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## **FOUNDATIONS OF PRAGMATIC LEGAL LINGUISTICS**

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**Abstract:** In this review essay, I describe some basic problems in the research into the legal language that are methodologically connected to linguistic and philosophical pragmatics. I call this area of knowledge pragmatic legal linguistics. Pragmatic legal linguistics deals with processes that are constitutive of the emergence of meaning in law. Its basic concepts are coined along the developments in linguistic and philosophical pragmatics. It applies pragmatic theoretical approaches to clarify the functioning of the legal language and discovers new areas of pragmatic relevance in the research into the legal language. The final goal of pragmatic legal linguistics is to reformulate our language of law in accordance with linguistic findings about the use of language.

**Key terms:** linguistic turn in law; pragmatic legal linguistics; emergence of meaning in law; language use; ordinary language and law; legal discourse.

## **PODWALINY PRAGMATYCZNEGO JĘZYKOZNAWSTWA PRAWNICZEGO**

**Abstrakt:** W niniejszym artykule podejmuję się opisu niektórych podstawowych kwestii w badaniach nad językiem prawniczym, metodologicznie powiązanych z pragmatyką filozoficzną i językową. Nazywam ten obszar wiedzy pragmatycznym językoznawstwem prawniczym. Skupia się ono na procesach, będącymi podstawami dla nadania znaczenia w prawie. Jego podstawowe założenia powstają wraz z postępującym w pragmatyce językowej i filozoficznej rozwojem. Przenosi ono pragmatyczne podejścia teoretyczne tak, by wyklarować funkcjonowanie języka prawniczego oraz odkryć nowe obszary pragmatycznego znaczenia w badaniach nad językiem prawniczym. Celem pragmatycznego językoznawstwa prawniczego jest przeformułowanie języka prawniczego zgodnie z ustaleniami w zakresie użycia języka.

**Słowa kluczowe:** zwrot językowy w prawie; pragmatyczne językoznawstwo prawnicze; nadanie znaczenia w prawie; użycie języka; prawo a język potoczny; dyskurs prawniczy.

### **1. Introduction**

Contemporary legal linguistics starts with the scrutiny of the words of law in different perspectives and constellations<sup>1</sup>. Words are a challenge to linguists as well as to non-linguists as they are programmatically misleading, mainly due to the fact of their immediate perception in spoken and written types of discourse. While being particularly exposed to our senses, words often acquire a dominating position in our exchanges about language. Especially non-linguists, for instance jurists, have regularly the impression that language is a matter of words in the

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<sup>1</sup> This essay expands the legal-linguistic frame of reference discussed in my *Conceptual Origins of Legal Linguistics* that appeared in print in this journal in 2021, in its volume 47, pp. 17–56. As in my preceding essay, materials rendered in footnotes take some time to read. It might be more expedient to read the main text first and only then return to the footnotes and read them in connection with the main text. Meanwhile, materials discussed in footnotes are methodically essential as legal linguistics starts with the linguistic material and not with generalizations about the language of law. In this respect, it differs from other theoretical approaches to law and its language that are anchored in convictions about the nature of the legal language.

sense of vocabulary consisting of isolated lexical units. By doing so, they risk underestimating the complex structures that constitute and steer our language. Reasons for this misperception are multiple. Printed texts invoke the word and not the mechanisms that make it work, i.e. express meaning. Furthermore, foreign languages education introduces the word as central to the command of foreign languages since the Middle Ages where Latin and Greek were studied as amalgams of initially incomprehensible words. Additionally, the availability of dictionaries that by necessity focus upon the word to the detriment of more complex linguistic structures does not facilitate the orientation in linguistic matters for non-linguists. Moreover, traditional linguistic approaches such as structuralism did not make sufficiently clear that they do not deal solely with processes that are constitutive of the emergence of words. Thus, the word construed as isolated lexical unit started to dominate the thinking of non-linguists, yet also of some linguists, as the central issue of all theoretical dealing with language, including the language of law<sup>2</sup>. Cognitive problems of this sort are not

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<sup>2</sup> Overestimating the importance of isolated words in law has consequences. In the court decision *Armstrong v. Rohm and Haas Comp.* (349 F. Supp. 2d 71, U.S. Dist. Ct. Mass. 2004) the parties litigated about the alleged breach of an oral contract. The plaintiffs claimed that the defendant promised them ‘all the work they could handle’ when they establish an independent firm that would diminish the defendant’s dependence on another firm. The plaintiffs established their firm, yet the defendant offered them only a small amount of work. One of the plaintiffs found out that the defendant continued to provide work to the competing enterprise and therefore could not offer them enough work. He and his partner sued the defendant for breach of contract. The court referred in its decision to a doctrinal issue in the law of contracts called ‘definiteness of terms’. It held that the defendant’s promise was too vague ‘to ascertain for this court a reasonably certain basis for providing an appropriate remedy’. The court continued: “The law strongly favors certainty and precision of contracts, even at the expense of occasional injustice, on the theory that a contrary rule would lead to even greater injustices”. Doubtless, the words ‘all the work they could handle’ may appear unprecise when analyzed in isolation, yet in the uncontested context of the oral contract they acquire a precise meaning, namely that the defendant was interested in reducing his contacts with the other enterprise and therefore incited the plaintiffs to start their own business that would be able to function due to the work provided by the defendant. The court admittedly commits injustice because it misunderstands the functioning of language. The language of law does not function like a railroad timetable that provides reliable information due to precise content expressed in it, provided exactness in the application of rules constitutive of creation of meaning leads both the maker and the user of the timetable. Law does not work in this way; it provides information of qualitatively different sort. Therefore, understanding its language is an issue of pragmatic legal linguistics that researches meaning that emerges in complex legal-linguistic operations. The instant case proves the necessity to approach the language of

rare. The perception of a building made from bricks and mortar misleads into thinking that bricks and mortar are constitutive of its very coming into being. The visible reality conceals the view upon the rules of physics, in our case statics. These rules are expressed in the language of mathematics in form of equations that state theoretical rules and prefigure practical conditions for a building to be erected and to stand. These rules and not bricks or mortar are the focus of scientific interest in building construction. Thus, an all too material perception of phenomena, languages or buildings, may lead to cognitive deficits that impede the emergence of appropriate and comprehensive theories that would describe these phenomena.

Meanwhile, methodical problems analogous to the mentioned bricks-and-mortar misperception in building construction may be identified also in contemporary legal linguistics. I used to call this type of research ‘Ptolemaic legal linguistics’ because it needs a turn to adjust its perspective upon legal language in analogy with the Copernican turn that clarified our view upon the outer space without necessarily questioning all results in the astronomical knowledge of the Copernican epoch. An example of the fulfillment of this postulate in general linguistics is the discovery of speech acts behind utterances (cf. Austin 1962) that might be compared with the discovery of rules of statics behind buildings constructed from bricks and mortar. The Copernican turn in legal linguistics starts with the shift from normatively defined language of law to the scrutiny of the actual use of language in institutions that deal with the creation and the application of law. At this point, the fundamental difference between legal linguistics and other approaches to law becomes clear. Legal linguistics, including pragmatic legal linguistics starts with the scrutiny of language in law. Other theoretical approaches may focus on concepts in law, rules of the exercise of power in law etc., while taking into consideration the language in which such conceptual structures are expressed. Moreover, pragmatic legal linguistics includes all contributions to the legal discourse, the professional and the non-professional alike (cf. Galdia 2014: 395). This broadening of perspective upon legal language enables legal linguists to capture the totality of our speech about law, and not only the professionally isolated communication of jurists among themselves or their unidirectional communication to non-professionals

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law from the pragmatic perspective. Other examples of well-intended misunderstandings of language in law can be found in Galdia (2021a: 97).

of law. This perspective is rooted in the idea of linguistic turn that emerged in the analytic philosophy of the past century. The linguistic turn was undertaken with the aim to clarify problems through the analysis of the language in which they were expressed. It proved very efficient in many areas of knowledge, especially in philosophy. As the legal science deals with creation of concepts that mark and prefigure argumentative structures in law, the linguistic turn seems particularly promising in the research into legal fundamentals (cf. Giltrow and Stein 2017). Once the broadened perspective upon the use of language is adopted, other central methodical choices will have to be made because pragmatic legal linguistics emerges and develops in acts of adjustment to existing philosophical and linguistic pragmatic approaches. In the exchange between theoretical findings and the observation of the use of language in legal contexts the new field of studies emerges and expands<sup>3</sup>.

