A TEXT TYPE-SPECIFIC APPROACH TO PLAIN LEGAL LANGUAGE AND ITS IMPLICATIONS ON MACHINE TRANSLATION

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Abstract

Most characteristics of the legal language go against the idea of plain legal language. However, there are huge differences regarding the extent to which these characteristics are manifested in various legal text types. That said, the need for plain legal language usage is also subject to the type of the given text. The paper introduces some typical scenarios of legal communication by grouping legal genres into functional text type categories, as the function of the text, together with its recipients, determine whether the complexity of legal language may or may not be disregarded in a given legal text. But even when simplification seems justified, there are serious obstacles and risks in using plain legal language, some of which are also approached from the perspective of genres and text types. It is suggested in the paper that regarding written legal texts, syntactical and structural changes are a safe way to increase comprehensibility as opposed to lexical alterations.

Keywords: legal drafting, legal text-types, legal communication scenarios, functional legal text typologies, pragmatic and linguistic factors of comprehensibility

1. Introduction

The idea of simplifying legal language might be as old as the law, but counterarguments cited by the opponents of the idea must be just as old. An argument frequently used by legal drafters who would rather stick to traditional drafting conventions is that since law itself is complex and complicated, the language of the law should necessarily

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bear the same attributes. The interests of legal drafters and the recipients of legal texts are obviously in conflict: while a layperson rightfully expects legal texts to be comprehensible, legal drafters are afraid that any simplification will result in damage to the precise content of the text. This is a valid concern, as in legal drafting and legal translation priority is given to accuracy, coherence and consistent terminology under all circumstances, sometimes even to the detriment of style, register, and in some cases grammar, as well.

But the expectations of laypersons to understand legal texts is just as valid. By accepting the validity of these two circles of interest one might wonder whether the clarity versus accuracy controversy in the context of legal drafting may ever be dissolved. Nevertheless, orthodox views are slowly but surely changing. As Adler[1] remarks, many lawyers "are aware of the need for change and some are effecting it", while a few decades before "they believed that plain language represents irresponsible over-simplification". But even if legal drafters are ready to break with traditional drafting conventions, the question remains whether the linguistic tools suggested by advocates of plain writing will solve the problem of comprehensibility, which is not purely a linguistic, but also a pragmatic issue, since, in order to understand a legal text, one must be aware of the whole referential network (in the present case, the system of the law).

The paper takes into account the obstacles in the way of simplifying legal language, arguing that some of these obstacles originate from the very nature of the legal language, and therefore can only be overcome with extreme care or, in some cases, cannot be overcome at all without losing the explicit legal content. It is suggested that instead of arguing for or against plain legal language use in general, it makes more sense to state that in some communicative situations simplified language is crucial, while in others it is unnecessary. In case of doubt as to the necessity of using plain language, legal text typologies categorizing legal genres by archetypal scenarios of communication in the legal domain serve as a suitable starting point for legal drafters, who need to explore some extra-textual factors of the given genre, such as, e.g., the recipients and the communicative function (or purpose) of the text. Only after analyzing the text from these aspects may it be decided whether the extreme complexity of legal language may or may not be disregarded in an actual legal genre and whether the toolkit suggested by plain language guides can be applied safely, without damaging the legal content.

2. Definitions

The subject of 'genre' and 'text type', which are key concepts of this study, has been addressed by researchers of several disciplines, but there is no consensus on their interpretation. Therefore, some clarification is provided below regarding the

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[1]   Mark Adler: The Plain Language Movement. In: Peter Tiersma – Lawrence M. Solan (ed.): *The Oxford Handbook of Language and Law*. Oxford, Oxford University Press, 2012. 74. http://dx.doi.org/10.1093/oxfordhb/9780199572120.013.0006

content behind these concepts. It must be noted that there are several approaches to the definition of genre, from which only the ones relevant to this study are presented.

