

## Reviews

### TOWARDS GLOBAL LANGUAGE OF LAW

Heikki E.S. MATTILA, *Comparative Legal Linguistics. Language of Law, Latin and Modern Lingua Francas*. 2<sup>nd</sup> ed., Ashgate 2013, 485 pages, ISBN 978-1-4094-3932-5 and Heikki E.S. MATTILA, *Jurilinguistique comparée. Langage du droit, latin et langues modernes*, Éditions Yvon Blais 2012, 646 pages, ISBN 978-2-89635-724-6

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#### Summary

The Finnish legal linguist, Professor Heikki E.S. Mattila, published at the beginning of this year the second edition of his *Comparative Legal Linguistics* that originally appeared in 2006. Simultaneously, the French original of the English translation was printed in Quebec by the publishing house Yvon Blais as *Jurilinguistique comparée*. Both books that originate from the Finnish *Vertaileva oikeuslingvistiikka* (2002) are discussed below in a combined review. Already the first editions of the Finnish and English linguistic versions were acclaimed by many reviewers. It is to be expected that also the expanded second English edition will be even more appreciated by teachers and students alike. The French edition, for its part, will hopefully make legal linguistics in its global perspective better known in the French-speaking parts of the world. Mattila's textbook on comparative legal linguistics in its Finnish-, English- and French-language versions established itself as the most authoritative account of legal-linguistic achievements in the concerned academia worldwide. Overall, as far as one can see, Mattila's work is the only introductory textbook into problems of comparative law and legal language available today. It is the most reliable source of information for everyone interested in the linguistic aspects of law.

#### Structure and merits of the English edition

The English edition consists of four main parts: Part 1 *General Introduction* that covers problems of legal language and legal linguistics, Part 2 *Legal Language as a Language for Special Purposes* that describes the functions and the characteristics of the legal language and deals with legal terminology in general, Part 3 *The Major Languages in the World* that characterizes legal Latin, legal German, legal French, legal Spanish, and legal English. Part 4 contains *Conclusions*. The second edition of *Comparative Legal*

*Linguistics* is considerably widened and now comprises 485 pages, compared with 347 pages of the first edition. The book has a subtitle that has not been used in its first edition. Furthermore, it includes a new chapter on legal Spanish, numerous additional notes on some lesser used legal languages such as legal Norwegian (pp. 79-85), legal Indonesian (pp. 147-151), and samples from various languages all over the text. It also updates the main text of the first edition of the book and its footnote references and provides enlarged paragraphs about EU linguistic regime and translation in EU institutions in the relevant parts of the book. The bibliography (pp. 367-429) is very representative and thoroughly structured.

### **Comparing legal languages: from terminology to communication**

Mattila developed his conception of the comparative legal linguistics in close relation to the comparative law. Yet, unlike most legal comparatists, he did not concentrate on the functional or structural elements of different legal systems. Instead, he focused rather on the linguistic form of law and predominantly on the legal terminology. He finally combined the analysis of legal terminology with communicative aspects of law. By so doing, he made an important step towards consolidation of the disparate data that legal-linguistic research engendered when he started his systematizing work of legal linguistics. In his research published mainly in the Finnish language Mattila pondered over the systematic frame of reference for the comparative-linguistic approach that he now follows with admirable consequence (cf. Mattila 2008, 2010c). Mattila starts with general features of the legal language that he distilled through the analysis of particular legal languages. He focuses particularly on problems of legal terminology that he also synthesized in his chapter *Legal Vocabulary* (cf. Mattila 2012) in otherwise rather unsystematic *The Oxford Handbook of Language and Law* that has been reviewed in the previous edition of this journal. Legal-linguistic comparison emerges in his conception of legal linguistics between rivalry and complementarity of legal languages. Consequently, Mattila can justly claim that some languages play a formative role in this process while others mostly follow paths beaten by the dominating legal languages. This result justifies the choice of languages that are analysed in the book. His survey of languages starts with legal Latin, continues over German, French, Spanish to the English legal language. For Mattila, legal Latin has always been fundamental to the development and the understanding of legal language. Mattila insisted therefore in many of his publications upon the importance of legal Latin for legal-linguistic research (cf. Mattila 2004, 2010a). Unlike many other legal writers, he did not limit his involvement in this area to erudite statements, but became engaged in a series of research projects into legal Latin and its contemporary use that led to surprising results. They are accounted for in the book's chapter on legal Latin. Recently, also scholars such as J.-L. Halpérin, J. Husa, and M. Zabłocka stressed the fundamental role of Latin as a basis for the understanding of the legal language. J. Husa (2011) perceived legal Latin as a linguistic context or grammar of law. M. Zabłocka (2010) spoke about the Roman roots of the contemporary legal language. For J.-L. Halpérin (2009: 59) it is evident that legal Latin and Roman law are eminently present in the process of legal globalization. Therefore, it is very convincing that the author discusses in his book the heritage of the legal Latin exhaustively. Meanwhile, legal Latin is linguistically and conceptually unthinkable without the ancient