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<sup>3</sup> Typology of language use in the area of law is complex. It starts with the application of words belonging to the ordinary language such as ‘chicken’ (cf. Galdia 2017: 36). U.S. courts also had to analyze other ordinary words, for instance ‘family’, ‘person’ (cf. Galdia 2021a: 25) or ‘harm’. Whenever in the decisions of courts ordinary use of words was invoked, it led to problems in the application of law. This happened because ordinary words were used in legal contexts that provided interpretive frameworks for their meaningful application. When applied in legal contexts the words changed their status. In *Babbitt v. Sweet Home Chapter of Communities for a Great Oregon* (U.S. S. Ct. 2407, 1995) the U.S. Supreme Court had to determine whether ‘harm’ was done to engendered species of wildlife. Section 9 of Endangered Species Act (ESA) prohibits to ‘take’ a protected animal and it provides a definition for ‘take’: ‘to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct’. The Secretary of State also promulgated a regulation that defined the term ‘harm’ that means ‘an act which actually kills or injures wildlife’. Ordinary ‘harm’ turned in the operation of legal defining into a legal ‘harm’. Judges, and not ordinary speakers decide what this ‘harm’ means. Often, such decisions by judges lead to frictions between ordinary and legal meaning of words. Pragmatic legal linguists are particularly sensitive to this communicative situation. In *Mains Farm Homeowners Association v. Worthington* (854 2<sup>nd</sup> 1072 Wash. Sup. Ct. 1993) the court had to decide whether using real property to establish an adult family home business hosting four non-related persons contradicted the restrictive covenant for a single-family residential purpose. It had to determine what ‘family’ meant in this legal context. The court held in its decision (edited by me): “... we consider the first question which is the meaning of ‘single family’... No purpose will be served by examining and comparing in detail the numerous cases which define ‘family’... The possible definitions range from limiting the ‘family’ to the historical, traditional persons related by blood, marriage, or adoption to a group of people who live, sleep, cook, and eat upon the premises as a single housekeeping unit... Likewise, attempting to use one of the many dictionary classifications solves nothing. It has been observed: First, although a group home may meet one of the dictionary definitions of ‘family’, the focus must be on the contextual

## **2. Historical aspects in pragmatic legal linguistics**

As so often, conceptual innovation in legal linguistics proves to have longer roots in the history of ideas than is often assumed. Scholars were always aware of the importance of language in all areas connected to

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meaning of the word rather than the range of linguistically permissible meanings. Second, the fact that a group home is set up to emulate family behavior should not be regarded as a sufficient condition for family status within the social meaning of a single-family-use covenant...Both ends of the possible definitional spectrum are unsatisfactory. On the one hand, in today's society most people, if put to this inquiry, probably would conclude that for this purpose, 'family' means something more than only persons related by blood, marriage or adoption. On the other hand, in this context, it is likely most people would reject the notion that 'family' includes any group of people who happen to share a common roof and table. Some reflection leads us to attribute certain characteristics to a concept of 'family', even in the extended sense. These include: (1) a sharing of responsibilities among the members, a mutual caring whether physical or emotional, (2) some commonality whether it be friendship, shared employment, mutual social or political interest, (3) some degree of existing or contemplated permanency to the relationship, and (4) a recognition of some common purpose, persons brought together by reasons other than a referral by a state agency. Under those considerations, it would be unlikely that total strangers would be brought together, that there would be no tie to the residence itself, or that one would leave, or another stranger arrive at any time and without disruption to a for-profit operation. ...The strict construction rule is not of significance here because we give the language its ordinary and common use and do not read the covenant so as to defeat its plain and obvious meaning. This leads to the conclusion that defendant's commercial use is prohibited". Ordinary language may be furthermore scrutinized as to its meaning in a contractual clause as was the case in the court decision *Property Owners Insurance Corp. v. Cope* (7221 F. Supp. 1096 ND Ind. 1991). The parties litigated about the range of the application of an insurance policy issued with respect to 'the conduct of a business' due to an accident that occurred while the policy holder was snowmobiling with his business friends. An existing precedent limits the liability to 'direct conduct of business' thus excluding personal activities. The precedent did not help in this case; the court held that the words 'with respect to the conduct of business' were ambiguous and 'not sufficiently self-defined in their plain meaning'. The court stated that in the precedent the word 'direct' did not modify 'conduct', nor did the contract expressly contrast personal and business activities. The court finally solved the ambiguity while referring to the legal principle imposing upon the drafter the consequences of the ambiguity caused by the policy wording. Thus, interpretation of the clause is in this case not linguistic but legal-linguistic as it makes use of a particular interpretive device that is not applied in ordinary discourse, namely the liability for self-drafted texts. The court explained the use of the particular interpretive device by saying: "If insurance companies operating in Indiana desire the benefit of such an exclusion, it is a simple enough matter for them to draft their policies to unambiguously exclude coverage for recreational activities furthering business objectives". We discover here a type of interpretation corresponding with Dworkinian 'constructive interpretation'.

law and society. For instance, Plato's view upon speech and law was stated by Diogenes Laertius in book III of his *Lives of Eminent Philosophers* (Βίοι καὶ γνῶμαι τῶν ἐν φιλοσοφίᾳ εὐδοκμησάντων): "But when a man enters a law-court and one appears as advocate for another and delivers an effective speech on his behalf, he is benefiting him by speech". Speaking on behalf of another, for instance the represented person or the Government is one of characteristic features of the use of language in law. Letting someone else speak for oneself is otherwise rare in ordinary life. Therefore, contemporary legal discourse theory regularly focuses upon this specific situation. Likewise, performativeness in the legal language was identified by Plato. Diogenes Laertius wrote about Plato's view about this matter: "There are four ways in which things are completed and brought to an end. The first is by legal enactment, when a decree is passed and this decree is confirmed by law"<sup>4</sup>. Before Plato, Protagoras spoke about fundamentals of speech (πυθμένας λόγων), such as wish, command, question, answer, etc (cf. Diogenes Laertius, IX 53)<sup>5</sup>. These basic concepts are instrumental also in this essay. Furthermore, Aristotle in his *Rhetoric* (Ῥητορική) distinguished persuasion (rhetoric) and logic while stressing the enthymeme as a means of persuasion, especially in law (cf. Adeodato 1999; Larrazabal and Korta 2002). By so doing, he paved the

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<sup>4</sup> Plato's rhetoric includes many pragmatic topics. Diogenes Laertius wrote in *Lives of Eminent Philosophers* (Βίοι καὶ γνῶμαι τῶν ἐν φιλοσοφίᾳ εὐδοκμησάντων, book III) about Plato's rhetoric: "There are six kinds of rhetoric: for when the speaker urges war or alliance with a neighboring state, that species of rhetoric is called persuasion. But when they speak against making war or alliance, and urge their hearers to remain at peace, this kind of rhetoric is called dissuasion. A third kind is employed when a speaker asserts that he is wronged by someone whom he makes out to have caused him much mischief; accusation is the name applied to the kind here defined. The fourth kind of rhetoric is termed defence; here the speaker shows that he has done no wrong and that his conduct is in no respect abnormal; defence is the term applied in such a case. A fifth kind of rhetoric is employed when a speaker speaks well of someone and proves him to be worthy and honorable; encomium is the name given to this kind. A sixth kind is that employed when the speaker shows someone to be unworthy; the name given to this is invective. Under rhetoric then, are included encomium, invective, persuasion, dissuasion and defence" (trans. Robert Drew Hicks, antiquated English spelling occasionally adjusted by me). Contemporary research into legal speech acts generally follows this classification while it clearly does not limit its scope to Platonic concepts.

<sup>5</sup> Diogenes Laertius (op. cit. IX 53) remarked about Parmenides: "He was the first to mark off the parts of discourse into four, namely, wish, question, answer, command, others divide into seven parts, narration, question, answer, command, rehearsal, wish, summoning; these he called the basic forms of speech. Alcidamas made discourse fourfold, affirmation, negation, question, address." Not without reason, contemporary discourse analysis is divided into affirmative and critical approaches.

way to the shaping of legal speech acts that are argumentative in terms of their ontology. Later, Plutarch in *The Lives of the Noble Grecians and Romans* (Βίοι Παράλληλοι) described an episode where Pericles and Parmenides tried to identify limits in legal argumentation concerning a question:

...how one who was a practicer of the five games of skill, having with a dart or javelin unawares against his will struck and killed Epitimus the Pharsalian, his father (i. e. Pericles, annot. MG) spent a whole day with Protagoras in a serious dispute, whether the javelin, or the man who threw it, or the masters of the games who appointed these sports, were, according to the strictest and best reason, to be accounted the cause of this mischance (in: *Pericles*; the above English text follows the Dryden translation).

Other ancient Greek sources of legal-linguistic reasoning include rhetorical and dialectic writings of the Greek Sophists<sup>6</sup>. Among ancient

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<sup>6</sup> Greek Sophists contributed to pragmatic legal linguistics in a different way and on a different level of abstraction. In their extant writings we can see the methods used in obtaining goals in legal procedures, mainly in defense of those accused of serious crimes. These goals are separated from any ethical reflection; the defense appears as a service; it provides value for money. Worthwhile studying is *The Defense of Palamedes* (Παλαμῆδους Απολογία) by Gorgias, Antiphon's *Tetralogia* (Τετραλογία), and the treatise *Dissoi Logoi* (Δισσοί Λογοί) of an unknown author. Sophists did not only show sophisms in law. They also provided linguistic evidence for one of the most basic regularities of language use in law. They stressed that an abstract rule of law or a statement of fact may have at least two, frequently mutually exclusive interpretations. By so doing, they discovered the fundamentals of legal discursiveness. Later, legal theory positioned the problem of statutory interpretation within the triangle composed of legislation, application, and policy. A legal provision representing a legal norm that is stated linguistically in the form of a rule will become meaningful within the policy determining its application to a case (i. e. in a constellation of social life). Otherwise, it is largely meaningless. Policy, which equals context in pragmatic approaches, is necessary to shape and to understand law. Ronald Dworkin (2005: 22) clarified the interpretive devices used in legal institutions: "My strategy will be organized around the fact that when lawyers reason or dispute about legal rights and obligations, particularly in those hard cases when our problems with these concepts seem most acute, they make use of standards that do not function as rules, but operate differently as principles, policies, and other sorts of standards. Positivism, I shall argue, is a model of and for a system of rules, and its central notion of a single fundamental test for law forces us to miss the important roles of these standards that are not rules... I call a 'policy' that kind of standard that sets out a goal to be reached... I call a 'principle' a standard that is to be observed...because it is a requirement of justice or fairness..." Dworkin's notion of 'constructive interpretation' follows from this analysis. Dworkin (1991: 413) described law as follows: "Law's attitude is constructive: it aims, in the



Romans, Cicero addressed many pragmatically relevant issues as well<sup>7</sup>. Cicero also realized that legal language, like whatever social and natural phenomenon, is exposed to constant change. Changes occurred already in the legal Latin, where the law of the Twelve Tables caused problems in understanding even in Cicero's time<sup>8</sup>. Legal pragmaticians are today aware of the finding that law does not change in its logical structure, yet it is expressed in constantly evolving language. To expect the

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interpretive spirit, to lay principle over practice to show the best route to a better future, keeping the right faith with the past".

