

**SLCMC 2021****International conference «State and Law in the Context of Modern Challenges»****PRAGMALINGUISTIC ANALYSIS OF LEGISLATIVE  
DISCOURSE (ON THE BASIS OF GERMAN LAWS)**

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**Abstract**

This article deals with linguopragmatics of legal texts and analyzes their communicative functions. Legal texts constitute one sociolect and are characterized by specific lexical, syntactic and stylistic peculiarities. They can be subdivided into a multitude of speech genres each having its own goals, communicative and pragmatic functions. Legal language is complex in terms of structure and is often difficult for comprehension for non-professionals. At the same time, legislative texts are extremely important for society as they are tools regulating administrative and business activities as well as social life as a whole. This is why linguistic analysis taking into account the cultural context in which legislative texts are created and applied, and a variety of communicative situations in which they are needed is important for development of theory and for practical applications, e.g., teaching. Material for the study was drawn from the German law, and theoretical findings of the authors are generously illustrated by excerpts from authentic legislative texts. Moreover, the article gives a serious literature review introducing a reader to the modern theories of language functions. In a concise but lucid way it gives the background of the pragmatic theory. It shows its connection to other linguistic disciplines and outlines different approaches to language functions developed by the Western and Russian linguistic schools.

2357-1330 © 2022 Published by European Publisher.

*Keywords:* Genre analysis, legal discourse, legislative texts, pragmatic functions

## **1. Introduction**

Analysis of pragmatic functions of language is crucially important for understanding the specifics of legislative texts' functionality in language and speech. The inventory language functions are discussed in many linguistic papers, but in modern pragmatics there is no common understanding of this issue. In Western linguistic tradition the process of communication takes the dominant position. Thus, Martine (1963) considers communicative, cognitive and emotional functions as the main ones, and the rest are considered as secondary ones. Bühler (1934) structures the basic language functions in a hierarchical manner and in his view, the communicative function acts as a hyper function in that hierarchy. It splits into expressive, appellative and message functions. After the development of pragmatic direction in linguistics the language functions were analyzed in a new light, as pragmatics requires the study of language in its relationship with communicants and communicative context.

## **2. Problem Statement**

In the context of integration processes in Europe and around the world the necessity to study the problems of adequate understanding and translation of German legislative documents has arisen. Various methods of pragmatic analysis and genre interpretation have already been developed in Russian linguistics and abroad. Still the new methods and tools of pragmatic and systemic-functional analysis of legal texts need to be studied.

## **3. Research Questions**

The research questions, we intend to study in the given article are as follows:

- What is the rationale for studying linguopragmatic features of legislative texts?
- Given the fact that laws and codes belong to the different genres of legal discourse, there is the question about correlation of their legal structure and linguistic characteristics arises;
- Which functions do German laws and codes realize in legal language?

## **4. Purpose of the Study**

One of the main goals of our paper is linguopragmatic analysis of legislative genre represented in German laws and codes. The study of German legal texts is of linguistic interest, since it allows establishing typologically common features and interlanguage inconsistencies in legislative texts on different languages. Linguists are increasingly turning to multidisciplinary studies of linguistic phenomena. In this regard, the analysis of texts may be promising both from linguistic point of view, and positions of functional grammar, logic, stylistics, pragmatics and linguocultural studies.

## 5. Research Methods

Recently, empirical research has taken a new direction: traditional linguistic studies of semantics and lexicology have moved into the areas of functional pragmatics and communication theory. As a consequence, an increasing number of modern studies are aimed at gaining insight into discursive functions of the texts and distribution of genres within a discourse. The methods used in this study are contextual, communicative and linguopragmatic functional analysis of German legislative texts based on laws and codes.

## 6. Findings

### 6.1. Language functions in pragmatics and theory of communication

The term *pragmatics* was first used by Morris (1946). Since the late middle of the last century, linguistic pragmatics has become a separate field and has been going on its intensive development up to the present moment.

