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On Lexical and Syntactic Qualities of the English Language of Law

To all legal translators around the world, the fact that the English language of law appears: "(…) flabby, prolix, obscure, opaque, ungrammatical, dull, boring, redundant, disorganized, grey, dense, unimaginative, impersonal, foggy, infirm, indistinct, stilled, arcane, confused, heavy-handed, jargon-and cliché-ridden, ponderous, weaseling, overblown, pseudo-intellectual, hyperbolic, misleading, in civil, labored, bloodless, vacuous, evasive, pretentious, convoluted, rambling, incoherent, choked, archaic, orotund, and fuzzy," as has been depicted by Goldstein and Lieberman (2002: 3), is hardly surprising. In explaining the rationale for such *status quo* of the English language of law, researchers assert that as conservative and unintelligible as it is, the language that lawyers use to formulate, construe and enforce law is an immediate consequence of very complex socio-historical conditions in which it has developed for hundreds of years for the purposes of the legal system in which it has existed, i.e. the Common Law. Since the English language of law is so hard to understand for the lay citizens, numerous initiatives in various countries, such as the United States, Australia, Canada, and UK were made with a purpose to make the language in which law is laid down simple and clear. Unfortunately, lawyers appear to be too reluctant and hesitant to modify and revolutionize their style of writing, which is why, legal translators and ordinary citizens, who seek to understand the Anglo-American legal style of writing have no other option than to familiarize themselves with the fundamental qualities of the language of law, which harks back to the times of Chaucer or Shakespeare. The major objective of this paper is to identify and explain the fundamental features of the English language of law, which it does with reference to its lexical and syntactic traits.

Among the many lexical qualities of the English language of law, the following have been identified as the most distinguishing:

(1) the use of common words with uncommon meanings,

(2) the use of Old English and Middle English words,

(3) the use of Latin words and phrases,

(4) the use of Old French and Anglo-Norman words,

(5) the use of terms of art,

(6) the use of argot,

(7) frequent use of formal words,

(8) intentional use of words and expressions with flexible meanings, and

(9) attempts at extreme precision of expression (Mellinkoff 1963; Tiersma 1999).

One of the most frequent attributes of the legal style of writing is the *use of common words with uncommon meanings* (Mellinkoff 1963: 11; Crystal and Davy 1969: 210; Tiersma 1999: 111) is generally credited to the existence of *homonyms*, i.e. words that sound the same, but have different meanings, as well as *polisemy*, i.e. words generally viewed as one word, which have several different, but related meanings (Tiersma 1999: 111). The Anglo-American law abounds with such words, which carry a legal meaning distinct from that of the ordinary connotation, which may *prima facie* bear a resemblance to the ordinary language, but in effect possesses an entirely dissimilar legal meaning (Tiersma 1999: 111).

What follows is a list of terms used in the common speech, which carry a totally different connotation for a lawyer: action-law suit, alien-transfer, avoid-cancel, consideration-benefit to promisor or detriment to promise, counterpart-duplicate of a document, covenant- sealed contract, demise-to lease, demur-to file a demurrer, executed-signed and delivered, hand-signature, instrument-legal document, letters-document authorizing one to act, master-employer, motion-formal request for action by court, of course-as a matter of right, party-person contracting or litigating, plead-file pleadings, prayer-form of pleading request addressed to court, presents-this legal document, provided-word of introduction to a proviso, purchase-to acquire realty by means other than descent, said-mentioned before, save-except, serve-deliver legal papers, specialty-sealed contract, tenement-estate in land, virtue-force or authority, as in "by virtue of", without prejudice – without loss of any rights (Mellinkoff 1963: 12, Tiersma 1999: 112). The list may be expanded by such common words as: "proposal", "life", or "provided", whose meanings differ when they are used in the common or technical sense.