<sup>7</sup> Cicero in *De oratore* (II: 105) identified the 'denial' as an argumentative device used as a necessary and sufficient defense in law: "Ac nostrae fere causae, quae quidem sunt criminum, plerumque infitiatione defenduntur; nam et de pecuniis repetundis quae maximae sunt, neganda fere sunt omnia, et de ambitu raro illud datur, ut possis liberalitatem atque benignitatem ab ambitu atque largitione seingere..." Until today, the defendant is sufficiently protected when he contests the civil claim or the accusation directed against him. He is not obliged to provide any further, positive input of facts that would counter the claim or the accusation (which however might be practically useful). In practical life, this device is not efficient. It is better to say: 'It wasn't me, it was Jack' or 'I wasn't there, I was in London at that time'. In law, 'It wasn't me' or 'I wasn't there' are sufficient as defenses, at least from the Ciceronian point of view. This type of defense imposes upon the other party, i.e. the plaintiff or the public prosecutor, the obligation to bring evidence for the factual statement 'It was you' or 'You were there'. If the other party is not able to bring the necessary evidence, it will lose its case. A discovery such as Cicero's is pragmatic legal linguistics, not just pragmatics or traditional rhetoric. Contemporary legal linguistics may however see the speech act of contention in a closer relation to ordinary speech than did Cicero. Its final efficiency – from the perspective of society – depends on cooperation, which however on the part of the defendant has to remain voluntary. In this case, the mechanical application of linguistic experience from the analysis of ordinary language to law could prove extremely dangerous for public liberties. Therefore, pragmatic discoveries should be implemented in law within the framework of legal guarantees for the respect of fundamental rights of those concerned. Only then we will be able to avoid situations where accused persons have to prove their innocence and public prosecutors may limit their efforts to accusing them. In modern law, certain negative consequences of such procedures are already present, for instance when claims for compensation of losses of uncooperative suspects whose custody finally appeared unjustified are reduced due to their uncooperative behavior during the investigation against them. The refusal to speak that is guaranteed by many contemporary constitutions becomes expensive in such situations.

<sup>8</sup> Cicero as a representative of the affirmative legal discourse that serves the interests of his social class was aware of temporal aspects of legal language. He identified 'vetustas' in it: "...plurima est et in omne iure civili et in pontificum libris et in XII tabulis antiquitatis effigies, quod et verborum vetustas prisca cognoscitur et actionum genera quaedam maiorum consuetudinem vitam declarant..." (cf. Cicero's *De oratore* I: 193). Cicero enjoyed studying Roman law as a remnant of cultural antiquity; contemporary citizens may not share his view about the pleasures of dealing with historical aspects of legal language. Plain language movements in many countries witness to this disinterest.

contrary would not be particularly realistic as all natural and social phenomena change, and the legal language represents both nature and society. Therefore, the few above quoted historical examples can be perceived and also used as starting points for the development of the type of legal-linguistic reasoning that is well adapted to the reality of linguistic communication in legal contexts and that I call pragmatic legal linguistics. In this sense, not only the ancient authors quoted above but also many others can be called precursors of pragmatic legal linguistics. Overall, the history of pragmatic legal linguistics has long roots. Its description would probably take more space than the statement of the results of contemporary pragmatic legal linguistics. It is a subject that has never been elucidated in its entirety, mainly because the study of law developed in a different direction, towards doctrinal conceptions of legal studies and towards positivist theories of law. Therefore, in terms of its history pragmatic legal linguistics is largely an unwritten narrative that is potentially composed of abundant materials where jurists and non-jurists reasoned about the role of language in law in past centuries.

### **3. Law as discursive practice**

Meanwhile, the broadest contemporary characterization of law in terms of fundamental pragmatic research is found in the concept of discursiveness (cf. Galdia 2017: 196). Discursiveness is a characteristic feature of a phenomenon that can exist only when expressed linguistically. Law as a social phenomenon is a discursive practice because it is rooted in argumentation (cf. Chagas Oliveira 2012)<sup>9</sup>. As a

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<sup>9</sup> There is ample evidence for this structural feature of law. Language in law is created due to argumentative needs in the application of law. When doctrinal issues are unclear (as they as a rule are) new language helps jurists to overcome the argumentative deadlock that emerges between the strict position based on literal (arbitrary) understanding of law and argumentative needs to justify such decisions. In a recent decision of the Court of Appeal in Montpellier (France) against J. S. (cf. Court Criminelle Départementale de l'Hérault, judgment of 26 October 2021) the accused was sentenced to eight years in prison for having committed three acts of rape. The accused aged seventy-four (in time of commitment of the acts sixty-seven) posted on an internet dating site a photo of a ca. thirty-year-old American fashion model and offered to interested women participation in sexually explicit activities. Some three hundred fifty women contacted the accused who received them in a totally dark apartment where the

linguistic practice it consists of legal-linguistic operations related to argumentation. Such formative linguistic processes and operations are identified and researched in pragmatic legal linguistics. Moreover, language plays a role in law that is regularly characterized as 'constitutive'. In pragmatic legal linguistics I attempted to elucidate the question as to what extent language is constitutive of law or, put in other terms, what is language actually doing in law (cf. also Mattila 2018b: 808). Language enables to express or to state the abstract content of legal rules and by so doing it triggers mechanisms that enable to grasp the concrete meaning in a particular constellation in which law is applied. As a rule, these mechanisms will be interpretive or argumentative devices that soften the hardship of linguistic abstractness of a legal rule or norm. The interplay between abstract and concrete caused by the specific logical structure of the legal norm engenders abstract statements about its content in our language<sup>10</sup>. These statements

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women were proposed to be blindfolded as a part of the game that the accused prepared for them. During the sexual intercourse with the accused, the women usually realized that they had to do with a person that did not correspond to the internet profile they had in mind. Three of the concerned women reported the accused to the police and accused him of rape. A lower court acquitted the accused of the charges of rape as no violence was used during the sexual intercourse by the accused. Meanwhile, Art. 222-23 of the French Penal Code characterizes as rape 'tout acte de pénétration sexuelle, de quelque nature qu'il soit, ou tout acte bucco-génital commis sur la personne d'autrui ou sur la personne de l'auteur par violence, contrainte, menace ou surprise' (trans. Any act of sexual penetration, of whatever nature it might be, or any oral-genital act which is perpetrated on another person or on the person of the offender by violence, constraint, threat, or surprise). The court of appeal reversed the decision of the lower court assuming that a 'rape by surprise' has been committed. The court of appeal made clear that no 'half-rape' (in French *demi-viol*) or 'under-rape' (*sous-viol*) existed as categories of the French penal law. Without complex argumentation, it is not possible to prove that the accused committed the incriminated acts. As indicated in footnote 2, also in this case the legal text of reference, i. e. the French penal code, does not function like a railway timetable. The court opinion was written with reference to the legal text, i. e. to Art. 222-23 of the French Penal Code within argumentative procedures that are decisive of the result achieved in this case. Pragmatic legal linguistics researches such procedures and elucidates their structures.

<sup>10</sup> In *U.S. v. Twombly* (475 F Supp. 2<sup>nd</sup> 1019, S.D. Cal. 2007) the court had to decide whether defendants engaged in prohibited manipulation of headers in emails. Art. 1037 of 18 U.S.C. says: "Header information in registration information is materially falsified if it is altered or concealed in a manner that would impair the ability of the recipient of the message, an Internet access service processing the message on behalf of a recipient, a person alleging a violation of this section, or a law enforcement agency to identify, locate, or respond to a person who initiated the electronic mail message or to investigate the alleged violation". The defendants argued that the provision is too vague to be perceived as valid within the constitutional requirements. They also argued

as such would not be helpful, would language not provide devices to cope with abstractness, when exactly the contrary of abstract, namely the concrete meaning of law in the act of its application is needed. What is more, application of law is action, in social settings action is interesting when it is efficient. Argumentation is furthermore necessary or unavoidable in law because law transfers values and commitments to values that must be linguistically accommodated in interpretive speech acts. As far as commitments to values are concerned, the logical form of the legal norm also leads to the emergence of argumentative devices in the legal language. Particularities inherent in discursive practices such as those mentioned are formative of the legal language and of our speaking about this language. I excluded from the discussion of discursive fundamentals one theoretical constant, namely expressiveness, i. e. the particularity of language to express meaning as it is not specific to the language of law but generally present in language. However, in law expressiveness is interesting because it allows the emergence of meaning on a high level of abstraction without the necessity of referring to formalized language. Thus, conceptions of pragmatic legal linguistics must be able to cope with the complexity of emerging speech about law that I mentioned in this paragraph.

