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Genre-based syntactic account of legal English – a pilot study

Жанрово-синтаксичні характеристики
юридичної англійської мови – пілотний проєкт

Summary. *The paper aims to outline a pilot of the research into genre-based syntactic characteristics of legal language. A brief account of stylistic subclassification of legal language is followed by outlining most frequently mentioned syntactic features of legal English in literature which will be verified and/or challenged in the intended research. The selected parameters that are tested in this pilot study include the length of sentences, word-count per sentence, internal composition of sentences, and nominalization trends in legal English focusing on the proportion of finite and non-finite dependent clauses and their functional syntactic distribution. The future corpus to be compiled will be composed of different genres of the English law of which the first two are analyzed in the present paper, namely written transcript of an oral witness examination by the judge and an appellate judgment of the Court of Appeal. The partial results found in the present research confirm the relevant claims that generalizing observations on the grammar of legal English are inevitably superficial [3; 9; 21] as there are considerable differences across individual genres. The present pilot study revealed that the word count generating the 100-sentence corpora was 1.6 times higher in the Judgment, including the average word count per sentence which was 1.4 times higher than in the Transcript. Considerable differences were also found in relation to the occurrence of simple sentences (which was 7 times higher in the Transcript), and to the more complicated composition of multiple-clause sentences and stronger nominalization trends identified in the Judgment. The quantitative results are interpreted from a comparative perspective and are intended to serve as a benchmark for further research.*

Key words: *genres of legal language, syntactic analysis, length of sentences, matrix and main clauses, multiple-clause sentences, semiclauses, nominal trends in legal English.*

Анотація. *Метою статті є окреслити жанрово-синтаксичні характеристики юридичного канцеляриту. У дослідженні надається короткий опис стилістичної підкласифікації юридичної мови та зазначаються найбільш уживані синтаксичні особливості юридичної англійської мови в наведеній*

літературі, які будуть перевірені, підтверджені та/або спростовані у процесі проведення дослідження. Обрані параметри, які задаються у цьому пілотному дослідженні, включають довжину речень, кількість слів у реченні, внутрішню композицію речень і явні тенденції номіналізації в юридичній англійській мові, з акцентом на обчисленні пропорційного співвідношення повних і неповних залежних речень і їхньому функціональному синтаксичному розподілі. Запланований корпус прикладів, який буде скомпільовано в процесі проведення цього дослідження, складатиметься з різних жанрів англійського права, перші два з яких аналізуються у пропонованій статті, а саме письмовий протокол усного допиту свідка суддею та апеляційне рішення апеляційного суду. Часткові результати, отримані в цьому дослідженні, підтверджують відповідні положення про те, що узагальнюючі спостереження над граматикою юридичної англійської мови є неминуче поверхневими [3; 9; 21], оскільки існують суттєві відмінності між індивідуальними жанрами. Цей пілотний проєкт показав, що підрахунок слів створеного корпусу зі 100 речень був у 1.6 разів вищий у Рішенні, включаючи середню кількість слів у реченні, що була в 1.4 рази більшою, ніж у Стенограмі. Значні відмінності також були помічені стосовно вживання простих речень (7 разів частіше в Стенограмі) та складніших композицій багатоскладних речень і виявлено сильніші тенденції номіналізації в Рішенні. Кількісні результати інтерпретуються з точки зору порівняння та призначені для того, щоб слугувати прикладом для подальших досліджень.

Ключові слова: *жанри юридичної мови, синтаксичний аналіз, довжина речень, матричні та головні речення, багатоскладові речення, напівречення, номінальні тенденції в юридичній англійській мові.*

Introduction. The present paper intends to shed light on the syntactic variability in the context of legal English. It aims to contribute to the field of legilinguistics whose object is legal language [5; 7; 2; 4]. Some authors make a difference between the terms legal language and the language of the law. For Kurzon [12] legal language is used in legal textbooks, lawyers speech and judges delivering judgments, while the language of the law is used in documents that lay down the law, both legislation as well as private law documents such as contrasts, wills, memoranda of association, etc. [also see 2; 16]. A bit different position is proposed by Trosborg for whom the language of the law (legislation, private instruments) is treated as a hyponym of legal language which also includes such sister nodes as language of the courtroom, language in textbooks, lawyer′s speech, etc. [21]. Legilinguists attempt to subclassify its object of study into stylistic sublayers and genres based on various criteria which include, first and foremost, the communicative goals, settings in which a particular discourse is effected [2], the producer, the addressee and the object of communication [19; 22], or the prescriptive or descriptive functions of legal language [17; 4].

