Introduction

Motto:
Language, Law, and the Tapestry of Cultures:
Unraveling the Dynamics of Cross-Cultural Legal Communication.
(Ronald Inglehart)

The present volume is grounded in Cao's (2007: 21) programmatic statement that "Law depends upon the performative nature of language". Legal language exists due to the interdependence between law and language, being used not only to express laws, rules and legal concepts, but also to create, interpret and enforce them. The relationship between language and law has long been acknowledged and widely investigated, as language presents and represents social reality, while every society is shaped by language and legal rules.

In a broader sense, law can be understood as the systematic regulation of the life of a community by standards treated as binding on both its members and its institutions. Laws are not simply linguistic acts, but standards of behaviour that are created and communicated through language. Consequently, the relationship between language and law has generated extensive scholarly interest, leading to the development of theories of legal language and legal interpretation that seek to explain the role of language in making, applying and understanding the law.

Any account of the legal effect of language depends on the context of its use. Therefore, pragmatic aspects of communication, such as context-dependence, communicative intention and meaning construction, are particularly relevant to legal interpretation. Recent developments in Gricean (Grice 1989) and post-Gricean pragmatics (Bach 1994, Sperber & Wilson 1995, Levinson 2000, Recanati 2004, Borg 2005, Chapman 2005, Stalnaker 2014, Carston 2017, Dänzer 2021, etc.) have reinforced the importance of examining how legal meaning is derived and interpreted in specific communicative contexts. These pragmatic features of communication raise important challenges for legal theory and legal practice alike.

At the same time, the investigation of legal language cannot be limited to its linguistic dimension alone. Contemporary approaches to legal text analysis and legal translation have consolidated the view that law and linguistics are interdependent sciences. Globalisation and the need to adapt

to changing societies and traditions have encouraged specialists to rethink mediation between languages and cultures and to identify new ways of overcoming barriers in the enforcement and communication of law.

The rationale of this study relies on a twofold approach, combining the conceptualisation of legal language and its translation with the analysis of legal instances in system-bound texts, particularly within European Union legal discourse. We start from the assumption that legal text analysis and legal text translation represent two complementary activities and that legal translation cannot function optimally unless preceded by a comprehensive analysis of the specialised text in question.

Legal-linguistics, or *jurilinguistics*, encompasses a wide range of dimensions, including legal language, legal discourse, legal interpretation and legal translation. Identifying the exact relationship between language and law remains an ambitious undertaking, particularly within the framework of judicial intercultural communication, where professionals constantly face linguistic and cultural challenges in the interpretation and translation of legal discourse.

Translation itself represents far more than the transfer of words from one language into another. Legal translation has become one of the most challenging forms of specialised translation because it requires the transfer of meaning across different legal systems, languages and cultures. In this context, translators act as multi-competent professionals, or jurilinguists, whose expertise extends beyond language transfer to legal and intercultural mediation.

Legal language has gradually pervaded all arenas of social life, being used and understood, to different extents, by experts in the field and the lay population. Linguists, translators, interpreters and legal practitioners must therefore grasp in detail this specialised language in order to fulfil their professional responsibilities effectively. The successful transfer of legal meaning requires the exploration of both linguistic and socio-cultural systems and the ability to make appropriate communicative choices across languages and legal traditions.

This study aims to build both a theoretical and an applied framework for the characterisation and use of legal language. By adopting a pragmatic- and translation-oriented perspective, it seeks to contribute to a deeper understanding of legal discourse and its role in cross-cultural communication. Particular attention is devoted to the contemporary

dimensions of legal language, its historical evolution within European legal discourse, and its implications for the translation of specialised legal texts.

The focus is placed on European Union legal language, a particularly relevant field for legal, linguistic and translation practices in Europe. The multilingual and multicultural nature of the European Union offers a valuable framework for investigating legal terminology, legal discourse and translation strategies in English, French and Romanian. Special attention is given to the hybrid nature of EU legal discourse and to the mechanisms through which legal meaning is negotiated, transferred and adapted across languages and legal systems.

The significance of this study lies in its attempt to interconnect theory and practice in the fields of legal language, legal translation, terminology management and cross-cultural communication. Legal language, legal translation and intercultural communication are closely interrelated phenomena, and their investigation contributes to a better understanding of the transfer of law and legal meaning across linguistic and cultural boundaries.

Ultimately, this book argues that language remains the primary vehicle through which law operates, while translation represents an essential mechanism for facilitating legal communication and intercultural understanding in an increasingly interconnected European legal space.

