

## Reports on conferences on Legal Language and Discourse in Europe Spring 2010

In the field of studies of specialised communication, research may be categorised either according to the linguistic or discourse oriented perspective under which the communication is studied (like for example terminology, genre linguistics or conversational mechanisms) or according to the studied field of discourse (like law, medicine, engineering, ...). As specialised discourse may be said to rely heavily on the field of discourse in its definition, there is a certain tradition to organise conferences and special issues around fields of discourse within this discipline (however, see *Fachsprache* 3–4/2010 for an example of an issue centred on a language perspective). This spring, we saw a number of examples of this latter tendency, viz. in the field of studies of legal language and discourse: Over the course of approximately 4 months, a total of four conferences of a considerable size (40–100 participants) were held in different parts of Europe. The focus of each conference was different, and different were generally also the participants. This demonstrates that the interdisciplinary field of language and the law is booming in these years, among other things with a high number of scholars doing PhD research on different aspects of the discourse (terminology, translation, argumentation, semantics, ...) and with some large-scale research projects (like the Hong Kong-based international project on commercial arbitration practices (<http://www1.english.cityu.edu.hk/arbitration/arbitration/index.html>), which has given rise to a number of the papers on arbitration reported in the conferences below). As it was difficult to participate in more than one of these events for scholars with interest in the field, due to the tight time schedule, *Fachsprache* has asked the organisers of all four events to give a short report on their event. This way, it is possible to get an overview over the distribution of interests and subfields at this moment in time. For more information on the details of the conferences, please contact the organisers directly. ♦

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### International Conference on Legal Linguistics. Law and Language in International Partnerships and Conflicts. March 2010. Rovaniemi, Finland

On March 17 – 20, the Chair of Legal Linguistics the Legal Linguistics Association of Finland and the University of Lapland hosted a conference on legal linguistics focusing on law and language in international partnerships and conflicts. The members of the organising committee were Professor Tarja Salmi-Tolonen (chair), Ms Iris Tukiainen and Mr Richard Foley. The conference was sponsored by the Federation of Finnish Learned Societies, the Finnish Cultural Foundation, the Rovaniemi Court of Appeal, the City of Rovaniemi, and the Association of Finnish Lawyers.

This was the second conference on legal linguistics organised in Lapland. The first conference celebrated the founding of the legal linguistics chair at the University of Lapland and the second one marked the tenth anniversary of teaching of legal linguistics, and sadly also its end at the University of Lapland. With around 60 participants and a total of 36 presentations over three

days, the conference allowed opportunities to make new contacts as well as strengthen the old ones. The themes covered by the speakers were varied, and lively discussions followed each paper.

The academic programme was opened by two keynote lectures given by speakers from the two major common law countries: the UK and the USA. The first speaker, Lord Fraser of Camyllie QC, an experienced arbitrator, litigator and legislator, addressed the extent of the conflict between the common law and the civil law systems and the global ambiguity of the word *arbitration* and such terms as *the margin of appreciation*, *proportionality* and *reasonableness*.

Professor Edward Dauer, whose groundbreaking work as the promoter of preventive law has influenced both practicing lawyers and scholars, discussed arbitration in the United States. His talk was based on his vast experience as a law professor and arbitrator in which capacity his first case proved that the proof of the pudding is in the eating. He literally had to eat the evidence to be able to make a decision based on the taste of bread baked in two different ovens.

Professor Vijay Bhatia, a keynote speaker from Hong Kong who needs no introduction to linguists, the leader of an international research project on arbitration discourse involving over 20 countries, focused on the way international arbitration is being increasingly ‘colonized’ by litigation practices, threatening not only the integrity of arbitration as an alternative to litigation but also the very spirit of arbitration as a non-legal practice.

Professor Maurizio Gotti, the head of the research centre at the University Bergamo and also a keynote speaker, drew our attention to IT applications in the service of dispute resolution, namely online dispute resolution, or ODR. Drawing on documentary data, Professor Gotti analysed the evolution from ADR to ODR, providing examples from Italy and the US.

Professor emeritus and keynote speaker Heikki E.S. Mattila’s presentation focused on the intertextuality of judgments. He discussed cross-references in court decisions in Germany, France and the UK as the influence of their judicial style has been strong all around the world. The study extended also to court decisions in other parts of the world outside Europe.

