

# LINGUISTIC ANALYSIS OF NECESSITY EXPRESSIONS IN FINNISH AND POLISH LEGAL TEXT IN TERMS OF DEONTIC STRENGTH

**Joanna RYDZEWSKA-SIEMIĄTKOWSKA**, PhD student  
Department of Hungarian Studies, Section of Finnish Studies  
University of Warsaw  
ul. Dobra 55, 00-312 Warszawa  
[j.rydzewska@uw.edu.pl](mailto:j.rydzewska@uw.edu.pl)

**Abstract:** The aim of this article is to highlight an issue of expressing deontic modality in Finnish and Polish in a legal context in terms of deontic strength. The particular interest is put on the Finnish neccessive expression *on -t(t)ava* and its Polish equivalents. The choice of this expression is motivated by the fact that it is the most frequent deontic expression that occurred in the analysed material. It is argued that although the meaning of the Finnish and English modal expressions are almost parallel, the corresponding Polish expressions show some discrepancy. This paper aims at giving insight into the differences of the phenomenon on the basis of the Treaty on Functioning of the European Union.

**Key words:** deontic modality; deontic strength; Finnish legal language; Polish legal language

## ANALIZA LINGWISTYCZNA SIŁY KONIECZNOŚCI W KONTEKŚCIE PRAWNYM W JĘZYKU FIŃSKIM I POLSKIM

**Abstrakt:** Artykuł ma na celu przedstawienie różnic w wyrażaniu stopnia konieczności w kontekście prawnym w języku fińskim i polskim. Przykłady zaczerpnięte zostały z Traktatu o funkcjonowaniu Unii Europejskiej i omówione w odniesieniu do języka angielskiego. Środki przenoszenia modalności deontycznej odznaczające się największą frekwencją w analizowanym Traktacie to wyrażenie nesesywne *on -t(t)ava* oraz jego polskie odpowiedniki. Zauważono, iż użycie

polskich ekwiwalentów tego wyrażenia jest najbardziej zróżnicowane w kategoriach siły deontycznej wśród trzech języków.

**Słowa kluczowe:** modalność deontyczna; siła deontyczna; fiński język prawny; polski język prawny

## Introduction

This year marks the 20<sup>th</sup> anniversary of Finnish being one of the official languages of the European Union. The Finnish legal genre used in the European Union has been investigated in the Institute for the Languages of Finland (Kotimaisten kielten tutkimuskeskus) in particular with focus on the influence of the EU legislation on the Finnish legal language (e.g. Piehl 2002: 101-112, 2006: 183-194, Piehl and Vihonen 2010). However, no major impact on Finnish syntactic structure has been stated.

A similar subject regarding Polish language was analysed in a thorough, recently published work by Biel (2014a). The book offers insight into the correlations between Polish language used in domestic legal acts and Polish that occurs in translations of the European Union acts. Polish has been an official language in the European Union for over 10 years and the Polish version of EU law shows clear differences, for example ‘a strong overrepresentation of obligation modals and a strong underrepresentation of deontic phraseological patterns’ (Biel 2014a: 18).

As one of the most common features of the legal languages is the occurrence of modal expressions, it is interesting to verify how this feature is manifested in Polish and Finnish, when it comes to their comparison in the context of the eurojargon. For the time being, it is not possible to investigate the direct impact of both languages on each other basing on existing legal acts, as there is lack of official, parallel Polish-Finnish legal translations. For this reason the material on the basis of which this analysis has been conducted is the Treaty on Functioning of the European Union where the reference language is English as the major language of the European Union nowadays.

This analysis focuses on a comparison of a Finnish necessity expression *on –t(t)ava* and Polish modal verbs *musieć* and *powinien* in terms of their deontic strength. The particular interest is put on these indicators of deontic modality, as they show some discrepancies.