PART I
THEORY AND EXTENDED THEORY

Chapter one

Legal language – descriptive and functional perspectives

1.1. Preamble

This first chapter draws on a review of mainstream literature, with reference to legal language and its interplay with pragmatics in the context of its use in the European Union. We shall define legal-linguistic concepts and paradigms from manifold perspectives – of law, terminology and pragmatic theories and guidelines, with special focus on EU legal texts analysis, interpretative processes and terminology management. Admittedly, the present chapter adopts an interdisciplinary (integrative) approach, situated at the intersection of theoretical and applied linguistics (with legal language viewed as a specialised language relevant to the processing of specialised-content texts), pragmatics (examining legal language in use in the institutional setting of the EU), terminology (addressing issues of term creation, management and standardisation) and intercultural communication (within the EU's multilingual and multicultural environment, where EU law prevails over national legal systems and English functions as the *lingua franca* of professional communication).

To start with, legal language, as a means of facilitating communication within legal contexts, is integrated in the pragmatics field of application, as it conveys specialised messages to a target audience with a communicative intent (fulfilling specific functions). Under these circumstances, the pragmatics of legal language can be regarded as distinctive (unique), considering the specific nature of law and the special context in which it operates.

The topic is of particular interest as pragmatics is equally an inward- and outward-looking discipline, with an increasingly significant impact on international communication. Accordingly, the present chapter seeks to highlight the importance of tailoring specialised language manipulation so as to fit for purpose. This process can also be perceived as a complex

communicative and cognitive undertaking, particularly in light of the pragmatic approach employed to reach the intended audience.

A major concern in the research of Language for Special Purposes (LSP) and of specialised discourse(s), category to which legal language pertains, merits consideration. As a distinct branch of LSP, closely linked to the pragmatic perspective, legal language investigates its interfaces and interactions with legal text interpretation as a precondition to legal translation. This particular language focuses on specialised communication by investigating how specialised knowledge is conveyed while taking into consideration, at the same time, the prevalent role that context plays in such communicative events.

Pragmatics, as a sub-domain of linguistics, which dwells on the actual use of language in context (as meaning in action and interaction), serves our purpose, establishing the link between legal language and legal translation via legal text interpretation. Referring to the legal text interpretation, emphasis is laid on the legal methodology with regard to interpretation in both intralingual and interlingual settings. There are some generally accepted insights based on the relationship between law and language, namely that language is inextricably linked to law which, in its turn, is expressed in linguistic terms. Further on, legal norms production (issuance) is an activity carried out for legal purposes and in legal settings, considering pragmatic aspects about its appropriate use and accommodation strategies.

We approach the legal discourse in context, having in view the communicative competence when it comes to preserving the European Union legal terminology, by analysing the specific terminology used and rendered in EU legislations. By illustrating our standpoints, we shall explain the complex interconnection between legal language, pragmatics and terminology. Admittedly, the analysis of some particular examples is intended to point out to the fact that different kinds of knowledge are required to achieve an efficient communicative act leading to successful results and positive effects on the audience. We strongly believe that having established the features of legal language, the pragmatic interpretation of European legal texts and legal discourse analysis become easier to be carried out.

We claim that law would not exist without language – legal communication and law itself are constituted by the so-called *legal discourse*. However, let us start with some commonly accepted insights into the relationship between law and language, i.e., language is inextricably linked to

law which, in turn, is expressed in linguistic terms. Law and language have been traditionally treated as two separate areas of expertise and studied from two scientific perspectives: jurisprudence and linguistics. As a result, both legal theory and legal practice have always been heavily dependent upon the tools of logical-linguistic analyses. Through the critical review of mainstream literature, we shall seek to achieve a comprehensive and more unified account of the impact of pragmatics upon legal language and legal discourse alike.

The chapter is structured into three main parts, of which the introductory section and preliminary conclusions. The three main sections will display relevant theoretical aspects regarding legal language, the science of pragmatics and their intersection, resulting in cross-cultural pragmatic competence. The first section contains three sub-sections, this time chartering distinctive features and the pragmatics of legal language, particularities of the EU legal discourse, and terminology issues. In other words, this first chapter will provide the conceptualisation of the key notions, focusing on the presentation of knowledge development in the field. The end of the chapter is reserved to final thoughts, conclusions and remarks of this chapter.

