

# CERLIS 2009 - BOOK OF ABSTRACTS

## PLENARY LECTURES

Vijay K BHATIA, City University of Hong Kong

**Witness Examination As Inter-Discursive Practice.** International arbitration has often been viewed as economical, speedy, and informal alternative to litigation for the resolution of commercial disputes; however, in practice, the two are often indistinguishable from each other, especially in their use of processes and procedures. Practitioners from both these professions seem to have conflicting views and perspectives. Drawing on large cross-section of practitioners from arbitration and litigation, as well as from corporate stakeholders, this presentation will make an attempt to demystify the interdiscursive overlap in the practice of witness-examination in litigation and arbitration, in particular focusing on cross-examination.

Jan ENGBERG, Aarhus University, Aarhus School of Business

**Structure of legal knowledge and meaning in expert communication.** In my paper I want to investigate characteristics of legal concepts as found in academic articles with a focus upon the knowledge base of the legal experts behind the texts. I want to present the results of a study of the structure of knowledge elements connected to the concept of "Criminal liability of corporations" from US law in and across individual experts. Emphasis will be on individual differences and similarities between the knowledge bases of different writers. My central concern is to investigate the cognitive and knowledge oriented conditions for the observable efficiency of semiosis in academic discourse. On the basis of results from an empirical study I will show how the high efficiency and precision of semiosis that is observable in expert communication in law is due rather to the use of specific cognitive processing skills than to a total identity of cognitive structures across individual experts. In short: Legal experts understand each other, because they think in similar ways, not because they know exactly the same.

Estrella MONTOLÍO DURÁN - Universitat de Barcelona

**Discourse Grammar and Professional Discourse Analysis: conditional structures and their importance in legal discourse.** The most recent developments in Professional Discourse Analysis (PDA) have focused their attention on contextual and social aspects of professional discourses. This approach has without doubt allowed us to obtain very valuable data on the conditions of production of professional genres, and the incidence of these conditions in discourse formulation. The aim of this paper, however, is to point out the necessity to establish a convenient interdisciplinary relation between PDA and Discourse Grammar that permits us to describe thoroughly the recurrent formal patterns used in the construction of the discourses of a certain professional field, as well as to identify the discourse function of these linguistic forms. In this case, we will study how conditional constructions, in their wide structural variation, constitute the basic syntactic structure of legislative formulation. Consequently, they have been frequent structures in legal and administrative discourses since Sumerian codes. Our corpus is formed by sentences from the Aranzadi jurisprudence collection of recent Spanish laws and administrative documents published in the Official Government Report (BOE). Of these we will analyse the specific discourse functions that the schemes [if p, q] and [q, if p] fulfil in legal texts. Likewise, the function of other conditional constructions, such as the elliptical function (*if not, otherwise*) and the constructions of complex conditional connectors (*on condition that, only if, provided that/ unless, except if*) will also be examined. In line with recent work on optimization of professional genres, the contribution of Discourse Grammar to PDA can assist, for example, in the elaboration of guides of legislative technique, such as those used in the European Union.

Susan ŠARČEVIĆ - Faculty of Law, University of Rijeka

**Creating a Pan-European Legal Language.** The greatest resistance to the harmonization of European law has been in core areas of private law, where the link between language, law and cultural identity is traditionally the strongest. As regards the harmonization of contract law, the European Commission acknowledged in 2001 that the co-existence of different national contract laws, including incongruent legal terminology, hinders the internal market's ability to function. This sparked, among other things, a lively debate among lawyers on the need for a pan-European legal language, thus leading to a critical reevaluation of the role of language in the harmonization process. This paper examines the relationship between EU terminology and national terminology of the 27 Member States in the present EU *acquis* and the new approach to language taken in the Draft Common Frame of Reference for a European Contract Law, prepared by European legal scholars and published in 2008. It remains to be seen whether and to what extent politicians are ready to sacrifice part of their national cultural identity and implement the new concepts, definitions and uniform principles of the Common Frame of Reference in future EU legislation. Professor Christian von Bar, chairman of the Study Group on a European Civil Code, is optimistic about the creation of a new *jus commune europaeum*. Today the unifying language is not Latin but English; however, the new pan-European legal language is not intended as a process of Anglification. The project can be successful only if the EU policy of multilingualism is upheld, and to that end high quality translations are required.

## PRESENTATIONS

Lucia ABBAMONTE - Seconda Università di Napoli (SUN)

Flavia CAVALIERE - Università degli Studi di Napoli Federico II

**Pragmatic relevance of lexico-grammar choices in EU legal documents.** The present study focused on the communicative relevance of lexical choices in the documents of the European Union Committee of the Regions (CoR) and of other related bodies within a pragmalinguistic perspective. The Committee of the Regions is a EU advisory assembly whose function is to issue

opinions on proposals for Community legislation which are closest to the citizen interests. It is thus a voice at the heart of the EU which aims at increasing the participation of European regions in community life. Our corpus consists in 50 documents pertaining in areas affecting local and regional interests, such as education, youth, culture, health, social and economic cohesion. They are classified as proposals, opinions and recommendations according to their identities, which are situated along a graded cline of increasing intensity – or, in Sbisà's terms (2001) along a scale of varying 'illocutionary force and degrees of strength in language use'. Our analysis investigated the value of some lexico-grammatical aspects and communicative/ rhetorical strategies of these legal texts within the reference Group Knowledge (van Dijk 2001). In particular we examined the functions of *weasel* words, of lexico-grammar options and of solidarity or hedging along a *cost-benefit scale*. Our hypothesis is that such proposals, opinions and recommendations aim at creating a holistic *we* to construe a common ground of interests, within the predictable constraints of legal intercours, shared by both the sender and the receiver of the messages. Frequently occurring lexical items are, among others: *welcome, ensure, strengthen, aid*. To stress urgency, generate empathy, emphasize needs and endorse value-positions are the recognizable perlocutionary acts of such semantic/pragmatic choices, which not infrequently rely on nominalization (Gotti 1991) and bring into play different communicative purposes and functions. Tools for analysis were mainly taken from the domain of pragmalinguistics, which revisited fundamental contributions to the theory of meaning and communication by Wittgenstein 1953, Austin , 1962, Searle 1969, Leech 1983, Grice 1989, providing a comprehensive perspective (Mey 1993; Verschueren 1999, 2006). When necessary, such tools were partially 'blended' with additional instruments from other Evaluative/Appraisal frameworks (Hunston & Thompson 2000; Martin & White 2005). Our paper will provide both qualitative and quantitative data to support our hypothesis, and will offer suggestions for further research.

Carmen ACUYO VERDEJO - University of Granada

**Language as a Key Element of Integration within Andalusian Society: Insights from Regional Government and Immigrants' Perspectives.** This paper is framed within an Excellence Project entitled "*A Transverse Analysis of Integration of Immigrants in Andalusian Society*" granted by the Andalusian Regional Government (Junta de Andalucía) to the Department of Private International Law from the University of Granada. The overall objective of this research conducted in this project is, on the one hand, to identify the immigrants' needs as for linguistic assistance when arriving in Spain for the first time, and on the other hand, to describe in what way the linguistic assistance comes into practice in Andalusia. Particular attention is paid to intercultural agents, in which context or contexts said linguistic assistance is of special importance and what are the main concepts immigrants should know so that they feel more integrated or the integration be more feasible. A questionnaire-based survey has been followed in order to gather all the necessary information, both from Local Government and from immigrants. A qualitative approach has also been used in order to complete the information, mainly by means of interviews held with practising lawyers specialised in Immigration Law as well as with officials from Local Government and with social workers. This paper is intended to show only the results derived from the analysis carried out in the city of Granada. The analysis of the remaining Andalusian cities is still in process.