Judge emeritus Gustaf Möller, associate of Krogerus Attorneys Ltd. in Finland and the Finnish UNCITRAL delegate, delivered a last keynote speech where he explained the UNCITRAL Model Law and its impact on national legislation. The UNCITRAL Model Law is presently under reform, which is of special interest to research in arbitration discourse.

The regular papers were focused around a number of topics like *discourse in arbitration and mediation* (e.g., between countries, in commerce, in schools), *legal discourse in partnership and conflict* (e.g., legal terminology in media coverage, citizens’ participation in legal discourse, multilingual drafting and legal problems from intercultural business relations), *legal translation* (e.g., between common law and civil law, as a kind of comparative law, translation and drafting, or the structural differences between different legal languages or different legal terminologies), and *curriculum development in legal language* (e.g., foreign language courses in law school, training of forensic linguists).

A special treat, especially for those interested in research on arbitration discourse, was provided by the University of Lapland's this year's arbitration moot team members, who did a dress rehearsal of their pleadings for the 2010 Willem C. Vis Moot in Vienna. Professor Ed Dauer, Lord Fraser and Dr Petri Keskitalo acted as arbitrators. Both team members and audience learnt a great deal from this experience. We as organisers would like to extend our thanks to the judges and the team members and their coaches for the opportunity to witness their presentation.

The social programme included the opening ceremony and reception at the Rovaniemi Court of Appeal which has recently won a European Union quality award and a reception at the City Hall. The conference dinner introduced some Lappish delicacies in a Lappish setting as well as providing lively discussions. A sight-seeing tour gave the delegates a chance to see the landscape and snowy hills and visit the Arktikum (a museum devoted to the Arctic area), its nature, its people and its history.

The proceedings of the conference will be published in a special issue of Lapland Law Review first online and probably later in a printed format. •

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### **1<sup>st</sup> International Workshop on Legal Terminology – Research and Practice LawTerm. May 2010. Lodz, Poland**

On 28–29<sup>th</sup> of May, 2010, the 1st International Workshop on Legal Terminology took place in Łódź, Poland. It was organized by the Department of English Language and Applied Linguistics at the University of Łódź. The workshop aimed to provide an opportunity for scholars and practitioners (e.g. legal translators, EAP teachers) to share their ideas and experience of adopting different methodological and theoretical perspectives on studying legal terminology. The following themes were explored and discussed in twenty six contributions:

- Multilingual and cross-cultural aspects;
- Conceptualization and defining legal terms;
- Lexicographic and terminographic issues;
- Resources for terminology work; corpora; computational and analytical tools;
- Teaching legal terminology to various audiences (translation students, law students and professionals);
- Collocation and phraseology;
- Terminology and translation

These contributions were supported by four keynote speeches made by Colin Robertson (Council of the European Union, Brussels), Anna Jopek-Bosiacka (University of Warsaw, Poland), Marta Chroma (Charles University, Prague, the Czech Republic) and Leszek Berezowski (University of Wrocław, Poland).

Colin Robertson's presentation on *EU Multilingual legislation: EU and national legislative language styles and terminology*, signalled the need to identify different national cultural drafting styles and traditions that lie behind the creation of EU legislative texts and terminology. The Member State traditions vary, yet they merge in the EU legislative texts. In order to assist in the understanding of EU legislative texts, it is useful to reflect on how they are constructed and the features and requirements lying behind their creation, interpretation and transposition. The EU multilingual context featured in several papers. For example, the question of terminology in the multilingual context of the EU legal institutions was explored by Judith Kast-Aigner, who investigated the European Union's terminology used in its development co-operation agreements.

Anna Jopek-Bosiacka's key-note speech on *Defining law terms: a cross-cultural perspective* explored the main principles and conventions of formulating definitions from a cross-cultural perspective. She stressed that their formulation may be determined by such factors as: type of legal genre (statutes vs. contracts), position in the instrument (preliminary provisions vs. principal provisions); type of legal definition (e.g. intensional definitions vs. extensional definitions), legal system (civil law vs. common law jurisdictions), branch of law (e.g. civil law vs. criminal law), etc. Difficulties in conceptualizing, defining and subsequently translating legal terms were also frequently discussed in numerous papers, often on the basis of individual case studies. For example, Anna Kizińska in her paper "*Pełnomocnik substytucyjny*" as an example of incongruity between terms of Polish and English legal systems, attempted to measure the degree of terminological incongruity between the Polish term "pełnomocnik substytucyjny" ("pełnomocnik dalszy"), a term used in the Polish doctrine, and its equivalent under the English legal system.