1.2. Legal language and pragmatics

We shall start by pointing out that legal language is one of the most recognised types of languages for special purposes, serving as the communication tool of the social science of law (Cosmulescu 2021a: 51)[1]. Hence, legal language exists due to the interdependence between law and language (linguistics). Jiménez-Salcedo and Moreno-Rivero (2017) endorse that the essential medium for the existence of the law is language, the two of them being inextricably interlinked. Without a shadow of doubt, legal language has permeated many areas of social life, being interpreted and exploited, to different degrees, by experts in the field and non-professionals alike. Part of the legal terminology simplified version, i.e., several basic concepts, is well-known by the lay population, regardless if they understand it

[1] See Cosmulescu, Andreea Maria, 2021, "Framing Pragmatics and Its Effects on Legal Discourse". In *Journal of Young Researchers, Social Sciences, Arts and Humanities*, Year IV, Issue no. 1, Craiova: Universitaria, ISSN 2668-0300, pp. 51-59, https://www.ucv.ro/pdf/cercetare/programe_de_cercetare/jyr/Revista_JYR_1_2021.pdf.

or not (Cosmulescu 2020: 67)[2]. Thus, its continuous study is essential and required as real-life purpose. In recent decades, specialised legal language has assumed a growing and significant role, developing strong interdisciplinary links with pragmatics, translation studies, terminology, and cross-cultural communication. This evolution highlights and further consolidates the interdependence between the humanities and the social sciences.

Naturally, legal language serves as the medium through which norms are transmitted; beyond relying on a core set of terms derived from normative language, it also incorporates concepts developed through jurisprudence and legal doctrine. For this reason, the pragmatics of legal language is unique and highly specific, involving considerations that are not typically present in ordinary conversational contexts (Marmor 2008: 423ff.).

Our focus is placed on the importance of this type of language as used and processed at the EU level, given the close interconnection between law and language in this (EU) context. We agree with the linguistic value and interpretation of legal language that is carrying juridical information, as there is a "linguistic screen" which is characteristic to this particular type of language, as Cornu (1990/2003, in Burtea-Cioroianu 2018) highlights. Indeed, the very essence of law is fundamentally conveyed through linguistic means (the use of linguistic devices). Having in view the intersection between the two sciences – law and linguistics –, a specific discipline has developed, i.e., *legal linguistics* or *jurilinguistics*, the term being transferred from the French *jurilinguistique* denoting a new hybrid science initiated by Cornu (1990/2005), Jolicoeur (1995) and Gémar (1998) (see also Sferle 2006).

Furthermore, specialised legal language has evolved (emerged) in close relation to the effects it produces on those who engage with legal norms, developing multiple pragmatic dimensions, as in order to achieve its intended purpose, it necessarily relies on a set of general linguistic principles and rules. From this perspective, legal language falls within the scope of pragmatics—a relatively recent branch of linguistics concerned with the effective meaning of utterances in context and with the study of language in use. Hence, pragmatics is a new but present-day discipline, often appraised as the *linguistics of speech*,

[2] See Cosmulescu, Andreea Maria, 2020, "Characterising Legal Language from an Integrated Approach". In *Journal of Young Researchers, Social Sciences, Arts and Humanities*, Year III, Issue no. 1, Craiova: Universitaria, ISSN 2668-0300, pp. 63-68, https://www.ucv.ro/pdf/cercetare/programe_de_cercetare/jyr/Revista_JYR_1_2020_final.pdf.

which has a broad scope that also encompasses legal discourse and its specific effects. Consequently, this study adopts an interdisciplinary approach to EU legal discourse and to the pragmatic tools used in analysing meaning in both written or oral conversational contexts, arguing that the junction between linguistic pragmatics and law is prone to enrich recognised practises in both fields (Cosmulescu 2021a: 51).

❍ *1.2.1. Contextualising legal language*

To begin with, a proper definition of *legal language* would be that this specific language is the language used in multiple legal contexts, being also the language expressing the legal norms, the legislations of national entities, the language used in a court proceeding by judges and lawyers, also labelled *legalese* to indicate its highly technical nature. Over time, the idea has emerged that specialised legal language is accessible only to specialists in the field, its very existence being justified by its limited intelligibility for the broader public – members of a given community (Cosmulescu 2020: 64). Nevertheless, individuals inevitably encounter this type of language at various points in their lives—for instance, when signing contracts such as employment agreements, sales contracts, leases, or bank loans—grasping to some extent the legal provisions laid down, at least at a basic level. The selection of a certain type of legal language, from a pragmatic perspective, depends upon the participants who are involved in the communicative act and its function (*ibidem*).

Linguistics and pragmatics offer valuable tools for the accurate analysis and description of the process of legal interpretation, and both disciplines can be effectively applied across all areas of law. Gémar and Kasirer (2005) define the emerging science represented by *jurilinguistics* (Figure 1) as the application of a linguistic treatment to all forms of legal texts. *Jurilinguistics* is generally known as the study of legal discourse from a language-oriented perspective. Because each legal system (civil law and common law) and each language has its own special characteristics, jurilinguistics specifically seeks to define methods for improving the quality of legal texts while taking into account the complexity and shades of meaning of each system and the unique character of each language. It also has applications in unilingual, bilingual and