Another peculiarity of the English language of law is the use of numerous Old and Middle English words and meanings, which vanished from the general use long time ago (Mellinkoff 1963: 112-113; Crystal and Davy 1969: 198, 207-209; Tiersma 1999: 93-97; Butt and Castle 2006: 1, 4, 45).[1] Legal English relies heavily on Old English and Middle English in such expressions as: *aforesaid* and *forthwith*, the *here* words: hereafter, herein, hereof, heretofore, herewith, *let* as in the law tautology: *without let or*

[1] Following Mellinkoff (1963: 12-13), Old English is the name given to the language used in England before the Norman Conquest until c.a. 1100, whereas, Middle English covers the period from 1100 to c.a. 1500. Baugh and Cable ([1951] 2002: 52) argue that Old English dates from 450 to 1150 and Middle English from 1150 to 1500.

hindrance, *said* and *such* as adjectives, *thence* and *thenceforth*, *there* words: thereabout, thereafter, thereat, thereby, therefor, therefore, therein, thereon, thereto, theretofore, thereupon, therewith, *where* words: *whereas* used in recitals, and *whereby*, *witness* in the sense of testimony by signature, oath, etc., as in "In *witness* whereof, I have set my hand, etc.", *witnesseth* meaning to furnish formal evidence of something, the Old English present indicative, third person singular verb form (Mellinkoff 1963: 12-13; Tiersma 1999: 10-16).

Lawyers rationalize their predilection for the use of archaic and obsolete English words with the following explanation:

(1) archaic language is considered more formal than every day speech;

(2) archaic language is often compared to the language used by major religions, e.g. the Bible and the Koran, which are considered as the authoritative sources of religion dictated by the God Himself, hence regarded as majestic;

(3) specific words and expressions are believed to have received authoritative interpretations over the years;

(4) safety and convenience;

(5) using timeless expressions confers a sense of timelessness on the legal system, therefore deserving respect;

(6) the use of archaic language defends the profession's monopoly, lay men are compelled to refer to lawyers, for interpretation of legal texts for them (Tiersma 1999: 95-97).

The English language of law may also be characterized *by substantial borrowings of vocabulary and expressions from other languages*, which derive directly from Latin or indirectly through French (Mellinkoff 1963: 13, 71-82; Crystal and Davy 1969: 23-5, 141-142, 209; Tiersma 1999: 16, 17, 20; Butt and Castle 2006: 25-27).

Moreover, *the English language of law frequently makes use of Latin words* and expressions, some of which including: *affidavit*, *alias*, *alibi*, *bona fide*, *proviso*, *quorum*, are common in the English language, whereas other expressions, as: *habeas corpus*, *prima facie*, *versus*, appear to be commonly used in courts; the remaining part constitutes portion of the law dictionaries (Mellinkoff 1963: 14). Other examples of Latin words and expression characteristic for the legal English encompass: *ab initio*, *amicus curiae, certoriari, corpus delicti, et al., ex parte, ex post facto, in personam, in propria persona, in re, innuendo, lex fori*, *mens rea*, *mutatis mutandis*, *nolo contendere*, *nunc pro tunc*, *pari passu, per capita*, *pro forma*, *pro rata*, *quasi*, *quid pro quo*, *re*, *res ipsa loquitu*, *res judicata*, *sui generis*, *vis major* (Mellinkoff 1963: 14-15).

Legal English makes use of substantial amount of French origin words (Mellinkoff 1963: 15, 95-132; Crystal and Davy 1969: 209; Kibbee 1991; Fisiak 1993: 61-88; Tiersma 1999: 28-33; Butt and Castle 2006: 23-26, 14).

The list of French origin words by Pollock and Maitland (1898, as cited by Mellinkoff 1963: 15) comprises the following words: action, agreement, appeal, arrest,

arson, assault, attorney, battery, claim, condition, constable, contract, counsel, count, court, covenant, crime, damage, debt, declaration, defendant, demand, descent, devise, easement, evidence, execution, felony, grant, guarantee, heir, indictment, infant, judge, judgment, juror, justice, larceny, lien, marriage, misdemeanor, money, note, obligation, pardon, party, partner, payment, plaintiff, pleadings, pledge, police, possession, prison, property, purchase, reprieve, robbery, sentence, servant, slander, suit, tort, treason, trespass, verdict, burglar, clerk, conviction, master, ward. The list of the so called Law French includes such words as: *alien* (meaning to transfer), *chose* (in action), *demurrer*, *estoppels*, *estoppels in pais*, *esquire*, *fee simple*, *fee tail*, *attorney general*, *laches*, *metes and bounds*, *oyez*, *quash*, *roll* (as in judgment), *save* (in the meaning of except), *style* (as in tautology name and style), *voire dire* (Mellinkoff 1963: 16).

