

WHETTED APPETITE FOR MORE

Review of Heikki E. S. Mattila's Comparative Legal Linguistics.
Language of Law, Latin and Modern Lingua Francas. 2nd edition. Farnham:
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The second edition of Mattila's Comparative Legilinguistics is an important contribution to the fast developing discipline of research. It is significantly broadened and verified in comparison with the first edition.

The first chapter is a general introduction presenting an overview of legal language and legal linguistics. The author accurately states that "the division of legal language into sub-genres is a relative matter" (Mattila 2013, 2) as this language is not homogenous in respect to terminology and syntax. There is one inaccuracy (Mattila 2013, 3) concerning the colour of gowns (called "togas") of lawyers in Poland, which I feel obliged to clarify. Now gowns are black. The distinguishing feature are the colours of jabots worn by lawyers representing various professions, e.g. judges of common courts wear purple jabots, judges of the Constitutional Tribunal – white and red ones (the colours of the Polish nation – the flag of the Republic of Poland is white and red), prosecutors – red ones, advocates – green ones, legal counsel – blue ones. In fact right now the official gown and the colours of jabots are symbolic (which is rightly stressed by Mattila) and regulated by a few Regulations of the Minister of Justice.

The author stresses that researchers have not agreed what the domain of legal linguistics is. In fact they have no one uniform name for the name of this field of research. What is obvious, though, is the fact that it is an interdisciplinary field, which separates and examines the language and the law, legal concepts and terms, which is the "appearance of the concept" (Mattila 2013, 18).

I would also stress that the term coined by Pieńkos *juryslingwistyka* (Mattila 2013, 7) is incorrect as far as word formation rules are concerned. If the name of the discipline was to be coined from two words Latin *ius* (or the adjective) and *linguistics* the name should be *jurilingwistyka*. We should use stems of the noun or adjective preceding the stem linguistics. There is no justification to use the form in the Dative *iuris* before linguistics. The ending –s seems to pervade the Polish language after

borrowing the term *jurysta* ‘jurist’. Then the adjective *jurydyczny* has been gradually replaced with *jurystyczny* ‘relating to jurists’. The ending *-sta* is typical for some *nomina attributiva* and *nomina agentis*. The French use the name *jurilinguistique*, and in the English version of Mattila’s book one frequently finds the term *jurilinguistics* without the formant *-s-* between both stems. The analogous name should be used in Polish instead of repeating notoriously the improperly coined form of Pieńkos. Resisting the formant in the Polish playground seems futile, thus the Poznań school of legal linguistic studies uses the term *legilingwistyka* ‘legilinguistics’, which is formed from the nouns *lex* and *linguistics*. There may be a distinction made between the scope of *ius* in contrast to *lex* of course. But it is a topic for a separate article. The comment, however, is rather a clarification why the term *juryslingwistyka* should not be used in Polish and does not constitute in any way a critical remark in respect to the reviewed book.

Legal linguistics is also taught (Mattila 2013, 24) at the Adam Mickiewicz University at the postgraduate Studies for Candidates for Certified Translators and Interpreters.

Reading the book, and other publications on legal communication and legal discourses I can only regret that the works of the Polish scholar Ludwik Zabrocki (1963) are unknown abroad as he formulated a theory of communicative communities, which are at present called discursive communities and Mattila’s book is another example that Zabrocki’s observations have lost nothing of their pertinence (cf. Mattila 2013, 28) for instance in respect of dominant languages.

The second chapter discusses legal language as a language for special purposes. Mattila indicates that legal language is used to disseminate information, influence the behaviour of citizens and create legal relations (performativity of legal communication). The chapter starts with discussing legal language in terms of the theory of speech acts and semiotic acts. The author illustrates his research with anecdotes, which make reading the book really fascinating. Let us take the error made during the inauguration of Barack Obama as President of the United States as a result of which, to be on the safe side, it has been decided that the oath should be re-administered. The next part of the second chapter is devoted to legal communication. It is a pity that the theory of communicative communities of Ludwik Zabrocki (1963) is unknown abroad and frequently forgotten in Poland, as it remains valid despite the passage of time. Zabrocki discusses the following features of communicative communities such as (i) active and passive, (ii) durable and non-durable, (iii) loose and compact, (iv) primary and secondary, and (v) superordinate and subordinate (Bańcerowski 2001: 38, Zabrocki 1963). Contemporary authors frequently refer to “discursive communities” by Sweynes, despite the fact that his concept is actually the reinvention of the wheel already described and elaborated on by Zabrocki (it should be stressed here, however, that Mattila does not refer to Sweynes). The features of communicative communities are discussed however on Mattila 2013, s 45 and 65 (hermetic language), 46 (the composition of the community and its willingness to communicate messages – activeness of the community members), 49 (passiveness of the message recipient), etc. The author also enumerates styles of rhetoric, which are very important in Central and

Western European languages of the law. What is stressed numerous times in chapter two and three is that everyday language and terminology should be used cautiously in legal language as using them may cause illusory comprehension and as a result lead to misunderstandings.