The operation of these factors results in different degrees of the formality of style (the register), which, if cross-classified with the form

of media used, may render such genres as contracts, wills/marriage ceremonies, indictments, witness´ oaths which may be taken as frozen written or spoken forms, statutes, legal briefs, appellate opinions/ lawyer´s examinations of witnesses in trials, lawyer´s motions that are characterized as formal written or spoken forms, lay witness´ testimony/ lawyer-client interactions, which combine composed and spontaneous passages, while lawyer-lawyer conversations may considered as casual spoken spontaneous forms [6, p. 471].

On the other hand, Tomášek´s classification which is based on the participants of the communicative situation in combination with the subject-matter includes legislative, application of law, jurisprudence, legal rhetoric, teaching of law, mass-media, and non-literate forms (slang, argot) stylistic layers [19], while Maley´s [13, p. 39] primary classification criterion is a type of discourse situation based on which the following legal genres are suggested:

a) sources of law and originating points of legal process (legislature, regulations, by-laws, precedents, wills, contracts, etc.),

b) pre-trial processes (police/video interview, pleadings, consultations, subpoena, jury summons),

c) trial processes (court proceedings examination, cross-examination, intervention, rules and procedures, jury summation, decision),

d) recording of judgment in law reports (case reports).

Individual genres of legal language differ in degrees of stylistic formalities, which are reflected not only in the vocabulary/terminology, but also in syntax. Given the versality of stylistic sublayers and genres, it is quite daunting, if not impossible, to describe and characterize legal language in general, as a whole. According to Trosborg: "Only with the specification of sub-domains can we begin to look for characteristics specific to a particular legal sub-language" [21, p.67]. Also Biel suggests that generalizations about the grammar of legal languages should derive from the examination of "genre-based corpora" across various jurisdictions [3, p. 98; also see 9], instead of attempting at general accounts of legal language. It is individual genres that should be accounted for linguistically with subsequent cross-genre and cross-cultural comparison.

Beside vocabulary and terminological issues, syntax of legal language has been attracting increasing attention of legal scholars. The features that are pointed out in the context of legal syntax include long and syntactically complex sentences with numerous insertions, junctions, split clause elements, nominalizations, passives, if-clauses, subjunctives etc. [13; 12; 15]. Crystal and Davy point out the nominal character of sentences as "one of the most striking characteristics of written legal English […] many features in any given stretch are operating within nominal group

structure, and the long complicated nominals that result are noticeable by contrast with the verbal groups, which are relatively few, and selected from a restricted set of possibilities" [5, p. 205]. Similarly, Mattila refers to the tendency in legal and administrative language to place less emphasis on verbs: "a noun gives a more objective impression than a verb, notably in cases involving finding of fact" which may even lead to an undesired overuse of nouns in legal language [15, p. 91].

In the present study the nominalization trends will be examined in terms of the Prague School´s linguistic concept of sentence condensation understood as "the incorporation of nominal structures, called condensers, enabling the sentence to do without a hypotactically or paratactically arranged clause the use of which would otherwise be indispensable" [10, p. 114]. The sentence condensers include such structures as -ing participles, -ed participles, gerunds, verbal nouns, and to infinitives [20; 23; 8].

Methodology. For the purposes of this pilot paper we opted for two samples of legal English (both of the texts falling under the English law), namely: transcript of an oral examination of a witness and an appellate judgment (Court of Appeal, 1996, Re H (Parental responsibility: maintenance)). We compiled 100 sentences from each document and assessed them, based on the syntactic analysis, against the following criteria:

1. Length of sentences – word count average, the longest sentences

2. Simple sentences – comparison against the more-than-two-clause sentence

3. Two-clause sentences (compound and complex)

4. Multiple-clause sentences (minimum 2 paratactically joined clauses incorporating dependent clauses, i.e., compound complex sentences, and one superordinate clause incorporating dependent clauses in both paratactical and hypotactical arrangements toward each other, i.e., complex-compound sentences)

5. Nominalizations – -ed participial, -ing-participial, gerundial, and infinitival semiclauses – total, comparison with finite dependents, syntactic functions distribution

Multiple clause sentences were analysed as compound, complex or combinations of the two subtypes if more than 2 clauses were included. With complex sentences, main and matrix clauses were identified, the difference being that with the latter subtype of a superordinate clause the dependent component occupied an argument slot [11], while with the main clauses it was a non-argument position in which the dependent clause was identified. From among the nominalized constructions we focused on the semi-clauses [8], or non-finite clauses [18], which are split into gerundial, -ing-participial, -ed-participial and infinitival and they were determined

as to their clause-element function. The data obtained were first processed individually with a subsequent comparative interpretation between the two of the genres.