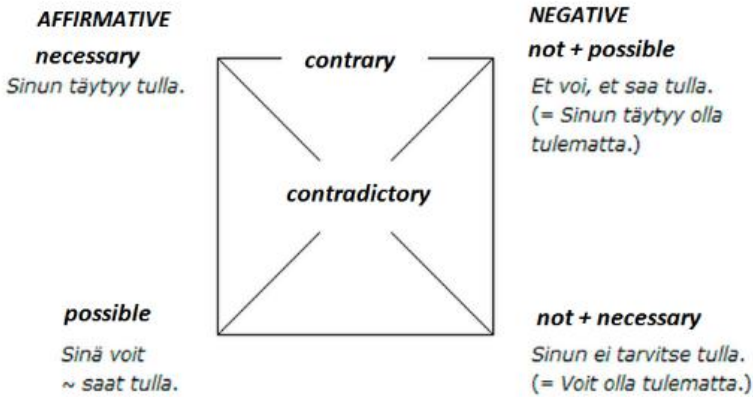
First, the means of conveying deontic modality in Finnish and Polish language are described. Secondly, the background of the research on the deontic strength is presented. Furthermore, analysis that consists of frequency statistics and meanings of the deontic expressions that occur in the text of the analysed Treaty is conducted. At the end of the article an analysis of the sample sentences is shown highlighting the differences in the necessity expressions.

## Deontic modality from the Finnish and Polish perspective

Deontic modality in Finnish linguistics is defined as a phenomenon that is based on an obligation or a permission resulting from any social norms or one's own will that refers to 'acts of an intentional agent' (VISK, *deonttinen modaalisuus*). As far as the legal context is concerned, these norms imposed on somebody can be called in von Wright's terms 'heteronomous norms' (Wright 1963: 76). Furthermore, Finnish deontic modality can be expressed with obligation verbs, necessity constructions and imperative mood. However, there is no unanimity regarding the number of Finnish modal verbs in general – it ranges from 14 modal verbs, as in some newer studies (Kangasniemi 1992) to 45 in a study from the 80's (Flint 1980), while the contemporary descriptive Great Finnish Grammar ('Iso suomen kielioppi', ISK) has taken a middle stand by combining both approaches and modal verbs from both studies (VISK § 1563). This discrepancy in number of modal verbs is a result of, what Kangasniemi notices (1992: 291), the great difficulty to establish some formal criteria in Finnish according to which modal verbs could be defined and easily separated, like it is done in other languages, e.g. English.

The basic system of Finnish modality from the point of view of logic is presented in the Figure 1 below:

Figure 1. The square of opposition in Finnish (VISK: § 1613, Graphic 16).



Polish approach to deontic modality as far as the definition is concerned, is rather similar to the Finnish one. It is a very well-studied subject in general Polish (Jędrzejko 1987, 1988). The occurrence and features of exponents of deontic modality in particular in the legal discourse have been a popular research subject recently, as well (Matulewska 2009, 2010, Biel 2014). Polish indicators of deontic modality include modal verbs, semi-modals and phrasemes that substitute them (Biel 2014a: 161). They seem to be more thoroughly defined and described in Polish legal linguistics than correspondingly in Finnish.

## Deontic strength

In literature on the subject an issue of deontic strength is sometimes raised (Palmer 1986: 100, Jędrzejko 1987, Kangasniemi 1992, Auwera and Plungian 1998: 82, Verstraete 2005, Larjavaara 2007). The discussion concerns the way the 'weak' or 'strong' obligation is imposed on somebody. However, scalarity of deontic expressions cannot be conducted in the same way as scalarity of epistemic

expressions that form a perfect scale (Larjavaara 2007: 402-417, Kangasniemi 1992: 8; 391-392). 'It would be logical "purblindness" to do so (Kangasniemi 1992: 391) because they do not form a full continuum from possibility to necessity. Expressions of obligation thus do not apply to scalar quantity implicatures (Verstraete 2005) and they are quite different from their epistemic counterparts because of some factors like having both a modal source and a modal agent, the specific interaction with tense and especially carrying 'specific presuppositions about the modal agent's willingness to carry out the action described in the clause' (Verstraete 2005: 1416).

