceduteda un discorso di A. Turchiarulo. Editore Giuseppe Dura.

Turchiarulo, A. (1852). Discorso preliminare del traduttore. In: F. C. von Savigny, *Ragionamenti storici di diritto del prof. F. C. Savigny*. Tradução de A. Turchiarulo. Tipografia all'Insegna del Diogene.

Turchiarulo, A. (1853). *Studii sopra Gans relative al Dritto Romano da A. Turchiarulo*. Tipografia all'Insegna del Diogene.

Vano, C. (1990). "Edifizio della scienza nazionale". La nascita dell'Enciclopedia giuridica italiana. In: A. Mazzacane & P. Schiera. *Enciclopedia e sapere scientifico: Il diritto e le scienze sociali nell'Enciclopedia giuridica italiana* (pp. 15-66). il Mulino.

Vano, C. (2008). *Der Gaius der Historischen Rechtsschule: Eine Geschichte der Wissenschaft vom römischen Recht*. Vittorio Klostermann.

Vano, C. (2012). Canti per il diritto. In margine alla traduzione di um testo interdisciplinare. In: M. Th. Fögen, *Il canto della legge,* trad. it., cura, e postfazione di C. Vano (pp. 129-141). Editoriale Scientifica.

Vano, C. (2015, 31 de agosto-4 de setembro). *Tradução e contaminação cultural na história jurídica. Usos e abusos de categorias historiográficas velhas e novas [palestra em conferência]*, VIII Congresso Brasileiro de História do direito, *As astúcias da memória jurídica: métodos, teorias, balanços,* Curitiba, PR, Brasil.

Vano, C. (2016). Della vocazione dei nostri luoghi. Traduzioni e adattamenti nella diffusione internazionale dell'opera di F.C. von Savigny. *Historia et ius,* 10, 1-16.

Venuti, L. (1995). *The Translator's Invisibility: A History of Translation*. Routledge; (1999). *L'invisibilità del traduttore: Una storia della traduzione*. Trad. di M. Guglielmi. Armando Editore.

Vogenauer, S. (2015). Schlüsselwörter in englischen Savigny-Übersetzungen. In: J. Rückert & Thomas Duve (Eds.), *Savigny international?* (pp. 251-344). Vittorio Klostermann.

Watson, A. (1974). *Legal transplants: An approach to comparative law*. University Press of Virginia.

Watson, A. (2000). Legal Transplants and European Private Law. *Electronic Journal Of Comparative Law*, 4 (4).

Watson, A. (2006). Legal Transplants and European Private Law. *University of Belgrade School of Law*, Pravni Fakultet, Belgrade.

Wieacker, F. (1944). *Vom römischen Recht. Wirklichkeit und Überlieferung*. Koehler & Amelang.

Wieacker, F. (1952). *Privatrechtsgeschichte der Neuzeit: Unter besonderer Berücksichtigung der deutschen Entwicklung* (1. ed.). Vandenhoeck & Ruprecht.

Wieacker, F. (1967). *Privatrechtsgeschichte der Neuzeit: unter besonderer Berücksichtigung der deutschen Entwicklung* (2. Aufl.). Vandenhoeck & Ruprecht; (1980). *Storia del diritto privato moderno con particolare riguardo alla Germania*. Trad. di Umberto Santarelli. Giuffrè; (1980). *História do direito privado moderno*. Tradução de A. M. Botelho Hespanha. Fundação Calouste Gulbenkian.

Zajtay, I. (1970). Zum Begriff der Gesamtrezeption fremder Rechte. *Archiv Für Die Civilistische Praxis*, 170 (4), 251–265.

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