Results and discussion. The data collected during the analyses are presented in 3 tables headed Word count per sentence, Sentence composition, Distribution of semiclauses.

Table 1

Word count per sentence

	Word count total	**Average word count per sentence**	**Highest word count per sentence**
Transcript	1527	15,27	60
Judgment	2500	25,00	85

In the Transcript of an oral examination of a witness by the judge, greetings and behabitives [1] were excluded from the analysis in order to prevent data distortion. When comparing the two of the 100-sentence sets as to the total word count, it was 2500 to 1527 in favour of the Judgment´s set which was 1,6-times more extensive. This also resulted in the same ratio of the average sentence length. The longest sentence in the Judgment counted 85 words which was 1.4-times more than the longest sentence in the Transcript.

Table 2

Sentence composition. Legend: M...main clause, Dep…dependent clause

The total of 100 sentences	Simple sentence	Verbless sentence	Compound – two-clause	Complex – two-clause, incl. semiclauses	Compound-complex M1+M2-dependent	Complex-compound 3 and more M1–Dep1, Dep2…
Transcript	42	15	2	19 (7Mx, 12 Mn)	9	13
Judgment	8	0	4	20	7	61

Simple and verbless sentences. The Transcript of an oral examination of a witness consisted in questions of the judge and replies of the witness, of which 15 were expressed in a verbless form. On the other hand, the Judgment did not contain verbless sentences in the corpus examined. In the Transcript, the proportion of simple /including verbless/ sentences to two- and more clause sentences was 57:43, which means that the simple sentence was 1.3-times more frequent. Considering a conversational style of the discourse, this ratio is not quite high, a higher ratio was expected. Looking at the Judgment the situation is quite different: only 8 sentences were simple, the rest (92) were composed

of more than 1 clause, which means that while the simple sentence prevails 1,3-times in the Transcript, in the Judgment it is 11.5-times exceeded by the composite sentences.

Two-clause sentences. Two-clause sentences occurred in the paratactical relationship only twice in the Transcript, and 4-times in the Judgment. This means that the simple parataxis is not favoured by any of the two corpora under examination. On the other hand two-clause complex sentences were more frequent in both corpora, they occurred 19 times in the Transcript and 20 times in the Judgment, which occurrence is almost the same. As was mentioned before, two subtypes of superordinate clauses were distinguished: main and matrix. The hypotaxis was identified as main-clause-related 12 times, and as matrix-clause-related 7 times in the Transcript, whereas in the Judgment the proportion was identical 10 to 10.

In both corpora the matrix clauses introduced prevailingly the declarative subtype (1) and interrogative subtype (2) of finite dependent clauses:

(1) I think $^{O\text{-}decl.}$/that covers the questions from the Slovakian court/, sir.

(2) Explain $^{O\text{-}interog.}$/what you mean by "On finance", please?/

In the Transcript this may be accounted for by the nature of the discourse involving two parties engaged in an interview. In the Judgment corpus two-clause hypotaxis occurred 20-times with the same proportion between main and matrix clause hypotaxis. The main clauses in the Judgment involved solely dependent postmodifiers of which 5 were finite and 5 non-finite, while dependent clauses in the matrix superordinates in the Judgment were all object declaratives, but for one case of the imperative subtype (3) and one case of postponed infinitival Subject (4):

(3) She urged upon us $^{Co\text{-}imperative}$/that it is not simply a question of money/.

(4) It is helpful ^{S}/to have in mind the salient provisions of the Children Act 1989/.

Multiple-clause sentences. In the Transcript, there were 22 sentences composed of more than 3 clauses. They were either composed of up to 4 coordinated superordinates and up to three dependent clauses (ex. 5, 6) or of a single superordinate and up to 2 dependent clauses (7):

(5) ^{M1}\{I don´t know the exact dates, $^{Dep1\text{-}Adjective\ relative}$(the maintenance payments changed)/\}, but ^{M2}\{I know $^{Dep2\text{-}Object/Dep3\text{-}Adverbial}$(when we originally agreed this in this court) it was £200 a month/\}.