In the context of linguistics, genre is usually considered to be a term used in semiotics, pertinent to the comprehension and the production of texts, and, within the category of semiotics it is closely related to pragmatics, which comes down to how language is used to achieve a certain communicative goal, and how context aids the transmission of meaning in a certain discourse. A broader definition for genre was provided by Swales, who sees it as a phenomenon determined by a complexity of linguistic, social and cognitive factors. Genre in his view is "a class of communicative events, the members of which share some set of communicative purposes"[2]. In addition to purpose, genres can be distinguished by structure, style, content and intended audience, and they also display differences and similarities in language use. One important common element of the definitions of genre is the conventionalized use of language, i.e., fixed language patterns used repeatedly in a genre. The fixedness of these language patterns varies greatly across genres, but legal genres typically feature a lot of fixed formulae and set patterns.

Within the discipline of rhetoric, text types are typically determined by the purpose of the communication (to inform, to persuade, etc.), which is in close connection to the rhetorical purpose and strategies used in the text. While communicative purpose represents the ultimate aim of a text, rhetorical purpose is made up of rhetorical strategies which constitute the mode of discourse realized through text types. Text types are identified by Hatim and Mason[3] as "a conceptual framework which enables us to classify texts in terms of communicative intentions serving an overall rhetorical purpose". For Biber[4], however, the differentiation of text types implies groupings of texts which are similar in linguistic form, irrespective of genre. Linguistically distinct texts within a genre may represent different text types (e.g., newspaper articles can range from narrative and colloquial to informational and elaborated in linguistic form), while linguistically similar texts from different genres may represent a single text type (e.g., newspaper articles and popular magazine articles).

Based partly on the views introduced above, in this paper genre will be regarded as text used in a particular situation for a particular social purpose, composed and structured according to the norms accepted by a particular discourse community and thus displaying differences in external format (e.g. newspaper article, essay, contract, etc.), while text types are differentiated according to their specific rhetorical (and communicative) function (e.g. narrative, descriptive, prescriptive, argumentative, comparative, etc.) – in other words, the mode of the discourse.

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[2]   John Malcolm Swales: *Genre Analysis. English in academic and research settings.* Cambridge, UK, Cambridge University Press, 1990. 58.

[3]   Basil Hatim – Ian Mason: *Discourse and the Translator.* London, Longman, 1990. 140.

[4]   Douglas Biber: A Typology of English Texts. *Linguistics,* vol. 27., no. 1. (1989), 6.
       http://dx.doi.org/10.1515/ling.1989.27.1.3

3. Obstacles in the way of plain legal language

One of the premises of reader-friendly drafting is that the text should be adjusted to the status and expectations of the recipient. An obvious conclusion to be drawn from this is that if the addressee of the text is a layperson, complicated legalese should be avoided, whereas in case the recipients are legal professionals, they will most probably find it easier to process complicated language, because they are used to it. (Professionals might also experience difficulties in understanding and processing legal texts that are extremely complicated, but these difficulties are typically related to grammar and syntax rather than lexis or terminology.) Consequently, the communicative situation, defined by the function of the text and its recipient, is a decisive factor to be checked out by legal drafters.

Yet, even after the decision to simplify has been made, drafters face several technical and theoretical obstacles in the realization of using plain legal language.

One of the technical obstacles is that lawyers and law students are still socialized on corpora of texts written in legalese and featuring conventional language patterns, which prevents them from acquiring the so-called plain writing tools. Because of that, even those legal professionals who accept the rationale for plain language may find it tedious and discomforting to change their conventional writing habits, discard the old schemes and use different terms, phrases or sentence patterns. Furthermore, the expectations of the professional community and their clientele (who were also socialized on traditional legalese) may add to the discomfort. As Biel remarks[5], "one of the consequences of the conventional use of language in genres is that it sends recognizable signals of being 'in a genre' and creates expectations in the discourse community about communicative purpose, form and content." Thus, even for those drafters who are brave and willing to apply plain writing tools, the question arises whether the recipients of the text will not become skeptical regarding their professionalism and credibility for using a register different from what they are accustomed to, which might be hugely demotivating for the authors of such texts. Approaching the problem from this perspective, complicated legalese could also be regarded as a professional norm.