Janet AINSWORTH - Seattle University

**Cross-cultural Communication in the Workplace: Cognitive and Cultural Challenges of Code-Switching to English-Only Rules in American Employment Law.** This paper considers the role of language ideology in driving legal doctrine in American employment discrimination law. Specifically, I will examine the rules adopted by some American employers requiring that employees speak exclusively in English on the job. Multi-lingual employees who have been fired for violating such employment policies have attempted to argue these so-called "English only" policies violate American laws prohibiting discrimination against workers based on their ethnicity or national origin. They have, however, found a chilly reception in US courts for these claims of discrimination. In part, this is due to the ideologically-based belief by lawyers and judges that all languages are commensurate with one another as means of interpersonal communication. Bi-lingual employees can fully communicate in either language, so that language choice is always a purely intentional choice. Multi-lingual employees, by that reasoning, are not disadvantaged by being required to express themselves in English alone. This paper argues that the law in this area fails to account for the linguistic research on cross-cultural communication. By ignoring the cognitive aspects of bi-lingual code-switching, the law erroneously assumes that employees are making deliberate and unnecessary choices about their manner of expressing themselves when they code-mix and code-switch on the job. By ignoring the social and cultural context of language use by multi-lingual speakers, these courts fail to understand the degree to which code-switching by bilinguals serves as a rich resource for encoding identity and meaning.

Patrizia ANESA – University of Bergamo

**Theory and Practice in Arbitration: an Analysis of Hearing Minutes.** The principal aim of this study is to explore arbitration through the analysis of documents compiled during the development of arbitration proceedings. In particular, the investigation of hearing minutes constitutes the main focus of this analysis. This study draws on authentic material related to arbitration disputes that have arisen within the Italian context between 2006 and 2007 and is supported by interviews with professional arbitrators and other experts in the field. More specifically, the investigation will describe the main linguistic and discursive aspects of hearing minutes and will show the importance these kinds of texts assume within the proceedings. Research in this area is still relatively limited because accessing authentic material in this context can generally represent a particularly complex task. This often derives from the desire of arbitrators and parties involved in a dispute to keep the evidence, the proceedings and the award completely private and confidential. Indeed, privacy and confidentiality may constitute some of the primary elements on which the choice of arbitration is based. Mattli (2001: 919) confirms that "arbitration is resolutely private, making information exceedingly difficult to obtain". However, minutes constitute a type of document whose importance is fundamental within the development of arbitration proceedings and investigating these texts can offer a better understanding of the legal principles and the linguistic criteria that are applied in the drafting process. Moreover, the investigation of hearing minutes may suggest a reflection upon the structure, the

role, and the development of different types of hearings within arbitration proceedings. As early as 1950 Warren and Bernstein posed a fundamental question: "Should the mechanics of the hearing encourage informality or the atmosphere of a court?" (Warren/Bernstein 1950:21). Taking into consideration the process of 'colonisation' of arbitration by litigation, i.e. the fact that "[i]t is clear that lawyers wish to colonise arbitration and convert it to a court-like procedure" (Flood/Caiger 1993: 434), the paper will also investigate to what extent litigative practices influence the drafting of hearing minutes within the arbitration context.

Patrizia ARDIZZONE -University of Palermo

Giulia Adriana PENNISI - University of Palermo

**Harmonisation, standardisation or métissage? Linguistic and discursive constraints on Family Law in Europe.** Since the late 1990s the discourse on the relationship between family law(s) and Community law has changed significantly. From this point of view, the realisation of a European standardisation system together with the harmonisation of national laws are considered a priority, with a view to presenting the advantages of the European harmonisation model in particular to the new 'neighbours' of the EU after enlargement (Communication from the Commission to the European Parliament and the Council. On the role of European standardisation in the framework of European policies and legislation Brussels, 18.10.2004.COM (2004) 674 final, Executive Summary). The variety of national family laws constitutes a serious obstacle to the free movement of persons within the European Union. Therefore, the establishment of minimum standards together with the harmonisation of family law rules become one of the main goals of the EU institutions in order to make the principle of Community freedom effective (1999 Action Plan; The Amsterdam Treaty, art. 65 ; EU Treaty, art. 39). Yet, notwithstanding the general sociological changes which have affected the legal categories of family and marriage (such as 'paternal responsibilities', 'children's rights', the 'emancipation of women') that allow to recognise a 'European common core', family law still remains a culture-sensitive/context-bound domain. Issues such as the translatability of subjective orientations, the perspectivation which moulds family law discourse, the 'political will' (i.e., legal system, language, culture, etc.) of each Member State that helps/affects the EU family law process, the existence/lack of a uniform terminology will be analysed. The aim is to understand how the linguistic and discursive constraints acting upon the most important EU family law documents ('Amsterdam Treaty' 1997, 'Brussels I' 2000, 'Brussels II' 2000, 'Brussels II bis' 2003) reflect the success or rather the failure of EU institutions in harmonising legal, cultural and terminological diversities in national substantive family laws.

Ismael ARINAS - Universidad Politécnica de Madrid

**How does a patent move? Genre analysis has something to say about it.** Patents are a hybrid text with a legal format and a scientific content. They follow an "all-inclusiveness" (Bhatia, 1993) communicative strategy typical of legal documents, although motivated by different reasons: laws and contracts try to cover as many contingencies as possible, whereas patents try to claim as much intellectual property as possible. Journal articles are a classic in genre analysis studies (Swales, 1990) because of their relevance as scientific sources of information and as products of research legitimation. An updated analysis of the needs of those working or studying in research areas would probably show that patents are both a very important source of scientific information for researchers and an expected outcome of many research processes. Bazerman (1999) has already considered patents from the point of view of rhetoric and LSP should consider incorporating the genre of patents into its research range of interests. This paper will justify the need to research the genre of patents and will then proceed to suggest a move structure for patents. The methodologies of Swales and Bhatia when approaching the study of genres will be complemented by the idea of prototypicality (Paltridge 1997) to identify the move structure. The findings will be based on the computer analysis of a  $\approx 7$  million token corpus of US patents.

Cornelis J.W. BAAIJ - University of Amsterdam

**Legal Translation in the EU: Between Multilingual Drafting and Uniform Application.** With regard to the process of legal translation in the legislative bodies of the EU, a disagreement may arise between the formal requirements of multilingual drafting and the basic demands of uniform application of EU legislation. On the one hand the EU translators are asked to strictly follow the wording, structure and style of the text of the enacted original legislative document. Multilingual drafting requires all language versions to equally express the precise outcome of an often meticulous and lengthy political process. On the other hand the translators may also have to deviate from the original legislative text, in order to advance the uniform application of EU legislation. The reason is that a single text may render different understandings in different contexts. Hence, the translators may need to adhere to the distinct legal languages of the different legal cultures in which the respective language versions will be applied. As a result of the combination of both the requirements of multilingual drafting and the demands of uniform application, the translators will have to strike a delicate balance between a more source-oriented and a more target-oriented approach to legal translation. This presentation will therefore examine whether and, if so, how the translators of the various legislative bodies of the EU can both stay close to wording, structure and style of the text of the enacted original legislative document and simultaneously adhere to the respective legal languages of Europe's national legal cultures.