Tiersma (1999: 28) explicates that following the natural death of the Anglo-French as a living tongue, the French used by lawyers and judges, which became the exclusive language of the lawyers was known as Law French, which was a distinct language learnt by the prospective representatives of the legal profession. The legal profession may have materialized at the time when French was adopted as the language of the legal profession (Tiersma 1999: 28). The mass borrowings from French also concern the English law of real property, e.g.: *chattel*, *conveyance*, *curtesy*, *dower*, *easement*, *estate*, *fee simple*, *fee tail*, *license*, *profit a prendre*, *property*, *remainder*, *rent*, *seisin*, *tenant*, *tenure*, *trespass* (Tiersma 1999: 31).

Another quality of the English language of law is the *use of terms of art* understood as a technical word with a specific meaning (Mellinkoff 1963: 16-17; Crystal and Davy 1969: 209-210; Tiersma 1999: 106-110; Butt and Castle 2006: 149-150). Crystal and Davy (1969: 210) explain that technical terms are words, which appear to have a very precise meaning, whereas, words, which are considered to be less exact in meaning should be graded as "argot". Walker (2000, as cited by Butt and Castle 2006; 149) defines a term of art as "an expression which is used by persons skilled in some particular profession, art or science, and which the practitioners clearly understand even if the uninitiated do not".

Examples of terms of art include, *inter alia*: agency, alias summons, alibi, bail, certiorari, common counts, comparative negligence, demurrer, dictum, dry trust, eminent domain, ex parte, fee simple, fee tail, felony, fictitious defendant, garnishment, habeas corpus, injunction, judicial notice, last clear chance, lesser included offence, letters patent, libellant, libelee, life tenant, master and servant, novation, plaintiff, prayer, publication of summons, remittitur, res judicata, rule in Shelley's case, special appearance, stare decisis, tort, voire dire (Mellinkoff 1963: 17), and bailment, hearsay, deed, delivery (in the sense of the act brings a deed into operation) (Butt and Castle 2006: 149).

Legal English is characterized by the *use of argot* interchangeably used with cant, jargon and slang (Mellinkoff 1963: 17-19). Argot has the connotation of a language of communication within a group, which either deliberately or not, is designed to exclude the stranger (Mencken 1936: 556, as cited by Mellinkoff 1963: 18). It is indi-

cated that lawyers use a language that is intended to speak to lawyers and laymen, as in contracts, jury instructions, notices and even laws; yet, lawyers also use language that is meant to speak primarily to each other, in pleadings, opinions, articles, books, argument, day-to-day negotiation and discussion that is lawyer's life, and it is in this latter example, that a part of the language of law is argot, a 'professional language" (Cairns 1957: 232, 240, as cited by Mellinkoff 1963: 18). For the vocabulary of the trade, occupation, or profession, Tiersma (1999: 107) uses the word "jargon", which is used by him as a broader category, including more than the precise technical words, viz. legal jargon is used for any words or phrases that are commonly used by a profession or trade.

Examples of argot in legal English include, *inter alia*: arguendo, black-letter, boilerplate, case at bar, case on point, case on all fours, chilling effect, conclusory, decedent, grandfather clause, hypothetical (used as a noun), instant case, judge-shopping, predecease, sidebar (Tiersma 1999: 107). Robinson (1973), Butt and Castle (2006: 144-147) apply the word "legalese" to describe the language that is more than the language of the lawyers, i.e. "the language that lawyers would not use in ordinary communication, were it not for the fact that they are lawyers". Legalese, as they claim, is allied to legal "jargon" (Butt and Castle 2006: 147).

English language of law is depicted as solemn, mystical, sacerdotal (Runes 1938, as cited by Mellinkoff 1963: 19), dignified, and assiduously stilted (Rodes 1936, as cited by Mellinkoff 1963: 19), formal and ritualistic (Tiersma 1999: 100-104), or mystical (Butt and Castle 2006: 2) achieved by: the use of unaccustomed words, polite expressions of former days (*approach the bench* instead of *come here*), euphemisms (*the deceased* and *decedent*), undomesticated Latin and French (*arrested in flagrante delicto* instead of *caught in the act*), a variety of circumlocutions.

The possible explanations for the use of *formal language* include, *inter alia*: the formality of the courtroom reminds the participants that they are participating in an adversarial setting, formal language facilitates to frame the proceedings, the rituals of the oath taken by the witness and jurors and their placement in a special box, divides them from the outside world, the ritualistic and solemn language and ceremonies stress that this is a special occasion, gives the touch authority to the proceedings (Tiersma 1999: 100-101).

