

# CHALLENGES IN TEACHING LEGAL ENGLISH TO ROMANIAN STUDENTS

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**Abstract:** *The development of vocabulary, reading, writing, speaking and listening skills in legal English teaching requires the adaptation of the teaching methods in such a way as to respond to the students' present and future needs. In teaching legal language one has to deal with its special features as well as with the particular syntax of legal English which is characterized by long and complex sentences and syntactic discontinuities. Moreover, due to the fact that legal English is used in real professional settings, its pragmatic dimension is essential. This article focuses on the manner in which the special features of legal language could be taught to Romanian Law School students.*

**Key words:** *legal language, context, student needs, form and function.*

## 1. Introduction

Being able to use English in a proficient manner has undoubtedly become an essential asset in Romanian institutional settings over the last few years. But general English is just not enough when it comes to multinational corporations, fiercely competitive law firms, travel agencies, manufacturing or industrial companies in fields such as aerospace and automotive engineering. Being proficient in the respective variety of technical English is an advantage that can ensure the potential employee's promotion chances, income and professional prestige in general.

Luckily, students are aware of the fact that they have to start creating their professional advantages as early as the first year of study at the university and that is a very strong motivation for facing the challenges of learning specialized English vocabulary and structures. Irrespective of the variant of English for Specific Purposes (henceforth ESP), as soon as learners start to develop their English language skills, they realize that the role of context, the performative nature of language, the communicational goals that must be attained, cannot possibly be overlooked. Hence, they realize that the pragmatic dimension of language use is equally important for them to master. This is especially important in the study of legal language, a register which has a distinctively performative character.

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## 2. Methodology

The theoretical approaches that this paper relies on are ESP teaching methodology, pragmatics, syntax and semantics which are interconnected when teaching legal language to Romanian Law School students because learners must understand the manner in which a form or structure can be understood in a pragmatic context and they must learn how to use it in order to fulfill a specific communicational goal or to efficiently and accurately convey context-bound messages.

### 2.1. Facts and Figures

Transilvania University of Braşov, by the implementation of the Bologna process, allotted 4 semesters to foreign language learning with a course and a seminar once every two weeks. During the admission process, students opt for a foreign language that they (theoretically) have studied before. The rationale behind this selection criterion is that they should be familiar with the general vocabulary and basic grammar notions of that language in order to be able to add specialized vocabulary and thus acquire communicative competence in the professional area of their choice.

There is obviously high demand for ESP because of the job market requirements but the number of first year students who can enroll in the ESP course is limited to 100. This large group is further divided into 4 seminar subgroups. Although an intermediate to advanced level of GE is a course prerequisite, pre-intermediate students (and lower) also enroll in the course given the popularity of ESP in institutional settings in Romania and abroad. This triggers a challenging imbalance within the groups of ESP learners and calls for the adaptation of teaching materials and methods to suit the needs and abilities of all the students.

Thus, the ESP course, in our particular case, has to build communicative competence and student confidence at the same time. It has to find a way, by means of materials and methods, to ensure the progress of all the students (irrespective of their initial level of General English) and to create a comfortable learning environment that would facilitate the acquisition of such a difficult variant of ESP as legal language. A legitimate question that one might ask is why I chose to entitle my article "Challenges in teaching legal English to Romanian students". Why necessarily to Romanian students? Isn't legal language challenging to virtually any non-native speaker of English? The reason is that Romanian first and second year Law students strive to become familiar with the Romanian structure of the justice system (court structure), the Romanian legal terms from the various branches of law as well as with the Romanian legal professions. This is why it is sometimes frustrating for them not to have a Romanian equivalent for some Legal English crimes, documents, court orders, etc. (e.g. Child Care court orders and injunctions, to name but one area lacking Romanian counterparts).

Furthermore, the court structure in Romania is radically different from the British or the American organization of the institutions of the justice system. Therefore they simply cannot find the motivation, at this point in their studies, to learn about British or American court systems and institutions, be it only for the sake of cultural instruction.