(6) ^{M1}\{He was supposed $^{Dep1\text{-}Subject\ Complement}$/to be here for a week/\}, but ^{M2}\{his mum only booked for six days\} and ^{M3}\{on Thursday she´d decided $^{Dep2\text{-}Object}$/to keep him at his aunty´s house/\} so ^{M4}\{I only got $^{Dep3\text{-}Object}$/to see him for five days/\}.

(7) ^{M1}{Is there anything else ^{Postmodifier-Adjective relative}/that you wish to say now to the court/ or anything ^{Postmodifier-Adjective relative} /you wish to add to ^{Adverbial} <from what you have told the court already>/? }

In the Judgment the situation was considerably different, as this type of sentences totalled to 61, which is 2.7-times more than in the Transcript, the highest number of 9 and 7, and the average number of dependent clauses per sentence (including both finite and nonfinite) was 3.3 dependent clauses per sentence. There were several examples of macro-superordinates which were elaborated by quasi-independent multiple-clause sentences, which, however, actually occupied argument slots in the macro-matrix clauses, in example (8) it being a non-finite clause itself. We referred to such inserted multiple clause sentences as subordinate complexes:

(8) ^{Macro-superordinate} {He summarized the position ^{Macro-matrix}[by saying: ´^{Object subordinate complex/Time dependent}<Whilst I accept the mother´s evidence that there has been unjustified failure by the father to keep to time,> ^{Main clause}<he has never missed contact>,^{= Main clause}<he has tried to pursue it after it was stopped> and^{= main clause}<in my judgment the probability is that if an order is made he will in future keep to the times laid down by the court or reached by agreement>./´]}

Depending on how these subordinate complexes are viewed, in the above macro-superordinate we could count the following dependent segments: ´by saying…´, the superordinate complex itself, time dependent ´whilst I accept…´, infinitival postmodifier ´to keep time´, object infinitive ´to pursue it…´, temporal finite ´after it was stopped´, declarative finite subject complement ´that he will in future …´, if-clause ´if an order is made´, and two coordinated -ed participial semiclauses ´laid down or reached…´, which makes dependent items in this macro-superordinate equal 9 to 10. Such a complicated internal structure was not identified in the Transcript corpus, notwithstanding the fact that the difference between the average number of dependent clauses was roughly the same (about 3 dependents per sentence).

Nominalizations. As to the nominal style of expression, we focused on the infinitival, gerundial and -ing- and -ed-participial semiclauses functioning as dependent components of their superordinates. Table 3 summarizes their occurrences in the four of the samples.

In the Transcript there were 28 occurrences of semiclausal dependents of which infinitives prevailed massively, functioning almost exclusively as purpose adverbials, objects and a few of them as postmodifiers. In 3 sentences infinitives were fronted which resulted in changing their function of purpose adjuncts into style disjuncts (9). Gerunds and -ing-participles were rather scarce: there was one gerundial Subject (10), two

Table 3

Distribution of semiclauses

	Gerundial	Infinitival	-ing-participial	-ed participial	Total
Transcript	1	23	3	1	28
Judgment	20	52	4	10	86

-ing-participial semiclauses occurred as adverbials of accompanying circumstances and one as postmodifier. There was only a single occurrence of -ed-participial semiclauses in the Transcript. This may be explained by the function of this type nominalization, i.e., they usually serve as postmodifiers introducing references or definitions, which is an indicator of a higher formality of the style (example (11) excerpted from the Judgment). There were 8 of postmodifying functional occurrences of -ed-semiclauses in the Judgment corpus, which is in line with the expected higher formality of its style compared to the Transcript.

(9) So, [Style Disjunct]/just to confirm/, you receive £400 met per week from your employer?

(10) [M1]{I/ /feel/ [Object]/that [Subject]<only asking the mother to come here for one week in the six-week holiday summer period> is a bit unnecessary/.

(11) The father began his relationship with the mother, [Postmdifier-]/now called RG/, in October 1986.

The higher nominal character of the Judgment was proved by the roughly 3-times higher total occurrence of semiclauses compared to the Transcript (86 to 28). Breaking it down, infinitival semiclauses prevailed the same as in the Transcript, but their functional distribution was more versatile in the Judgment: beside the adverbial functions of purpose (9) and respect (3), the infinitive occurred as postmodifier (21), and also in the nominal functions, the most frequent of which was the object (9), followed by the object and subject complement (4:4) and the subject (2). Moreover, there were 20 occurrences of gerundial semiclauses which were introduced by prepositions and functioned in 12 cases as the adverbial of manner, respect, accompanying circumstances, reason (12) and postmodifiers in 8 cases (ex.13 also involves an object infinitive):

(12) In his careful judgment, to which I pay my tribute, the judge was rightly critical of the father [Adverbial of reason]/for not pulling his weight [Adverbial of manner]<by providing financially for his children [Adverbial of time][when he can]>/.