Adela BAHENSKA - Charles University in Prague

**Legal Translation Experiment: Is there any difference between the approach of legal professionals and translation professionals?** The purpose of this paper is to present the results of an experiment in legal translation. It is not the aim of the paper to suggest that written translation should form part of all English for Legal Purposes classes however the author would like to explore what translation strategies used by translators may be useful for professional lawyers when they communicate with their colleagues and clients in English. The experiment consists in assigning a translation of Czech legal text into English to a group of professional translators and a group of professional lawyers and possibly to a group of law students whose first language is Czech. The text will contain Czech legal realia as well as complex sentence structures and other features typical for Czech legal language. The objective of the experiment is to reveal the differences between professional translators and lawyers as to their

approach to translating legal text including the strategies for dealing with legal realia. The results of the experiment may also indicate issues that may need to be covered in more depth in teaching English for Legal Purposes. The experiment may show how comparative legal knowledge helps legal professionals to overcome difficulties on the one hand and how better knowledge of the language affects the strategies of professional translators on the other hand.

Martina BAJCIC - University of Rijeka

**Challenges of Translating EU Terminology.** Translating EU terminology and creating adequate equivalents in the languages of the new Member States calls for both creative skills and, more importantly, knowledge of the law. Linguists and lawyers are confronted with difficulties when searching for terms in their respective languages to render the same meaning of an EU term. Avoiding artificial neologisms and long descriptive paraphrases due to the lack of equivalents in the target language represents one of the greatest challenges in the translation process. This paper deals with problems relating to the search for adequate equivalents in Croatian for EU legal terminology. The lack of equivalents for EU terms in Croatian is illustrated by examples from social policy such as Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services or the 'Posted Workers' Directive (*Entsenderichtlinie*) and ECJ rulings, e.g., in *Dirk Rueffert v. Niedersachsen* (Case C-346/06 of 3 April 2008). In simple terms, this Directive sets out the minimum terms and conditions which Member States must ensure are applied to workers posted to their territory from another Member State. The Directive has not yet been translated into Croatian; however, its transposition into Croatian legislation is essential to guarantee the protection of Croatian workers in the near future. In the absence of an official translation, the following descriptive equivalents are being used in the Croatian title of the Directive: *Direktiva 96/71/EZ .... koja se odnosi na slanje radnika na rad u inozemstvo u okviru pružanja usluga* (as in the Croatian text of Directive 2004/18) or *Direktiva 96/71/EZ ... o raspoređivanju radnika u okviru pružanja usluga*, (from the Croatian Law on Foreigners). These lengthy paraphrases are not exactly what George Orwell had in mind when he advised: "never use a long word where a short one will do" (1946 Essay on Politics and the English Language). A multilingual display of the most important terms is provided in English, French, German, Slovene and Croatian .

Suzanne BALLANSAT - School of Translation and Interpretation of the University of Geneva

Gunhilt PERRIN - School of Translation and Interpretation of the University of Geneva

**Vergleich der Schweizer Gesetzesbestimmungen über die internationale Schiedsgerichtsbarkeit mit den entsprechenden Vorschriften in Deutschland und Frankreich.** Die Schweiz als wichtiges Land für die internationale Schiedsgerichtsbarkeit verfügt seit 1987 über eine neue gesetzliche Regelung dieses Bereichs (Kapitel 12 des Bundesgesetzes über das Internationale Privatrecht IPRG). Diese soll im Anschluss an die schon veröffentlichten Untersuchungen über nationale Schiedsgesetze (siehe Bhatia/Candlin/Gotti: *Legal Discourse in Multilingual and Multicultural Contexts, Arbitration Texts in Europe*, Peter Lang 2003; Hermes – Zeitschrift für Linguistik 32-2004) inhaltlich und sprachlich analysiert werden, wobei die deutschsprachige Fassung mit den entsprechenden Normen in Deutschland (Buch 10 der Zivilprozessordnung vom 1.1.1998, basierend auf dem UNCITRAL-Modellgesetz von 1985) und die französischsprachige Fassung mit den entsprechenden Vorschriften in Frankreich (Code de procédure civile, livre IV, von 1981) verglichen wird. Sowohl inhaltlich als auch sprachlich weisen diese Gesetzestexte grosse Unterschiede auf, denen nachgegangen werden soll, indem zunächst ihre Zielsetzung, ihre Entstehungsgeschichte und ihr Anwendungsbereich untersucht werden. Anschliessend sollen anhand von ausgewählten Gesetzesartikeln die inhaltlichen und sprachlichen Abweichungen genau analysiert und auf den Zusammenhang von Inhalt und Sprache geprüft werden. Dabei werden die in den betroffenen Ländern geltenden Richtlinien für die Gesetzessprache einbezogen. Ausserdem wird die Auswirkung der Mehrsprachigkeit in der Schweiz aufgezeigt, indem Divergenzen zwischen dem deutschen und französischen Wortlaut der Schweizer Gesetzesbestimmungen herausgestellt werden.

Łucja BIEL - University of Gdansk

**Communicative distance in a cross-cultural perspective: legal information materials in institutionalized settings.** The paper will analyze how the conceptualization of the sender-addressee relationship is reflected in the form and language of legal information materials prepared by UK and Polish institutions. The corpus will consist mainly of brochures that explain law, in particular legal rights to the accused, witnesses, victims, etc. These materials involve expert-lay communication and as such are not a prototypical legal language; nevertheless, they constitute an important part of legal discourse because of the social function they have. Communicative distance between the sender (the institution, the police, courts) and the addressee (an individual) may be manifested at a number of levels which contribute to the overall accessibility of information: 1) technical level: availability of information, accessibility of form (audio, large-print), user-friendly layout & graphic design; 2) textual level: text organization, interactive features, parallel structures; 3) terminological level: term density, explanation of terms; 4) syntactic level: verbal vs. nominal style, impersonality, deictic expressions, sentence length, etc. The analysis shows a markedly different length of communicative distance in the UK and Polish materials. The former are dialogic in form; they tend to resemble spoken language, the emphasis being placed on readability. The UK materials went through the intralingual translation process from the formal language of the law to the informal semi-legal language. By contrast, the Polish materials are written in highly-nominalized impersonal language which resembles written communication and belongs to the formal register. The Polish information has much lower readability. It will be argued that the communicative distance is not only influenced by the linguistic constraints or genre conventions, but also by the culturally-conditioned perception of the role of institutions in the communication with lay citizens.

Ruth BREEZE - University of Navarra

**The contested discourses of dispute resolution: dissenting and concurring opinions in ICSID arbitration.** The rules of arbitration established by the International Centre for the Settlement of Investment Disputes (ICSID) permit arbitrators who are

not entirely in agreement with the majority opinion to append a dissenting or concurring opinion to the final award. A dissenting opinion is an opinion of one or more arbitrators expressing disagreement with the majority opinion, whereas a concurring opinion is one in which the writer agrees with the result but not the reasoning through which it was reached. Legal theorists maintain that both types of divergence can have a salutary effect in demonstrating to the losing party that its arguments were adequately considered; this is thought to be particularly important in arbitrations between a foreign investor and a host state. Approached using the tools of critical language analysis, these dissenting voices can be seen to reveal the tensions at work within the arbitral tribunal. These texts thus offer an insight into the critical moments within arbitration proceedings which might otherwise remain concealed beneath the smoothly argued surface of the majority consensus. This paper provides an analysis of ten divergent opinions issued by ICSID arbitrators over the last twenty years. It addresses the discourses of these dissenting and concurring opinions from the perspective of critical genre analysis, exploring both the implicit disciplinary understandings of the Tribunal's role in dispute resolution and, within this framework, the discursive self-construction of the arbitrator. The tensions inherent in the arbitral process and the contested identity of ICSID arbitration are thus reflected in the way that arbitrators negotiate their own professional boundaries through discourse.