They are eager to learn Legal English but they are, as we lecturers are, painfully aware of the very short amount of time in which they can acquire as much as they can from this ESP register; for this reason, they are mostly interested in learning whatever can be applied to Romanian law as well.

### 3. Needs Analysis

According to Hutchinson and Waters (1987, p. 12) the purpose of ESP is to train learners to function in a target situation for which they are preparing and in which they intend to use the acquired language register. Therefore, the first step is to identify the specific target situation and then to single out the linguistic features that characterize the respective target situation as well as the means to learn them.

Basically, the ESP course enables learners to adapt, from a linguistic point of view, to a target professional setting. Romanian law students need to adapt to the legal jargon both in L1 and L2 (unfortunately at the same time), which is by far the most challenging task. Given the fact that at the Faculty of Law within the Transilvania University of Braşov ESP is studied in the first two years when students acquire the basics of law, ESP learners are not yet able to project the manner in which ESP will benefit them in the long run. They are sure that they need ESP, they are eager to learn it, but they cannot envisage its contribution to their future career. In this particular case, until they make a decision regarding the legal profession that they want to adopt, learners must become aware of the exact contribution that ESP can make to their career opportunities. We might say that, to a certain extent, the lecturer has to address all possible needs for as many target situations as possible and for as many *occupational settings* (Gatehouse, 2001) as possible.

### 4. General Characteristics of English for Specific Purposes (ESP)

As Nodoushan pointed out, ESP cannot be separated from English for General Purposes (henceforth EGP) as the former is “research and instruction that builds on EGP [...]. Pedagogically, a solid understanding of basic EGP should precede higher-level instruction in ESP if ESP programs are to yield satisfactory results.” (Nodoushan, 2007) Hence, an intermediate level of general English should be a prerequisite for the ESP course especially when there is a rather short period of time allotted to the attainment of the learning goal.

Dudley-Evans and St. John (1998, pp. 4,5) argue that there are special situations in which ESP can be taught to beginners as well. In my experience, beginners who cannot rely on a solid ground of General English, are discouraged by the great amount of legal terms and by the very complex types of legal discourse. After two years of ESP and EGP they could, at best, cope with basic instances of professional communication, draft and comprehend straightforward administrative documents, grasp the general meaning of verbal interaction in English.

Hutchinson and Waters (1987, p.12) define ESP as an *approach* not as a *product*. The authors argue that ESP is an approach to language learning which is centred on learner

need and all decisions regarding teaching methodology and content must rely of the learning goal. The main focus of ESP is not the linguistic factor but communication and learning. For Dudley-Evans and St. John (1998, pp. 4,5) it is language (grammar, lexis, register) that should be the focus of ESP.

I believe that both directions are equally valuable and applicable especially when dealing with Romanian law students whose career path is not yet decided in the first two years of Law School. Thus, by keeping their career options open to new opportunities until graduation, law students must prepare for virtually any legal profession that they may eventually decide upon.

### **5. Legal Language and the Language of the Law**

According to Mattila (2006, pp. 4-5), legal language can be divided into several sub-genres according to the following criteria:

- a) the various sub-groups of legal professionals: i.e. legal authors, legislators, administrators, judges, mediators, lawyers, prosecutors, notaries.
- b) on the basis of the various branches of law: i.e. civil law, criminal law, family law, contract law, corporate law, constitutional law, property law, tax law, intellectual property law, etc.

The difficulty of teaching the enormous amount of terminology pertaining to all the above-mentioned branches is that, as Mattila (2006, p. 5) also noticed, is that all the branches of law use terms from other areas of technical English. For example, tax law and corporate law extensively use economic terms especially from accounting, criminal law contains medical terminology from such areas as psychiatry and property law involves surveys.

