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## NEW DEVELOPMENTS IN LEGAL LINGUISTICS

Review of *Legal Discourse across Languages and Cultures*. *Linguistic Insights. Studies in Language and Communication*. Edited by Maurizio GOTTI and Christopher WILLIAMS, Peter Lang: Bern, 2010, ISBN 978-3-0343-0425-2, 339 pages.

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The 117th volume of *Linguistic Insights* series contains the latest works of scholars investigating legal discourse from cultural and lingual perspectives. Contributions have been submitted by participants of the 4<sup>th</sup> CERLIS Conference – CERLIS 2009 held in Bergamo on 18-20 June 2009. The contributors touch upon various aspects of legal language and legal discourse in various settings. It is divided into two parts with the former one on legal discourse across languages and the latter one on legal discourse across cultures. There are seven chapters in each part.

In the introduction the editors, M. Gotti and Ch. Williams, turn the attention of readers to the impact of legal culture and national legal systems on legal language, discourse and translation and rapid changes which may be observed in that domain of research.

### **Part 1** *Legal Discourse across Languages*

Susan Šarčević (*Creating a Pan-European Legal Language*) discusses the efforts connected with the preparation of the European Common Frame of Reference (CFR) and the role of language in the process of harmonization. Numerous problems connected with the fact that English, embedded in common law system, is used as the language of legal communication in pan-European context arise. The CFR would be especially helpful in the European contract law but also other areas of civil law. Right now EU terminology is often constructed by national courts in compliance with national concepts well-known to judges. The transparent and uniform interpretation is hindered by the lack of definitions and vagueness of EU terms, use of polysemous terms without narrowing down their meanings by definitions, terminological inconsistency, etc. The time will show whether the CFR will be adopted and applied consistently by legal drafters, lawyers and translators, and whether the glossary will serve its purpose. The method and material are correct and as always in the case of Šarčević's works the examples used illustrate the reasoning in a very natural, clear and logical way.

Colin Robertson (*Legal-linguistic Revision of EU Legislative Texts*) touches upon the role of legal linguists in the process of revision of EU legislative instruments. First, the

author presents the job and qualifications of lawyers-linguists, next he analyses cultural setting of such revisions, and especially EU linguistic regime, and finally the constraints of time, space, politics, administration and negotiation. It is concluded that legal linguistics is becoming more and more important and recognized as an area of scholarly research and that some new developments are expected in the near future in this respect. The author has included in the chapter his thoughts on the subject matter as well.

The chapter by Martina Bajčić (*Challenges of Translating EU Terminology*) illustrates the process of searching for and arriving at terminological equivalents for EU terminology. Using the Posted Workers Directive as an illustrative material, she presents the challenges which the translator must face when dealing with EU jargon. It is concluded that the standardization of terminology may facilitate the job of the translator but at the same time the task of the translator is interdisciplinary and sometimes hard to accomplish as it requires an interdisciplinary approach (both linguistic and terminological knowledge) and valuable time. The chapter constitutes a valuable contribution even if it confirms the existing knowledge. There is an adequate number and quality of the illustrative material and the method applied is correct as well. There is an unnecessarily bolded comma in the middle of page 84.

Jan Roald and Sunniva Whittaker (*Verbalization in French and Norwegian Legislative Texts: A Contrastive Case Study*) analyze the difference in verbalization of certain concepts in French and Norwegian statutory instruments mainly on public tenders. The analysis reveals significant differences in signaling the reader stages of procedure in French and Norwegian. The conclusions drawn are coherent and logical and consistent with the results obtained. The illustrative material is sufficient and despite the fact that the chapter deals with French and Norwegian and is written in English as the language of communication the examples provided from both languages are incorporated into the text in such a manner that the text is comprehensible for readers not knowing French and Norwegian.

Lelija Sočanac (*Linguistic Transference in Croatian Law Articles*) presents the results of the research into lexical transfers affecting legal Croatian. The four major languages imprinting Croatian are Latin, English, German and French. The quantitative method was used to obtain the relevant data for four periods between 1955 and 2008. The author classified the obtained data on the basis of the branch-of-law criterion. Finally, the probable motivations for transference were revealed. The research is meticulous and the results are properly analysed.

Silvia Cacchiani and Chiara Preite (*Law Dictionaries across Languages: Different Structures, Different Relations between Communities of Practice?*) present the research into borrowings from French into English and from English into French found in the *Oxford Dictionary of Law* (2006), *Longman Dictionary of Law* (2007), and *Vocabulaire juridique* (2007). The detailed analysis of entries reveals that despite similar aims declared by the publishers of dictionaries, they diverge to some extent. English dictionaries focus on the encyclopaedia and disciplinary knowledge whereas the French dictionary 'has a multiple focus on language, the law and contribution of linguistic analysis to the legal system, which translates into an interesting form and language use' (p. 151). The research has been limited to a relatively narrow sample of entries, therefore it cannot be concluded authoritatively that the results obtained are representative.

Nevertheless, it still provides some interesting insight into the different approaches of lexicographers and usability of particular dictionaries for specific purposes.