This professional norm has such a strong effect on students of law that it is internalized by them already in the first year of their studies. Let me justify this statement with one of my personal experiences gained from teaching legal writing in English to Hungarian students of law[6]. When we are discussing and applying the clear writing rules (as laid down in the style guides of EU institutions and suggested by Bryan Garner's school of legal writing[7]), I am always bewildered by how challenging most students find it to paraphrase complicated legal content in simple language.

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[5] Lucja Biel: Genre analysis and translation. In: Kirsten Malmkjær (ed.): *The Routledge Handbook of Translation Studies and Linguistics*. London and New York, Routledge, 2017. 151. http://dx.doi.org/10.4324/9781315692845-11

[6] At Pázmány Péter Catholic University, Faculty of Law and Political Sciences (Budapest).

[7] lawprose.org

The exercise they do is a kind of intralingual translation: students receive a case in English, the text of which is a typical legal text (with sophisticated vocabulary, long and complex sentences, lots of references and other typical attributes of legal texts drafted in conventional legal style), which they are supposed to summarize as if they were explaining it to a layperson with no understanding of the law. No wonder it is a challenge for the students, first, because English is not their native language and second, because most of the legal texts (English or Hungarian) they have encountered during their studies are drafted in conventional legal style, which, by the passage of time, they adopt as a norm. There is also a third reason: even in their first year and all through their studies, law students are conditioned to be precise and accurate and learn that every single detail might be important. So, by performing the task of extracting the relevant information and conveying it to lay people, using simple sentence structures and general vocabulary, they must cope with multiple (both linguistic and pragmatic) challenges and, in addition, let go of the so-called "lawyers' mentality". Their plight is aptly summarized by the paradox attributed to Floyd Abrams, an American attorney: "The difficult task, after one learns how to think like a lawyer, is relearning how to write like a human being." In fact, the students' concern over not being detailed and precise enough is understandable, and the reason why this task is so hard is that in order to decide on the appropriate content and drafting style, one must be in possession of both thorough legal and linguistic knowledge. Introducing students to functional legal text typologies together with an exhaustive explanation about the target audience and the function of the text might be of some help in deciding what tools can be used to what extent, but the confusion experienced by the students while performing the task is justified, as they must take several decisions that require meticulous judgment. With that said, we have arrived at another significant paradox of legal drafting, namely, that clarity and accuracy in a legal text can mostly be achieved at each other's expense.

There is a further obstacle in the way of plain legal language, which is of a more theoretical nature. It is the general view that the complicacy of the law naturally results in the complicacy of the language of the law. Content and form are closely related in all professional languages, but law is in a special status, since, as opposed to natural and technical sciences, the law, as a discipline, cannot even exist without language. Therefore, this view deserves credibility and cannot be disregarded.

Based on the above, the very nature of the law seems to be challenged by the rules of plain writing, while it also must be considered a logical expectation that the addressees of legal documents understand the message conveyed by them. As regards understanding, it is also worth noting that the problem of comprehensibility cannot be resolved by linguistic tools alone, although there are several obstacles in the way of comprehensibility that are of purely linguistic nature. According to studies in psycholinguistics,[8] the linguistic phenomena that negatively influence comprehensibility are the following:

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8   E.g., Pléh, Csaba – Lukács, Ágnes (ed.): *Pszicholingvisztika.* [Psycholinguistics] Budapest, Akadémiai Kiadó, 2014. 251.

- long words and sentences;
- reversed or unconventional word order;
- lack of the verb in sentences;
- lack of the subject (impersonal structures);
- inadequate structuring of sentences;
- clauses embedded in the main sentence.

In the next section we will see that the phenomena listed above are not uncommon in the legal language.