Dennis Kurzon (1989, p. 284) distinguishes between legal language and the language of the law. The former, according to the author, is the language used in textbooks or when talking about the law and legal matters. It is characterized by formality, fragmentary sentences, typical expressions and terms of art. The language of the law, Kurzon (1989, p. 284) points out, is the language used in documents which lay down the law, namely legislation, contracts, wills and deeds. These documents are drafted in a formal and archaic style.

Another aspect implied by the distinction between legal language and the language of the law is that the former is used by professionals in the field of law, in institutional settings whereas the latter has to be understood by all the citizens who have to comply with legal provisions, court decisions, ordinances, understand the general terms of a will, of certain types of contracts, respond to notices and warnings from state authorities, etc., without necessarily asking for clarifications from legal professionals.

The performative character of legal language is one of the most important features of this type of discourse. This means that the semantic, lexical and syntactic characteristics of legal English have to be accompanied by a thorough study of its pragmatics.

## 6. Pragmatic Features of Legal Language

The performative role of legal language must be taken into account and the right teaching approach must be found in order to make sure that students master not only the syntactic and semantic particularities of legal language but also the pragmatic ones. The most salient characteristic of legal language is that of “achieving Justice by means of language, that is, producing legal effects by speech acts.”(Mattila, 2006, p. 31). The same author argues that through its performative character, legal language becomes a means whereby legal relationships may be changed. By a speech act a judge may issue a verdict or a party may enter a contract (e.g. “On these grounds, the Court (...) awards the mother/father custody of the minor child (...)”).

The laying down of the law should be analyzed from a pragmatic perspective. The speech act theory devised by Austin (1962) and Searle (1969, 1976) is particularly relevant for the study of the manner in which words create reality by means of legal language. Thus “the ordering of human relations is accomplished through **directives** (Searle, 1969) which create an imposition only for the aim of observing the law and serving the common good.

The most frequent formulas which are used in the expression of speech acts and which mark the performative character of legal language are:

- the adverb *hereby*: e.g. I *hereby* promise/declare/pronounce, etc. (Tiersma,1999, p. 104)
- the auxiliary verb *do*: e.g. I *do* promise (Tiersma, 1999, p. 104)
- the modal *shall* expresses obligation: is used to express the illocutionary force of an order which is to be carried out by a human or non-human subject:

e.g. The Duties of the Directors

Except with the prior sanction of the holders of more than 50 per cent of the issued share capital of the Company from time to time the Directors shall procure that the Company shall not sell, transfer or otherwise dispose of the whole of its undertaking, property or (save in the ordinary course of trading) assets or a part thereof being substantial in relation to its total undertaking, property and assets (...). (adapted from Brieger, N., 2002, emphasis added)

- the phrase *by these presents* (i.e. by this document) or the full formula *Know all men by these presents* may occur in bills of sale, deeds, powers of attorney or stock powers. (Tiersma,1999, p. 104)
- the verb *to undertake*:

e.g. The Shareholders undertake with each other that they shall not without the prior consent of the other parties while a shareholder in the Company become involved in any business other than that of the Company (...). (Brieger, N., 2002, emphasis added)

In order for the students to grasp the illocutionary force of such speech acts as the ones previously mentioned, they have to be exposed to as many instances of their occurrence both in spoken and in written legal discourse such as case law, contracts, EU directives, court decisions. The skills through which the pragmatic force of legal

language can be understood are mostly writing, reading and listening. There is a great amount of readily available reading materials online and students practice the accurate use of these structures in class by means of writing, listening and speaking activities. The latter are more suitable, in this particular case, to more experienced ESP learners and they can consist of mock trials which simulate real-life court cases.

## 7. Lexical Features of Legal Language

Legal English vocabulary is characterized by a high degree of formality which makes its acquisition quite challenging for ESP learners, especially for beginner, pre-intermediate and intermediate level students.

The features of English legal vocabulary that proved to be the most problematic for my groups of ESP students from the Faculty of Law were:

### 7.1. Binomial and Multinomial Expressions

Binomial and multinomial expressions are semantically interrelated. According to some researchers (Gustafsson, 1975; Koskenniemi, 1968) binomial expressions can be classified according to their semantic relations into four categories.