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that the headers do not necessarily identify the sender, and that a layperson had little or no ability to trace the sender's location based on the address. Furthermore, the defendants contended that the meaning of 'materially' and 'impair' although explained in § 1037 remained nevertheless unclear. Speakers regularly identify vagueness in abstract legal language as problematic, they may also use abstractness as a defense when vagueness exists in terms of logic because abstract language is vague. Yet pragmatically there is no linguistically identifiable vagueness in this case that would impair the understanding of law. In our case, the American court rightly stated that the ability of certain internet users (or the lack of such ability) has no impact upon the possibility to alter headers and to make the identification of senders more difficult. Decisive is not the ability of a particular internet user to identify the sender (this ability might be limited indeed) but the general technical possibility of a user to identify senders. It means also that logical vagueness that might impair the computer to perform certain tasks should not be confused with the ability of the human brain to cope with vagueness and elliptic, metaphorical, or ironical language etc. One of the achievements of pragmatic legal linguistic is the elucidation of this relation (cf. Dubrovskaya 2008). The deep structure of our language does not manifest itself communicatively, i. e. on the level of language use. Formally problematic use of 'unless', 'and' as well as 'or' in legal texts, proves as a rule unproblematic in pragmatic analysis and in the underlying language use (cf. Galdia 2021a: 71). Cf. also Refors Legge (2021: 182) about Swedish 'ibland' ('occasionally') in a Swedish legal act.

#### 4. Conceptions of pragmatic legal linguistics

Pragmatic legal linguistics starts with pragmatics and with law. Paradoxically, pragmatics is easier to describe than law. To avoid misunderstandings, I will speak about ‘general pragmatics’ when I mean philosophical and linguistic pragmatics and ‘pragmatic legal linguistics’ when I refer to specific features of language use in the area of law, i. e. within the legal discourse composed of professional and non-professional discourses. Both areas are of course not mutually exclusive but complementary. Pragmatic legal linguistics may start with identifying central pragmatic topics relevant to the emergence of meaning in the legal discourse. Traditionally, mainly implicatures, presuppositions, speech acts and deixis were perceived as central to pragmatic investigation (cf. Huang 2007: 2). However, this procedure, although practicable without any doubt risks neglecting more relevant topics in the legal discourse than those traditionally perceived as central and cultivated in general-pragmatic studies. After all, general pragmatics that discovered already numerous relevant topics for its studies is still largely incomplete, although some of existing pragmatic textbooks might give rise to the impression of the intentional limitation of general-pragmatic research interest to the above mentioned ‘central pragmatic topics’. Such a limitation would prove fatal for the future of the whole discipline. Meanwhile, some general-pragmatic works, such as Huang (2007: 120) include also institutional speech acts that are relevant to pragmatic legal-linguistics. Their anchorage in the pragmatic debate remains however strictly general – pragmatic. Exceptionally, legal-linguistic interests are also taken into account (cf. Huang 2007: 26). As pragmatic legal linguistics needs to reach also jurists, it has to make an effort and stretch its interpretive attempts to cover predominantly legally relevant topics. This is the reason why I will not speak here, for instance, about deixis or anaphora in legal discourses, although they are definitely present in them, even in specific constellations of language use as social deixis, etc. (cf. Galdia 2017: 36). Legal-linguistic studies that reflect fundamental topics in the pragmatic perspective upon the language of law are rare. Dennis Kurzon’s research starting with *It is hereby performed. Explorations in Legal Speech Acts* (1986) and later his *Discourse of Silence* (1998) are exemplars of strictly pragmatic research. The pragmatic approach was described in more detail in *Legal Pragmatics* (cf. Kurzon and Kryk-

Kastovsky 2018) that aimed also to set out a general structure for the pragmatic research into the language of law that includes areas such as historical pragmatics, pragmatics of legal writing and documents, discourse in the courtroom and in police investigations, as well as legal discourse and multilingualism. Furthermore, Alessandro Capone and Francesca Poggi (2016; 2017) edited a collection of articles in two volumes on theoretical and practical issues relevant to legal pragmatics. These contributions and Sanford Schane's (2012) analysis of the contract as speech act as well as Andrei Marmor's (2014) study of the language of law are deeply rooted in the legal theory and in philosophical pragmatics, while also showing interest in issues and methods typical of pragmatic legal linguistics. Some pragmatically relevant topics are also discussed in a collection of articles edited by Williams and Tessuto (2016) and in a monograph by Ingrid Simonnæs (2012).

Pragmatic approaches to the language of law are not unified, although they are far from being contradictory. For purposes of pragmatic legal linguistics, an approach is needed that unifies the analytic perspective that enables the research into the use of language and the contextual perspective that enables to research the legal discourse in all its complexity. Legal-linguistic pragmatic approaches must further communicational aspects of the use of language in law and determine basic regularities of language use in law under the condition of linguistic indeterminacy that makes legal interpretation unavoidable (cf. Aarnio 1989: 18)<sup>11</sup>. The intermediate task in pragmatic legal

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<sup>11</sup> More specifically, certain general-pragmatic topics display intriguing facets in the legal discourse. For instance, parties and witnesses often lie in trials and legislators may also occasionally opt for the use of the most complex expressions to render basic legislative intent. Therefore, the Gricean theory of conversational implicature appears under such circumstances in an extended form as it necessitates an additional conceptual input to cope with this regularity of language use in trials or in legislation (cf. also Luzzati 2018 from the perspective of philosophical pragmatics). The application of the relevance theory is also problematic in pragmatic legal linguistics. Additionally, narrowing the context of utterances in the doctrinal interpretation of statutes is counterbalanced in pragmatic legal linguistics by the request to use the broadest available context to understand the language of law. Equally, felicity conditions of legal speech acts may display particularities as non-cooperative speaking is typical of legal communication where participants often speak in hostile communicative landscapes (cf. Galdia 2017: 191). Elliptical speech and unarticulated constituents in propositions are frequent in the legal language (cf. Aarnio 1989: 25; Ervo 2016; Galdia 2017: 210 about façade argumentation). They may, together with other identified characteristic features of language use in legal discourses support the

linguistics is the description of law from the pragmatic perspective. There are several reasons for this undertaking. One of the main reasons is the necessity to determine the scope of research activities in this area of knowledge. Once the nature of law is characterised in pragmatic terms, further steps should follow from it methodically. Indeed, law appears in legal-linguistic operations as a set of legal-linguistic speech acts that form the legal discourse. The legal discourse with all its complex and intertwined layers is the domain of jurists and non-jurists. Frequently, law is also associated with legal regulation that is however not an area for which jurists would be responsible<sup>12</sup>. Jurists can shape the legal language needed to render legal regulation adequately, yet not the regulation itself. Legal regulation that is linguistically incorporated in statutes and court opinions constantly changes. Law seen in the legal-linguistic perspective does not change. It is formulated within institutionalized textual patterns. It is exercised in processes of application of legal rules (based on statutes and inferred from

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expansion of general-pragmatic theoretical framework that aims at describing all aspects of language use in society. They also contrast theoretical approaches based on the ideal use of language in legally relevant communicative situations.

<sup>12</sup> Jurists are professionally incompetent to answer substantive questions of legal regulation such as whether prostitution should be prohibited or legalized. For instance, in Sweden, the legislator passed 1998 a legal act prohibiting to seek contacts with prostitutes, called in Swedish *sexköplagen*. The statute says: “Den som mot ersättning skaffar sig en tillfällig sexuell förbindelse, döms – om inte gärningen är belagd med straff enligt brottsbalken – för köp av sexuella tjänster till böter eller fängelse i högst sex månader” (transl. Who obtains an occasional sexual service against remuneration, shall be sentenced – if the act is not covered by provisions of the penal code – for purchase of sexual services to fines or to imprisonment not exceeding six months). As a result of this ideologically motivated formulation, prostitution is not prohibited, yet potential clients cannot approach prostitutes as buying ‘occasional sexual services’ is prohibited by law. By contrast, Germany regulated issues related to prostitution 2001 in the law called *Gesetz zur Regelung der Rechtsverhältnisse der Prostituierten* (transl. Law concerning the legal relations of prostitutes). In it, prostitution is defined as a service. From the regulation of this type of service follows that it is a professional activity that is exercised legally. However, actions concerning this service cannot be raised in courts. The German legislation related to prostitution was also amended in the area of penal law (cf. §108a German Penal Code *Ausbeutung von Prostituierten* (exploiting prostitutes) and § 181a German Penal Code *Zuhälterei* (pimping) where providing facilities for the exercise of prostitution is not perceived as a criminal act anymore). Both legal approaches to legality or illegality of prostitution differ materially as well as constructively, and this point might interest jurists, especially because the Swedish statute speaks about sale of services while the German statute deals with services, and it does not mention sale. Jurists may have an opinion as citizens about the appropriateness of the one or the other act of regulation, yet their profession does not include any knowledge about the appropriateness of the regulated matter itself.

precedents) to constellations of life (often called ‘cases’ by jurists) in order to solve a legal controversy or to avoid it when law fulfills its steering function in society. Interpretation takes place in such applicational situations. Law is the most efficient mechanism to steer society as it is a coercive and not only a purely argumentative steering mechanism. A court opinion, a judgment, is therefore not only a statement of valid law but a speech act that has immediate consequences in the social practice. What is more, it may convince involved or interested parties or not do it. Furthermore, legal discourse is complex as it can conceal the legal practice as is the case in the affirmative discourse of positivists that stresses logic, syllogisms, and *ratio scripta* as it can critically analyze it with means of critical discourse analysis. Therefore, interpretation in law is ideological, not logical.