Legal vocabulary and expressions, the *use of archaic ritualistic words*, as in the pleadings: *Comes now Plaintiff*, or *Wherefore the Plaintiff prays for relief as follows*, separate the ordinary language from the legal language (Tiersma 1999: 101). It has been indicated that the employment of the highly *formal* and *pretentious* language conveys an impression that legal drafting is much more complicated than it actually is, which at the same time makes laymen believe that they would not be able to create a legally binding document by themselves (Tiersma 1999: 102).

Examples of formal language include: the title of legal documents (*The Last Will and Testament*), the overuse of formal words, such as: *advise* instead of *tell*, or *indicate*

instead of *say*, the use of Latin origin words instead of common words: *approximately* for *around*, *commence* or *initiate* for *begin*, *desist* for *stop*, *employ* for *use*, *expedite* for *hasten*, *necessitate* for *require*, *present* instead of *give*, *prior* for *earlier*, *request* for *ask*, *terminate* for *end*.

The English language of law makes *deliberate use of words and expressions with flexible meanings* (Mellinkoff 1963: 20-22; Crystal and Davy 1969: 211-212). On the one hand, the language of the law may be praised for its "extraordinary precision" (Cairns 1957, as cited by Mellinkoff 1963: 21), on the other, it may be disparaged for making use of "equivocal" (Gowers 1948, as cited by Mellinkoff 1963: 21) or " weasel words" (Chase 1938, as cited by Mellinkoff: 1963: 21). Crystal and Davy (1969: 211) assert that legal professionals are competent in balancing between the necessity for precision and the benefits of judicious vagueness.

Law words and phrases used in the legal language due to their flexibility include, *inter alia*: adequate, adequate cause, apparently, approximately, as soon as possible, available, average, clear and convincing, clearly erroneous, commerce, comparable, convenient, desire, due care, due process, excessive, extraordinary compensation, extreme cruelty, fair division, few, gross, gross profit, habitual, improper, in regard to, inadequate, incidental, inconvenience, intention, intoxicated, it would seem, large, lately, luxury, malice, many, more or less, near, negligence, net profit, obscene, obstruct, obvious, ordinary, palpable, preceding, promptly, proper, provide for, reasonable care, reasonable speed, regular, reputable, resident, safe, satisfaction, satisfactory, serious and willful, serious misconduct, severe, sound mind, substantial, suitable, take care of, temporarily, thereabout, thongs, trivial, try, under the influence of a person, understand, undue influence, unreasonable, unusual, unsound, valuable, voluntary, want, welfare, wish, worthless (Mellinkoff 1963: 21-22).

Another characteristic trait of the English language of law is *precision*, which lawyers refer to as the "loudest virtue of the language of law" (Mellinkoff 1963: 399). According to Mellinkoff (1963: 393), "The quest for a precise language is as ancient as the search for the fountain of youth, and less capable of fulfillment than the alchemist's dream of turning lead into gold." At the lexical level, there are two types of meaning of the word "precise" in law: (1) precise may be exact meaning (fixing of sharp definition), or (2) exactly the same way (repetition) (Mellinkoff 1963: 299). At the semantic level, precision is achieved by a careful selection of words and expressions (Jopek-Bosiacka 2006: 50). Williams (1945, as cited by Mellinkoff 1963: 22) asserts that lawyers strive for precision and resist linguistic vagueness., i.e. they select words and phrases carefully, make use of composition devices, such as numbering, indexing and lettering (Allen 1961, as cited by Mellinkoff 1963: 22).

Legal language employs phrases designed to restrict the list of things or actions, such as: *and no more*, *and no other purpose*, *shall not constitute a waiver*, *shall not be deemed a consent*, and phrases, which make a list open to other things or actions, e.g.: *including but not limited to*, *or other similar or dissimilar causes*, *shall not be deemed to limit*, *without prejudice*, *nothing contained herein shall* (Tiersma 1999: 23).

The quest for precision is also attempted by using two words for one, although there are claims that the use of doubled words is often done without lawyer's awareness of any particular function (Mellinkoff 1963: 345). Such doublings include, for instance: *by and with*, *cease and desist, full faith and credit, had and received, fit and proper, force and effect, give, devise and bequeath, null and void, rest, residue and remainder* (Mellinkoff 1963: 346)

Legal drafters are continuously compelled to choose between applying a single flexible term, a rather general term, which comprises a large number of things or actions, or a more precise word list, which enumerates all the anticipated things and actions (Tiersma 1999: 81-86). To achieve precision, lawyers employ multiple specification of legal devices, factual situation, qualifications, applications, exceptions, rights, and grievances (Mellinkoff 1963: 23). For instance, in contracts and acts of law, there is a special part of the text, which defines the terms used in a given legal instrument (Jopek-Bosiacka 2006: 51), which is referred to as the *Defined Terms Section* or the *Defined Terms* that constitutes a section of a contract, where the parties agree exactly what particular words mean, when those words appear in the contract (Mason and Atkins 2007: 198; Berezowski 2007: 76-81).

