

# MYLegalTrans: Certified Translation for the Malaysian High Court

## 1. Procedure

1.1 All documents not in English or Malay must be translated into **Malay (West Malaysia)** or **English (East Malaysia)**.

1.2 Technically, translation needs not be certified and can be prepared by the party presenting the source as evidence. However, a translation can be challenged by another party at the pleading stage on grounds of **credentials** and **content**.

1.3 A certified translation makes it more difficult to challenge the translation.

1.4 Practically, translation should be prepared by someone who is **available to testify and defend its accuracy** in court. It should not be done by someone in the law firm as s/he usually cannot be called and cross-examined as a witness (**Rule 28, Legal Profession (Practice and Etiquette) Rules 1978**). It should also not be done by the Court Interpreters as they are there to assist the judge, not any party, and this would violate **paras 6 and 8** of the **Judges Code of Ethics 2009 P.U.(B) 201** concerning impartiality of judges.

1.5 The Malaysian High Courts deems translation done by the following organisations as certified:

- (i) Institut Terjemahan & Buku Malaysia (**ITBM**);
- (ii) Dewan Bahasa Dan Pustaka (**DBP**); or
- (iii) Malaysian Translators Association (**MTA**).

1.6 MYLegalTrans' team is certified by:

- (i) ITBM;
- (ii) MTA;
- (iii) DBP;
- (iv) Kuala Lumpur High Court; and
- (v) Sarawak High Court.

MTA/ DBP stamp is recommended as it is the most affordable and efficient.

1.7 Generally, after the pleading stage, a challenge to the translation can no longer be made unless the "Important Influence" test can be satisfied, as per **para 16** of **Ho Min Hao & Anor v Ho Yee Chin & Anor [2017] MLJU 06**. The challenge will then be presented as fresh evidence.

In most cases, after the pleading stage, the witness who makes statements to challenge the translator must also satisfy the "expert witness" test. Although an expert witness needs not be

certified, s/he must generally be experienced in the field of translation, depending on the complexity of the case (**para 229** of **Junaidi bin Abdullah v PP [1993] 3 MLJ 217, SC**).

## 1.8 Executive summary:

- (i) Translation should be prepared by an experienced translator ready to defend the translation in court (as an ordinary witness).
- (ii) Law firms should not prepare their own translation or ask the Court Interpreters to translate for them.
- (iii) Translation can be challenged by a translator who satisfies the "expert witness" test.

## 2. FAQs

### 2.1 ***What does Certified Translation mean? How is it different from non-certified translation?***

In Malaysia, Certified Translation is provided by one of the following Malaysian statutory organisations:

- (i) ITBM, formerly known as the Malaysian National Institute of Translation (ITNM), established based on the approval of a cabinet meeting in 1992 following a memorandum from the Minister of Education.<sup>1</sup> As a limited company, its share capital is wholly owned by the Ministry of Finance and its administration is managed by the Ministry of Education.<sup>2</sup>
- (ii) DBP, established based on the Dewan Bahasa dan Pustaka Act 1959. Its administration is managed by the Ministry of Education.<sup>3</sup>
- (iii) MTA, a voluntary professional body established under the auspices of DBP, and is the sole member of the Federation of International Translators (FIT),<sup>4</sup> an international organisation which has consultative status with UNESCO.<sup>5</sup>

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<sup>1</sup> OIC Today. (n.d.). *An interview with Sakri Bin Abdullah: Chief Executive Officer of ITBM*.

<https://www.oictoday.biz/interview-details.php?id=517/an-interview-with-sakri-bin-abdullah-sakri-bin-abdullah>.

<sup>2</sup> Institut Terjemahan & Buku Malaysia. (n.d.). *Organisational structure*.

<https://www.itbm.com.my/en/organisasi>.

<sup>3</sup> Section 4, the Dewan Bahasa dan Pustaka Act 1959 (Revised in 1978).

<https://lamanweb.dbp.gov.my/wp-content/uploads/2023/04/Akta-213-Akta-Dewan-Bahasa-dan-Pustaka-Di-semak-1973.pdf>

<sup>4</sup> International Federation of Translators. (n.d.). *Members directory: Malaysia*.

<https://en.fit-ift.org/members-directory/?country=MY>.

<sup>5</sup> UNESCO Archives. (n.d.). *International Federation of Translators*.

<https://atom.archives.unesco.org/international-federation-of-translators>.

(iv) High Court Interpreters, governed by the Practising Certificates Unit and supervised by the High Court of Malaya.<sup>6</sup>

A translation is considered certified when it is registered with ITBM, DBP, MTA or the High Court. A certified translation is authoritative in a court of law, can be used by other government agencies, e.g. police (PDRM), immigration (JIM), drug control authority (NPRA), etc., and are accepted by most embassies or High Commissions in Malaysia.

## **2.2 Why does Certified Translation take so long even for documents with just a few words?**

For MoFA, before certification, the translation goes through the following processes:

### **(i) Text extraction**

The translation process begins with text extraction and formatting by a DTP specialist, with inquiries about untranslatable or unclear text.

### **(ii) Translation**

Translations are handled by native translators who are subject matter specialists with at least three years of experience.

### **(iii) First Review**

The first review is conducted by nationally certified translators.

### **(iv) DTP & Formatting**

DTP and formatting ensures the translated document mirrors the original.

### **(v) Final Review & Certificate of Translation**

A final review is done by certified translators, with an ITBM/DBP/MTA stamp applied. The translation is then recorded by the stamping organisation.

## **2.3 Can I submit a softcopy or photocopy of the Certified Translation to the High Court?**

Yes. The Malaysian High Courts accept softcopy Certified Translation with the **original** ITBM/DBP/MTA stamp. However, for record-keeping purposes, law firms usually request for hardcopy.

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<sup>6</sup> Kuala Lumpur Court Complex. (n.d.). *Practising certificates unit*.  
<https://kl.kehakiman.gov.my/en/practicing-certificates-unit>