Pragmatic legal linguistics appears as an area of knowledge that scrutinizes legal-linguistic operations in order to understand law, i. e. the legal language as law interests linguists because of its particular language. Most striking are legal argumentation, legal interpretation, and (because of its practical importance) also legal translation. Less well understood are multiple legal-linguistic operations such as fact description, witness testimony, accusation, lying, or even laughing or giggling in court procedures<sup>13</sup>. The number of legal-linguistic operations is basically unlimited, and it corresponds to our knowledge of pragmatically relevant phenomena of which legal-linguistic operations are a reflection in law, i. e. in its language. Due to this mirror image correspondence, philosophical and linguistic pragmatics seem to be best suited to cope with the language of law. Central to this

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<sup>13</sup> Ordinary language use may be interpreted in terms of law, for example to find out whether a tort has been committed, as for instance in *Brown v. Stauffer Chemical Corp.* (539 P. 2d. 374 Mont. Sup. Ct. 1975): Terry Brown, age 18, was a newly hired worker for the Stauffer Chemical Company in the U. S. state of Montana. His supervisor was LeRoy Mehring. One day, Mehring entered the office where Brown was working and said to him ‘Let’s go, sweetheart’. After Brown told Mehring that his name was not ‘sweetheart’, Mehring replied: ‘OK, sweetheart’. Further exchanges between the two men followed, and finally Mehring told Brown that he was fired. Brown claimed that while he was getting his things in order to leave, Mehring continually called him ‘sweetheart’ and gave him pats on the rear at different times. Subsequently, Brown sued Mehring for damages. The court deemed the entire exchange as insignificant stressing that the law disregarded trifles: “Nominal damages of \$1.00 as against defendant Mehring are also justified on this record, and this Court does not wish to indulge in an extended discussion of law on such a trifling matter”. Linguistic failure of the deciding judge is evident in this case that illustrates a situation of denial of legal argumentation as a strategy of application of law.



investigative enterprise are speech acts and discourse as leading theoretical concepts of all reflection about the language of law construed to date. In the pragmatic approach to legal language, law emerges as a result of discursive practices that are steered by legal-linguistic speech acts. Legal language appears as language used in legal contexts, for instance terms such as *family*, *person* and *student* may make part of it or may be used in other contexts that only indirectly reflect their meaning in law, if at all (cf. Galdia 2021a: 25).

## **5. Fundamental steps in pragmatic legal-linguistic research**

Problems of the legal-linguistic method and the legal-linguistic subject matter cannot be totally separated. In terms of method, pragmatic legal linguistics starts with the identification of its object of study. Historically, legal linguists focused on legal concepts and legal terms as their main area of research. Some also researched the legal style. Later, the discovery of incongruent legal terms in different legal systems occasioned by translations strengthened even the focus on legal terms and concepts as an area constituting the legal language (cf. Mattila 2013: 140; Mattila 2018a). Concepts are the domain of jurists; linguists are interested in terms as they lead them to bigger structures that are responsible for the emergence of meaning in texts. Legal linguists have soon discovered that legal language cannot be reduced to isolated terms and concepts. Terms and concepts appear in contexts and form legal texts. Legal texts form legal discourses, where multiple legal-linguistic operations such as legal argumentation, legal interpretation, describing facts, justification of court decisions and the like take place (cf. Galdia 2017: 288). The totality of speech acts that form the legal discourse represents the legal language researched by the legal linguist.

Pragmatic legal linguistics, like general linguistics can focus upon the conceptual mapping of the field at the most upper or at the lowest level of linguistic parameters. The abstractly most advanced concept useful in pragmatic legal linguistics is discourse, the lowest is the speech act. Legal constructs developed by the legal science such as ‘contract’, ‘unjust enrichment’, and ‘fee simple absolute’ are

intertwined and they function within more complex structures (cf. Galdia 2021a: 56). They are present in legal texts and form points of anchorage for legal argumentation that tries to come to terms with interpretive problems created by textually and communicationally deficient law. The characterization of the legal discourse as the interplay of legal speech acts, mainly in acts of shaping and applying law, is the theoretical task of pragmatic legal linguistics. Its practical task is to contribute to the development of better law, i. e. to language use in line with communicational standards discovered in general linguistics. The description of the legal discourse is also the final word in pragmatic legal linguistics as this discipline is limited by the tasks of identification and characterization of the legal discourse in all its forms of appearance.

Law as research subject becomes truly challenging when the application of a legal statute in a particular case, which is dominated by diverging opinions about the content of law, is at stake. In such a case, the quality of legal argumentation is the decisive factor in the battle about right and wrong between competing propositions about the possible content of the disputed law. Therefore, legal argumentation is the main legal-linguistic operation that matters particularly when conflicts about the content of rights are approached from the legal-linguistic perspective. Doubtless, legal language is argumentative, yet the consequences of its argumentative nature remain largely obscure. In the comparative legal-linguistic research this aspect of legal language as well as language use that is closely related to it, is not sufficiently explored either. Moreover, when different legal cultures such as the Continental European and the Chinese are compared, the question of comparability imposes itself as an additional burden upon the researcher (cf. Galdia 2020). Until now, the starting point in this sort of academic scrutiny is the question whether the language used in the legal argumentation is ubiquitous or whether it displays characteristics that contradict the thesis about homogeneous globalized legal argumentation that is rendered with the help of essentially equivalent argumentative speech acts (cf. Galdia 2014: 341).

Overall, in the comparative research into legal argumentation one may distinguish arguments of different origin. First, arguments typical of the specific legal culture may come up in relevant legal-linguistic speech acts and they may be supported by other traditional

arguments of regional origin<sup>14</sup>. Additionally, some legal arguments might be common to some legal cultures; some may appear in mixed forms in different legal cultures. Still others may be innovative in the examined legal culture and may have been implanted in the conscious or unconscious processes of legal transfers. What is more, argumentation is a practical activity. It is apparent that legal arguments relate to other, for instance political, religious, or social arguments. In terms of linguistics, arguments manifest themselves in speech acts. Therefore, legal and social arguments can be illustrated in their immediate linguistic dress before they will be interpreted within the framework that displays their logical classification. The complexity of argumentative structures also concerns the use of interpretive devices such as reference to the rule of law or to justice in the argumentative text samples. These argumentative devices are in fact meta-arguments because they steer the detailed argumentation in legal texts. Jurists value them highly as they regularly assume that reference to such meta-arguments contributes to the solution of legal problems in situations where argumentative ‘deadlocks’ or ‘ties’ in Dworkinian sense emerge in fundamental debates about the content of rights (cf. Dworkin 2005 359).

## **6. Pragmatic moments in shaping and applying the language of law**

Pragmatics in legal-linguistic communication deals with the use of language in contexts broader than those defined by the legal doctrine. These contexts also comprise processes in which the language of law comes into being. The use of language in the sense of shaping or

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<sup>14</sup> Meizhen Liao (2012: 404–407) discussed the so called ‘postscript by the judge’ in Chinese penal judgments following the universal form of the judgment in penal matters. The first part of the judgment is devoted to sentencing, the other to moralizing. The judge may write e. g.: “Think of your parents, who have endured countless sufferings and borne numerous hardships in raising you and supporting your education...you failed to live up to their expectations”. Liao (2012: 407) indicates that the reason for this structural dichotomy should be searched for in the Chinese legal thinking differentiating between *fa* and *li* (cf. also Galdia 2021a: 140). Meanwhile, penal judgments written in the Occidental tradition also frequently include ethical considerations.

creating language is typical of the language of law where regularly the language must be made in order to draft legal provisions whose wording will be subsequently applied in judicial and related contexts of use<sup>15</sup>. Likewise, the ordinary language is created in speech, yet the creation of legal language as an element of actual use of language seems to be quite extraordinary in it. It follows from the fact that law is a discursive practice.

As mentioned, pragmatic legal linguistics approaches law at the moment of its application. Law is fully developed, especially linguistically when it manifests itself in action. This central action for pragmatic legal linguistics is the application. Application of law in pragmatic legal linguistics goes beyond juridical institutions, where it is construed as a cognitive process in which the competent judge decides a legal question with reference to abstract legal norms and to precedents. This approach of the legal doctrine does not coincide with linguistic reality of the application of law. Whatever linguistic operation aiming at understanding law in a specific context, for instance a constellation of problems in daily life is application of law. By contrast, idle law is the domain of legal positivists and of the legal doctrine, it does not show law but some written texts that are analysed in an unconvincing way, mainly because they do not consider the law in action<sup>16</sup>. Textuality of law is misconstrued in such approaches. The central text of law is the one in the making, in the processing of textual samples in legal-linguistic speech acts. Meanwhile, the legal doctrine and many legal positivists perceive the written documents, for example

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<sup>15</sup> The French legislator wished to regulate the publishing of data concerning police officers on duty as some of them became victims of harassment or other forms of violence. The wording of the provision was generally perceived as controversial in terms of the freedom of speech. Art. 24 of the law called 'Loi sur la sécurité globale' provided initially: "Est puni d'un an d'emprisonnement et de 45 000 euros d'amende le fait de diffuser, par quelque moyen que ce soit et quel qu'en soit le support, dans le but qu'il soit porté atteinte à son intégrité physique ou psychique, l'image du visage ou tout autre élément d'identification d'un fonctionnaire de la police nationale ou d'un militaire de la gendarmerie nationale lorsqu'il agit dans le cadre d'une opération de police". The subsequent version of draft preferred the term 'données personnelles' as a textual benchmark of the penal sanction. Finally, however, the French Conseil d'Etat declared this draft constitutionally overbroad in its decision of 20 May 2021.

<sup>16</sup> The idea of the 'law in action' has its roots in legal realism of American, Scandinavian, and German origin (cf. Aarnio 1989: 127–130). It supports the perspective upon law adapted in pragmatic legal linguistics while being also methodically very close to it as it starts with the reality of legal action and not with the 'law in the books'.

civil codes, as texts of law. Texts of law emerge with argumentative reference to codified law, for instance to civil codes. Statutory law rendered in written texts is therefore important in pragmatic legal linguistics, yet in a specific sense. In a democratic society, it forms the basis for legal discourses that would be much too unprecise without it (cf. Galdia 2014: 314).