With regard to Finnish, Pekkarinen states that it is difficult to separate weak and strong necessity in Finnish as no separate lexical means have been developed for these both types, which are conveyed by the same verb (2011: 185).

In Polish some attempts were made to organise deontic modals on a scale but without taking into consideration the assumptions presented above (Jędrzejko 1987). The interpretation of the differences in weaker and stronger obligation represented by their indicators, *powinien* and *musi*, is sometimes based on the assessment of consequences that would follow not performing an action imposed by some norms. The crucial point here is that performing an action of weak obligation would imply the positive consequences, whereas not performing an action of strong obligation would imply negative consequences (Jędrzejko 1987: 41).

It is still possible to compare deontic modals towards each other and assign them some degrees of strength on a scale, like it is in the study of English modals *must*, *should*, *can* by Wårnsby (2006: 33). There, *must* that expresses obligation is on the left side of the scale and conveys speaker's greatest authority over to addressee that decreases towards the right-sided *could*. In the aforementioned study also Swedish modal verbs were placed on a deontic scale according to the categories of obligation, recommendation, permission and volition (Wårnsby 2006: 35).

All in all, however, it is significant in interpreting the modals to take their contextualization into consideration (Wårnsby 2006: 113-116; Pekkarinen 2011: 128).

## Analysis of the notions on Finnish and Polish deontic expressions

In this analysis modal verbs, semi-modals and phrasemes were searched for. Only expressions that are modal in all three language combinations at the same time were included into the analysis. The aim of such a method was to assure a smooth extraction and comparison of modal means and highlight crucial issues on modality between these two languages as they have not been studied in comparison so far. For this reason the following exclusion criteria were used. Performative verbs that are not modals as well as non-performative verbs in declarative mood, passive voice and other equivalents were excluded from the analysis. As a result, the expressions meeting the inclusion criteria were extracted from the trilingual display of EUR-Lex, with English language being a reference language.

The expressions that were found in Finnish include: *voida, saada, saattaa, ei saa, ei voi, ei tarvitse, tulee, tulisi, on –(t)tava, olisi –(t)tava, on määrä, on välttämätön, on velvollinen, on kielletty, on sallittua, on oikeutettu/ jklia on oikeus.*

Their Polish equivalents are: *jest upoważniony, jest uprawniony, jest zakazany, jest zobowiązany, ma być, ma prawo, może, musi, należy, nie jest zobowiązany, nie ma obowiązku, nie może, nie powinien, powinien.*

In general, permissibility is a category best represented among modal verbs and the most frequent verb is *voi* (3 pers. sg, ‘can/ may’), with 388 results. It is also the most frequent modal in Oulu Corpus – covering all areas of standard Finnish language, analysed by Kangasniemi in 1992: 291. It is followed by necessity expression *on –(t)tava* (*to be*, 3 pers. sg + passive present participle, ‘have to/ must’) with 77 occurrences, from which 20 is a morphologically similar *olisi –(t)tava* (*to be* in conditional + present passive participle, ‘should/ ought to’). On the third place there is an expression of prohibition, a verb *ei saa* (*no + saada*, 3 pers. sg negative, ‘may not’) with 32 results. In Polish the categories are similarly represented: there are 392 occurrences of *móc* (‘can, may’), of obligation modals *powinien* (‘ought to’) is paradoxically most frequent (the enacting parts of the

Treaty should be formulated in a more categorical manner). All results and equivalent combinations are presented in the Table 1 below:

Table 1. The occurrences of modal verbs and expressions in Finnish and Polish.