William BROMWICH - University of Modena and Reggio Emilia

**Divided by a common language? Discourse processes at the UK Employment Tribunal and the International Labour Organization Administrative Tribunal.** This paper examines the institutional constraints on discourse processes in employment cases in Employment Tribunals in the UK and at the ILOAT in Geneva. Although in both cases the pragmatic function is the presentation of complaints by individual employees against their employers, for the purpose of obtaining compensation or reinstatement, the procedural rules shaping the discourse are strikingly different, with consequent variation in generic structure and lexical content. In examining the institutional procedures and case materials, the paper highlights the fact that Employment Tribunals in the UK, standing firmly in the common law tradition, provide for courtroom hearings in which the two parties present oral evidence, following the classic sequence of *examination-in-chief* and *cross-examination*. At the ILOAT, on the other hand, the proceedings (in English or French) bear a stronger resemblance to the civil law tradition. The jurisdiction of the Tribunal is international, dealing with complaints lodged by staff members of international organisations, and the holding of courtroom hearings would require the parties to travel from all over the world. As a result the discourse is structured in an entirely different manner, with claims presented and argumentation developed almost exclusively on the basis of written documents, in a genre chain consisting of the *complaint*, the *defendant's reply*, the *complainant's rejoinder*, the *defendant's surrejoinder*, and then the *judgment*. This enables the Tribunal to deal with cases entirely on the basis of documentary evidence, as applications for hearings are seldom allowed. An examination of the terminology in English in the two Tribunals, one national, one international, reveals significant differences, as the parties seek to comply with institutional constraints prevailing in the two systems.

Silvia CACCHIANI - University of Modena and Reggio Emilia

Chiara PREITE - University of Modena and Reggio Emilia

**Law dictionaries across languages: different structures, different disciplinary cultures?** This paper concentrates on the inclusion and representation of borrowings from French into English and from English into French within the latest editions of English and French desk law dictionaries (*Oxford Dictionary of Law*, 2006 [ODoL] and *Longman Dictionary of Law*, 2007 [LDoL]; *Vocabulaire Juridique*, 2007 [VJ], *Vocabulaire du Juriste Débutant*, 2007 [VdJD]), which, according to their *Prefaces*, would seem to address the same or similar target user groups. After some preliminary remarks on the macrostructure of the dictionaries, we shall contrast their medium- and, most importantly, micro-structures, with a focus on the lexicographic (as against terminological) definition of recent borrowings from and into the two languages. Wiegand's (1992, 2003, 2005) theory of dictionary form will enable us to highlight striking differences across English and French dictionary entries. Whereas this might be accounted for in terms of their highly culture-dependent nature and, therefore, of the two different underlying legal systems (cf. e.g. the extended representation of *estoppel* or *abatement* in ODoL, as against *estoppel* and *abattement* in VJ), the same doesn't hold good for recent borrowings from commercial law, international regulations (e.g. Incoterms 2000) or European law (e.g. *copyright* [ODoL] vs. *copyright* [VJ], or *CE* [ODoL] vs. *Communauté Européenne* [VJ]). Most importantly, they seem to depend on two factors, whose interaction ultimately results into and motivates the observed differences at the macro-, medium- and micro-structural levels: a) different presuppositions on users' profiles and the special needs of target user groups (Bergenholz and Nielsen 2006) as related to Wiegand's (1998:52) notion of genuine purpose, which do systematically underpin the initial stages of any dictionary design or dictionary revision projects; b) differences in disciplinary cultures within communities of practice (Wenger 2008) and, possibly, national cultures.

Christopher N. CANDLIN - Macquarie University, Sydney

Vijay K. BHATIA - City University of Hong Kong

**Negotiating interdiscursivity in international commercial arbitration.** This paper addresses the issue of interdiscursivity in international commercial arbitration from two perspectives: *conceptually*, in terms of exploring the recognized tensions between the discourses of litigation and arbitration in arbitration practice (Nariman, 2000), and the perceived differences among the multiple dimensions of arbitration practice itself, and *methodologically*, in terms of seeking to interpret and explain such tensions by recourse to an interdiscursive analysis of multiple sources of data described and interpreted multi-perspectively. (Candlin & Maley, 1997, Bhatia, 2004, Candlin, 2006) Thus, data from critical moments of interaction in crucial sites of arbitration practice, from narratives of experience drawn from interviews and focus groups with key practitioners, from judgements and awards lodged in arbitration tribunals, and from professional commentary on arbitration concepts and practices need to be integrated into a 'thick description' (Geertz 1973) of both concepts, participants, focal themes, and sites. (Sarangi & Candlin, 2001) To explore these issues the paper draws on research associated with the international research project funded by the Hong Kong Research Grants Council: *International Commercial Arbitration Practices: A Discourse Analytical Study* with which the authors have been

centrally engaged, together with partners in over 20 research sites internationally. One conclusion from the research to date is that to understand and explain the increasing influence of litigative procedures on arbitration practice, and resistances to such an encroachment, requires such a rich and interdiscursive account of the contested discourses, grounded in a range of sites and drawing on a plurality of data sets. Managing such diversity of data is the challenge presented to research by interdiscursivity.

Paola CATENACCIO - University of Milan

**Cultural variation in arbitral publications: ICC and LCIA compared.** Among the variety of textual productions which make up the discourse of arbitration, arbitral journals occupy an important position, in that they represent one of the “mechanisms of intercommunication” (Swales 1990) through which members of the arbitral community develop and maintain professional expertise. The majority of these journals are published by arbitral institutions, which may therefore be expected to exercise a considerable degree of control on what is published. Thus, while arbitral publications are intended to address the arbitral community at large, at the same time they are likely to reflect more “local” interests and attitudes. This paper looks at a corpus of articles which have appeared in *The International Court of Arbitration Bulletin* and in *Arbitration International*, published respectively by ICC and LCIA, with a view to identifying similarities and differences in the way in which these two publications contribute to the construction of the discourse of arbitration. In so doing, it builds upon previous research (Garzone 2003; Garzone 2007; Garzone / Catenaccio 2008) which has identified considerable and consistent differences in the textual productions of the two institutions. These differences are detectable both in legal documents such as the arbitration rules published by the two organizations, and in more informal materials, such as the discursive self-presentation of ICC and LCIA and of their activities in their respective websites. Against this background, this study aims to verify whether any similarities and differences can also be detected in the way in which the two journals construct a scholarly discourse of arbitration. Of course, articles appearing in the two journals cannot be strictly considered textual productions originating within the institutions under consideration (being written by a variety of authors who are not necessarily affiliated with them), but some similarities and differences can be expected resulting from institutional control on the selection of contributions. A further aim is to verify whether such similarities and differences (if any) are consistent with the findings of previous research on other discourse types. From a methodological point of view, the study will focus on discursive and textual features and will adopt a corpus-driven perspective combined with qualitative, discourse-based analysis.

Stefania CAVAGNOLI - University of Macerata

**Il linguaggio dei diritti fondamentali: analisi di documenti costituzionali nel confronto interlinguistico italiano e tedesco.** Il contributo si propone di analizzare il tema del catalogo dei diritti fondamentali, ancorati in documenti di rango costituzionale, riferiti alla dimensione italiana, tedesca ed europea. Nel contributo si analizzeranno secondo un approccio testuale i seguenti documenti, nelle parti dedicate ai diritti fondamentali: 1) costituzione italiana, 1948; 2) Grundgesetz tedesco, 1949; 3) Costituzione di Weimar, 1919; 4) Convenzione Europea per la salvaguardia dei diritti dell'uomo e delle libertà fondamentali (CEDU), 1950; 5) Carta europea dei diritti fondamentali, 2000. Il linguaggio utilizzato, la struttura testuale di riferimento, la struttura sintattica scelta in un documento verrà confrontata con quelle degli altri documenti a seconda dei diversi diritti fondamentali per dimostrare l'ipotesi di lavoro. Essa presume che il linguaggio dei diritti fondamentali “antichi” sia più semplice e conciso, mentre quello dei nuovi diritti abbia bisogno di una maggior ampiezza, con conseguente complessità sintattica. Nel confronto fra documenti di epoche diverse si metterà in evidenza l'approccio intertestuale, esistente fra i diversi documenti, considerando la loro realizzazione linguistica alla luce di culture giuridiche differenti ed ancorate in realtà interculturalmente complesse.

