

SPANISH AND LAW – INTERDISCIPLINARY INSIGHTS

Review of *Lengua y Derecho: líneas de investigación interdisciplinaria*. Linguistic Insights 130. Studies in Language and Communication. Edited by Luisa Chierichetti and Giovanni Garofalo, Bern: Peter Lang, 2010, ISBN 978-3-0343-0463-4, 283 pages.

reviewed by **Joanna NOWAK-MICHALSKA**, PhD
Institute of Linguistics, Adama Mickiewicz University
al. Niepodległości 4, 61-874 Poznań, Poland
joannanowak@poczta.fm

The book consists of articles presented at the IV CERLIS (Research Centre on Languages for Specific Purposes) International Conference at the University of Bergamo (Italy) held on 19-21 June 2009 and titled *Researching Language and the Law: Intercultural Perspectives*. As stated in the introduction to the book, it also includes articles of other specialists in this field.

The book consists of eleven articles presenting the results of research in the field of language and law focused on Spanish, sometimes in comparison with Italian, as is the case of the articles by Carpi, Mata Pastor and Valero Gisbert. The authors frequently base their observations on the analysis of text corpora. The method employed in many articles is discourse analysis. Some authors analyse various professional genres in legal context and one article is devoted to discursive markers. Legal translation is also dealt with. One article discusses the legal language of the European Union. All articles are written in Spanish. It would therefore be useful to provide English summaries of the articles to allow non-Spanish-speaking persons to grasp the main idea of the contributions.

In the introduction the editors of the volume emphasize the central role of language in the theory of law, which is due to the fact that language is at the same time the object of the study and the means of carrying it out (p. 7). They agree with Palazzo (2003, 113) that the law *is* language because all legal norms and resolutions need a linguistic formulation to exist. They emphasize that there are various legal languages, each one with its own characteristics (p. 8). They refer to the division made by Jerzy Wróblewski (2000, 157-158), who distinguishes three types of languages related to law: legal language (in which all laws are formulated), language of the application of law (language of the judicial practice) and the language of legal science. Further on they apply this division to classify the articles presented in the book. They also deal with the relation between linguistic and legal norms, the recipients of legal norms and the simplicity versus complexity of legal language. Referring to Prieto de Pedro (1996, 118) they remark that both citizens and jurists are the recipients of legal texts. Therefore, the language used in legal texts should meet the needs of these both types of recipients: simplicity and clarity on one hand and precision and technical explicitness on another

(p.14). The authors believe that linguistic training is necessary for students of law and employees of justice administration. The authors also emphasize the need of cooperation between the authorities and the linguists, adducing the example of the participation of the Spanish Real Academia Espanola (Spanish Royal Academy) in the works on the Spanish Penal Code (p.15-16).

The first article, *Immigración y barrera lingüística en Andalucía: el traductor jurídico como mediador intercultural*, by Maria Carmen Acuyo Verdejo investigates the linguistic situation of the immigrants coming to the Spanish region of Andalusia. She focuses on the language assistance the immigrants receive and the role that translation and interpreting plays in it. This field work is based on a questionnaire answered by 183 employees of different immigration offices in eight Andalusian provinces. However, this article focuses only on the results concerning the city of Granada. The results are quite surprising. As much as 70% of the respondents are not aware of the existence of the right of language assistance for immigrants. This can also explain other findings – 90% of the respondents claim that foreigners are not assisted by a translator or interpreter although 56% of immigrants coming to Granada have little knowledge of Spanish or do not know it at all. Most frequently, they are assisted by „any person who speaks their language” (64%). This shows how little the profession of translation is acknowledged. The authors notice that knowledge of a language is often wrongly equated with the ability to translate and interpret. However, almost 80% of the respondents say that they would choose a professional translator if they were to choose the most suitable person for the task of language assistance of an immigrant. What is more, 50% of them claim that such a translator should know the immigration law and 27% claim that he or she should have knowledge of other branches of law such as civil law and administrative law. The results of the survey also show that most immigrants come from Arab and African countries (45%), Romania, Bulgaria, Russia (40%) and Latin America (16%). This shows, in consequence, that translators of these languages are most needed in the everyday work of immigration offices in Andalusia. The article also discusses the types of documents that most frequently need to be translated, which is important information for translators. This contribution is very valuable and useful as it diagnoses and describes problems concerning language assistance offered to immigrants in Andalusia. The author emphasizes that cooperation between administration employees, lawyers, prosecutors, judges, translators, interpreters and social workers is the only way to improve the situation of immigrants and their integration in the society.