Numerous words that lawyers traditionally use never actually possessed any definite meaning, and such words include, but are not limited to the following: *reasonable*, *substantial*, *satisfactory* (Mellinkoff 1963: 301). Other typically vague archaisms include: *aforesaid*, *and/or*, *forthwith*, *hereafter*, *hereby*, *herein*, *hereinafter*, *heretofore*, *or/and*, *said*, *whereas* (Mellinkoff 1963: 301).

The syntactic properties typical of the English language of law are:

(1) the unusual length of sentences,

(2) the syntactic complexity of the sentences,

(3) substantial use of nominalizations,

(4) passives,

(5) the unusual use of anaphora,

(6) conditionals,

(7) whiz-deletion, and

(8) the unusual prepositional phrases.

One of the predominant syntactic traits of the English language of law, *the use of long-winded sentences* (Barber 1962, as cited by Bhatia 1994: 141; Mellinkoff 1963: 185-186; Crystal and Davy 1969: 201; Gustafsson 1975b: 25-27; Hiltunen 1984, 2001; Danet 1990: 540; Bhatia 1994: 136; Tiersma 1999: 55-59; 2008: 14-15; Gibbons 2003: 21; Gotti 2003: 85-90; Butt and Castle 2006: 142-144; Mattila 2006: 234-235), is credited to a number of reasons.

One of the theories explaining the lawyers' penchant for the use of long-winded sentences is their desire to include all the information pertaining to a particular topic

in one self-contained and very complex unit (Crystal and Davy 1969: 201). To avoid ambiguity, which Reed Dickerson (1986: 32) called "perhaps the most serious disease of language", a legal drafter "must take the greatest pains to ensure that it says exactly what he wants it to say and at the same time gives no opportunity for misinterpretation", for this reason, the sentences used in the language of law are lengthy and verbose (Crystal and Davy 1969: 193). The lawyers' wordiness and redundancy is frequently an immediate result of their attempts at achieving precision, i.e. words are compiled to cover each and every conceivable circumstance (Butt and Castle 2006: 128-129).

The major raison d'être of the unusual length of sentences in legal writing is also attributed to (1) respect for the original tradition, the older the rule the more appreciated it is, (2) the English tradition of case law, which ensures the harmony and internal coherence of a system based on case law, according to which the statutes must take account as far as possible of the various combinations of situations appearing in the court decisions (Mattila 2006: 234-236).

The lengthy style of legal writing is frequently credited to what legal professionals call "boilerplate", a standard provision, which is routinely added to a given legal document (Tiersma 1999: 59). Lawyers seem to adjoin more and more of the boilerplates to legal instruments; they never delete any clauses, hence legal documents have a propensity to become ever longer (Tiersma 1999: 59).

The analysis of the British Courts Act of 1971 has shown that the shortest sentence in this Act comprises 10 words, and the longest sentence encompasses 179 words (Gustafsson 1975b: 9-12). Another example of a long-winded sentence from legislative writing provided by Barber (1962, as cited by Bhatia 1994: 141) is built of 271 words. An example of an elongated sentence from legal writing has been presented by Mellinkoff (1963: 185-186) – it comprises c.a. 600 words (the sentence comes from 1741 plea justification to a declaration in trespass and assault). Mattila (2006: 234-236) reports about a long-winded sentence from the case *Mylward v. Weldon*, which comprises of 120 pages. The study conducted by Hiltunen (1984: 108-109, as cited by Tiersma 1999: 56) revealed that the shortest sentence consisted of 7 words and the longest of 740 words; thus, the average sentence length reached 79.2 words. An extract from a bank mortgage from used by a renown New Zealand bank written in microscopic letters comprises an entire page (Butt and Castle 2006: 128-129). An excerpt from the New Soth Wales Conveyancing Act of 1919 contains a sentence of 256 words (Butt and Castle 2006: 128-129). Bhatia (1993: 106, as cited by Jopek-Bosiacka 2006: 63) provides an example of an elongated sentence from Section 14(1) of the Income Tax Act of 1983 from the Republic of Singapore, which encompasses 271 words in a single sentence.

