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## **Linguistic Form of the Legal Norm**

*Camelia IGN TESCU*

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## Linguistic Form of the Legal Norm

Camelia IGNĂTESCU <sup>1</sup>

### Abstract

*The legal norm is a legal normative judgment in a normative proposition logical form, expressed in a grammatical sentence. It is not the grammatical sentences, neither the propositional forms which are legal, but the normative judgement that gives particular significance to the general form and cognitive value to the information embedded in the grammatical propositional construct.*

### Keywords:

*linguistic, expression, logical, significance, information, norm*

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<sup>1</sup> Camelia IGNĂTESCU - Lecturer PhD, Stefan Cel Mare University of Suceava, Faculty of Economics and Public Administration, Email: [cameliaignatescu@yahoo.com](mailto:cameliaignatescu@yahoo.com)

### **Introduction**

The linguistic form of a meaning (for example, legal meaning) is a term (for example, legal term) expressed by a word; the linguistic form of a norm (for example legal norm) is a normative sentence (legal sentence) expressed by a grammar sentence specific to a certain grammar (French, English, Russian, Chinese etc.) to which the legal text is subject too. We see and hear signs organized according to some rules; we do not see the norms legal but we consider them, detecting them from legal texts. Of course the legal language is not made only of grammar sentences that express legal norms (for example, a contract is a legal document made of different sentences) but any legal norm is the normative idea, the significant in a logical sentential form expressed by grammar sentences. The grammar sentence written on this piece of paper “Person becomes an adult at the age of 18 years” is not at all normative, but if it is written in the Civil Law it represents the significant of the normative legal meaning in the logical form “Person must be treated as an adult at the age of 18 years”.

### **Language and signs**

Language is a system of signs organized according to certain rules in order to settle down, process and transmit information (Dimiu, 2004). According to the physical nature of the signs, the languages are either voiced or written. According to their origin, they are natural or artificial. According to their domain, they are universal or special. The spoken languages (Prisacariu, 2011) are natural (and we refer here to the spoken law, to the norms that are orally-expressed and orally-transmitted from generation to generation), while the written languages are artificial. The natural language, the ordinary spoken one, is universal, i.e. it refers to all domains of human life, being able to express every expressible thing; it is closed, i.e. it can talk about itself; it is imprecise, i.e. it allows polysemy.

The transmission of significance by means of signs builds up messages meant to reach a community of ideas. By *sign* we mean here anything or property that provides information about something: the smoke is the sign of fire, fever is the sign of disease and so on. The ancient scholars called signs the natural clues: smoke as a clue of fire, bruise as a clue of stroke and so on. These clues serve as information

sources for man. He can produce them on purposely in order to send some information (Gorea, 2009).

The signs are of two types: the signs proper and the symbols. The term *symbol* is poly-semantic. The poet, the mathematician or the chemist mean different things by symbol (Sandu, 2011). Whitehead claimed that the word itself is a symbol, the written word signifies, as a symbol, the spoken word. However, in principle, we shall maintain that the symbol is an object or a sign which, through a pre-established convention, represents a concrete way, an abstract thinking content: the cross (object) is the symbol of Christianity, the graphic sign 3 is the ideograph of the number it registers, the graphic sign A is, for the medieval logic, the symbol of the universally affirmative judgment, while for the Latin alphabet it correspond to a vowel, etc. The signs and the symbols substitute material objects, relationships and properties, and have different emotional contents to different users.

Being able to use a sign or an expression (that of the legal language, for instance) means being able to apply it correctly to an object (class of objects) than to another object (class of objects). In order to be able to perform this operation, one needs knowing the (natural, artificial or ideal) properties of this object or class of object. Using signs or expressions – guilt, acquisitive prescription, mortgage, minor etc. – means applying them in an appropriate manner to objects (classes of natural, artificial or ideal objects). This requires knowledge of the meanings of those signs and expressions.