The next article *Estrategias argumentativas en los preámbulos de la normativa laboral española* by Maria Cristina Bordonaba Zabalza employs methods of discourse analysis and investigates, from diachronic perspective, the influence that a preamble can have on the understanding of laws by the recipient. It analysis the argumentative strategies that the legislator uses to persuade the recipient of the necessity of imposing the laws. One of the merits of this study is that the corpus consists of regulations from different historical periods (from 1938, 1947 and 1980). The author shows that in spite of the ideological differences and different grades of argumentative efficiency of the analysed texts legislators tend to employ the same argumentative strategies to convince the recipient of a law.

Elena Capri's article, *Las denominaciones de los establecimientos de alojamiento turístico en la normativa española*, deals with the names of different types of

touristic accommodation in Spanish legal regulations in comparison with the Italian terms. It discusses the typology of touristic accommodation and analyses possible equivalences between Spanish and Italian terms, which can be very useful for translators. It shows that the terms referring to different types of touristic accommodation in Spanish legal regulations of different autonomous communities are not homogenous. There are also cases of terminological synonymy – undesirable in legal language – in the texts of regulations of the same community. The contrastive analysis indicates that Spanish is more reluctant to loanwords than Italian and that vocabulary referring to touristic accommodation is not much present in the analysed dictionaries of general language.

Luisa Chierichetti, *Discursos del derecho y discursos sobre el derecho: aspectos intertextuales*, investigates the relationship between legal discourse and a discourse used to comment it, i.e. legal metalanguage focusing on intertextual aspects. The author analyses a legal text (MERCOSUR Tribunal ruling) and two comments on this text prepared by academic specialists in the field. The author shows that mixed intertextuality is characteristic of this type of texts.

Giovanni Garofalo, *La conciliación ante el Centro de Mediación, Arbitraje y Conciliación: un ejemplo de hibridación de prácticas discursivas*, investigates conciliation as a method of extrajudicial solution for labour conflicts from discursive and textual perspectives. He focuses on the interdiscursive relationships between the conciliation request (*papeleta de conciliación*) and the civil complaint (*demanda civil*). The analysis based on a corpus of 40 conciliation requests directed to the Centro de Mediación, Arbitraje y Conciliación (Mediation, Arbitration and Conciliation Centre) shows that the genre of civil complaint “colonizes” the conciliation request, which is usually written following the pattern of the civil complaint and has not developed into an autonomous text genre. The article, well-structured and closed with reliable conclusions, discusses possible reasons for this process.

Elena Landone, *Notas en torno a los marcadores del discurso en la normativa territorial de las Comunidades Autonomas españolas*, discusses discursive markers (DMs) in the textual/grammatical structures of the territorial regulations of the Spanish autonomous communities. The study is a valuable contribution as the corpus of analysed texts is large: it contains all types of territorial regulations issued by the administrations of autonomous communities in Spain between 1980 and August 2009. Each of the analysed documents consists of three parts: a preamble, where DMs are quite numerous and varied, the articles, with less varied and generally monofunctional DMs, and an ending with some fixed markers of the promulgation formula. The analysis shows some repetitive combinations of DMs characteristic of this legal/administrative language. The article contains some interesting illustrative material.