	jest upowazniony	jest uprawniony	jest wymagany	jest zakazany	jest zobowiazany	ma być	ma prawo	może	musieć	należy	nie jest zobowiazany	nie ma obowiazku	nie może	nie powinien	jest niezbędny	powinien
ei ole velvollinen											X	X				
ei saa													X	X		
ei tarvitse													X			
ei tulisi														X		
ei voi													X			
on kielletty				X												
on oikeutettu	X															
olisi –(t)tava									X	X						X
on määrä						X										
on oikeus	X	X					X	X								
on –(t)tava			X		X	X			X	X						X
on velvollinen											X					
saa	X	X						X	X				X			
saattaa								X								
tulee									X							X
välttämätön			X												X	
voi	X	X					X	X					X			

Interestingly, the Finnish obligation verb *pitää* that is regarded ‘the most common modal verb for obligation’ (Kangasniemi 1992: 99) does not occur in the analysed legal text at all. This observation is confirmed in Kanner, who states that *pitää* constitutes only 1,4 % of all necessity constructions in EU-acts (2011: 55). The same is with Polish necessity verb *trzeba* ‘(one) should, it is necessary to’, which is very common in spoken language (Biel 2014a: 11) but occurs rarely in

the legal material – it is not included in the list of 2000 most frequent words in legal language (Malinowski 2006: 267-286).

The category of necessity is represented almost only by the expression *on –(t)tava* and its conditional form, *olisi –(t)tava*. However, the Table 2 shows that in spite of this their meanings are a bit different in terms of deontic strength. The Finnish *on –(t)tava* expresses obligation and its equivalents in Polish are *musieć* (‘must’, 22 results) and *należy* (‘must’, 11 results) but it also has 14 equivalents meaning ‘ought to’ (*powinien*). The similar expression *olisi –(t)tava* that differs only with the verb *to be* being in conditional clause which makes it less categorical, which is also reflected in the material, amounts up to 17 occurrences in the sense of *powinien* (‘ought to’) and only 3 with regards to strong obligation. Although these two Finnish expressions have different morphological exponents and they should therefore have different meanings, it is interesting to see that *on –(t)tava* covers both ‘weaker’ and the ‘stronger’ necessity despite the fact that *olisi –(t)tava* already conveys the weaker meaning. The comparison in numbers of these two Finnish expressions with Polish ones is in the Table 2 as follows:

Table 2. Comparison of *on –(t)tava* and *olisi –(t)tava* with their Polish equivalents.

	jest wymagany	jest zobowiązany	ma być	musi	należy	powinien
<i>olisi –(t)tava</i>	-	-	-	1	2	17
<i>on –(t)tava</i>	5	4	1	22	11	14

### *On –(t)tava*

The Finnish *on –(t)tava* is a very frequent obligation construction in the standard language (‘välttämättömyysrakenne’, Pekkarinen 2011) that comprises the verb *to be* always in the third person singular (‘on’) and a present participle of the complement verb (Kangasniemi 1992: 356). The typical ending for present participle is a nominative *–tava* which is added to a verb stem, either weak or strong, depending on the



conjugation group. It can have a double or a single 't' also depending on the group. The expression usually takes a genitive subject. It rarely occurs in an epistemic sense and cannot convey dynamic impossibility (Kangasniemi 1992: 359–360). Its dictionary definition includes reference to 'constructions that express obligation [more in a participant-external sense, *pakollisuus*, in terms of Auwera and Plungian 1998] necessity, etc.' and the dictionary example is *Työ on tehtävä* which means 'The job/ task is to be/must be done'. This notion concerns general language and is very laconic. Pekkarinen notices moreover, that 'passive present participle is not modal *per se*' but it gains an interpretation of obligation 'whether the situation is pleasant or undesirable' for the subject of the participle (2011: 5). Furthermore, to relate it to the legal context, Kanner states that 'for some reason for example the necessity expression [*on –(t)tava*] seems to suit the register that the legal drafters approach nowadays'[author's own translation] (2011: 36). This is true and its high frequency is reflected in the studies (Kanner 2011: 34).

## Musieć and należy

The three Polish modals that are most frequent *musieć* ('must') and *należy* ('should, must') are regarded as indicators of strong necessity, while *powinien* ('should') as being weaker. *Należy* is an impersonal and indeclinable form that imposes obligation and in principle it is mostly used in non-normative parts of the acts. Moreover, it is considered to express a stronger obligation than *powinien* (Biel 2014a: 164).