The ensemble of notes envisaged by the logical form of the notion about the object it refers to and that the word covers is known as the word significance (Irinescu, 2003). The word is different from the term; the word is an elementary linguistic unit belonging to the vocabulary, to which there is associated a meaning, while the term is a particular linguistic combination designing something from outside of it. Each term has its own extension and intension. The terms action and commission have the same extension denote the same set of entities, but intentionally, each envisages another meaning of the set.

A word carries on a basis sense that concern the notion concerned by it and contextual senses which vary from a context to another, the sense; the sense of a word used by a subject to express its attitudes has two sides, practically inseparable: a cognitive one, with

informational charge and a thematic or affective one, resulted from the subject who utters it; the word penalty has a cognitive legal sense, the same for anyone, of course, but it has different affective senses for the attorney, lawyer, defender, plaintiff, in a certain case (Cornu, 2005).

### **Legal interpretation of the terms**

The normative legal sentences are written down on normative promulgated documents and applied using the grammar sentences, so they depend on the natural language the grammaticality of which is used in a very different way; that is why the legal logic in the logic of the natural language which indicates something that has sense and legal meaning [Vida, 2000]. We shall find the legal sense of a grammar sentence beyond the normative proposition expresses by it; the ambiguity, the equivocal; the confusions belong to the utterances, beyond which there is a single meaning: the meaning of the legal norm (Gorea, 2009). Exactly as it is not the notion but the word *ground* which is poly-semantic, as it is not the thinking but the grammatical sentence “Knowledge is a treasure” that is poly-semantic, so the matter rests with the legal norm, which is not poly-semantic itself, but the text of the normative act.

Giving that the legal norm is made up of logical terms with legal significance, a legal term can be expressed by one or several words, in a language or another, which makes its significance not always clear. The terms are expressed by one or several words, in a language or another and the words bear nuclear and peripheral cognitive meanings, together with the emotional resonance meanings when employed by the users (Dimiu, 2004).

The legal documents consisting in grammatical sentences and grammatical clauses, in a language or another, with imposed, re-posed and acceptable meanings. The imposed meaning devolves to the legislator, the re-posed meaning occurs in a particular legal act, and the acceptable meaning occurs in the doctrinaire interpretation (it is an imposed meaning that is to be interpreted). The imposed meanings do not necessarily become obvious, and their expressions are not necessarily univocal, even if they represent the vault under which we can also speak of the legislator’s authentic meaning). Individual freedom is guaranteed contains meanings imposed by the Romanian Constitution to the law of

press, to the law of schools, as well as to the law for the organization of the Orthodox Church and the law of the legal persons. For each reposed meaning, there is added (or possibly extracted) a definition of the term individual freedom, without their breaking the meaning imposed by the Constitution.

Making the distinction between the graphic or the phonetic form of a grammatical sentence and what this sentence expresses, we can say that what a grammatical sentence expresses is the condition for this sentence to being true. What the grammatical sentence “The sale takes place by auction” expresses, engaging legal terms expressed by the words sale and auction, is nothing else but the assertion. What a grammatical sentence expresses is its meaning. Its meaning or idea carrying substance exists in an idea carrying form – its logical form. Its meaning refers to something from outside itself – its referent. Therefore, if we do not know the cognitive meaning of a sentence, we cannot say whether it is true or false, possible or impossible, acceptable or unacceptable etc. We decide upon one of its values if and only if we understand its meaning. The legal sentence “The sale takes place by auction” describe a certain legal fact, i.e. that the sale takes places by auction, thus being true or false, but it can also express a regulation, in the sense that “It is compulsory that the sale take place by auction”. This expressed meaning is the legal norm. It requires a precise conduct that its addressees should realize or not. It is not only the legislator’s normative acts that express a rule of conduct, but also the instrumentum legal acts of all conventions the authorized legal subjects establish to be fulfilled among them. These conventions can be lawful or unlawful, realized or unrealized, on the whole on the part.

In order to decipher the normative reality, everything expressed by regulations is subject to interpretation, and this interpretation, meant to be assimilated by someone, follows the argumentative reasoning way. On different levels, there are involved different logical approaches: either the logic of descriptive propositions or the logic normative proposition (Irinescu, 2003).