Ross CHARNOCK - Université Paris 9

**Orality and dialogism in common law judgments.** There have been several studies (Del Lungo Camiciotti 2001, Gotti 2001) of legal language during the transitional period from oral expression to the written form. Today, the law is almost exclusively expressed in writing, yet its normative effect still depends on its origins in the spoken word. Legislative statutes may thus be analysed as commands expressed in the third person on behalf of a metaphorical sovereign (Austin 1832). In ascribing particular rights and obligations, judicial declarations also function as institutional performative utterances, insofar as they may create new legal realities and, even modify the law itself (Charnock 2008). Legal “judgments” (‘opinions’ US) are now rarely given *in extempore*, being normally prepared in advance, in writing. Today’s official reports frequently include subtitles, and numbered paragraphs. In the United States, they also commonly include substantive footnotes. Nevertheless, in both English and American law, the most important judgments are still given orally, in open court. In principle, though not always in fact, they are published as transcribed by official shorthand writers. They often include conversational connectives characteristic of the spoken word, and occasionally refer deictically to the audience or addressee in the courtroom. In the course of their judgments, the judges naturally refer not just to the relevant statutes but also to precedents and common law rules decided in earlier cases, by which they are bound. The result depends not just on the arguments proposed by the parties in the particular case, but also on the words used in the earlier cases, which are cited when similar facts arise in new cases, and which are often reinterpreted so as to obtain a more acceptable result. On the linguistic level, the development of the ‘common law’ may thus be seen as an essentially dialogical process, allowing for subjective personal contributions leading to both substantive and stylistic change within a unified practice.

Luisa CHERICHETTI - Università degli Studi di Bergamo

**Las unidades fraseológicas en los laudos internacionales del MERCOSUR.** Este trabajo se basa en el análisis de un corpus de laudos arbitrales internacionales del MERCOSUR, el Mercado Común del Sur creado por la República Argentina, la República Federativa de Brasil, la República del Paraguay y la República Oriental del Uruguay, al suscribir el 26 de marzo de 1991 el Tratado de Asunción. En este proyecto internacional, el Sistema de Solución de Controversias se encuentra regulado en el Protocolo de Olivos, firmado el 18 de febrero de 2002 y vigente desde el 1 de enero de 2004. En la página web:

<http://www.mercosur.int/msweb/portal%20intermediario/es/index.htm> se encuentran los textos de los laudos del Tribunal Permanente de Revisión, que constituye el órgano principal del sistema, juntamente con los de los Tribunales ad hoc (TAHM), y los laudos dictados con anterioridad al Protocolo de Olivos. Estos laudos constituyen el corpus de trabajo, analizado con la ayuda de un software de concordancias, para resaltar la frecuencia y la estructura de algunas Unidades Fraseológicas (UU FF), que identificamos adoptando la definición de Corpas Pastor (1996: 20): “[...] las unidades fraseológicas [...] son unidades léxicas formadas por más de dos palabras gráficas en su límite inferior, cuyo nivel superior se sitúa en el nivel de la oración compuesta. Dichas unidades se caracterizan por su alta frecuencia de uso y de coaparición de sus elementos integrantes; por su institucionalización, entendida en términos de fijación y especialización semántica; por su idiomática y variación potenciales; así como por el grado por el cual se dan todos estos aspectos en los distintos tipos.” El concepto de ‘unidad fraseológica’ engloba, por lo tanto, todas las combinaciones frecuentes de unidades léxicas entre las que existe cierta afinidad. En nuestro análisis vamos a clasificar las UU FF indicativamente de la siguiente manera (Hausman 1977, 1989; Corpas Pastor 1996, 2001; Koike 2001): sustantivo + adjetivo/participio; sustantivo (sujeto) + verbo; verbo + sustantivo (objeto); verbo + preposición + sustantivo; sustantivo + preposición + sustantivo; adverbio + adjetivo/participio; verbo + adjetivo/locución adjetival; verbo + adverbio / locución adverbial. De forma especial, este trabajo pretende resaltar las UU FF más relevantes en el género textual *laudo*, con respecto a su dimensión comunicativa, es decir, aquellas que facilitan y simplifican su producción y recepción, ya que entendemos ‘la función fraseológica como garantía de comunicabilidad y de eficiencia con un mínimo esfuerzo en la selección y análisis de los elementos de expresión’ (Zuluaga 2001: 72). Por otro lado, las UU FF, al identificar claramente distintos bloques textuales, manifiestan su función metadiscursiva de realce en el segmento de texto en el que aparecen (Zuluaga 2001: 72).

Irina I. CHIRONOVA - State University, Higher School of Economics, Moscow

#### **Forms of Business Organisation: Functional Comparative Study of Concepts in the English and Russian Languages.**

Comparative analysis of Anglo-American and Russian legal systems as far as the forms of business organisation are concerned shows that the two systems differ substantially. In the presentation at least five main features that distinguish one system from the other will be demonstrated: 1) a number of incorporated vs. corporate forms of business organisation; 2) classification of forms of business organisation; 3) understanding the nature of the stock company; 4) its formation; 5) taxation systems for businesses. Functional approach to comparison presupposes some practical application of the analysis. The presentation will outline the translation problems that arise from the difference in the legal systems. The Russian legal system is deeply rooted in the Roman law and borrowed much from the continental legal system, but Anglo-American system also influenced its development to some extent, so we may speak about its dual or mixed character. That is why Russian-English translation of legal texts turns out to be the greatest challenge. The Civil Code of the Russian Federation: 1) may use the lexical units typical of the Russian legal tradition which are hard to translate into English preserving the whole scope of meanings and usage; 2) may borrow a notion either from the common law or civil law system and use it in a broader or more narrow sense; 3) may use a term which includes the meanings of two or more English equivalents. The presentation also aims to show how to cope with these translation challenges.

Agnieszka CHODUŃ - Uniwersytet Szczeciński, Szczecin

**The influence of internationalisms on communicativeness of legal discourse.** The paper presents results of research concerning contemporary legal lexis (terminology), with particular emphasis on internationalisms appearing in the Polish legal discourse. Language of law, being a type of specialized discourse, abounds in terminology from various branches of science and knowledge, in which occurrence of international terms is a natural phenomenon. These words ensure unification of terminology and thus improved communicativeness. It is known that all changes, including social and political, are reflected both in a language as a tool for communication, and in unifying the ways of interpreting the surrounding world, following patterns of behaviour, and particular ways of thinking. It is interesting then, particularly in the context of our membership in the EU communities, how internationalisms affect communicativeness of the legal discourse. Internationalisms, which as far as status is concerned represent the formal-semantic divisions and are identified as common elements of the European countries. From the point of view on communication at a legal level, internationalisms reflect not only language influences, but also legal influences, and in broader context cultural, which, as multiple examples show, results a number of consequences - both in language and law.