*Musieć* in Polish language is considered to be polysemous. It has about 5 distinctive meanings depending on its relation to other factors. These meanings are logical, dynamic, axiological, psychological and thetic. The last one deals with being obliged to do something by norms and is used in legal interpretation (Zieliński 1972: 40; Ziemiński 1997: 127-134). This interpretation of modal utterances applies only when, for instance, the modal operator *must* is followed by a statement that rules someone's behaviour (Malinowski

2009: 235). Hence, *must* as a modal operator together with other similar deontic means form so called ‘apodictic utterances’ (Malinowski 2009: 229) which are directly related to imposing obligation and prohibition.

## Powinien

*Powinien* (‘should’) is also regarded polysemous. The polysemy of *powinien* is disclosed in its five different meanings: prognostic, axiological, advisory, descriptive and normative (Zieliński 2008: 17). In fact, it is no wonder because it is placed on the 148 position in the list of 2000 most frequent words in Polish legal language which is quite frequent given the fact that as far as the contemporary general Polish language is concerned, it is then on a 138 position (Malinowski 2006: 276). However, in spoken language it is often used as referring to moral rules more than to participant-external necessity making it weaker in meaning (Jędrzejko 1987: 32, Wierzbicka 1972). On the one hand, its deontic strength is weaker than that of *musieć* (Biel 2014a: 164), but on the other hand in everyday language the meanings of *musieć* and *powinien* are neutralized (Jędrzejko 1987: 43).

## Official style guidelines of the European Union

In addition to the above discussion, some more notions have to be added regarding the institutionalization of these expressions by the official guidelines of the European Union. There are instructions regarding all official languages of EU as to how to use certain phrases in legal drafting. They apply to the normative parts of the binding EU acts. Treaties are binding, so the guidelines that refer to using modals included in the English Style Guide (updated in 2015) and its corresponding versions in Polish (Vademecum tłumacza, updated 15)

and Finnish (Suomen kielen käyttöohjeita) updated in 2013 have to be taken into consideration while translating. Below in Table 3 are the guidelines that apply to English modals, summarized by Biel (2014b: 341):

Table 3. Summary of EU guidelines for English modals (Biel (2014b: 341).

<b>Imperative terms</b>		
Positive command	<i>shall</i>	<i>This form shall be used for all consignments.</i>
Negative command	<i>shall not</i>  <i>may not</i>	<i>The provisions of the Charter shall not extend in any way the competences of the Union ...</i>  <i>This additive may not be used in foods. (prohibition)</i>
Positive permission	<i>may</i>	<i>This additive may be used ... :</i>
Negative permission	<i>need not</i>	<i>This test need not be performed in the following cases:</i>
<b>Declarative terms</b>	Present tense + optional <i>hereby</i>	<i>Regulation ... is (hereby) repealed.</i>  <i>For the purpose of this Regulation, 'abnormal loads' means...</i>

The guidelines for Polish are scarce and limited to recommendation on the usage of *shall* imposing an obligation or prohibition which is to be formulated with a verb in Present Simple. It is also possible to use Future tense, if the obligation to do a single action clearly determines a fixed date of performing it. However, sometimes it is needed to use *musieć* ('must') or *nie móc* ('shall not') when there is a risk of misunderstanding of the Present Simple form with an ordinary declarative function of the utterance instead of a directive sense. Besides, *should* is to be translated as *należy* in the preamble part.

The guidelines for Finnish are much more comprehensive than in Polish. As regards the equivalents of *shall*, a division is added into the institutions of the European Union (a verb in indicative mood should be used) and agents other than European Union, like member states (the necessity construction *on -(t)tava* is to be used). The

example of the latter is as follows (Suomen kielen käyttöohjeita 2013: 60):

Member States **shall** amend or withdraw existing authorisations for plant protection products containing rape seed oil as active substance by 30 September 2014 at the latest.