Difficulties in defining legal terms due to synonymy and polysemy were explored at length in Marta Chroma's plenary paper *Synonymy and polysemy in legal terminology and their applications to bilingual and bijural translation*.

A number of papers focused on pedagogical aspects arising in the context of teaching legal English to different types of students. For example, Snjezana Husinec set out to answer several significant questions such as what implications the interconnection between language and law has on the process of legal language instruction and acquisition, how important the knowledge of legal content is for successful acquisition of legal terminology, and what is the best approach to teaching such content-dependant language and what amount of background information needs to be taught within a legal language course?

Finally, a new approach to the meaning of *shall*, the key modal of legal English, was proposed in a plenary contribution by Leszek Berezowski. The author argued that in legal English *shall* has evolved to be a marker of the superior status of the author(s) with respect to the addressees, e.g. legislators vs. the citizens of a country, and, consequently, can be used in any clause in which the drafters find it convenient to indicate that status explicitly.

As can be seen from this brief and necessarily highly selective overview, the workshop signalled a remarkable variety of possible research issues, topics and methods. It provided the opportunity to meet in an informal and friendly setting in order to focus specifically on legal terminology and attempt to find common aims, concepts and problems.

A selection of conference papers as well as some invited contributions are now being prepared for publication. The organizers are planning to hold the 2nd LawTerm Workshop in 2012. ♦

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### **The Language of Law: Pulling Together Different Strands and Disciplines. June 2010. Napoli, Italy**

On June 17–19 2010 the English Language Chair of the Law Faculty of the Seconda Università degli Studi di Napoli (SUN), hosted its first international conference on Language and the Law in English and other European and non-European languages and cultures. With around 80 participants and a total of 30 presentations as well as two keynote lectures over three days, the conference themes covered by international speakers were varied, with thought-provoking discussion at the end of each session. The success of the conference was largely due to scholars coming from academic and professional strands, reflecting a wide range of interdisciplinary interests in the field of language and law.

In his keynote lecture Vijay Bhatia, whose landmark work on genre analysis in professional settings has influenced language scholars since the 1980s, discussed the way international arbitration practices are being increasingly ‘colonized’ by litigation practices, threatening not only the integrity of arbitration as an alternative to litigation but also the very spirit of arbitration as a non-legal practice.

Issues broadly concerning legal discourse and genre were high on the agenda as questions were raised concerning a variety of contexts as to how legal discourse is colonising domain name arbitration and how international commercial arbitration is ‘resemiotized’ in the media in Spain, or the way reported speech can be manipulated by being ‘reworded’ in official documents in the UK and risks of mistaken perceptions arising from written recordings of police interviews may occur in the Netherlands.

In his keynote lecture, Peter Tiersma, already renowned for his lively history of *Legal Language*, spoke on the subject of law and the technologies of communication, illustrating how the different ways of storing or transmitting language or information – from the Hammurabi code in Mesopotamia to modern IT – have influenced the way legal systems are shaped.

Power relations and ideology in the law were explored with an analysis of asymmetric power relations in court settings during cross-examination in the High Court of Judiciary in Edinburgh, the imbalance of power in Chinese courts and the issue of interruption in criminal courtroom discourse, as well as code-switching between Standard Modern Greek and Cypriot Dialect as a means of power tug-of-war in a court setting in Cyprus.

The language of European law was investigated with a focus on whether the EU Constitution is comprehensible to its readers and whether English is suitable for the task of acting as the *legal lingua franca* in the process of searching for a common legal terminology for Europe.

Pedagogy in relation to legal language was discussed with an illustration of courses in legal linguistics as a discipline organised and implemented in Finland, the prospects for the ‘fledgling discipline’ of legal linguistics in the academic curriculum in Latvia and the convergence of substantive and procedural knowledge in teaching law in the multicultural, multilingual setting of Rome.