4. Some characteristics of the legal language that go against simplification

Certainly, legal languages in all parts of the world show some general characteristics, which, as seen by lay people, are mostly negative. A lot has been written about the characteristics of the English legal language in the past centuries, and David Melinkoff's remarkable book, published in 1963[9], provides a broad overview and a synthesis of many of the views expressed regarding the incomprehensibility of the English (and the American) legal language. As early as 1963, Melinkoff warned of those 'redundant' characteristics of the legal language that endanger clarity and differentiated them from the ones that are neutral or do not have a negative effect on comprehensibility. He concludes that most lexical characteristics are neutral, while the negative ones are typically related to syntax and phraseology. These statements and the need for legal language that is understandable for the general public seem to be valid for all legal languages.

The Hungarian legal language, for example, follows Indo-European sentence patterns (since its development was dominated by German influence) in spite of the fact that Hungarian belongs to a different language family, which makes legal language 'foreign sounding', as opposed to the general language. Therefore, if laypersons in Hungary were asked to list a few characteristics of the legal language, they would very probably come up with a fairly negative depiction of it, maybe something like this: 'formal, impersonal, sophisticated, high-brow, pompous, verbose, ritualistic, archaic, vague, distant, exclusive, mannered, etc.', which reveal a lot from the frustration of lay people for not being able to fully comprehend the language of the law. And although the Hungarian legal language is still not as well-researched as it could be, there are quite a few research results (mainly from the past decade, when the interest for legal language research has significantly grown) that reinforce this negative public opinion.

A groundbreaking corpus-based research project was carried out by Hungarian lawyers and linguists between 2014–2018[10] with the aim of mapping the characteristics of Hungarian legal text types and comparing them with the general language register

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9   David Melinkoff: *The Language of the Law*. Boston, Little, Brown & Co., 1963.
10   K-112172 OTKA research project (2014–2018), research results are published in the volume Szabó, Miklós – Vinnai, Edina (ed.): *A törvény szavai.* [The Words of Law] Miskolc, Bíbor Kiadó, 2018.

to identify the linguistic impediments in citizens' access to the law. Among other findings it was proved by quantitative research methods that compared to the general language, all legal text types are characterized by nominalization, impersonal style and grammatical structures, complicated compound and complex sentences, a high number of embedded and relative clauses, multiple subordination, unusual word order, redundancy, etc. – in other words, attributes that have a negative impact on comprehensibility and clarity.

It must be stressed, nonetheless, that many of these negative attributes – which are typical of legal languages and usually take shape in the form of grammatical structures – have not developed by accident, they perform specific functions. Nominalization, e.g., is used to enhance formality as opposed to the informal nature of ordinary language, while passive voice is used to avoid personalization – a hugely important function in the legal context. Complex and compound sentences, which are typical in legal acts and codes, are complicated, because the aim of the legislator is to include as much information in a single legal act as possible in order to avoid continuous back- and cross-referencing. In the same way, redundancy is used to avoid misunderstanding and ambiguity. Finally, while clear writing guides suggest replacing sophisticated terminology with shorter and more transparent vocabulary, we must be aware that in a legal context the use of synonyms is risky, because the law cannot operate coherently without legal concepts bearing consistent and well-defined meaning. If legal terms are substituted by their quasi-synonyms, the legally relevant referential meanings may be unclear, which, by the way, also explains why such a dominant part of the research on legal language focuses on legal terminology.

Based on the above-mentioned reasons we can conclude that legal language, which is considered by many researchers of the field to be the most archaic among specialized languages[11], is so persistent with its conventional language patterns because these patterns were shaped by and adjusted to the operation of the law. Taking a step further, if the characteristics of legal language derive from the nature of the law, then the question arises whether these characteristics (apparently conflicting with the principles of the plain language movement) are redundant at all, and whether they could be or should be replaced with less complicated alternatives.