Another distinguishing syntactic feature of the English language of law is its *propensity to convey information put in a form of very complex sentences* (Crystal and Davy 1969: 201, Gustafsson 1975b: 26, Charrow and Charrow: 1979: 1327-1328, as cited by Jopek-Bosiacka 2006: 26, Hiltunen 1984, as cited by Tiersma 2008: 15, Danet 1990: 540, Bhatia 1994: 136-149, Tiersma 1999: 57, 2008: 15, Gibbons 2003: 169-171, Gotti 2003: 83-85, Jopek-Bosiacka 2006: 63, 66).

Gustafsson (1975b: 27), who investigated the British Courts Act of 1971, found out that the act comprised 289 sentences containing 827 clauses, of which 396 were main clauses and 431 subordinate clauses (2.86 clauses per sentence). The findings of her study show that only 21% (60 out of 289) were simple and consisted of a single main clause. The corpus of subordinate clauses, comprised one sentence that had nine dependent clauses (Gustafsson 1975b, as cited by Tiersma 1999: 56). Hiltunen's (1984) study on syntactic complexity of the sentences in legal writing shows that sentences had an average of 6.74 clauses (Tiersma 1999: 56).[2]

Another factor that contributes to syntactic complexity of sentences in legal writing is the *use of embedded and nesting constructions*, which appear to have a substantial influence on our memory (Gustafsson 1975b: 27). The language of law frequently makes the use of right and left-branching type of embedding clauses, of which the former are more frequent, but the latter appear to cause more difficulty in understanding of the language of law (Charrow and Charrow 1979, as cited by Jopek-Bosiacka 2006: 66; Hiltunen 1984: 120, as cited by Jopek-Bosiacka 2006: 66). The findings of the research dedicated to understanding of instructions by members of the jury conducted by Charrow and Charrow (1979, as cited by Gustafsson 1975b: 27-28) indicate that members of the jury could understand the instructions much better when the lawyers removed left-branching type of embedding from the instructions.

The most conspicuous feature of the English language of law is that it is *highly nominal* (Crystal and Davy 1969: 205; Gustafsson 1975b: 28-29; Shuy and Larkin 1978; Charrow and Charrow 1979; Danet 1990: 540; Bhatia 1994; Tiersma 1999: 77-79, 187-188; Gibbons 2003: 19, 20, 34, 166, 176, 178, 192; Gotti 2003: 78; Butt and Castle 2006: 15; Jopek-Bosiacka 2006: 67).

Nominalization, which is a noun derived from a verb, dates back to the times of Law French, where nouns were created by means of addition of –al to the verb (as in try/trial, propose/proposal), or by adding the suffix –er (as in demur/demurer, waive/waiver) (Tiersma 1999: 77-79). Another way of forming nouns from verbs is by adding of the suffix –ing to the verb, which forms a gerund (e.g. injuring) (Tiersma 1999: 77).

The underlying principle for using nominalizations is that they allow the speaker to exclude the actor form the sentence. By way of illustration, instead of saying: *the defendant injured a girl at 5:30 p.m.*, the lawyer may omit the actor saying: *the girl's injury happened at 5:30 p.m.*, or depersonalize the description of the incident by writing: *the injury happened at 5:30 p.m.* (Tiersma 1999: 77). In doing so, lawyers enable legislators to indicate that the action may have been committed by anyone, which allows laws to be formed in the manner as broad as possible (Tiersma 1999: 78).[3]

[2] Tiersma (1999: 56) explains that Hiltunen's figures include both finite and infinite clauses, which is why the number is higher in comparison to that presented by Gustafsson.

[3] By way of illustration, in the Californian law, nominalized groups (gerunds) enable various forms of trespassing to be included in the regulations: "Cutting down, destroying or injuring any kind of wood …; Carrying away any kind of wood; Digging, taking, or carrying away … any soil; Building fires upon any lands owned by another …" (Tiersma 1999: 78).