Jäsenvaltioiden **on muutettava tai peruutettava** rapsiöljyä tehoaineena sisältävien kasvinsuojeluaineiden voimassa olevat luvat viimeistään 30 päivänä syyskuuta 2014.

Besides, in the case of *shall*, some exceptions from the aforementioned rule are possible and they are context-related. For example, when they have a meaning of a future tense, they can get a verb in a Present tense (there is no morphologically marked future tense in Finnish).

Moreover, *should* is to be translated in a conditional clause in a form of *olisi –(t)tava* and its usage is restricted to the parts of the legal acts that do not impose obligation, e.g. a preamble or motivation. Its task is mainly to underline the aim of the act. Otherwise, it should not be used in the articles. Furthermore, the equivalent of the negated *should* is to be translated as *ei tulisi*. Joint Practical Guide for Finnish recommends in addition to avoid using the verb *tulla* when relating to necessity. One more notion concerns the expected results of a regulation or a measure. In this case some other non-modal constructions should be used. It seems then, that the less binding the act, the weaker modality the expressions occurring in a particular act convey.

## Translation patterns in Finnish, English and Polish

Before further analysis of different translation patterns is presented on the basis of examples, the two analysed Finnish expressions together with their English equivalents (Table 4), as well as the corresponding

Finnish-English equivalents of all modal expressions are shown (Table 5).

Table 4. Finnish-English equivalents of *on –(t)tava* and *olisi –(t)tava*.

	have to	is to be	must	need to	shall	shall be required	should
<b>olisi –(t)tava</b>	-	-	1	-	-	-	19
<b>on –(t)tava</b>	4	2	29	2	14	4	2

The data presented in the Table 4 shows that English modal expressions and its Finnish equivalents are quite coherent as far as their modal meanings and deontic strength are concerned. The expression *olisi –(t)tava* has a clearly established meaning and matches almost always the modal *should*, indicating thus weaker degree of obligation. *On –(t)tava* expresses necessity and its most frequent English equivalents *must* and *shall* also noticeably impose obligation. The Table 5 sums up all necessary equivalents in Finnish and English.

Among Finnish and English equivalents of *on –(t)tava* there is no such a big discrepancy as in the corresponding Polish-Finnish comparison which is shown in the Table 2. There, one fourth of all occurrences of *on –(t)tava* is used conveying weaker modality alongside the examples indicating ‘stronger’ modality. These examples are analysed in their context in the next section.

Table 5. The occurrences of modal verbs and expressions in Finnish and English.

	be authorised	be entitled	could	have the right	have to	is to be	may	may + neg.	might	must	must not	need to	neg. + shall	shall	shall be authorised	shall be entitled	shall be prohibited	shall be required	shall have a right	shall + neg.	shall + neg. be required	shall + neg. be obliged	should	should not
ei ole velvol-linen																						X		
ei saa								X			X		X										X	
ei tarvitse																							X	
ei tulisi																								X
ei voi								X					X										X	
kielletty																	X							
oikeutettu	X																							
olisi -(t)tava										X														X
on määrä					X																			
on oikeus	X	X	X			X									X				X					
on -(t)tava				X	X				X		X		X					X					X	
saa						X	X						X		X					X				
saattaa						X		X																
tulee									X					X										
voi			X			X	X	X					X	X	X					X				

All corresponding deontic expressions juxtaposed together in Polish and English are enclosed to the article in the Appendix 1.

## Different equivalent patterns of necessity expressions in Finnish and Polish

The previous section presented the general outline of the necessity expressions that are most frequent in the Treaty among the combinations of modal verbs and deontic expressions in three languages. In order to verify, how differently they indicate the deontic strength, different translation schemes of the analysed expressions are further investigated in their context. As far as the searched combinations in Finnish (*on –(t)tava*) and the Polish (*powinien*) are concerned here are some most common translation patterns:

### Example 1. *on –(t)tava – powinien – shall*

Ennen kuin jäsenvaltio nostaa toista jäsenvaltiota vastaan kanteen (...), sen **on saatettava** asia komission käsiteltäväksi.