Pragmatics' ideas go along with the ideas of linguostylistics with the tradition of studying stylistic means in extralinguistic situations. Naer (1990) considers that pragmatics is aimed at multivariate stylistic analysis taking into account different communicative factors (the subject of speech, intentions and purpose of a speech act situation and context, etc.).

In the given paper the linguopragmatic analysis of German laws is conducted. In order to influence the text's addressee, the addresser can pursue different goals. These goals determine the kind of reaction of the addressee. The purposes of the influence and the reactions can be directed at achieving more or less distant effect. They can be political, aesthetic, moral, ethical or social according to the subject of the message. In relation to the texts of laws, a response can be expressed only in certain actions of the addressee, which potentially may or may not occur in the future.

The material of our research is the legislative text with extralinguistic factors. Any communicative interaction occurs in the cultural context in a certain communicative situation. Each speech act is functionally target-oriented: it has a definite purpose and the methods of actualization. Achievement of purpose is directly dependent upon the sphere of communication and the conditions in which it takes place.

### 6.2. Communicative functions of legislative texts

Legal language is subdivided into genres of legislation (resolutions, rules, laws, charters, conventions, regulations), case law (judicial decisions, protocols, opinions of judges, appeals) and official documentation (contracts, bulletins, official correspondence, records).

The main communicative goals of legislative texts are to ascertain facts and prescribe patterns of behavior. The authors show that for the legislative text to be persuasive it has to be imperative and authoritative but at the same time contain rational motivation for the addressees to obey it. This duality is reflected in its structure which necessarily includes description of duties imposed and rights granted.

The legislative text differs from a plain text by a certain communicative purpose. It is as a genre of formal style has two orientations – to ascertain the fact and to prescribe.

Structurally legislative texts include the hypothesis, disposition and sanction. The *hypothesis* specifies the conditions for the operation of the rule of law, disposition determines the model of individuals' behavior by establishing rights and obligations, and *the* sanction provides consequences for the individual who exercises the disposition.

The functional classification of legal norms is important for the given research. Modern pragmalinguistics singles out original, general and special rules of law. The original rules of law proclaim principles or contain definitions of specific legal concepts. Special rules of law control social relationship and ways of legal impact on the behavior of the individual.

The legal norms are subdivided into imperative, dispositive, encouraging and recommendatory. Imperative and dispositive norms of law are characteristic of German laws texts. The structure of the rule of law shows that disposition is its main part regulating and affecting the behavior of the individuals, but the legal norm has no sense without a hypothesis, and it is weak without a sanction.

### **6.3. Pragmatic functions of legislative texts**

The aforementioned special functions of the language have their own parameters of representation in the German legislative texts. For better understanding the peculiarities of the textual realization it is necessary to analyze their structure and interrelations from functional point of view.

#### **6.3.1. Nominative function**

The nominative function is exercised in the titles of the articles of the law. For naming the articles and structuring the paragraphs nonverbal formatting techniques are also used:

*Art. 94 [Bundesverfassungsgericht, Zusammensetzung] (GG)*

*§ 19 Schuldunfähigkeit des Kindes (StGB).*

As the example shows, the names of articles or paragraphs of laws usually have medium-faced type, while the names of articles of the Basic Law and other laws of Germany are enclosed in brackets. The nomination function to a greater extent is exercised using legal terms contained in these texts. In the legal language the correct understanding of the whole legal rule often depends on the right usage of the term.

#### **6.3.2. The Function of message**

This function may be realized either in the descriptive or informative form. In fact, the legal norm can regulate the individuals' behavior since it gives them some guiding information. The provisions of the legislative text are considered as a type of regulative information. The message of the law is completely impersonal. Legal texts' messages are to urge the addressee to act or to omit the action, for example:

*Bei der Verurteilung zu Freiheitsstrafe von nicht mehr als einem Jahr setzt das Gericht die Vollstreckung der Strafe zur Bewährung aus, wenn zu erwarten ist, daß der Verurteilte sich schon die Verurteilung zur Warnung dienen lassen ... (StGB).*

The context shows that the function of message is realized by informing the addressee of the conditions for the substitution of imprisonment for probation. The forms of addressing to the defendant are also very important for pragmatic analysis.