## **7. Meaning in pragmatic legal linguistics**

Pragmatic legal linguistics deals primarily with the emergence of meaning in law because this is the central issue of law. Understanding law is a prerequisite for its application, at least in theory. Understanding language, i. e. the way in which it constitutes and transfers or communicates meaning is another prerequisite for the application of law, and finally also for its understanding. The legitimate question at this early stage of methodical inquiry is where to start. The theoretical start of pragmatic legal linguistics is the mapping of its fundamental concepts. The practical start is the analysis of a communicative situation in law that tests the conceptual framework adapted in order to understand the language of law. The task of mapping basic concepts depends upon the conception of pragmatics that one adopts. I follow integrative concepts of pragmatic and semantic inquiry that include language use in social, especially highly institutionalized contexts (cf. Searle 2011; Recanati 2008). These general, integrative concepts can be further expanded by ideas and models based e. g. on Mikhail Bakhtin's (1981) or Michel Foucault's (1966; 1969) writings to understand better how people speak about law and also why they speak in the way they have chosen to speak. Beyond basic concepts, there exist numerous particular concepts that are used to clarify details of the use of language in law. They refer e. g. to the refusal to speak, silence to contractual offers, smiling as answer, avoiding answers etc. While the fundamental concepts are stable and only a few, the list of particular concepts is long and never exhaustive because the list of particular communicational situations in law is not final, and it depends upon our research into the practice of law, inventiveness of researchers, and the progress in legal-linguistic investigations.

## **8. Conditions for communicating meaning**

Communication in law is blurred when no readable meaning is proposed in social contexts. This concerns foremost discourses between professional jurists and lay persons. In such discourses something else than meaning is regularly communicated. This might be social hierarchy, expectation of obedience, economic interests etc. Communicational aspects of law can be approached on two interrelated levels. It is advisable to develop a theory of communicating law to others, yet also to elucidate which are the problematic and characteristic points in legal communication. The first aspect was addressed by Maria Teresa Lizisowa (2016), also from the pragmatic point of view. The second aspect was discussed by many researchers in different contexts. For instance, Andrei Marmor (2014) suggested to perceive a piece of legislation as a collective speech act. Furthermore, the impact of law upon our speech was rarely investigated in linguistics. In fact, law regulates our daily speech, i. e. its limits in multiple situations. Legal drafting, textual structure of court opinions, parallel drafting, plain language initiatives, witness testimonies in trials, and combating hate speech are exemplary areas of pragmatic interest (c.f. Beever et al. 2020: 20; Grech 2021: 51). Pragmatic analysis clarifies many problems connected with the named issues and cleans the table of unnecessary debates that as a rule underestimate the complexity of language and the ideological constraints of its emergence and development. To illustrate, rules for legal drafting aim at grammatical correctness and uniform style of legal acts. Overall, one cannot deny their usefulness as all too individual wording and style of legal acts amplifies interpretive problems. Meanwhile, there is a risk that the work of legal linguists would be confused with the activity of grammarians<sup>17</sup>. On the other hand, standardization of language use in legal acts and court opinions petrifies language and it supports the emergence of formulaic language that is less apt at rendering linguistic nuances of communicational situations and tends to use general formulations instead of subject matter oriented explicit expressions (cf. Stein 1995; Sutela and

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<sup>17</sup> Claude Hagège (1987: 143) explained this problem: “ ‘Grammairien’ et ‘linguiste’ réfèrent à deux types distincts d’occupation: le grammairien défend une norme d’usage, ou l’enseigne comme un modèle à ne pas transgresser; le linguiste observe les faits et les lois de leur évolution, pour en inférer des constantes et des prédictions; il ne fait pas profession d’enseigner une norme, même s’il la suit dans son usage personnel”.

Lindroos 2021: 14). Legislation may also regulate interrelated issues in different legal acts. This legislative technique that reduces textual coherence may impede orientation in the regulated subject matter and finally also lower the effectiveness of law (cf. Refors Legge 2021: 259, 265–266). Furthermore, the regulation of the textual structure of court opinions may be understood by those who make part of judicial institutions or are close to them, for instance attorneys at law, yet it may be inaccessible for the broader public and therefore not informative<sup>18</sup>. It does not increase the transparency of legal decisions and does not further the better communication of law to the parties of litigation and to other potential recipients. However, it may have some role to play in the simplification of the work in courts on different levels. Equally, plain language initiatives often address issues that are inherently complex in law and that cannot be linguistically simplified. On the other hand, they underestimate extra-linguistic, institutional conditions of emergence of avoidable complexity in legal texts. Moreover, parallel drafting anticipates translation problems in texts formulated in bilingual countries or in international institutions. Its problem is the standardization of linguistic expression that may occasionally take place to the detriment of one of the languages concerned. Witness testimony in trials confronts us with the use of ordinary language in a communicational landscape dominated by specialized language. Frequently, witnesses feel obliged to speak or try to express themselves

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<sup>18</sup> A typical issue concerning the structure of court opinions is the question whether the formula included in the court decision shall be put at the beginning or at the end of the judgment (cf. Arntz 2002: 35). Some might argue that the court decision is the result of the reasoning of the court that is described in the court opinion. Therefore, it should logically stand at the end of the judgment. Others may assert that court opinions are used in administrative matters, for instance in enforcement procedures where the concerned clerks are not interested in the reasoning of the court but exclusively in its decision. Therefore, the court opinion should start with the decision as this is the most efficient way, also in terms of communication. Beyond this particular issue, which also manifests legal-semiotic implications, pragmatic legal linguistics helps elucidate traditional questions of comparative law, e. g. the alleged or real difference between common law and civil law. Even in comparative law this difference has been perceived by some scholars as negligible, some legal comparatists maintain that both legal systems merged already (cf. Galdia 2017: 341). Research into the textuality of law and the use of legal language shows no significant differences between the two legal systems. Both use one type of assertive language that transfers normativity with the same legal linguistic means, i.e. with legal speech acts (cf. Goźdz-Roszkowski 2017: 104). This result is not surprising because their language is rooted in one way or another in the Latin concepts of the Roman law and in legal texts that bear these concepts (cf. Mattila 2020; Mattila 2021).

in this specialized language. They regularly fail in these clumsy attempts to speak like jurists, and they may cause misunderstandings. Translating witness testimonies is even more problematic, as interpreters may have the tendency to smooth stylistically testimonies that in terms of style and vocabulary may be situated on a lower level of expression. For the judge, important information gets lost in such situations. Parties also regularly try to use legal language and by so doing they cause problems that have to be solved in court proceedings<sup>19</sup>. Pragmatic legal linguistics proposes using ordinary language in communicative situations in legal settings as the use of ordinary language reduces communicative problems.

## **9. Legal text and legal discourse**

Law manifests itself in texts, oral and written<sup>20</sup>. Legal discourse assembles both forms of legal communication. In the research, the one

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<sup>19</sup> The composed adverb ‘hereby’ which is typical of legal language was used in a holographic will (and also misspelled there) to draft a legal document: “I Evelyn Foster being of sound mind and body do hereby declare in the event of my death *I herby will* the farm house and contents to go to JMF...also *I do herby request* that the farm...” (Foster v. Foster, 472 S.E. 2d 678 W.Va. Ct. App. 1996). The formulation of this last will led to court proceedings and was finally found valid. The attempt to write a legal text in a legal language caused problems that could have been avoided had the testator used ordinary language and clearly expressed her last will in her own words.

<sup>20</sup> Textual samples such as ‘A person has an insurable interest in property when the relationship between him and the property is such that he has a reasonable interest expectation based upon a real or legal right, of benefit to be derived from the continued existence of the property and of loss or liability from its destruction’ will be, as a rule, identified by speakers as belonging to the realm of the legal discourse. This working hypothesis is strengthened by the evidence of particular terminology used in the sample, e.g. ‘insurable interest in property’ that transgresses ‘property’ of the ordinary discourse. Additionally, doctrinal language such as ‘a reasonable interest expectation based upon a real or legal right’ and excessive substantivization (nominalization) in ‘existence of the property and of loss or liability from its destruction’ indicate the use of legal language. Most significantly, attentive readers will be surprised by the metaphysical formulation ‘the relationship between him and the property’ that is typical of doctrinal language and that structurally resembles the speech about the immortality of the soul. Likewise, in terms of discursive strategies needed to participate in discourses, the speaker will easily recognize that the sample is part of a broader argumentative context. Text samples borrowed from Crowell v. Delafield Farmers Mutual Fire Insurance Comp. 453 N.W. 2d 724 Minn. Ct. App. 1990.



or the other form dominates, as a rule. While discursive approaches seem to better correspond to oral texts in terms of method, legal textology as a domain that researches the emergence of legal texts and their underlying structures often focuses upon written texts, such as legal statutes. Doubtless, the composition and the transmission of law have many preconditions. Next to political aspects that determine the content of law, textological preconditions have an important role to play in these processes (cf. Mattila 2012; Niemi-Kiesiläinen et al. 2006).