Regarding legal language in general, there is clearly no single best answer to this question. However, by investigating legal genres and text types separately from each other, we will see that there are marked differences between each legal genre in terms of their comprehensibility, which depend greatly on the phraseological, grammatical and stylistic language patterns used in the given genre. Legal language in general is said to be the most slowly changing professional language, while even within legal genres there are some (e.g., common law contracts and wills) that stick to archaic patterns more than the others. This phenomenon has also been identified

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[11]   E.g., Enrique ALCARAZ – Brian HUGHES: *Legal Translation Explained.* Manchester, St. Jerome Publishing, 2002.; and BALOGH, Dorka: *Műfajtudatosság a jogi szakfordításban és szakfordítóképzésben.* [Genre-awareness in Legal Translaton and in Legal Translator Training] Doctoral Dissertation. Budapest, ELTE, 2020.

by the above-mentioned research on the characteristics of the Hungarian legal language, which pointed out significant differences between the sentence structures used in legislative, judicial and theoretical legal documents (the reasoning section of judicial decisions and theoretical legal texts featuring the longest and most complex sentences).

As for language patterns, it is also important to note that while the differences between legal systems and branches of law typically pose terminological challenges in legal drafting and translation (due to the system-bound nature of legal terms), text types and genres exceed the level of terminology, as, in addition to featuring differences in grammar, form and style, they operate with a special set of multiword expressions (e.g. phrases and collocations) characteristic of their respective register.

In the following section of the paper, we will take an overview of how text typologies may assist in deciding if a legal text can be or should be adapted to the expectations of the lay audience.

5. Legal text types and plain language

Assessing each legal genre separately to decide on the rationale for using plain language in them would be hardly feasible, so it makes more sense to group these genres into larger categories, namely, text types. From the perspective of comprehensibility, functional text typologies are a suitable starting point, since the function of the text (that usually implies the addressees/recipients as well) determine the typical language patterns to be used in the given text type. This means that legal genres falling into the same category bear similar rhetoric and pragmatic characteristics.

While in legal theory legal texts are traditionally grouped into two functionally distinct categories: normative (prescriptive) and informative (descriptive)[12], most functional legal text typologies divide the latter category of informative texts into two further categories, thus distinguishing 3 large groups of texts according to their field of application.: 1) normative texts used in statute law (e.g., legal acts), 2) texts that are used in the application of the law / procedural law (e.g., judicial decisions), and 3) texts on legal science (e.g., books on legal theory or law reviews).

This distinction serves as the basis for the typology created by Šarčević[13], who complements the above 3 legal text categories with the specific rhetorical function they are supposed to perform, thereby distinguishing the following groups:

1) Primarily prescriptive texts including normative legal genres.
2) Primarily descriptive but also prescriptive (mixed) texts including genres that are used in the application of the law.
3) Purely descriptive texts including genres that describe or analyze the law – these are meta-texts that are not applied directly in the mechanism of the law.

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[12]   Hans Kelsen: *General Theory of Norms.* Oxford, Clarendon, 1991.

[13]   Susan Šarčević: *New Approach to Legal Translation.* Hague, Kluwer Law International, 1977.

Hence, the first group includes the broad spectrum of legal instruments whose dominant function is the imposition of obligations, such as statutory law, like legislation and codes, but treaties and contracts belong to this category as well. The second group is made up of legal texts with mixed functions, i.e., texts that are mostly descriptive in their function, but feature prescriptive elements as well. Typically, these are texts used in court procedures, such as, e.g., judicial decisions passed, or statements of claim submitted to court. Finally, the third group includes the legal genres that are of purely descriptive nature: texts which have been written about the law, but which do not play a direct role in the application of the law, such as, e.g., textbooks, articles on legal matters and other theoretical works on legal science.

There are various factors, both linguistic and pragmatic, calling for the need to simplify a given legal genre or text type. Based on the text typologies introduced above, let us now examine how the function of legal texts may or may not support the need for simplification and plain language use in the respective text categories. As understanding legal language obviously poses a challenge to lay people, it seems logical to conclude that simplification is justified in legal texts whose recipients are laypersons. From the 3 categories presented above (texts with either prescriptive, mixed or descriptive function), it is only the last one (texts with a purely descriptive function) where the recipients are almost exclusively legal professionals, while normative and mixed text types address laypersons as well.