Snježana Husinec (*The Use of Comparative Legal Analysis in Teaching the Language of the Law*) analyses the model of teaching a foreign legal language. The technique of comparative legal analysis is presented and its usefulness in the process of teaching is discussed. The author stresses that the best teaching method is the so-called content-based instruction. The following methods have been discussed: (i) juxtaposition of features of an area of law in two jurisdictions, (ii) componential analysis of meaning of legal terms, and (iii) comparative legal analysis. The chapter is well-structured. The methods presented are illustrative and the examples are of proper quality and quantity. In general, it is a valuable contribution.

### **Part 2 Legal Discourse across Cultures**

Janet Ainsworth (*Linguistic Ideology in the Workplace: the Legal Treatment in American Courts of Employers' 'English-only' Policies*) deals with the so-called 'English-only' policies which are discriminatory and ineffective as far as communication in a workplace is concerned. The author analyses false linguistic assumptions used in courts' reasoning in employment related cases. The conclusion is that the required use of English on numerous occasions may make the workplace less efficient and safe.

William Bromwich (*Discourse Practices and Divergences in Legal Cultures in Employment Tribunals*) presents the results of his research into proceedings before the Employment Tribunals in Great Britain, the European Union Civil Service Tribunal, and finally the International Labour Organization Administrative Tribunal. On the basis of the comparative analysis, a number of divergences are revealed. The analysis is well grounded, the method is applied consistently and properly. In general, the chapter provides a valuable insight into discursive divergences depending on the Tribunal before which the proceedings are instituted.

Giorgia Riboni (*Constructing the Terrorist in the Decisions of the Supreme Court of the United States and the European Court of Human Rights*) investigates the evolution of the meaning of the term *terrorist* starting from the times of the French Revolution and ending with the present understanding and usage after the 11<sup>th</sup> of September 2001. Riboni highlights the interaction between the language and the terrorist phenomenon. Moreover, she justifies the lack of definition with political reasons. The research has been carried out meticulously and indicates the development of the meaning of the term in question as a result of the changing political scene.

Davide Mazzi (*The Centrality of Counterfactual Conditionals in House of Lords and US Supreme Court Judgments*) has analysed two corpora of judgments of: (i) the Supreme Court of the United States of America and (ii) the House of Lords (UK). The methods applied were both quantitative with the software WordSmith 4.0 and qualitative carried out manually. Finally, the concordance analysis was conducted. The research revealed that there are definitely more backward-oriented dialogic forms of counterfactual conditionals in both corpora, than forward-oriented ones. Moreover, the judgments are highly dialogic and argumentative. The research methods are correctly applied and the chapter is well-structured. The conclusions are logical.

Ignacio Vázquez Orta (*A Genre-based View of Judgments of Appellate Courts in the Common Law System: Intersubjective Positioning, Intertextuality and Interdiscursivity in the Reasoning of Judges*) investigates appellate court judgments. The author bases his research on legal discourse, critical discourse analysis, and systemic functional linguistic foundations. He focuses his attention on 'manifest intertextuality' and 'constitutive intertextuality' (terms used by Fairclough 1992) as well as 'dialogism' and 'heteroglossia' (terms used by Bakhtin 1981). The conclusions are that judgments are dialogic, intertextual and interdiscursive. The research is amply illustrated with relevant examples. The research methods applied are correct and persuasive and the literature is pertinent.

Thomas Christiansen (*The Concepts of Property and of Land Rights in the Legal Discourse of Australia Relating to Indigenous Groups*) deals with the issues of property and land rights in relation to the Aboriginal peoples and Torres Strait Islanders in Australia. Two corpora have been examined: (i) Indigenous Law Bulletin (issues from 1981 till 2007) published by the University of New South Wales, Faculty of Law and (ii) as a reference corpus Harvard Law Review published by Harvard Law School (USA). First the author examines possession as a linguistic concept and draws conclusions that it is known to Aboriginal people but as their culture has been less materialistic the occurrence of words relating to possession was less frequent than in other languages. Next, the analysis of clusters obtained for selected terms through the application of WordSmith 3.0 is presented. The research reveals that there are different collocations with key words found in clusters in both analysed corpora.

The last chapter written by Ismael Arinas Pellón (*How Does a Patent Move? Genre Analysis Has Something to Say about It*) focuses on patents. The author analyses the rhetorical structure of a corpus of 333 US utility patents (from 199 to 2009) with the exclusion of biotechnology and drug patents. The parts containing novelty, non-obviousness, technical adequacy and usefulness are scrutinized. A number of formulaic sentences and structures are identified in the corpus which results in treating US patents as a genre having specific feature. Finally, recommendations for future research into patents are formulated. The author has applied proper research method and drawn logical conclusions. The chapter constitutes a valuable contribution.

To sum up, the volume *Legal Discourse across Languages and Cultures* is a recommendable reading. The selection of topics reveals the interdisciplinary character of legal linguistics and legal discourse. The title of the volume accurately reflects its content. In general, the research methods are accurately applied, the illustrative material is of sufficient number and quality (most of the chapters are amply illustrated with examples), and finally the interpretation of results is appropriate.

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