Greek language and the Greek philosophical and rhetoric traditions. After all, already the ancients held: *Romani primi Graecorum discipuli*. Therefore the classical Greek language that pertains to law, its emergence and its institutional use, would merit at least a paragraph in the broad chapter on legal Latin. This paragraph would correspond with the subchapter on modern legal Greek (pp. 75-79) that aptly addresses issues of linguistic rivalry in intralingual settings. Other main languages that are treated in the book combine diachronic and synchronic aspects and stress the linguistic interrelations in the process of emergence of singular legal languages.

The reviewer has followed closely Mattila's legal-linguistic undertakings aiming at establishing a methodologically solidly founded new area of interdisciplinary studies since the appearance of his impressive *Vertaileva oikeuslingvistiikka* in 2002. The monograph in the Finnish language that immediately attracted the attention of all specialists who read Finnish has been later adapted to the needs of the global public and published in the English translation prepared in a shortened version by Christopher Goddard. Particularly, the chapter on legal translation that in the Finnish original was based on examples from the Finnish language was omitted in the global edition, mostly due the limited readership that would be ready or able to enjoy the scrupulous analyses of the intricacies of legal Finnish. While Mattila spent a lot of effort on the study and teaching of legal translation, the topic is much less visible in the English than in the Finnish edition. Implicitly, of course, legal translation is always present wherever comparative legal terminology is discussed in the book. Also several subsections deal with translation problems. It is however regrettable that the author's experience and expertise in the area of translation of legal texts is not more comprehensively documented in a separate chapter that would systematize the translation problems mentioned all over the book. Many students of legal linguistics (legilinguistics), or students of legal translation would benefit from such a procedure.

### **Finality in legal-linguistic comparison: Language of the Global Law**

Legal-linguistic comparison does not take place in an ideological vacuum. It emerges towards the background of globalization of law. This ongoing process is undeniably sluggish and cannot be compared with the speed of economical globalization. Meanwhile, the process of legal globalization as such is unquestionable, and has been approached by legal comparatists from different points of view that include enthusiasm, scepticism, but also openly hostile attitudes. However, neither the skeptics nor the enthusiasts can deny the necessity of fundamental research into the legal-linguistic prerequisites of the emergence of a global language of law. Mattila does not commit himself explicitly to ideological or emotional positions in the debate about the globalization of law. This notwithstanding, his approach reflects perfectly the needs that persist in the discussion about the global law and its language. Foremost, it will be necessary to determine whether this language should be based on application of broadly formulated legal principles and standards or on complex terminological constructs. General and comparative legal linguistics should contribute to this debate as the most competent academic adviser on such issues. In the context of the fundamental debate about the future shape of the global law the publishing house Ashgate brings on the book's cover a quote from reviewer's appraisal of the first English edition (Galdia 2006: I-271)