Zanim Państwo Członkowskie wniesie przeciwko innemu Państwu Członkowskiemu skargę (...), **powinno** wnieść sprawę do Komisji.

Before a Member State brings an action against another Member State for an alleged infringement of an obligation under the Treaties, it **shall** bring the matter before the Commission.

In this example a member state is obliged to perform an action in connection with another action. The Polish inflected form *powinien* is used contrary to the guidelines and theoretically functions as a recommendation, not an obligation.

### Example 2. *on –(t)tava – powinien – will have to*

Jos komissio päättää pitää ehdotuksen voimassa, sen **on esitettävä** perustellussa lausunnossa ne syyt, joiden vuoksi se katsoo ehdotuksen olevan toissijaisuusperiaatteen mukainen.

Jeżeli Komisja postanowi podtrzymać wniosek, **powinna** przedstawić uzasadnioną opinię określającą przyczyny, dla których uważa, że wniosek ten jest zgodny z zasadą pomocniczości.

If it chooses to maintain the proposal, the Commission **will have**, in a reasoned opinion, **to** justify why it considers that the proposal complies with the principle of subsidiarity.

This one shows once more an unjustified usage of *powinien* as if it was used in an advisory sense. However, it can result from the future tense in the English version which is preceded by a conditional that introduces some uncertainty.

Example 3. *on –(t)tava – powinien – must*

Neuvoteltaessa uusien jäsenvaltioiden liittymisestä Euroopan unioniin Schengenin säännöstöä ja toimielinten jatkossa sen soveltamisalalla toteuttamia toimia pidetään säännöstönä, joka kaikkien jäsenyyttä hakevien valtioiden **on hyväksyttävä** kokonaisuudessaan.

W negocjacjach dotyczących przystąpienia nowych Państw Członkowskich do Unii Europejskiej dorobek Schengen i inne środki podjęte przez instytucje w zakresie jego zastosowania są uznawane za dorobek, który **powinien** być w pełni przyjęty przez wszystkie państwa kandydujące do przystąpienia.

For the purposes of the negotiations for the admission of new Member States into the European Union, the Schengen acquis and further measures taken by the institutions within its scope shall be regarded as an acquis which **must be accepted** in full by all States candidates for admission.

In the English sentence *must* imposes a categorical obligation on member states, although *must* does not express any ‘objective necessity’ as recommended in regards to instructions (English Style Guide 2015: 41). The Polish expression indicates weaker obligation again, whereas Finnish seems to state what is to be done as if it combined these two modalities (weak *powinien* and strong *must*).

Example 4. *on –(t)tava – powinien – should*

[the High Contracting Parties]  
VAHVISTAVAT UUDELLEEN vakaumuksensa, että EIP:n **on** edelleen **suunnattava** suurin osa varoistaan taloudellisen, sosiaalisen ja alueellisen yhteenkuuluvuuden edistämiseksi,

POTWIERDZAJĄ swoje przekonanie, że Europejski Bank Inwestycyjny **powinien** nadal przeznaczać większość swoich środków na wspieranie spójności gospodarczej, społecznej i terytorialnej (...)



REAFFIRM their conviction that the European Investment Bank **should** continue to devote the majority of its resources to the promotion of economic, social and territorial cohesion (...)

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OVAT SITÄ MIELTÄ, että yhteisön toimielinten **on** tätä sopimusta soveltaessaan **otettava huomioon** Italian hallituksen lähivuosina jatkuvat ponnistelut (...)

SĄ ZDANIA, że instytucje Wspólnoty, stosując niniejszy Traktat, **powinny** brać pod uwagę wysiłek, któremu będzie musiała podolać gospodarka Włoch (...)