Thomas CHRISTIANSEN - Università del Salento

**The concepts of property and of land rights in the legal discourse of Australia relating to indigenous groups.** Issues of property and land rights as applied to indigenous groups in Australia (Aboriginals and Torres Strait Islanders) have received increasing attention in recent years, especially since the landmark Mabo judgement (1992), by which the declaration of *terra nullius*, dating from the beginnings of British colonisation in 1788, was in effect overridden by the concept of native title. The concept of property is the subject of much philosophical reflection (e.g. Cicero, Hobbes, Locke, Proudhon). Land rights in particular have been a point of political contention in most societies and the problem of property is even starker in countries like Australia where settlers arrived and constructed a new society and country in disregard of the existing inhabitants, their social structures and systems of law. As the Mabo judgement showed, where there is political will, legal systems derived from English law and which avail themselves of the concept of Common Law, can be made to accommodate the land rights of indigenous peoples, but inevitably only in terms of English legal concepts such as *possession* and *title* - the two key elements of property: Wendell Holmes Jr (1881). These may not be fully or even partially applicable to the indigenous groups' concept of possession, if indeed they have such a thing. This is an issue which touches upon frame semantics (Fillmore 1976), cross-cultural communication (Pauwels 1992), and ultimately translation of genre (Gotti *et al* 2003, Bhatia 1997). In this paper we will examine this issue by looking at the lexis and syntactic structure of legal discourse found in a corpus of the *Indigenous Law Bulletin* (until 1997 called the *Aboriginal Law Bulletin*) from 1981-2007 from the perspective of cognitive grammar (Langacker 1987/1991).

Marta CHROMA - Law Faculty of Charles University, Prague

**An English-Czech Law Dictionary Project: A User-Friendly Dictionary?** The paper will consider various fundamental issues in making a bilingual law dictionary and also introduce the project of a new English-Czech law dictionary. Specialised lexicography focuses on language used for specific purposes in various branches of science, scholarly work or professional work. Traditionally, the production of specialised dictionaries has been reduced to terminography, i.e. creating a list of terms relevant to a specific subject-area in the source language and providing their equivalents in the target language. Considering the fact that legal terminology creates on average no more than 20 % of legal texts (depending on their types) the question arises whether the “remaining” 80 % should also be treated in a bilingual legal dictionary and, if so, to what extent and in what form. Other issues arise with respect to what sometimes is called ‘terminological definition’, such as: (a) how a concept, designated by a term in question, should be defined or explained so that the user of the dictionary may make ‘informed’ decisions on which equivalent he or she should use in the target text; (b) what scope of definition or explanation, if any, should be used for headwords; (c) what scope of definition or explanation, if any, should be used for equivalents in the target language since legal concepts expressed with terms used as one another’s equivalent in the sources and target languages respectively need not be absolutely identical; (d) what language – more general or specific (e.g. explaining one term with its terminological synonyms) should be used for defining or explaining the concept at issue; (e) who is the prevalent user of an English-Czech law dictionary. Corpus selection will be also tackled, primarily with respect to the wide range of legal systems based on common law and using English as their medium of communication.

Kate CHOSHI - University of Venda

**Multilingual Courtrooms.** The right to a fair hearing is not only recognized at common law, but also by national and international human rights instruments. In South Africa, section 6(1) of the Magistrate’s Act 32 of 1944 provides that either of the official languages may be used at any stage of the proceedings in any court and the evidence shall be recorded in the language used. The common law right to a fair hearing, including the right to understand what is going on in court and to be understood, is a fundamental right profoundly embedded in the very fabric of the South African legal system. It is accepted both nationally and internationally that translation is not one of perfection, but yet the right of an accused to interpreting is perpetuated in order to give the accused the right to multi-lingual court proceedings. It is therefore the aim of this document to focus on the interpreting and translation in the courtrooms and to investigate solutions to the problems experienced during interpreting process.

Joon-Beom CHU - University of Arizona

**Between ideologies and realities of persuasive style: A diachronic analysis of linguistic features in US Supreme Court briefs and their social indexical functions.** For centuries, legal English, or its stereotype, has been derided by legal specialists and non-specialists alike. It has been described as “hideous” and as a “disease” plaguing the legal profession. The “hideousness” of legal English has become a cultural index of the moral character of those who use it, as Jonathan Swift’s Gulliver succinctly described: “There is a society of men among us, bred up from their youth in the art of proving, by words multiplied for the purpose, that white is black, and black is white, according as they are paid.” In the contemporary US legal system, a primary vehicle through which attorneys practice “the art of proving, by words,” is the legal brief. This paper examines a corpus of appellate briefs submitted to the US Supreme Court in a span of 150 years to isolate key linguistic features that are thought to and/or actually characterize written legal English. These features are isolated and collected using the Perl computer program. Then statistical analyses of the collected data will determine whether there has been a distinguishable pattern of change in style over time. Preliminary analysis of the data indicates that sentential structure and style has changed over time in appellate briefs, but this change has not been noted by legal practitioners. In fact, many still hold the opposite view, i.e., that legal language in general has remained static for centuries. Some argue that this stability of legal English is iconic of the underlying logic that is believed to buttress the legal system. This paper examines how this mis-recognition of legal English as stable over time indexes legal authority, while at the same time it sanctions a moral critique of the legal profession. The paper then argues that the apparent tension between these dual modes of misrecognition is a central aspect of a language ideology that drives stylistic change in legal brief writing. This paper applies theories of social indexicality to identify the ideological mechanisms that link certain language forms with persuasiveness, and how this form-function unit itself is made to presuppose and entail the groundings of the legitimacy of legal outcomes and of the legal system as a whole.

Isabel CORONA - University of Zaragoza

**Confidentiality vs publicity: the impact of International Arbitration in the media. A case-study.** One of the basic assumptions and presumed strengths of International Arbitration is its confidentiality and privacy, which have widely acted as a selling feature of its acceptance and effectiveness. However, the globalisation of political economies, business and communication has created conditions for the increasing impact of Arbitration and arbitrators in the public sphere. Furthermore, while there appears to be a general call within the professional practice for an international consensus on the existence and scope of a duty of confidentiality (To 2008), privacy appears to rank low as the most important attribute of Arbitration among corporations (Bhatia *et al.* 2008). The present paper is part of a larger research project on the discourse of Arbitration as a process and its professional actors, the arbitrators, in the media. It attempts to gauge the impact and public image of this professional practice and its mediating actors in different public scenarios, from national newspapers, international business and financial newspapers and magazines to corporate disclosure documents. This paper carries out an analysis of the media coverage of an Arbitration case filed at the Arbitration Institute of the Stockholm Chamber of Commerce in 2007. It will be argued that, although the duty of confidentiality with regard to the arbitral proceedings is maintained, there is a tactical use of the Arbitration process by the parties involved.

Goranka CVIJANOVIĆ VUKOVIĆ - Ministry of Foreign Affairs and European Integration, Republic of Croatia  
Translation Centre, Department for Translation of the *acquis* into Croatian, Section for Language Editing

**Equivalence in Legal Translation. Some problems in translating technical legislative texts from Croatian into English. A case study: Croatian term *kontrola* in English translations of some Croatian regulations.** Deciding on a correct and most appropriate translation equivalent has always been representing a problem for translators in general. In case of legal texts, the problem of terminological equivalence in translation is more complex since it involves concepts which exist in the source language, i.e. in one legal system, and may not be found in the target language, i.e. in another legal system (zero equivalence, one-to-zero); or which may only partially correspond to a term in the target language (approximate equivalence, one-to-part-of-one), or which may correspond to more than one term in the target language (facultative equivalence, one-to-many). This paper will focus on specific cases of the facultative equivalence, and discuss solutions found in the translation of some Croatian legislative texts issued by public authority bodies (an ordinance – *pravilnik*) into English, where the Croatian term *kontrola* is used on numerous occasions. *Kontrola* is a term present both in general and technical language in various fields, covering however a much wider semantic field than the (equivalent) term *control* does in English. The analysis will show that this particular Croatian term is translated with various English terms (→ control / check / inspection, etc.), not always strictly and consistently, as well as that the source language term is not used consistently, and that the translator needed to research extensively to decide on the most appropriate target language term.