Therefore, in the case of descriptive texts, plain language use is not crucial, because these texts are mostly read by legal professionals and students of law, who have got used to the traditionally complicated language of the law during their legal practice and studies, which implies that processing them does not require such strenuous efforts on their part. On the same note, the discipline of legal science requires a specific sophisticated register, consequently, paraphrasing it in plain language might even be shocking for those socialized on traditionally drafted theoretical works.

Let us now focus on the other two types of legal texts: prescriptive and mixed texts. The recipients of these text types are typically both lay persons and legal professionals, two target groups with different expectations regarding the texts. Examining the 2 text types separately, what happens frequently in the case of prescriptive (or normative) legal texts (as opposed to "mixed" or procedural ones), is that lay people must rely on themselves (on their own resources), because people rarely hire a lawyer to explain legal acts for them – that typically happens when they are involved in actual legal actions and procedures at court. Thus, in terms of legal genres, it is mostly legal acts that cause the biggest headache. Indeed, there seems to be a huge demand by laypersons to understand legal texts – as proven by the myriads of posts in legal chat forums, which clearly show that people try interpreting the law on their own, but finally give up in most cases, possibly because they are unable to absorb and navigate between the large number of cross-references (which again justifies the assumption that the comprehension of legal texts is partly a pragmatic question).

Therefore, on the one hand, it would be crucial to simplify the language of legislative genres so that laypersons are given a chance to comprehend it. However, the fact that the recipients of legal acts are not only laypersons but legal professionals

as well, raises further questions, because it also implies that the function of legislation is two-fold: while laypersons want to understand what practical effects the law has on their everyday lives, legal professionals use legislation – which is regarded as the prototypical genre in the legal domain[14] – as a primary referential source.

Drafting legal acts in two different versions might be a solution to overcome this anomaly: one version in conventional legal language used for references, and another in a register and style that is closer to that of everyday language, supplemented by explanatory notes for lay people.

In the second category of mixed texts, that is, in texts used in the application of the law (in procedural law) laypersons are generally represented by legal professionals (they act on behalf of them and very probably explain the relevant points of law to them), in which case it is a question whether laypersons expect their advocate to use plain language in the documents submitted to the court and in their verbal manifestations (e.g., pleadings) during the official procedures. We might as well presume that some clients are so used to the conventional patterns of legal language used in a particular legal situation that they would be disoriented if addressed in plain language, simply because communication involves the shared expectation that a particular speech situation will call forth a particular discourse involving set language patterns. To justify this presumption, we'll take a short detour from the path of written legal genres and quote a specific case of verbal courtroom interaction to show that lay persons do get confused when faced with legal professionals not applying the language patterns they are used to. In the case study described by Phillips[15], a journalist gives an account of his jury service, where the judge, in a conscious effort to use plain language and avoid legalese, gave instructions to the jury by saying: "…convict only if you are sure, if you are not sure, then acquit". After deliberating for almost a day, the jurors came back and said they were having trouble with the word 'sure'. Could the judge help them: for example, would 'beyond reasonable doubt' suffice instead of 'sure'? This example sheds some light on the true nature of legal language and the reason why the use of synonyms is so questionable in a legal context. Still, similarly to medical documents, clients must be granted the right to be able to understand documents affecting them directly, like, e.g., in the case of consumer contracts, wills, pleadings, judgments or court orders, hence, plain language use is justified in procedural legal texts, as well.