There is a preference in the English language of law to use post-modification in the nominal groups, as in: *the payment* to the owner *of the total amount*; or in: *any instalments* then remaining unpaid *of the rent* (Crystal and Davy 1969: 205). Bhatia (1994: 142) maintains that the use of nominalizations contributes to a greater precision of legal writing, unfortunately, it seems to cause difficulties in understanding of the text, because the understanding of each nominal phrase takes more time and effort and requires specialized knowledge.[4] Butt and Castle (2006: 153) assert that nominalizations are especially idiosyncratic for bureaucratic and official language, but in legal writing they appear to be endemic. As they explain, parties to legal documents do not "decide", they "make a decision", they do no "resolve", they "pass a resolution", they do not 'sever" a joint tenancy, they "effect a severance." In their opinion, lawyers frequently use nominalizations to attain the formality of tone, unfortunately, nominalizations appear to infringe communication, as verbs, particularly the strong ones, communicate more strongly (Butt and Castle 2006: 153).

Haigh (2007: 44-45) confirms the hitherto research claiming that in legal drafting "verbs are frequently buried in a longer noun", which usually end with: -tion, -sion, -ment, -ence, -ance, -ity.[5] Nominalizations appear to be idiosyncratic for other specialized language (Gotti 2003: 78-79), which "enables an easier flow of information", as well as to "emphasize verbal action through thematization."

Another trait of the English language of laws is the *use of passive constructions* (Danet 1990: 540, Tiersma 1999: 74-79, Garner 2002: 41, Gibbons 2003: 166-167, Gotti 2003: 96-99, Jopek-Bosiacka 2006: 64-65), which is usually credited to lawyers' efforts to obscure or at least downplay the role of defendants as actors, who committed an illegal act (Thornton 1987, as cited by Jopek-Bosiacka 2006: 65, Tiersma 1999: 75, Garner 2002: 42, Gotti 2003: 97, Mattila 2006: 73, Haigh 2004: 37), or to achieve objectivity, especially of the findings and conclusions (Mattila 2006: 73). Claims are made that passive constructions seem to be avoided in legislation (Shuy and Larkin 1978, Charrow and Charrow 1979, as cited by Jopek-Bosiacka 2006: 64) owing to the fact that it may be difficult to identify the addressee of a norm (Thornton 1987: 52, as

[4] Bhatia (1994: 142) provides an ex ample of nominalization typical for the normative acts from Section 16 of the Wills Act, Republic of Singapore: „No obliteration, interlineations, or other alteration made in any will after the execution thereof shall be valid or have effect so far as the words or effect of the will before such alteration shall not be apparent, unless such alteration shall be executed in like manner as hereinbefore is required for the execution of the will; But the will, with such alteration as part thereof, shall be deemed to be duly executed if the signature of the testator and the subscription of the witness be made in the margin or on the same other part of the will opposite or near to such alteration or at the foot or end of or opposite to a memorandum referring to such alteration and written at the end or some other part of the will."

[5] A list of nominalization provided by Haigh (2007: 44-45) includes the following noun phrases used instead of verbs: arbitration-arbitrate, arrangement-arrange, compulsion-compel, conformity-conform, contravention-contravene, enablement-enable, enforcement-enforce, identity-identify, incorporation-incorporate, indemnification-indemnify, indication-indicate, knowledge-know, litigation-litigate, mediation-mediate, meeting-meet, negotiation-negotiate, obligation-obligate, opposition-oppose, ownership-own, perpetration-perpetrate, possession-possess, reduction-reduce, violation-violate.

cited by Jopek-Bosiacka 2006: 65). It is indicated that in contracts, where the parties wish the key obligations undertaken by them to be identified as possible, passive constructions appear to be less universal (Tiersma 1999: 76). There is a fear that excessive use of passive constructions may cause lack of clarity, for this reason it appears sensible to use passive forms whenever the drafter wishes to lay emphasis on the object rather than the subject (e.g. 'the meeting will be held', instead of 'the company will hold the meeting') (Garner 2002: 41).

Legal English makes *excessive use of unusual anaphora* (Crystal and Davy 1969: 202, Shuy and Larkin 1978, as cited by Jopek-Bosiacka 2006: 55; Danet 1980, 1990; Berk-Seligson 2002: 16). The unusual use of anaphora takes place when authors refer back to the previously mentioned nouns by means of the same noun rather than pronoun to avoid repetitions.

Anaphoric devices may substitute the entire stretches of language, not only single elements, replacing the entire clauses, sections of clauses, such as this that applied wit reference to the earlier items, which may lead to ambiguity and confusion in situations, where some substitutes look as if they refer to an item that the author of the text did not have on his mind, which in a legal document is an undesired phenomenon in contrast with conversation, where such ambiguity may lead to minor consequences (Crystal and Davy 1969: 202, Charrow and Crandall 1978, as cited by Jopek-Bosiacka 2006: 55). According to Tiersma (1999: 91), anaphoric devices, such as *said* or *aforesaid* appear to be more precise than *this*, as they refer exclusively to something that has been mentioned previously.