Legal texts have the potential to become objects of study in critical discourse analysis<sup>21</sup>. All other texts written in the public sphere,

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<sup>21</sup> Work on legal discourses often starts in *medias res*, the notion and even the very existence of the linguistic entity ‘legal discourse’ is usually taken for granted. Identifying legal discourse as a legal-linguistic phenomenon is therefore essential to pragmatic legal linguistics, especially because legal discourse can be perceived as the most advanced and most abstract descriptive concept in the research of legal language (cf. Mattila 2012). It seems that the problematization of a legal issue in social communicative landscapes is the point of anchorage for the identification of the legal discourse and the consequence of the act of identification is that the legal discourse comes into being. A brief legal-discursive analysis might clarify both interrelated steps: In the Covid 19 crisis, the EU member states agreed in June 2020 to purchase and distribute the anti-Covid vaccine according to a procedure that guarantees equal access to the vaccine for all member states. The legal act in question that is the basis of the EU Agreement of June 2020 is the Decision No 1082/2013/EU of the European Parliament and of the Council of 22 October 2013 on serious cross-border threats to health. It says in the here relevant Article 5: “Joint procurement of medical countermeasures. 1. The institutions of the Union and any Member States which so desire may engage in a joint procurement procedure... 2. The joint procurement procedure referred to in paragraph 1 shall comply with the following conditions: (a) participation in the joint procurement procedure is open to all Member States until the launch of the procedure; (b) the rights and obligations of Member States not participating in the joint procurement are respected, in particular those relating to the protection and improvement of human health; 3. The joint procurement procedure referred to in paragraph 1 shall be preceded by a Joint Procurement Agreement between the Parties determining the practical arrangements governing that procedure, and the decision-making process with regard to the choice of the procedure, the assessment of the tenders and the award of the contract”. In this case, the German government contracted fifty million vaccines although negotiations between the European Commission and the manufacturers were still ongoing. The question might come up whether the German government has broken the EU law in that it negotiated deliveries for its country although the negotiations were ongoing. Therefore, the Italian government and some EU parliamentarians criticised Germany for having violated the agreement. However, deliveries were scheduled to take place after the fulfilment of contractual obligations under the EU contract. Meanwhile, the preliminary contacts were concluded on 31 August 2020 and 9 September 2020 respectively, in the time when the negotiations with the EU were ongoing. Parallel negotiations are excluded under the Agreement, according to the opinion of the EU Commission. The Commission saw the purpose of such constraint in

especially those coming from institutions display this potential as well. Next to medical, even technical texts have this potential. The reason for this amazing structural feature of texts in the public sphere could be seen in their attempts at stating social facts as if they displayed measurable truth. Meanwhile, facts in the social sphere are constructs that have deep roots in the social formation in which they take shape. As soon as an institution or a speaker/writer who acts on behalf of an institution states social facts as if they were the emanation of verifiable truth, the critical discourse readjusts the perspective upon the facts in the text. Facts in this sense are also statements of law in judgments because they, as a rule are stated as such. Otherwise, they are definitely constructed as whatever social facts. Therefore, in pragmatic legal linguistics, yet not in the positivist legal doctrine, no difference is made between facts and law in narrative terms. For administrative purposes, this artificial dichotomy may be acceptable, yet it is necessary to bear in mind that whatever factual statement refers to social facts that might or might not coincide ontologically with natural facts such as rain or the color of one's eyes. Therefore, narratives about facts in life and narratives about the content of the applicable law may differ as to their textual origin, yet structurally they are texts stating social facts. The contemporary legal doctrine simplifies the structure of signs in law and by underestimating their potential to create law it causes misunderstandings. It creates distinctions where there is no difference. Textually, facts and law are one category as far as their linguistic statement is concerned because they depend on discursiveness. Two particularly important features of legal discourse, i.e. rationality and certainty will be discussed below together with some other legal-discursive features that used to accompany them.

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avoidance of weakening of its position in negotiations with manufactures, where it preferred to appear as the only potential client. The European Commission and the Portuguese Presidency of the EU avoided statements about the legality of the German contracts. The strategy of avoidance made the legal problem even more obvious as media began to discuss the issue the more the European institutions tried to put an end to the discussion of the possible violation of law. Post-modern legal discourse is often inconclusive, while academic discourse about law is expected to be inspirational, enlightening and incisively formulated.

## **10. Rationality in law as a challenge for pragmatic legal linguistics**

Law is approached in legal theory as a rational discourse (cf. Aarnio 1987). While following this perspective, legal linguistics focused upon the law as a rational text or as a rational discourse and it tried to make clear how the rationality of legal acts and of court decisions is engendered as a linguistic practice. Search for rationality in judgments or the postulate to base judgments on the search of rationality is normatively binding for all attempts to apply law. Therefore, pragmatic legal linguistics steered its analyses of judgments within this perspective. It did not neglect the rationality link that dominates the discussion about law since the ancient Greeks. Meanwhile, textual analysis of law and the structure of legal discourse (as far as it is known today) do not confirm fully the research perspective that focuses upon legal rationality. Traditional legal linguistics is based on a fiction of cooperative argumentative mechanisms where all involved parties try to contribute to the finding of the rationally best justified solution. Yet, law in its linguistic dress appears primarily as the exercise of power. It is also received as such by those subjected to it. Rationality aspects play therefore a much more restrained role in it than might be generally assumed. Issuance of legal texts as well as their acceptance appear as communicative actions that are related to searches for rationality, yet they are not necessarily limited to them. Especially in certain segments of citizenry the refusal to deal with law on a rational basis is growing<sup>22</sup>. Law is approached there purely emotionally, as an instrument that limits personal freedom. At the same time, involvement in rational argumentative practices about the rationality of law is refused by many concerned persons. The diminishing level of legality of governmental action in Occidental societies contributes to the attitude of general denial of legality in forceful governmental action from the perspective

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<sup>22</sup> In the court opinion *Hyatt v. Anoka Police Department* (Court of Appeals of Minnesota, No. A 03-1707/2004) the suspect who opposed his arrest is reported to have yelled to the police officers: "Go ahead, just shoot me, shoot me!" He did not consider that already two arrest warrants were issued against him for possession of controlled substance and fleeing a peace officer. Hyatt, therefore, had no reason to assume that the police officers acted illegally while trying to arrest him. He turned the legally uncontestable action of arrest into a dramatic scenery where utmost injustice was about to happen.

of persons directly or indirectly concerned. Generally, therefore, the denial of rationality in law and the lack of interest in debates about the rationality of legal texts, i.e. about the right and wrong in society, questions the very existence of law. Finally, it marks the moment in which the interest in language in society disappears and where every action, legal or illegal, is a matter of brute facts and not a matter of wise words.

Discursive and formal theoretical approaches to social reality, which includes legal reasoning are complementary, with dominance of discursive features. Rationality of social action can be approached from both starting points, even simultaneously, yet social discourse does not require formal, i.e. mathematical/logical coherence. Reasoning functions argumentatively (cf. Sperber and Mercier 2017). Its fundamentals are discursive. Therefore, the dominant approach to social phenomena remains discursive, formal approaches are auxiliary. They enable a clearer description of social rationality, including legal argumentation and legal interpretation. This means that a factually doubtful legal argument may be fully acceptable and effective in the application of law, i.e. in the legal discourse, because it is based on fundamentals that are theoretically valid, not true. And it is valid because it is accepted as a result of the democratic vote rather than perceived as an outcome of algorithmic operations that would formally guarantee its rationality and coherence. This result follows from the structure of the legal norm. In itself, also this result is a conglomerate of discursive and formal approaches.

The legal doctrine prefers the linear structure of rationality. In law as in life this preference is not effective. Dealing with things one after another does not work in law. ‘Evident facts’ are an interesting example of this type of search for rationality. Generally, in procedural law evident facts need not be proven in a trial. As an example, one may find in legal literature the day of the beginning of World War II that according to history textbooks, mainly however school textbooks read by jurists, began on September 1, 1939. The Chinese however date events related to the final outbreak of the war to 7 July 1937, when Japan aggressed China. They differentiate between events understood as the prologue to the war and events that gave rise to its ‘official’ outbreak<sup>23</sup>. From the strictly scholarly point of view, one may

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<sup>23</sup> In Zhang (2002: 205) this view, which I rendered above in English is stated in Chinese as follows: 联合国诞生于第二次世界大战的烽火之中。1937年7月7日

additionally mention that the World War II consisted of several phases that were interlaced and therefore the day of the beginning of the war is actually not really an academic issue, yet it remains a symbol and a useful legal-linguistic example that helps understand how law deals with obviousness. One of the tasks of critical discourse analysis is to scrutinize such problems.

## **11. Complaints about uncertainty of law**

Pragmatic treatment of law was sometimes perceived critically as an approach that waters down or endangers legal certainty. Legal positivists formulated the ideal of certain law expressed in precise language that good jurists, unlike their less qualified colleagues were able to deduct from the amalgam of legal rules. This proved to be a misunderstanding - law in the history of humankind has never been a secure enterprise. In pragmatic legal linguistics, certainty in law does not concern the outcome of lawsuits but the fact that legal-linguistic operations will be applied in lawsuits in a professional way. As far as the very outcome is concerned, i.e. when the question comes up whether the plaintiff or the defendant will win, then probability is a more helpful notion to describe this legal-discursive topic. Legal probability is based on the analysis of social tendencies in commitments to values. An argumentative turning point may be reached at a point in time and a new tendency will become leading in the decisions of courts, especially of supreme courts. In terms of pragmatic legal linguistics, certainty equals awareness about the rules of language use in society.

Uncertainty and ambiguity are interrelated. Ambiguity in legal texts is related to their semantic indeterminacy (cf. Ross 1957). Only in the context of use, utterances such as ‘I will come tomorrow’ or ‘I will call the police’ may become meaningful, as warnings, threats etc. Argumentative speech acts emerge under such circumstances, i.e. as justification, interpretation etc. Contextualization of decontextualized law is the principal device to produce legal texts that are easier to apply.