Germana D'ACQUISTO - Università di Napoli Federico II

**The Canadian Constitution and plain language: the process of independence of Canada.** The aim of this study is to analyse the language of the Canadian Constitution Act of 1862 comparing it with the Canadian Constitution Act of 1982. In particular, the focus is on the investigation of the linguistic differences between the two documents. The use of rhetoric language could create misunderstandings and according to the plain language movement the 'modernization' of legal language should contribute to a more effective communication without using obscure and ambiguous words and expressions. The purpose of the plain language movement is to make the legal language understandable avoiding the so called "legalese" taking into account the sender and the receiver of a legal message. We can find references to the need of a modernization of language also in the past. The quantitative analysis, supported by Wordsmith Tools 3.1 software, reveals that some archaic words present in the Constitution Act of 1862 do not occur in the document of 1982. Thus, it is worth noticing that all the Latin and archaic words present in the first document as "notwithstanding", "quorum", "mutandis", "affect", "thereafter" do not occur in the second document. SHALL occurring to express obligation is omitted in the second draft while in the first draft is the fifth mostly used word. The analysis shows that the modernization of legal language does not refer to a mere 'easification'. Further, we can notice some important linguistic differences which remind us of the important political changes in the process of independence of Canada.

Larissa D'ANGELO - University of Bergamo

**Blind Bidding: the frontier of ODR?** Online dispute resolution (ODR) is a branch of dispute resolution, which uses technology to facilitate the resolution of disputes between parties and augments traditional means of resolving economic conflicts (i.e. arbitration, mediation and negotiation) by applying innovative techniques and online technologies to the process. The present paper analyses a particular form of ODR practice defined as Automated Settlement System (or Blind Bidding Service), which is gaining prominence in the ODR scenario and is considered ideal to settle small monetary disputes (Davies 2006). Whilst there are issues of controversy about the effectiveness of ODR in general (Katsh / Leah 2006), an Automated Settlement System (ASS) is commonly regarded as the most simple, easy and straightforward ODR practice, as a computerized process takes over the role of the mediator and no human intervention is needed (Coteanu 2005). After outlining some of the main functional mechanisms of these sophisticated and innovative computerized programs, this paper will analyze the pros and cons of an Automated Settlement System, comparing it with online mediation, arbitration and negotiation. To assess the adoption of the Blind Bidding practice, a survey will be carried out through the analysis of 10 sites from around the world. Finally, the paper will consider the implications of Blind Bidding for Italian dispute resolution practitioners and consumers, taking into consideration the cultural and linguistic barriers ODR is encountering in Italy. The analysis of the material taken into consideration is supported by narrative and ethnographic data derived from interviews with expert participants in the arbitration process, focusing on critical moments in the ODR process.

Stefania D'AVANZO - Università di Napoli Federico II

Vanda POLESE - Università di Napoli Federico II

**Linguistic and legal vagueness in EU Directives harmonising protection for refugees and displaced people's civil and human rights.** Following the entry into force of the Treaty of Amsterdam on 1 May 1999 and the European Council at Tampere in October 1999, the European Union committed itself to developing a common policy on immigration and asylum to ensure more effective management of migration flows to the EU. From 2001 to 2005 Directives were introduced by the EU in order to guarantee refugees and displaced people civil and human rights and promote a balance of efforts between Member States in receiving such persons, thus improving the process of harmonisation. Nevertheless, EU policy and legislation did not reveal as effective as expected. For example, Europe's response to the crisis of displaced Iraqis has been hugely inadequate with European governments failing to fairly share the responsibility for Iraqi refugees with one another and with other countries around the world. The study is aimed at investigating to what extent the language employed in the Directives contributed to failure of adoption of common procedures for guaranteeing refugees civil and human rights. Particularly, vagueness of lexis and legal concepts will be investigated. Vagueness in normative texts is a crucial issue. 'People may not necessarily and not always be aware of vagueness in language use, while in other cases they choose deliberately to be vague. This holds particularly true for the use of vagueness in normative texts which are usually taken to have a high degree of precision' (Bhatia et al. 2005: 9) Moreover, particular attention will be turned to modal auxiliary verbs and their values. It is worth noting that in EU legislation, Directives represent particular

legislative instruments involved in EU harmonisation process. '[...] la direttiva è lo strumento prescritto per l'armonizzazione delle disposizioni legislative e regolamentari degli Stati Membri' (Strozzi 2005: 198).

Chiara DEGANO - Università degli Studi di Milano

**Argumentation schemes in arbitral awards.** This paper investigates arbitral awards in the perspective of argumentation, with specific attention for argumentation schemes. In a previous study (Degano 2008) I highlighted an increase in indicators of argumentation in awards throughout the years, which I interpreted as a sign of the influence of litigation on arbitration. In this study a qualitative approach is adopted, for an in-depth analysis of the structure of argumentation in a selection of international ICC awards, relying on the pragmadialectic theory of argumentation (van Eemeren *et al.* 2002) on the one hand, and on recent research on argumentation schemes on the other (Walton *et al.* 2008). Argumentation schemes can be revealing as to the law system in which legal procedures are framed, a fact that can be particularly meaningful in the case of arbitration awards, as it is part of the rationale underlying international arbitration that in theory it is not connected with any specific legal system. In light of these considerations it can be interesting to verify whether in the texts actually produced within the arbitration process there is any prevalence of practices associated with a specific legal tradition. This paper will look in particular at argumentation based on analogy, given that - as Walton *et al.* remark - argument from analogy is "the foundation of all case-based reasoning", being Anglo-American law based on the doctrine of precedent, whereby "if a case has been decided by a court in a certain way, then a new case that is similar to it should be decided in the same way" (2008: 43). Starting from this assumption, this paper aims at ascertaining whether any kind of scheme prevails in ICC arbitral awards, with a view, in particular, to verifying whether argument from analogy has a privileged status in arbitral awards as well, and particularly on the arbitral awards drafted by an institution rooted in the civil law legal system, as is the case for ICC.

Olga DENTI - University of Cagliari

Michela GIORDANO - University of Cagliari

**"Till Money (and Divorce) Do Us Part": premarital agreements in the American and Spanish legal discourse.** The number of divorces is steadily increasing in many cultures. This appears to be one among the most important reasons generating the need for couples contemplating marriage to foresee future divergences in their married life and try to prevent them through *premarital agreements*. The present study aims at investigating premarital agreements in an intercultural perspective: object of the investigation will be the linguistic features in American *prenuptial agreements* and Spanish *capitulaciones matrimoniales*. In the American culture, prenuptial agreement is recognized in all fifty states and the District of Columbia. It is a type of mediation within the framework of Alternative Dispute Resolution to resolve disputes other than through litigation, and it includes provisions regarding the future marriage, describing the rights and duties of the parties in case of termination of marriage through death or divorce. More and more celebrities and pop stars, more and more couples in general, and mixed-nationality couples in particular, increasingly sign "*prenuptial agreements in contemplation of divorce*" for protection against post-nuptial disagreements and to especially handle the financial aspects of their marriage. In the Spanish or *latino* cultures, especially if Catholic, thus not contemplating divorce at all, *capitulaciones matrimoniales* or *acuerdos prematrimoniales*, instead, have the purpose of adding a supplementary agreement to marriage in order to define an economic system different from the legal one. They are mainly economic and patrimonial pacts. From a linguistic point of view, textual organization (cohesive devices, global coherence), syntactic structures (ellipsis, pre- and post-modification, nominalization, verb tenses, modality) and lexical choices (redundancy, legal pairs, specific terminology) will be the subject of comparison in the two documents representing two examples of legal discourse in different cultures regulated by and through different legal systems.