Crystal and Davy (1969: 203) assert that the majority of legal English sentences may be characterized by a similar sentence structure reduced to a minimal formula: "if X, then Z shall be Y", or "if X, then Z shall do Y", in which every action or requirement is dependent on a set of conditions, whose satisfaction is required before anything at all may happen.

Following Coode (1843, as cited by Crystal and Davy 1969: 217, as cited by Bhatia 1994: 150, Asprey 2003: 111-112), the legal sentence consists of:

(1) the *case* or circumstances with respect to which or the occasion on which the sentence is to take effect,

(2) the *condition*,

(3) what is to be done to make a sentence operative,

(4) the *legal subject*, the person enabled or commanded to act,

(5) the *legal action*, that which the subject is enabled or commanded to do.

According to Garner (2002: 51-52), instead of -if clauses, lawyers also use expressions such as: *provided that*, called *provisos*, which have a long legislative tradition (Butt and Castle 2006: 163). The terms *provided* and *provided that* were used to introduce provisions in legislation as a contraction of the formula *it is provided* [*that*] intended to qualify or limit what has gone before.

A typical trait of the English legal writing is the so called *whiz-deletion*, which refers to the deletion of a relative pronoun, including: *who*, *which*, *where* and a form of a verb *be* in a relative clause (Charrow and Charrow 1978, as cited by Jopek-Bosiacka 2006: 65, Danet 1980, 1990, Crandall and Charrow 1982, as cited by Jopek-Bosiacka 2006: 65, Berk-Seligson 2002: 16). [6]

The syntactic complexity of legal English also relates to *a large number of prepositional phrases* (Crystal and Davy 1969, Gustafsson 1975b: 28, Shuy and Larkin, as cited by Jopek-Bosiacka 2006: 67-68, Charrow and Charrow 1979, as cited by Jopek-Bosiacka 2006: 67-68, Tiersma 1999: 59, Gibbons 2003: 55). Gustafsson and Shy and Larkin agree in their opinions that legal English uses prepositional phrases in excess; Charrow and Charrow point out that it is their atypical position that makes the legal texts difficult to understand (Jopek-Bosiacka 2006: 68). According to Bhatia (1994: 143), the structure of the complex prepositional phrases applied in the English language of law looks as follows: P-N-P (Preposition-Noun-Preposition). They include, inter alia: *for the purpose of*, *in respect of*, *in accordance with*, *in pursuance of*, *by virtue of*, etc.

Legal English is also characterized by the use of prepositional phrase: *as to* (cf. Chartrand et al. 1997: 24, as cited by Jopek-Bosiacka 2006: 68), e.g.:

"If there is doubt as to whether the act of coercion amounts to duress or undue influence, an action may be brought before the court applying to have the contract avoided for duress, and pleading in the alternative that the contract be set aside on the grounds of undue influence" (Chartrand et al. 1979: 24, as cited by Jopek-Bosiacka 2006: 68).

In as much as the Plain Language Movement has attempted to advocate simple and clear style of writing among the lawyers, the Anglo-American language of law still astonishes all those, who deal with it. Governments insist that laws be written in an easy to understand and intelligible manner, but the process of making the language of law simpler appears to be not only long, but also a contentious issue among lawyers, because those of them, who argue that it should preserve its mystique are in the majority. For this reason, ordinary citizens, who attempt to understand the language of legal drafting are left with no choice, but to put up with the way it is and get to know its fundamental qualities.

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[6] Examples of whiz-deletion by Danet (1980: 479, as cited by Jopek-Bosiacka 2006: 65) include the following:"remedies (which are) available, covenant (that is) contained."

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Abstract

In all the countries, the law is written, construed and enforced through language. It is widely accepted that the English language of law is a recognizable phenomenon. Some assert it is peculiar. As such, it has frequently been criticized for its arcane and mysterious quality. The major objective of the present study is to analyze the English language of law to make it more comprehensible. The analysis of the English language of law in this paper has been divided into two major parts, and revolves around the following aspects: (1) the lexical and (2) syntactic properties.

Keywords: English language of law, lexical features of the English language of law, syntactic traits of the English language of law.