Based on the above, it might be concluded that, as a rule, plain language use is justified in normative and mixed legal texts, while in the case of descriptive texts it is not that crucial. Nevertheless, that would certainly be an oversimplification, because legal genres are rarely static, they continuously change, interact with and transform into each other as required by the mechanism of the law – a phenomenon that has

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[14]   E.g., Risto Hiltunen: The Grammar and Structure of Legal Texts. In: Peter Tiersma – Lawrence M. Solan (ed.): *The Oxford Handbook of Language and Law.* Oxford, Oxford University Press, 2012. 39–51. http://dx.doi.org/10.1093/oxfordhb/9780199572120.013.0004

[15]   Alfred Phillips: *Lawyers' language.* London, Routledge, 2003. 43. http://dx.doi.org/10.4324/9780203220313

been described by a number of legal translation scholars[16]. In addition, the language and terminology of one genre may be taken over by the others due to constant cross-referencing. The best example to illustrate this is the case of the legal act, which, as mentioned before, is considered to be the prototypical and dominant genre of the legal domain and as such, nearly all legal genres belonging to mixed and descriptive text type-categories rely on it as their primary source: judgments, legal opinions and theoretical works on legal subjects all refer to legislation in one way or another, and by this constant cross-referencing the language of legislative texts becomes an organic part of the genres belonging to the other two text types, as well.

6. Linguistic tools in the service of better understanding

Once it has been defined which text type the given legal document dominantly belongs to, further decisions regarding plain language use can be taken more easily. The crucial question is whether simplified language endangers the legal content and the realization of the ultimate goal of the text. As mentioned before, lexical changes and the use of synonyms (simplified vocabulary) poses higher risks, therefore, if drafters want to play safe, they are to avoid terminological alterations. The good news is that even if synonyms are avoided, there are still a few linguistic tools left to improve comprehensibility without endangering the legal content. Empirical[17] and psycholinguistic experiments (mentioned in more detail under point 3) prove that comprehensibility can be improved even by minor grammatical and stylistic alterations, while macro-structural changes may also enable recipients to process the text with much less effort.

The safest grammatical tools are related to syntax: shorter sentences with a lower number of lexical units (maximum 20 words per sentence[18]), changing the word order, not separating the subject and the verb from each other, avoiding multiple negation, cross-references, embedded clauses and ellipsis – these will unquestionably help the reader to better understanding of the content. Making a conscious effort to use more verbs will counterbalance nominalization (a typical attribute of legal texts) with the added value of shorter sentences and a livelier text. Although implementing such changes in legal texts has certain limits – due to the fact that specialized languages cannot be expected to operate with the same grammatical rules as general languages –, they are rather safe as opposed to lexical and terminological alterations and is unquestionably beneficial for both laypersons and legal professionals.

Macro-structural changes should be handled a bit more prudently, as most legal genres have a standard and obligatory structural frame (many of them bearing similarities across legal cultures), which may only be diverted from under limited

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16   E.g., Vijay Kumar Bhatia: Interdiscursivity in professional communication. *Discourse and Communication,* vol. 21., no. 1. (2010), 32–50.; or Ződi, Zsolt: Jogi szövegtípusok. [Legal Text types] *Magyar Jogi Nyelv,* 2017/2. 26.

17   See research project K-112172 OTKA, Szabó–Vinnai (2018) op. cit.

18   E.g., Garner.

circumstances and in certain communicative situations. But text-organizational tools (i.e., using bullet points and a logical order in listing) combined with correct punctuation may be applied safely under all circumstances.

Finally, while lexical alterations are not recommended (or recommended only after careful evaluation of the consequences of the alterations), it is important to stress that once a term has been selected by the drafter, it should be used consistently throughout the whole text, since inconsistent terminology will have an extremely negative impact on comprehensibility.

7. Plain legal language and machine translation

So far, the paper mainly discussed plain legal style in the context of legal drafting, although the issue of plain legal language has several implications for legal translation, and, therefore, machine translation, too. In fact, so many that the scope of this study would not allow for a detailed discussion of the subject. Still, a few of these implications are presented below, because the challenges of simplifying legal language (deriving from the characteristics of the language of the law) are closely related to the challenges faced by both the human translator and the non-human translator software when translating legal texts. It is the multiple layers of characteristics of the legal language that make the case of legal translation special even among the other special fields of translation.