where the reviewer wrote: “Mattila proves in his work that comparative legal studies can be fruitfully approached from the linguistic point of view...The emerging global law will need a new language and works like Mattila’s are fundamental to its development.” It is gratifying for the reviewer to note that Mattila expanded the topics related to finality in the legal-linguistic comparison and made a step towards the generalization of his research results (cf. pp. 347-351).The step towards clarification of the fundamentals of the legal language would also justify the use of the title given to this review as a subtitle of Mattila’s book. The author chose another formula as he apparently wished to stress the common thread that runs through the book. Indeed, the emergence of the legal language and the long way that was necessary to achieve clarity about it through the analysis of the dominating legal languages of the world as well as the scrutiny of their legal-linguistic source that had been the legal Latin was a challenge for legal linguists. After all, it seems that one arrives at the same results while stressing the long way of legal-linguistic research and its finality, and when one starts with the finality itself and then looks at historical processes that shaped the language of law.

### **Plain language or plain law?**

Legal language that emerges in Mattila’s perspective is analysed in the book in contrast to ordinary language. Meanwhile, also plain language claims that are related to ordinary language are taken into consideration, although they do not dominate Mattila’s reflection upon linguistic aspects of legal terminology. This is particularly welcome because the plain language movement might have got in many recent legal-linguistic publications a broader coverage than it actually deserves. More often than not, the plain language claims lead to expectations concerning the understandability of law by everyone that can only disillusion their well-intentioned authors. Also Mattila sees limits of such undertakings. His views are particularly valuable as they make plain the politically complex nature of law. Indeed, law is complex, not only linguistically, because it is a social discursive practice that is rooted in the deep structure of society. Scandinavian legal writers, and Mattila among them, were among the first to draw our attention to power-dependent language use in law (cf. Helin 1988, Siltala 2003). Many Scandinavian classics of legal theory elucidated already some decades ago the conditions and the contexts of language used in law that they perceived as ideological and clearly not as a simple result of jurists’ alleged linguistic clumsiness. Language use in law is therefore mainly an issue of ideology and not of linguistic didactic. In fact, jurists live on their linguistic skills; they are masters of language use. Their skills impress most when they are evaluated from the pragmatic perspective, and Mattila’s book is one more proof of this legal-linguistic constant that was recognized already by the ancient Greek rhetoricians. Meanwhile, Mattila’s approach to the issue is conciliatory: plain language attempts make sense within legislative drafting, yet they also have their inherent limits embodied in the reducible yet finally unavoidable complexity of modern law (p.131; p.123). In sum, Mattila’s conclusions upon the research agenda of plain language studies may be instrumental in re-adjusting of some of its paradigmatic claims.

### **Mattila's book as handbook**

Mattila's book, although specifically not called a handbook on law and language, nevertheless in many respects fulfils the role of a handbook. It could, in this sense, function even more efficiently were overviews of languages such as Chinese and Japanese included. Both languages definitely do not compete with English and French in the global legal practice, yet Mattila included among the most relevant languages also the legal German that is today only of regional importance. Legal Chinese may have played a similar role in the regions where it has been most influential. Research available today makes possible at least a general overview of the role that the Chinese language has played in the development of the legal languages in East Asia, and especially in Japan (cf. Horie 2010: 82-86). The same concerns the legal Russian and the legal Arabic that played, and continue to play, an important role in regions of their political and cultural influence. Further, the developments in sub-Saharan Africa that are mentioned in the book (pp. 268-269) concern the use of non-African languages on the African continent in official legal contexts. Meanwhile, at least in the Suahili lexicology, legal terminology is present and could be introduced in the book as an example of productive African legal-linguistic tradition. However, one must also admit that research into this issue is limited and African authors used to concentrate mainly on the use of administrative, formerly colonial languages in legal settings. One may hope for more interest towards African legal languages in African studies. Finally, Mattila as one of rare experts in the area of legal Finnish studies authored numerous articles on the legal Finnish. It would be interesting for foreign readers to become acquainted with the results of this research into legal Finnish that are now available mainly in Finnish publications (cf. Mattila 2010 b). Therefore, further geographic and conceptual extension can only be encouraged for future editions. It would make the book an even more perfect handbook of global legal linguistics that would become essential reading for all interested in the development of the legal language in the process of legal globalization.