When talking about legal authority it is mentioned that legal Latin is still ‘much-loved folklore’, which is true. I would state that in Central and Eastern European countries it is still taught at the faculties of law at university level. Linguistic policies are also exemplified by presenting a Finnish case study where Finnish and Swedish are used. Additionally the author discusses the role of legal language in preserving the linguistic heritage of nations. He elaborates on legal Greek (the transition from Katharevusa to Demotic Greek) and two variants of legal Norwegian (*bokmal* and *nynorsk*). The problems encountered in countries where two variants of legal language co-exist are again illustrated with great and illustrative examples including mixing terms from *bokmal* and *nynorsk* in one piece of legislation (see footnote 118 on Mattila 2013, 81).

Mattila elaborates on the characteristics of legal language in the third chapter of his book. He focuses on precision (achieved by definitions and obscured by tautologies, political reasons and badly employed definitions). Secondly he turns his attention to information overload in legal texts. I cannot help but agree with Mattila, who claims that some laws should be drafted with citizens who are not lawyers in mind, as those law recipients are to observe such laws on an everyday basis (Mattila 2013, 95). Such laws include first and foremost tax laws. Unfortunately, on many occasions tax laws are extremely complicated, full of references to other legal acts. The length of sentences makes such pieces of legislation incomprehensible. Thirdly Mattila points out that legislation is hypothetical, timeless, impersonal, and intended to be objective. Therefore, there is a tendency to use rather inoffensive and neutral language. Consequently, in many legal languages one may discover metaphors. Another feature presented in the monograph is intertextuality. Showing his considerable knowledge in this respect, while not overburdening the reader with it, Mattila discusses types (horizontal and vertical) and functions of intertextuality in legislation and judgments. Next, he elaborates on the structure of legislation and formalism of texts of various legal genres. The role of model forms and the reasons for the reluctance to abandon them are discussed. Apart from the already mentioned features also the following are referred to: abbreviations (their historical background, function and types), sentence complexity, archaisms and solemn character of legal language. Mattila also presents his point of view on the Plain Language Campaigns in sub-chapter 9, which is devoted to the proper use of legal language. As always, he is not biased and remains very reasonable and convincing in presenting arguments why the idea of creating some easily understandable legal language, in which law may be formulated, is in a way utopian. At the same time he does not deny the need to improve the quality of legal texts, accepting the reality that legal language due to its history, function and importance will remain hermetic to some extent. I would gladly read something more about language policies in respect of protecting legal languages of various countries in the future as Mattila is an expert in gathering detailed information about the development of legal languages and legal linguistics in numerous countries. The history of the Polish language in this respect is really interesting.

Chapter four is devoted to legal terminology. Mattila starts with distinguishing features of legal language and the fact that it differs from other languages for special purposes as “law only exists in human language” (Mattila 2013, 137) and that language creates the reality in which human beings function in differentiation from other languages, which only describe such reality more or less accurately. Next he proceeds to demonstrating the importance of legal families (common and civil law countries) and the unifying impact of the European Union legislation on national legal systems. However, it is rightly noted that at the same time the EU law is a separate legal order, which has been superimposed on Member States. At the same time, the reader’s attention is turned to the fact that the legal system of the EU is affected by the common law system and via EU law civil law countries are subsequently influenced by the legal order of the UK. When discussing features of legal language he discusses in some detail polysemy (both orderly and disorderly) and synonymy providing examples from various languages. Some space is also devoted to the formation of legal terminology, especially by neologisms of national origin (usually coined in specific political circumstances, frequently as a tool of propaganda) and borrowings. When discussing loanwords the example of Indonesia is presented, where the historical background was especially favourable for borrowing terms from various legal systems and the fact that “Indonesian as a language of law was seriously underdeveloped because of the dominance of the Dutch during the colonial period”. It is also stressed that the colonial power was desperate to superimpose its national language for legal communication in occupied territories in order to maintain its position and supremacy. Finally, he goes back to the EU legal language and accurately states what is observed in many countries in the course of analysis of translations of EU directives and regulations into national languages (by the so-called authentic versions), that “in this complex system, a clear danger arises that new terms may be introduced in a chance and disorderly fashion, occasioned by practical translation, under pressure of time, without terminological work properly so-called” not to mention the fact that “Union institutions can at times consciously resort to divergent terms for the same concepts” (Mattila, 152). He points out that as far as legal communication is concerned misleading terminology should be avoided at any cost. It is even better to resort to banal or complicated terms, which are unambiguous and guarantee clarity. One should also be aware of the fact that terms gradually change their meaning or gain new meanings over time in the course of usage. The in-depth analysis of various sources scrutinising numerous legal systems and legal languages of many countries (and belonging to differing legal families) made by Mattila is really impressive.