As it was discussed in the previous sections of this study, legal texts are hard to process (and translate) due to their complexity (both in the linguistic and the pragmatic sense): in addition to complicated content subordinated to specific legal systems and branches of law, legal text types and most legal genres feature a special and unique set of terminology, multi-word expressions and other language patterns (e.g., set phrases or collocations). Furthermore, the law operates in different social subsystems (i.e., it describes or regulates other disciplinary fields) whose complexity and language are also taken over and reflected by the language of the law[19]. Therefore, legal translation requires switching between a higher number of codes than translation in other fields of science, which might explain why the number of possible errors is also higher in the machine-translated legal texts. If legal translation is already a hard nut for machine translation engines due to the above-mentioned complexity of the legal language, the decisions to be made regarding plain language use very probably just add to the confusion by increasing the number of factors to be taken into consideration during the translation process (in terms of both vocabulary and style). In addition, as mentioned before, the spreading of plain language practices is a slow process, which suggests that texts drafted in the conventional legal drafting style are still dominant in translation memories. As these memories are used to teach translation engines, this also implies that complicated legalese will be reproduced by machine translation for some time to come, and it will probably take a long time until

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[19]   Heikki E. S. Mattila: *Comparative Legal Linguistics*. Hampshire, Ashgate Publishing, 2013. 97.

the recent efforts for simplification are rolled over into the corpora used by MT and other AI-based systems.

On the other hand, in the case of widely used languages, the available corpora of legal texts are now so extensive that it is easier to teach the machine to use the register of each individual legal genre respectively and thereby produce more authentic target texts in the appropriate register (the process further supported by the amazing efficiency of neural machine learning methods). Sadly, this is not the case regarding under-resourced languages (such as. e.g., Hungarian), and this will increase the gap between the quality of machine translations in certain language pairs as opposed to others.

The above facts, together with the general characteristics of the legal language, might explain why legal translations performed by the machine cannot be regarded as perfect or complete without human intervention – at least for some more time to come.

8. Conclusions

In summary, we can say that using plain language in legal texts remains a controversial issue. As argued in the paper, in the case of certain communicative situations it is more justified than in others, and legal text types, which provide a clue regarding the function of the text and its audience, may serve as useful guides in deciding to what extent plain language use is allowed without risking losing legal content. We could also see that even when the text type and the communicative function enables plain language use, the tools must be picked with extreme caution, and that serious obstacles arising from the nature of legal language stand in the way of simplification efforts, which make compromises hard to avoid. Furthermore, it has been pointed out that although grammatical and stylistic changes may improve comprehensibility a lot, they do not directly lead to better understanding, which, in the legal domain, is closely related to pragmatics. Added to that, it must also be acknowledged that the more complex and complicated the content, the more risks simplification poses.

As regards the 3 legal text type categories introduced in the paper, it has been suggested that in the case of normative and mixed text types (legislation and procedural documents), simplification might be justified regarding grammar and style, but as for terminology, legal drafters should be careful to eliminate the risks of misinterpretation, which is hardly possible by using synonyms and changing the form of the words. In the case of the third big category of purely descriptive texts, there is no crucial need to simplify, as the recipients are typically legal professionals themselves who are accustomed to reading and writing in traditionally complicated legal language, so it takes them less effort to process it. Plus, the theoretical nature of this text-type requires a more formal and sophisticated register anyway.

Nevertheless, even if plain language use is not the ultimate goal in each and every legal genre, there are situations where it is absolutely necessary. Such situations include, e.g., communication between the state and its citizens, and between service providers (banks, insurance companies) and their clients. Drafting documents used by these companies in clear and understandable language would lead to a win-win

situation, because a lot of money and work can be saved by effective communication, which is beneficial for both service providers and their customers.

Cost-efficiency and granting citizens easier access to the law are significant driving forces behind the plain legal language movement, having caused a rapidly increasing number of institutions to review their conventional drafting methods. Albeit with different intensity and at different pace in each country where the rule of law prevails, institutional style guides are published and constantly updated, projects and trainings are launched in the subject, and research groups including lawyers, linguists and language technology experts are created to survey possibilities, match them to demands and maintain a healthy balance between the clarity and accuracy of legal texts.