### 6.3.3. The Function of communication

This function is not characteristic of legislative texts, because it doesn't represent the addresser and the addressee directly. Laws and codes have a corporate author – a legislator. The information contained in legislative texts must have a certain addressee, or it would be senseless. When the addressee is not clear identified, it makes understanding of legal norm complicated and does not grab the attention of the person whom this regulation is addressed to. It is also difficult to consider the issue about personal responsibility in the case of defective performance of this regulation.

The text of laws and codes are created in such a way that the addressee can easily understand whether a legal rule is addressed to him or her or not. E.g., study § 9 of the German Civil Code:

*1 Ein Soldat hat seinen Wohnsitz am Standort. ...*

*Diese Vorschriften finden keine Anwendung auf Soldaten, die nur auf Grund der Wehrpflicht Wehrdienst leisten oder die nicht selbständig einen Wohnsitz begründen können (BGB).*

In this example the addressee of the legal rule is beyond any doubts – it is a soldier / soldiers, represented first as “ein Soldat”, and then as “Soldaten” (in the plural form).

### 6.3.4. The Function of influence

The function of influence is represented in legislative texts since these texts are called upon to exert a certain influence on the consciousness and behavior of the addressee. Thus, the information presented in a legal text affects the attention and memory of its recipient and informing the requirements demands their strict meeting. The function of influence can be studied through the analysis of Konjunctiv forms' usage in the texts of laws, which affect the addressee due to declaring the conditions for the eligibility of the action, as well as encouraging the addressee to commit the desired act:

- *die Sterilisation dem Willen des Betreuten nicht widerspricht,*
- *der Betreute auf Dauer einwilligungsunfähig bleiben wird,*

In the given example the special form of the subjunctive mood of conditional I (*würde kommen, würde*) is used with the modal verbs *können* and *müssen* to express the special connotations of inducement in the meaning. Along with the meaning of inducement, modal verbs add to the text the connotation of the action's conditional character. Any condition is considered a limitation of the action; this has also a certain effect on the addressee.

## 7. Conclusion

In the present paper we tried to contribute to development of pragmatics by offering several useful classifications. One gives taxonomy of legal norms. The underlying criteria for their division are the functional role of legal rules and legal regulation techniques. Linguopragmatic analysis of norms taxonomy involves principles and definitions of legal concepts. The role of different institutions and social relations. This helps to show that the legislative text not only describes rules and regulations but also serves as an instrument controlling action. Pragmatic functions of legislative texts are divided into four categories: nominative, and the functions of message, communication and influence. These functions are exercised in the texts of laws in a specific manner. The most significant function is the function of influence, since it is

the function that exercises the communicative goal of a legislative text as a social regulator. The conducted analysis shows that the function of influence is the basic one for legislative texts because along with the communicative and cognitive functions.

The analysis we conducted in the given article shows how pragmatic functions are exercised and which extralinguistic means are used to help the addressee navigate the text. The linguistic and pragmatic study of the legislative texts enables to assume that it is specific kind of speech activity. The most important pragmatic function of legislative texts is that of influence because it is instrumental in achieving the main communicative goal of this type of texts, namely, to be a regulator of social behaviour.

The functions of language reflect its essence, purpose and social nature. The main basic language functions split into special language functions. They can be considered the specific actualization of a communicative act's certain elements. The number of special language functions varies in different studies. These functions determine either the basic kinds of speech acts or definite types of speech activity. Thus, the information presented in the legislative text affects the attention and memory of the text's recipient. The text of a law dictates the terms and requires their strict submitting to.

In perspective, the authors intend to develop certain models of the legislative texts which correspond with the special language functions of nomination, message, communication and influence. Modeling the texts of laws can also be refined by attributing the legislative texts to a specific type of legal rules (the models of legislative texts with binding, dispositive, encouraging or recommendatory legal norms).

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