- a) nearly synonymous: *skills and qualifications, comprehensible and acceptable, effectiveness and efficiency, spouses and life partners, etc.*
- b) complementary: *laws and regulations, health and safety, transit and residence.*
- c) antonymous: *proportional and dissuasive, sanctions and measures, rights and obligations.*
- d) enumerative: *promotion, analysis, monitoring and support; entry, transit and residence; inciting, aiding and abetting; associations, organizations and other legal entities; laws, regulations, administrative provisions, policies and activities, etc.*

Multinomial expressions are combinations of several elements often with a similar meaning:

- under or in accordance with
- rest, residue and remainder
- give, devise and bequeath, etc. (Pardillos C., Angel, M., 2013)

### 7.2. Latin Words and Expressions

These are very often used in legal language and that is why legal Latin is extensively practiced in all textbooks. The difficulty of teaching these expressions consists in the fact that students' knowledge of basic Latin (if any) is insufficient for the successful and immediate acquisition of these words and expressions. For good reason, there are quite numerous Legal Latin exercises (matching and gap filling exercises are the most popular types when it comes to this topic) included in every textbook because it is only through constant revision that learners are able to not only acquire but also use these terms in appropriate contexts.

### 7.3. Compound Adverbs

In my experience the acquisition of compound adverbs is by far the most problematic issue for Romanian ESP learners. Rarely have I had groups of ESP students that could eventually and completely master the form and function of such adverbs as: thereafter, thereby, therefore, thereafter, theretofore, herewith, heretofore, hereof, herein, hereby.

The most frequent manner in which these items of vocabulary can be taught is by first introducing them in gap filling or matching exercises and then practice them in targeted reading or writing tasks.

### 7.4. Legal Slang

Apart from the formal legal language there is also the criminal slang or, as termed by Mattila (2006, p. 6), “the counter-language of the criminal fraternity”. Hence, criminal slang terms are often practiced in legal language textbooks. Most often, legal slang is learned by means of reading comprehension and matching exercises.

## 8. Syntactic Features of Legal Language

The impersonal, objective and formulaic character of legal language calls for special forms and structures which can be used mostly in legal texts or in references made to them. Hence, among the most challenging syntactic specificities of Legal English for Romanian ESP learners are:

#### a) Long and complex sentences

Students struggle with untangling the meaning of very long (sometimes 100 word sentences) and sometimes a second and third reading is required in order for them to locate the main sentence components and build the meaning around them. The sentences often display multiple levels of subordination.

#### b) Lexical Repetition

Words such as *the aforesaid*, *the aforementioned*, *the same*, etc., are used along with simply repeating the words. Here is an example of *the same* as used in a Franchise Agreement:

“During the Term the Franchisor shall provide the Franchisee with a copy of the Manual and any amendment or updates of *the same*.”

#### c) Other syntactic features

According to Pardillos and Miguel (2013, pp. 7,8), other syntactic characteristics of English legal language are:

- extensive use of the passive voice
- a tendency to avoid the negative particle *not* by replacing it with: *never*, *unless*, *except*, *fail to* or negative prefixes such as *-un*.
- use of the subjunctive
- use of conditional sentences with inversion
- prepositions which are separated from their complements  
e.g. “illicit manufacturing of and trafficking in firearms”

## 9. Conclusion

The challenges of teaching legal English are manageable if the course provider finds a balance between the curriculum, the students' level of general English as well as their short-term and long-term needs. Despite its complexity, ESP learners eventually become fascinated and passionate about the perspective of acquiring such a complex register that will be both an asset and an advantage throughout their legal career. Romanian students in general are eager learners of ESP and Law School students are even more so because they view Legal English as a motivating challenge that they could capitalize on.

In future research it would be interesting to explore the manner in which the main skills are developed and the most efficient teaching strategies that could accomplish this task. Also, a SWOT analysis of the available legal English textbooks could be useful for an informed choice of teaching materials.

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