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，日本发动对中国的全面侵略战争。史称“七七事变”，拉开了第二次世界大战的序幕。1939年9月1日，德国入侵波兰，英法对德宣战，第二次世界大战正式爆发。

The legal rule appears in decontextualized legal texts as a provision of law, called article or paragraph, depending on the tradition in the legal culture concerned. In order to be applied to a case constellation that represents a legal problem the legal provision has to be interpreted. This interpretation is challenging because it allows different propositions to emerge. Paradoxically, the existing legal doctrine refers to conceptual analysis to solve interpretive problems, with known results. In light of pragmatic legal linguistics, legal texts in contexts facilitate the application of law. Legal texts appear as certain as they can be in their dependence upon the nature of our language.

## **12. Mastering language and knowing law**

A recurrent issue in legal linguistics is the level of mastery of language among law students and jurists. In pragmatic legal linguistics, this question is particularly relevant because linguistic skills influence the effectiveness of speech. ‘Good language’, ‘excellent language skills’, ‘precise’ and ‘correct’ language are categories that are linguistically unprecise. The issue seen in a sociolinguistic perspective, which is close to pragmatic legal linguistics is even more problematic as linguistic skills of speakers are usually context-dependent and therefore ‘excellent language skills’ might be perceived as an ideal rather than a pragmatic category. This finding does not mean that jurists should become careless in their use of language. Meanwhile, the perspective in pragmatically oriented approaches has to focus upon linguistic reality, i. e. upon the language actually used in judicial institutions. Many speakers, not only law students and jurists spent their life within linguistically restrained frames of reference. Typical of law is therefore the exercise of a profession that depends on language skills within limits that society creates and supports in numerous institutions in charge of law and of language.

Not unexpectedly, linguistic uncertainty manifests itself strongly in non-verbal contexts as law is a linguistic practice. In law, there is nothing to show as law is a linguistic practice that manifests itself on an abstract level of language use. Law may refer to non-verbal communication, yet only linguistically. Non-verbal practices in law are sometimes unavoidable. Meanwhile, it might be easier to show a picture

of a car instead of trying to describe a car to someone who has never seen a car. It seems however more efficient to do both. Jurists are used to the interpretation of language, analysing images is not their traditional domain. Meanwhile, some areas of law such as intellectual property demand from jurists the mastery of skills to express linguistically the characteristic features of an image. Unlike in the case of the interpretation of language there are no traditional canons or doctrinal guidelines that would lead jurists in this area<sup>24</sup>. Therefore, pragmatic legal linguistics is also in charge of the defense of narrative as basic discourse. In the discursive community created in the area of law, narratives dominate other legal genres such as provisions in legal statutes. Jurists may create specific legal genres such as judgments or accusation acts yet all of them will be rooted in legal narrative practice covering the patchwork of disparate forms in which law is expressed, i.e. shaped and applied. Linguists know that one can say everything provided one knows how to frame one's words. Meanwhile, the question as to how to find the right tone in legal-linguistic writings remains open, especially in critical discourse analysis where law shows its ugly face and its opaqueness yet in our type of society it seems unavoidable as a steering mechanism. Therefore, legal linguists are not only in charge of researching the language of law but also of shaping it.

### **13. Advanced legal linguistics**

A conception of advanced legal linguistics might be based upon my above observations. I call advanced legal linguistics all attempts at coming to terms with the legal language that are pragmatic, socially constructive, and discursive. By necessity, such legal-linguistic approaches reach beyond the original legal-linguistic paradigm rooted in researching legal style, legal terminology, and incongruent legal terms in legal translation. Advanced legal linguistics discovers the open

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<sup>24</sup> In September 2020, Beredskapsmuseet in Stockholm, the Swedish copyright owner of the picture showing a tiger displayed on a poster with the ambiguous text: '*En svensk tiger*' (trans. *A Swedish tiger* or *A Swede keeps his mouth shut*), sued the writer Aron Flam for copyright violation as he used the stripped tiger on the cover of his book *Det här är en svensk tiger* (trans. *This is a Swedish tiger*). The parties and the court had to describe the tiger and the background of the picture that demanded from them some skills that are not part of the professional training of jurists.

structure of the legal text that it understands discursively and not as a statement whose meaning is fixed on a piece of paper. The open textuality of law is the basis for the understanding of processes in which meaning emerges in law. These processes are discursive; meaning is created in them and not decoded. However, when coding and decoding are perceived in constructive and not in positivist terms, they may also witness to processes in which meaning is constituted in legal texts. Textually, we find meaning in contexts and not in texts when we approach the issue from a more traditional perspective. Hence, law appears in the conception of advanced legal linguistics as a dynamic linguistic structure and not as an immovable artifact celebrated in doctrinal approaches. The advanced approach to the legal language is rooted in the commitment to researching the use of language as in the use the language shows itself in all its complexity. As the legal language is a piece of constructed social reality, the processes in which it is constructed and applied become better visible when its use becomes the central focus of the researcher. Pragmatic legal linguistics enables to see and to research creative processes in law. Other approaches to legal language could also be perceived as advanced. For instance, formal, i.e. non-discursive research that approaches the language of law from the perspective of logic is a well-qualified candidate to fulfil my criteria of advancement. Yet, until now it contributed to better understanding of the complexity of logical structures rather than to the elucidation of the language of law. Therefore, I did not spend much time on it, yet I acknowledge its epistemic potential<sup>25</sup>.

The discussed conception of advanced legal linguistics also improves the status of law in linguistics that until now did not offer much to linguists. It showed them samples of normative language, yet logicians, not jurists developed the logic of norms that in linguistic terms represents the deep structure of the legal language. Deontic logic remains a foreign body in legal science as legal science was unable to

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<sup>25</sup> Martin Aher's *Modals in Legal Language* (2013), a PhD dissertation written at the Osnabrück University illustrates the level of advancement of this type of research. It describes attempts to understand the deep structure of explicit legal texts, i. e. those that appear in the form of a norm. Understanding logical categories such as permission, obligation, prohibition requires this type of research. Logical categories are displayed in ordinary and specialized language in multiple linguistic constructs. The legal-logical approach brings light into this complex relation between logical and linguistic structures. It also makes clear the very existence of legal-linguistic operations such as legal interpretation and legal argumentation.



accommodate it within its structure that favours immediate decisions with reference to the surface of legal texts. Law in its contemporary structure has to cope with this circumstance, and it does so in most cases of application of legal rules. Legal science, however, perturbs unnecessarily the theoretical stability of our knowledge about law in that it regularly claims that offering an unambiguous text of law in which legal meaning is adjusted would be its utmost task. In fact, its task is exactly the contrary. It has to develop interpretive devices that make plain and also enable a more systematic application of rules in law that are by linguistic necessity ambiguous. Yet, the legal science is ready to confront all but this task. Therefore, advanced legal linguistics could contribute to bridging the gap between theory and practice in law.

## **14. Conclusions**

From the above remarks the contours of a pragmatic theory of legal language and the future research agenda might have emerged in the mind of the reader. The perspective that dominates all deliberation about the language of law in pragmatic legal linguistics is determined by the finding that law is a discursive practice. This fundamental theoretical assumption has consequences: first, law depends on discursiveness for its creation and its application. It also means that law as a discursive social practice is always made or engendered by someone. Second, law that emerges in discursive practices can be good or bad because it is made by people under conditions of their limited knowledge and their changing ethical attitudes. Therefore, law will be inevitably imperfect like all other social institutions that were created in the history of humankind. Third, discursiveness that is constitutive of law is also critical to the rationality of law, i.e. to processes in which it meaningfully emerges. Therefore, it is necessary to understand how meaning emerges in law before law can be documented by legislative institutions or applied in courts. Fourth, the meaning of law is not encoded in legal materials, it is not deducted from them but constructed. This intricacy of legal semantics is caused by the indeterminacy of meaning in language and by constant changes in ethical attitudes of citizens. Meaning in law emerges in numerous legal-linguistic operations such as argumentation, justification or fact finding that steer the legal discourse. Legal-linguistic operations have been stable over

centuries, and they also seem to be geographically equally represented all over the planet. Fifth, legal discourse represents the totality of our utterances about law; it can be institutionalized or informal. Sixth, legal discourse is further determined by non-optional textual patterns such as written judgments or printed statutory provisions that further stabilize it. Textual patterns of law are relatively stable, yet they evolve unlike legal-linguistic operations. Seventh, legal discourse transfers legal regulation that can be characterized as the subject matter of law. Pragmatically, this point is important as it combines the content of legislation and the way in which it is expressed, i. e. what is said about law and how it is said. Eighth, regulation as an inherent part of the legal discourse is strictly speaking not the domain of jurists. Jurists participate in its setting, yet they are not masters of regulation. In democratic societies, citizens shape legal regulation in accordance with their knowledge, beliefs, and ethical commitments. Where daily knowledge does not suffice, experts provide their part into the legislative discourse. Legal regulation is therefore the dynamic part of the legal discourse. Ninth, in pragmatic legal linguistics, law is perceived as exercise of power with discursive means. Critical discourse analysis is therefore best suited to elucidate our speaking about law. Tenth, in terms of the future research agenda the most pertinent task for pragmatic legal linguistics would be the project of re-writing law in line with the known findings about the use of language. The use of ordinary language in legislation and judicial institutions reduces semantic problems in the understanding of law, yet it does not eliminate them. These are my pragmatic fundamentals in the research into the language of law. Finally, the strength of pragmatic legal linguistics appears both on the methodical and on the material level. Methodically, it offers a tool for the analysis of the legal language that corresponds to the reality of language used in legal settings. Materially, it offers results that allow further detailed analyses of the legal language and the expansion of research into a fully-fledged theory of law and its language.

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