(13) The judge asserted that the father had no excuse [Postmodifier]/for failing to maintain his children /…

Another feature that was identified during the analysis was the frequent multiple embedding of the respective types of semiclauses within each other, including finite dependents being a part of semiclauses (as demonstrated in example (12)), which is another factor that confirms

the tendency towards a more complex internal structure of sentences in the Judgment corpus.

The last parameter tested in this pilot study was the proportion and distribution of finite and nonfinite/semiclausal dependent clauses. Comparing the two of the corpora, in the Transcript there were 32 finite dependent clauses while in the Judgment there were 138 finite dependents. If considering the nominalized trends in legal English, these numbers need to be seen in relation to the occurrences of the non-finite dependents. The resulting ratio is 32:28 in the Transcript (1.1), and 138:86 in the Judgment (1.6). In both corpora finite dependents prevail, but it is only by 0.1% in the Transcript whereas in the Judgment this preference for finite dependents is higher by 0.6 %. As a result, the quantitative data prove that the nominalization trend is higher in the Judgment corpus which is a demonstration of a more formal register of this genre.

The increasing frequency of semiclauses in nominal functions as well as the occurrence of -ed-semiclauses may also be treated as indicators of a higher nominal character of the Judgment corpus compared to the Transcript.

Conclusion. This pilot study aimed to introduce the topic, methodology and sample analysis of a genre-based syntactic research intended to examine the selected syntactic parameters of individual legal English genres from different stylistic layers. In the present paper we showed the initial data generated from the syntactic analysis of two corpora representing a spoken-written genre of the Transcript of witness examination by a judge and a written genre of the appellate Judgment. As to the parameters selected for this pilot study, the following conclusions may be made based on the data obtained:

1. The same number of sentences (100) in both the corpora was generated by quite considerably different number of words, where the word count of the Judgment corpus was 1.6 times higher than that of the Transcript, which was also reflected in the average and highest word-count per sentence which was 1.4-times higher in the Judgment corpus.

2. Comparing the occurrence of simple sentences, they massively prevailed in the Transcript, the number being 57 cases while in the Judgment they only occurred in 8 cases, the prevalence over multiple clause sentences was 1.3 and 11.5, respectively.

3. The two-clause compound sentences were quite scarce in both corpora, and the hypotactical two-clause sentences occurred in almost the same number, around 20 in both corpora, with an even distribution of both the main and matrix clauses.

4. More-than-two-clause sentences prevailed 2.7-times in the Judgment compared to the Transcript (61 to 22), and although the

average number was roughly 3 dependent clauses per sentence in both of the corpora, the maximum number of dependents in the Transcript was 4 while in the Judgment it was 9 to 6 which occurred in 8 cases. In the Judgment they incorporated multiple embeddings and occurrences of subordinated complexes embedded in the macro-superordinates, which were completely missing in the Transcript. The overall nature of the sentences occurring in the Judgment was thus much more complicated and more difficult to follow if compared with the Transcript whose overall style was conversational despite of the unequal social roles and the relationship between the judge and the witness.

5. There were 86 cases of semiclauses in the Judgment and only 28 cases of semiclauses in the Transcript. In both of the corpora the prevailing subtype of semiclauses were infinitives. In the Judgment there were 20 cases of gerunds following prepositions in postmodifying and adverbial syntactic functions, and -ed participial semiclause prevailed in the Judgment (only one occurrence in the Transcript). Both the gerunds and -ed semiclauses are quite safe indicators of a higher nominal character of the Judgment, and their frequency is reflected in a higher degree of formality of this genre compared to the Transcript along with the total count of semiclauses and the nominal functions of the infinitive prevailing in the Judgment.

The data differences in all of the examined parameters confirm the observations and recommendations found in the literature [3; 9; 21] that attempts at generalizing syntactic accounts of legal language/English must inevitably fail given the versatility of the legal language genres. The results of this pilot study seem to support these observations and may therefore justify the methodological course of the intended future syntactic research. The data will serve as a springboard and benchmark for further research in the field of syntactic characteristics of legal English, also inviting for a cross-language comparative pursuits to follow, with a perspective of including also other parameters in the analysis, such as the passive, subjunctive, if-clause analysis, etc.

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