A wide range of issues was discussed with topics ranging from metaphors in the law in a case study on immigration policy or language policy for immigrants with particular reference to the situation in Australia, to the construction of legal identities on a drug user website or the language of legislation vs that of lobbying in the sphere of gay rights in the UK, and from theoretical problems both in ethics and in the philosophy of language raised by legal adjudication to the rhetoric of regional planning in Portugal to restorative justice, discursive practices and dialogistic exchange and the relationship of participants in Online Dispute Resolution.

In their closing remarks, Girolamo Tessuto, Vijay Bhatia and Christopher Williams underlined the issues emerging from the conference sessions, and thanks were warmly expressed to the Scientific Committee (V. Bhatia, G. Garzone, R. Salvi, G. Tessuto, C. Williams) as well as Law Faculty Organising Committee (G. Tessuto, S. Spedding) for the hard work they all had put in to ensure the smooth running of the conference. As a follow-up to this first conference, the next conference is due to take place in 2012. •

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### **Fifth Conference on Legal Translation, Court Interpreting and Comparative Legi-Linguistics. July 2010. Poznan, Poland**

From 1st to 3<sup>rd</sup> July 2010 the Institute of Linguistics at Adam Mickiewicz University in Poznan, Poland held the *Fifth Conference on Legal Translation, Court Interpreting and Comparative Legi-Linguistics*. The conference is held once a year at the end of June – beginning of July. This international conference is devoted to language and the law. Its main aim is to provide a forum for discussion in those scientific fields where linguistic and legal interests converge, and to facilitate integration between linguists and lawyers from all around the world. The conference is devoted not only to the English legal language but also other languages. This year there were 6 plenary speeches and 52 speeches in 21 sessions delivered.

The plenary speakers this year were professor Jan Engberg from Arhus (Denmark), professor Fernando Prieto Ramos from Geneva (Switzerland), professor Nancy Marder from the USA, professor Maria Teresa Lizisowa (Poland), doctor Frederic Houbert (France) and doctor Artur Kubacki (Poland).

The sessions were held in English, French, Russian and Polish. Next year the organizers plan to introduce sessions in Spanish and German.

Presentations were devoted to legal language including terminology and discourse, legal translation, court interpreting and forensic linguistics. The main aim of the conference is to provide

a forum for discussion on not only English legal language but also other legal languages including the so-called small languages (or languages of minor diffusion). The organizers deem it necessary to encourage sharing knowledge in this field as due to globalization trends most of the conferences are dominated by speakers dealing with English legal language. Consequently, scholars and translators/interpreters not working with English very often lack the opportunity to share their knowledge and experience with other interested parties. As in most countries there are usually few publications on legal translation and court interpreting problems arising in the case of minor diffusion language pairs, the aim of the conference is to help spread the knowledge in the field. That is a reason why sessions will be held in six languages next year.

The most heated debates concerned the effectiveness of communication in legal situations and the impact of EU law on legal languages. As far as the effectiveness of communication in legal situations is concerned, the participants pointed to the ambiguity of legal languages, their hermetism and different attempts made in their countries to make it more understandable for common people (e.g. plain Swedish movement). Paradoxically, at the same time, when discussing the impact of the EU legal English and its translations into other EU languages, the participants notice that it affects their legal drafting in a negative way. This negative impact mostly concerns the simplification of the legal language, and the impoverishment of structures used in translations of EU legislation. The fact that more and more direct borrowings appear in such translations is also considered a negative feature by most debaters.

The conference contributions which are positively peer-reviewed by two reviewers (one external one and one internal) are published in the journal titled *Comparative Legilinguistics (International Journal for Legal Communication)* which is printed twice a year by the Institute of Linguistics (Faculty of Modern Languages and Literature, Adam Mickiewicz University in Poznań, Poland). Articles published in the journal are also peer-reviewed by two reviewers (an external one and an internal one). If you are interested in the journal please submit your queries to the following address: [lingua.legis@gmail.com](mailto:lingua.legis@gmail.com).

The sixth conference will be held over 3 days, from 30<sup>th</sup> June to 2<sup>nd</sup> July 2011 in Poznan, Poland. Session proposals and any questions should be submitted to the following address: [lingua.legis@gmail.com](mailto:lingua.legis@gmail.com). •

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