The fifth chapter is devoted to legal Latin and the impact of that language on the development of other legal languages. First of all, the importance of Roman Law and that it was a supranational legal system of the Roman Empire is presented. Next, the influence of Roman Law onto European legal systems in the Middle Ages is briefly discussed. The author provides some insight into how legal Latin penetrated European legal systems, mainly due to the clergy and the status of Latin as a *lingua franca*. The supremacy of Latin as a language of legislation lasted for centuries in Europe. As Mattila puts it “The Latin epoch, in legal practice, lasted particularly long in some non-German regions of the Austrian Empire, that is, Hungary and Galizia (Galicia, Southern

Poland and partly in Western Ukraine). In these regions, in the 19th century, Latin still formed an instrument of protection against the expansion of German.” (Mattila 2013, 167). He proceeds to discussing in more detail the presence of legal Latin in Nordic countries and indicates that “in the Middle Ages, the legal and administrative language of the Catholic Church was by far the most advanced in the Western world.” (Mattila 2013, 171). The third subchapter is devoted to the impact of Latin on modern languages, which is mostly visible in loan translations (calques) and other borrowings as well as the borrowed meanings of words. He discusses the presence of Latin terms, expressions and maxims in various languages and the fact that Latin is still found very handy due to its compactness on the one hand and vagueness, which helps achieve elasticity of the law on the other hand. There are three functions of Latin quotations, which are elaborated on, that is to say rhetorical function, display function and expressing legal concepts. At the same time users of Latin terms and expressions in interlingual legal communication are warned to be careful as there is a danger of mistakes and misunderstandings resulting from the fact that some terms are understood differently in various legal realities. What is more some legal maxims are invented nowadays, although some think that they stem from Roman Law. I feel somehow not fully satisfied with the fourth chapter where the results of research in divergence of meanings of Latin terms in various linguistics zones are presented. I simply crave more examples illustrating the problem. At the same time, I realise that elaborating on every interesting detail would require a book three or four times longer, which would also keep readership waiting for it to be published until sometime in the distant future. So taking into account the fact that the author managed to gather a large quantity of invaluable information about the development of legal languages, I prefer reading the book, which leaves me craving for more, rather than waiting. The fifth subchapter is little disappointing as it contains almost only (with the exception of the first two paragraphs) a juxtaposition of dictionaries published in English, French, German, Spanish and Portuguese, Italian, Russian and Greek linguistic zones, which without comments elaborating on their strengths and weaknesses should probably be transferred into the bibliography section of the book.

Chapter six is devoted to legal German. First the author presents the history of German Law starting with the so-called *leges barbarorum* (composed of *lex Salica*, *lex Ribuarica*), which were drafted in Latin but were much more casuistic and much less advanced than Roman Law. The fact that Latin and German co-existed in the Holy Roman Empire as official languages, with each of them trying to dominate the other with varying success led to significant linguistic consequences, which are still visible in contemporary legal German. The dominance of Old legal German was undermined by the acceptance of Roman Law. Not only was the legal system but also the language itself influenced by the acceptance of Roman laws “at the end of the Middle Ages and the beginning of the Modern Era.” (Mattila 2013, 207). The linguistic consequences included loanwords and other types of borrowings from Latin. When discussing the influence of the German laws on other countries Mattila states that “in addition to the original Prussian Landrecht in German (1620), a Latin version was devised, since a Polish court in some cases examined disputes under appeal relating to it” (Mattila 2013, 208). It should also be remembered that German laws affected laws in