Just as every notion has the linguistic form of the term and a vocabulary expression by words, so does the reasoning have the linguistic form of the logic proposition and a grammatical expression by grammatical sentences. A logical proposition is structured by terms; a

grammatical sentence is structured by words. The normative legal sentences are promulgated and applied by using the grammatical sentences that are specific to a certain language, thus being dependant on the natural languages, as we have already stated.

Every text has its own legislator and is addressed to somebody; by involving them both, it bears not only nuclear, peripheral, principal, secondary cognitive significance, but also emotional significance that is responsible of the humane relationship between the grammatical constructs and their author – the legislator. The text of a certain normative act or of a certain legal act bears ipso factor, nuclear, peripheral, principal, secondary cognitive significance, as well as probable emotional significance. The interpreter of the text seeks the nuclear meaning and argues that it is nuclear. Whenever we say several possible interpretation we do not claim that the legal norm bears several nuclear meanings, which is semantically impossible, but that it can have peripheral meanings, too, that state its being like this or like that. The terms cart motor vehicle, boat, ship, all bear a nuclear significance that brings them together.

Whenever we say legal terms, we do not refer to the words from the grammatical sentences of a certain text, but to the compounds of the legal normative propositions they express. As we have already stated, the signifying content of a legal notion corresponds to a referent and refers univocally to a referent. The problem is to argue that this text, these combinations of texts, this article or paragraph display, in a general way, this correspondence and not another one, and to argue that this significance can be applied to solve a certain case.

A series of terms comprised in the legal enunciation can be called evaluative (Dimiu, 2004); when we speak about the degree of social danger of the offence, we are aware of what social danger is , but its degree concerns a legal evaluation, different from one offence to another, different as related to the development of the society and so on. This degree is itself considered as this or as that, according to the understanding of the complexity of the deed. It comes out of the judgment related to the doers' personality, of the circumstances in which they acted, etc. Other such categories: diligence at the working place, good conduct in a team, correct (moral) conduct, important goods or values, appear in the natural language of the legal norms and ensure their

flexible application and their adjustment to the peculiarities of each case. The concrete determination through value judgments of these categories takes place in accordance with the social context and the professional consciousness; therefore, the argumentative solution to an interpretative problem can take place either by open and contradictory participation in a dialogue, or by rhetoric discourse, both at the level of law application and creation (Mihai, 1982).

The appeal to figures in the dialogue or monologue argumentation of the interpretation cannot be rejected on the grounds that the explanation and justification would be thus eluded, that somehow fascinated by the words we would evade the elective judgments. After these figures have a double dimension: an aesthetic, necessary to each addressing, and a teleological dimension, necessary to the persuasive activity in addressability. The rhetoric figures and the expression styles do not have to be ever considered as universal models according to which we determine the transformation of a discourse's addressee or of his partner into an agent of action through persuasion. They do not represent – and nothing proves it – recipes or paradigms available on the scale of the whole humanity, neither are they able to be verified by personal experience or by intellectual approach. To the degree that it does not violate the psycho-logic evolution of the interpretative approach, i.e. to the degree that it does not evolve as a speaking flow, rhetoric is available for the interpretation (Gorea, 2009).

### **Conclusions**

There are specific shades of linguistic norm which are not characteristic to primary legal education. In doctrine, however, the research of language and specific expression of a legal rule outlines a theme whose interdisciplinary scientific approach requires, in equal measure, the involvement of linguists, lawyers and philosophers.

Ignoring the assimilation of this type of information, leads to incorrect enforcement of the law, hence the importance of reconsidering these realities.

In order to transfer the meaning to somebody else we need information about the nature of the necessary means as well as about the effects of these means. The information allows us to build up an interpretative strategy, in the absence of which we are subject to failure,

thou we cannot interpret without knowing the information from the legal texts and the information about the past facts, brought in by evidence. In both cases the information can be processed, transformed into knowledge to be argued or to become arguments in their turn.

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