### **Remarks on the Quebec edition**

The original manuscript of the French-language version was used as a basis for the English edition of 2006. It appears now in print in an updated and expanded form in Quebec: *Habent sua fata libelli*. Apparently due to the linguistic tradition in Canada it does not use the French term 'linguistique juridique' as a key word that would directly refer to the leading term 'legal linguistics' of the English edition. Instead, the term 'jurilinguistique' is generally used all over the text. Meanwhile, the term 'linguistique juridique' also is mentioned in parts of the book that deal with general trends in the field as well as with the research on the issue in France (cf. pp. 10-11). Undeniably, the problem of the name for the field here discussed is rather minor when compared with methodological challenges and subject-matter issues that are of greater relevance for the research. However, Mattila's legal-linguistic method developed in close approximation to G. Cornu's *Linguistique juridique* (3<sup>rd</sup> ed. 2005) and Mattila certainly remains Cornu's most prominent successor. The editorial choice that is understandable in the light of Quebec's terminological conventions makes the connection between Cornu's fundamental research and Mattila's expansion of Cornu's basic concepts epistemologically less transparent.

Furthermore, the Quebec edition includes some minor differences when compared with the Ashgate edition. However, both books can be perceived as equivalent in terms of most relevant contents.

### **Polonica in author's biography**

Some biographical details may be particularly interesting for Professor Heikki Mattila's Polish readers. Since the beginning of his professional career H. Mattila was particularly attracted by two countries, France and Poland. The influence of these two countries and their - not only legal - cultures is omnipresent in his whole academic work. His doctoral thesis *Les successions agricoles et la structure de la société. Une étude en droit comparé* (1979) although written in French, concerns the comparison of the Polish and the Finnish agrarian legislation. As far as Poland is concerned, Mattila's biographers (cf. Foley et al. 2008: xviii) refer particularly to his studies in Poznań in his younger years and the influence of Polish scholars such as Zygmunt Ziemiński, Jan Woleński, Andrzej Stelmachowski, Leszek Nowak, and Jerzy Wróblewski on his legal thinking. At the Adam Mickiewicz University in Poznań, H. Mattila also assisted as a member of the Finnish delegation at the inauguration of the Finnish Philology at the Department of Scandinavian Studies in 1975, initiated there by Professors Czesław Kudzinowski and Jerzy Bańcerowski (Galdia 1990/1). The knowledge of the Polish language that he had acquired during his studies in Poland also resulted in several translations of legal articles from Polish into Finnish. In *Comparative Legal Linguistics* and in *Jurilinguistique comparée* his rare linguistic competence makes plain the numerous references to the works of Polish scholars and illustrative samples of the Polish legal language, among which the reader will find 'zielony pingwin' (p.3), 'działalność lobbingowa' (p. 348), the generous formula of Polish testaments in 17<sup>th</sup> and 18<sup>th</sup> century: 'leguję, daję, daruję i zapisuję', and many others. Mattila shows vivid interest towards the research and editorial activities at the Laboratory of Legilinguistics of the UAM in Poznań and mentions them on p. 7 of the English edition where he also refers to the original coinage of 'legilinguistics' used by the Laboratory as well as on p. 11 where he mentions the publications of this journal. Analogous references are included on pp. 12 and 16 of the Quebec edition. Hopefully, the Polish legilinguistics and this journal will inspire him also in his future legal-linguistic research.

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