neighbouring countries as well in much more visible way. For instance it should be remembered that German town laws (borough laws in German called *Stadtrecht*), especially *ius municipale magdeburgense* were adopted by many Polish towns, with the town of Złotoryja being the first. When implementing *ius municipale magdeburgense* Polish authorities used the versions of the law in German rather than Latin. Next the author proceeds to mentioning the influence of French legal language on German especially in the sphere of foreign affairs and, having previously informed the reader that loanwords from Latin constituted about 80% of German legal terminology (Mattila 2013, 2008), claims that “a large number of loanwords from French found their way into legal German: in the mid 17th century, the number of French loanwords was already comparable to that of Latin loanwords” (Mattila 2013, 209). The development of legal German in the Enlightenment is discussed and the history of the end of the struggle of German and Latin for supremacy in legal communication is presented. Mattila remind the reader about the major German-language codifications that is to say the Prussian BGB and Austrian ABGB. He provides some insight into the unification of legal German and the diverging variants currently used in Germany, Austria, Switzerland, eastern parts of Belgium and the north of Italy. Again he reminds the reader that terminological unification is a risky task, as modernising terminology “is a slow affair: the lexical coherence of laws, the guarantee of uniformity of legal terms, should not be endangered. This means that each terminological reform has to cover all legislation (Thieme & al. 2010): 165)” (Mattila 2013, 222). The importance of co-operation between lawyers and linguists is also indicated with the example of a successful plain German campaign undertaken at the institutional level in the form of a two-year long experiment called *Verständliche Gesetze* (‘Intelligible Law’) and establishment of the agency *Redaktionsstab Rechtssprache* (‘Legal Language Editorial Staff’). He touches upon the difficulties encountered at the level of EU legislation, where in the majority of cases the legal language of Germany is used despite terminological differences between various legal German variants used in Europe. Finally, the international importance of legal German is touched upon. I would like to make a short comment on the impact of the EU legislation drafting on legal German, though, as it seems more and more visible nowadays. For instance the term *Konkurs* (insolvency, bankruptcy) has recently been replaced with *Insolvenz* for some reason, which actually indicates that EU legal English is affecting even deeply-rooted terminology of various EU Member States.

The seventh chapter presents research into legal French. The chapter starts with the illustration of the struggle of legal French to gain supremacy over legal Latin. Secondly, the unification of legal French is presented in the context of discarding regional languages in the 15th-18th centuries. France is a country, which is paying attention to the quality of the French language and this is also visible in efforts undertaken to assure high quality of legal language. Next, the globalisation of legal French is touched upon with the impact of colonisation taken into account. Mattila reminds the readers that French enjoyed a status of lingua franca in Europe, thus replacing Latin. In the second subchapter Mattila presents characteristics of legal French and in the third one its international position.

Chapter eight is written in compliance with the schemata adopted for chapters 5-9 with the history of development of legal Spanish from the Middle Ages, through the Modern Era, 18th and 19th centuries and ending with the 20th century being discussed. Next, he proceeds to describing the features of legal Spanish. Finally, he indicates the international importance of legal Spanish.

The ninth chapter presents research into legal English, which has a status of *lingua franca* nowadays not only in scientific but also legal communication.

Chapter 10 is in fact a sort of conclusion for the book, where the author discusses changes in legal-linguistic dominance in respect to legal systems and legal languages with legal English now in the lead. The author, however, remarks that the growing importance of Asia in global markets may one day threaten the supremacy of legal English and have it dethroned by Chinese. Next, the author mentions the problems encountered in the process of legal translation and dangers involved in mistranslations of various sorts. Finally, he pinpoints the need to carry out juri-linguistic research into the comparison of legal institutions and concepts.

I cannot even criticise the editing as taking into account the length of the book there are almost no editing problems (the lack of spaces in the fourth line on Mattila 2013, 91 and twenty fourth line on Mattila 2013, 92, also in footnote 131. The first paragraph of sub-chapter 1.2 is not adjusted to left and right.

His style of writing is technical, minimalistic in a way (avoidance of verbosity is clearly seen) and at the same time absorbing if you are interested in the topic of course. This book is a real Mattila 2013, -turner due to anecdotes, curiosities and interesting pieces of information frequently placed in footnotes (do not ignore footnotes while reading the book as one may miss much more than one normally expects). The book is illustrated with meticulously gathered facts and rarely discussed pieces of information. The author rarely becomes opinionated himself at the same time presenting opinions of other researchers. His remarks are well-balanced and reasoned, and what is more his remarks are supported with results of research carried out by himself and other researchers from many linguistics zones. Overall, the book is really impressive and the author's command of so many languages simply makes him the perfect researcher in comparative legal linguistics. I impatiently await the third edition of the book.