ARE OF THE OPINION that the institutions of the Community **should**, in applying this Treaty, take account of the sustained effort to be made by the Italian economy (...)

The passages above are clear examples of the usage of weaker modality in a non-normative part of the act, which is the declaration at the end of the document. Although Polish and English use weaker obligation modals, Finnish does not make use of the weaker conditional *olisi –(t)tava*.

Example 5. *on –(t)tava – należy – must*

Neuvosto voi antaa neuvottelijalle ohjeita ja nimetä erityiskomitean, jota **on kuultava** neuvottelujen aikana.

Rada może kierować wytyczne do negocjatora Unii oraz wyznaczyć specjalny komitet, w konsultacji z którym **należy** prowadzić rokowania.

The Council may address directives to the negotiator and designate a special committee in consultation with which the negotiations **must be conducted**.

Here the highlighted expressions have a rather descriptive function as they are introduced in a subordinate clause. They also do not have any subject.

Example 6. *olisi –(t)tava – powinien – should*

VAHVISTAVAT UUDELLEEN vakaumuksensa, että rakennerahastoilla **olisi** edelleen **oltava** huomattava merkitys unionin tavoitteiden toteuttamisessa yhteenkuuluvuuden alalla (...)

POTWIERDZAJĄ swoje przekonanie, że fundusze strukturalne **powinny** nadal pełnić istotną rolę w osiągnięciu celów Unii w zakresie spójności (...)

REAFFIRM their conviction that the Structural Funds **should** continue to play a considerable part in the achievement of Union objectives in the field of cohesion (...)

The above examples are coherent with each other in terms of modal strength and comply with the style guidelines. As regards Finnish, there are 17 instances of such a usage in the whole text which accounts for almost all of the occurrences of the weaker *olisi –(t)tava*.

## Conclusions

Polish language version shows many discrepancies regarding the quality of modal verbs in comparison to Finnish and English versions. Especially it is the case of *powinien*, considered to indicate weaker modality. It seems that in many contexts its meaning is usually equal with the expressions' conveying strong obligation, like *musieć*. It is sometimes a hybrid like Finnish *on –(t)tava*.

One of the factors that may have an impact on this situation is that Polish is not as much institutionalized and normalized in terms of using the modals (Biel 2014a: 18).

Finnish obligation expression *on –(t)tava* seems to be a hybrid expression that conveys a meaning that can be interpreted in terms of a weaker and stronger necessity, with the distinction that the conditional clause (*olisi –(t)tava*) can be regarded as a similar in meaning to *should* and *powinien*, which is weaker. *Olisi –(t)tava* can be interpreted as even weaker than *on –(t)tava*.

The context plays an ancillary role in interpreting the deontic strength of modal verbs and expressions. This applies in particular to the treaties and acts of the European Union and their macrostructure which influences different writing styles. The less binding the act, the weaker deontic degree the expressions have.

On the whole, in case of interpretation of deontic modals in legal context there is an assumption about the normative character of the legal rules (Zieliński 2008: 175).

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Appendix 1. Polish and English equivalents of the Finnish necessity expression, *on –(t)tava* and *olisi –(t)tava*.

	jest upoważniony	jest uprawniony	jest wymagany	jest zakazany	jest zobowiązany	ma być	ma prawo	może	mógłby	musi	należy	nie jest zobowiązany	nie ma obowiązku	nie może	nie powinien	powinien	
	X	X															be authorised
		X															be entitled
									X								could
							X										have the right
										X						X	have to
						X					X						is to be
		X					X	X									may
								X						X			may + neg.
								X									might
			X							X	X					X	must
														X			must not
											X						need to
														X			neg. + shall
				X			X	X	X	X	X					X	shall
	X																shall be authorised
	X	X					X										shall be entitled
				X													shall be prohibited
					X											X	shall be required
							X										shall have a right
								X						X	X		shall + neg.
														X			shall + neg. be required

											X	X				<b>shall + neg. be obliged</b>
										X					X	<b>should</b>
														X		<b>should not</b>