The article by Ana López Samaniego, *El género profesional del informe jurídico. Recomendar e interpretar la ley*, is a valuable contribution in which the author defines and describes the professional genre which has not been investigated in Spain before: the text of legal advice. It is understood as a text written by a lawyer in response to his/her client seeking legal advice. The author applies the method of discourse analysis, more specifically genre analysis. The study is based on the analysis of a corpus of 15 legal advices of private character and 12 of public character are available in the Internet. Both corpora are equivalent in the number of words. The analysis provided in the article is very detailed and accompanied by carefully prepared illustrative material.

Referring to Bahtia (2004: 124-133), it focuses on *text-external* factors of genre integrity. The author distinguishes two subgenres of legal advice and shows how it is related to other legal genres.

In her article *La traducción de la retórica forense: análisis de los elementos y recursos argumentativos en un texto jurídico*, Carmen Mata Pastor thoroughly analyses argumentative means used in legal texts in the context of a real arbitration procedure between a Spanish company and an Italian one. The analysis is based on documents written in Italian of which some examples are presented. Unfortunately, the author provides no translation of these examples into Spanish. Although the title of the article suggests that translation is its main topic, not much attention is paid to it. The problem of translating forensic rhetoric is mentioned only at the beginning of the article and in its conclusions where the author aptly observes that the translation of argumentative texts requires not only understanding linguistic elements but also rhetoric ones, which should be transferred into another language in order to preserve the intention of the author of the text. The article could be more useful if such conclusions were based on an analysis of the existing translations (parallel texts) or if potential translations of the examples were discussed in detail.

The article by Félix San Vicente, *Autor, norma y uso en los prólogos de DRAE (1780-2001)*, is devoted to a diachronic analysis of the prologues to the particular editions of the Spanish monolingual dictionaries published by the Real Academia Española (Royal Spanish Academy). It discusses the normative character of the dictionary which is recognised internationally. It is considered a reference when the “official” meaning of a word or even its existence is to be established. It is also regarded as authority by jurists. The article describes the developments and changes in the most important editions of this dictionary. It also discusses the collective authorship of the RAE dictionaries and the use of neologisms in the scientific and technical fields. The article contains rich bibliography but it rather only confirms existing knowledge. Not much attention is paid to more thorough investigation in the field of language and law.

Raquel Taranilla, in *Forma y función de los enunciados jurídicos de recomendación: las Recomendaciones de la Comisión Europea*, discusses the linguistic means of expressing recommendation and its function in Recommendations of the European Commission. The qualitative and quantitative analysis is based on a corpus consisting of 15 Recommendations in Spanish. However, it is compared in some cases with a parallel text in English. The conclusions of this well structured article are very interesting. In the Spanish text, recommendation is sometimes expressed by the same linguistic means that are used to express obligation in Spanish legal texts, for instance the verb *deber* (should) + infinitive or future tense. The author compares it with the English version of the text, which seems less imperative. In consequence, there is a dissonance between the form of recommendation and its function, which is to recommend and not to oblige. It is also against the stylistic rules established by the European Union in the *Joint Practical Guide. Guide of the Parliament, the Council and the Commission*.

The last article, *Notas sobre la calidad semántica de equivalentes de UUFF de lenguaje jurídico en los DDBB actuales español-italiano*, by María Joaquina Velero Gisbert, concerns phraseological units of legal language and its equivalents in modern Spanish-Italian bilingual dictionaries. The author divides the analysed examples into three categories in relation to the degree of equivalence they present: total, partial and

none. The author emphasizes the importance of the purpose and the intended addressee of the translation. This is especially important in specialized translation, which can be addressed to specialists, semispecialists or general public. The topic dealt with by the author is of importance to translators and interpreters in the Spanish-Italian language combination, however, the author analyses a relatively small number of examples.

In conclusion, the book under review provides the reader with interesting contributions in the area of language and law. The articles are diversified and in general offer new insights into this interdisciplinary field. Special attention is paid to discursive, textual and lexicographic aspects.

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