Janka DORANIĆ Ministry of Foreign Affairs and European Integration of the Republic of Croatia

Independent Service for translation of the *acquis communautaire* and Croatian legislation - Senior Language Reviser

**Originality vs. Consistency: Linguistic aspects of Alignment of Croatian Legislation with EU Laws.** In legal language, originality is not a virtue as it is considered in literature, because legal language is actually a tool serving to achieve a goal, which is to regulate a certain legal issue. Alignment of national legislation with EU laws is one of the major tasks of any candidate country, and a precondition for accession to the EU. In order to fulfil this task, the *acquis communautaire* has to be translated in the national language and national legislation has to be translated into one of the official languages of the EU, so that the Commission may gain insight into state of the acceding country's legislation and administration. Therefore, in translations of national legislations, identical terms, sometimes even as much as whole paragraphs from EU regulation appear. This fact cannot be regarded as bad, because originality is not at all an issue in legal language. Moreover, it is a feature of high level of alignment and consistency with EU regulations. Examples will be given from the field of air transport by comparing the Croatian Ordinance laying down en route and terminal charges and Commission Regulation 1794/2006 of 6 December 2006 laying down a common charging scheme for air navigation services, showing how the Croatian version of this piece of subordinate legislation has been drafted according to the translation of the said Regulation, and how the Regulation has been used for the translation of the said Ordinance back into English. The analysis will present the necessary differences but also the congruities being the necessary consequence of alignment.

Eduardo D. FAINGOLD - University of Tulsa

**Language in the 2004 draft of the EU constitution.** The 2004 draft of the E.U. Constitution contains legal language defining the linguistic obligations of the E.U. and the language rights of its citizens, but the draft fails to achieve language justice for E.U. citizens who speak regional minority languages. These minority languages include Catalan, Basque, and Galician in Spain, Welsh in the UK, and others (Faingold 2007). Future drafts of the E.U. Constitution should emulate the constitutions of countries that have a similar geopolitical situation to the one found in the E.U., i.e. countries that recognize the rights of minorities having or

seeking autonomy within their territory and draft specific provisions to protect the linguistic rights of such minorities (e.g. India) or countries that recognize as fundamental the linguistic rights of individuals and groups (e.g. South Africa) (Faingold 2004). Future drafts of the E.U. Constitution may need to pay heed to earlier pronouncements and bodies created by the E.U. to support minority languages, such as the European Bureau for Lesser-Used Languages and the European Charter for Regional and Minority languages (European Parliament 2001, Nitobe 2005).

Alessandra FAZIO - Università degli Studi di Roma "Foro Italico"

**An analysis of variations in juridical language used in sports arbitration.** The aim of this study is to verify whether the use of English as a *lingua franca* (vehicular language) in sports arbitration influences the formal use of the specific terminology which, it is assumed, has already been standardized and harmonized. Italian sports arbitrators who are obliged to use English in an International setting, were observed in a preliminary study. Reiterated language patterns were noticed which differed from those used by their mother-language counterparts (see for example the role of the term "conciliation"). Taking the language Italian sports arbitrators use in International settings as a starting point, similar language patterns will be sought and analysed with particular emphasis on socio-cultural factors. The hypothesis is that a specific even though informal linguistic code may be outlined which is capable of affecting the formal patterns in use. This analysis will be carried out not only on complex strings and terms but also on additional linguistic occurrences, in an attempt to trace underlying connections that may influence their use.

Angel FELICES LAGO - Universidad De Granada

**Human qualities and faults in terminological contexts: Axiological analysis of entries in a Spanish law dictionary and its English equivalents.** In previous research we have tried to lay the foundations of axiology: a new field trying to integrate into modern linguistics the best contributions for axiology in other disciplines (philosophy, psychology, pedagogy, etc.); and having as its main goal the analysis of the way in which leading or recurrent values are encoded in a given discourse. (See Kreszowski 1990, 1997, 2004; Felices Lago 1991, 1992; Pauwels & Simon-Vandenberg 1995), Other contributions have applied axioematic analyses to various areas of LSP (See Felices Lago 1996, 1998, 1999, 2002, 2006, 2008; Felices Lago & Hewitt 2004; Felices Lago & Corral Hernández 2008; Cortés de los Ríos 2001, 2007). The topics of business discourse covered so far are as follows: Brand names (1996, 1999, 2002); financial and investment terms (1998, 2006); marketing terms (2008); banking advertising (2001); job offers (2004, 2008) and ecological ads in the business press (2008). In this study we present the results of applying our axiological analysis approach to the relevant Spanish terms and expressions included in *Diccionario Básico Jurídico (6<sup>th</sup> Edition)* by Miguel Ángel del Arco Torres, Emilio Calatayud Pérez *et alii* (2004). The initial corpus, over 4,500 entries, has been largely reduced to a target-group of entries (10%, approximately), which proves how a small but relevant group of legal terms and idioms are formulated in terms of well-established values in our society, particularly those related to human behaviour (qualities and faults). Consequently, concepts such as loyalty, cooperation, trustworthiness, guiltiness or punishment are also represented by a substantial number of entries in the above dictionary. On the other hand, the provision of equivalent terms in English will offer a complementary perspective: to what extent the axiological load of the terms selected are mirrored in other cultural boundaries? Other relevant aspects of this research intend: (1) to map out the dominant values in legal terminology; (2) to unveil the conscious or unconscious processes involved in the formation of axiologically-loaded law terms; and (3) to make an additional contribution to our research project entitled *the codification of values in the diverse types of discourse in the area of business sciences*.

Lorenzo FIORITO - Università degli Studi di Napoli "Federico II"

**Building a Community Lexicon: the case of the European Constitution.** As established by the Regulations 1/58 of European Union, general regulations and official documents must be *drafted* in all the official languages of the EU and all *versions* are to be considered equally reliable. The use of a specific language – the so-called *Eurospeak* – within the European Union institutions and documents is caused by the undeniable need to indicate "unique" legal institutions and procedures which, since they are completely new, do not have correspondent terms in many of the official languages of the member States. Thus, a lexical innovation process started from the very beginning, which has been producing its effects both in the official documents. This process doesn't generally arise from a conceptual and lexical reformulation spontaneously carried out by speakers, but is the result of a theoretically driven activity of translation or lexical adaptation by specialised translators. The paper will deal with some of the problems created by the necessity of building a new lexis for the drafting of the "Treaty establishing a Constitution for Europe". I will start by drawing a short history of the European statutes, from the linguistic point of view; then, I'll try explore the linguistic problems posed by the political integration of EU and the modalities of creation of the community lexicon, by analyzing the English and Italian version of some of the articles of the European Treaty. Starting from a textual, morphosyntactic and terminological comparison of the official versions in English and Italian of the articles, I will examine the linguistic issues related to the practice of creating new terms within a supranational political context as is the European Union. I will in particular analyse the newly produced lexicon made of semantic and combinatory neologisms, derivatives and abbreviations, which play a great role in the construction of a EU-specific lexis.

Celina FRADE - Universidade Federal Rural do Rio de Janeiro (UFRRJ)

**System of genres in international arbitration practice.** International arbitration, a type of non-litigative dispute resolution, is becoming a highly specialized and conventionalized discourse domain wherein a series of interrelated genres interact with each other resulting in what Bazerman (1994) calls a "system of genres". This is due to the spread and use of arbitration in the current internationalized commercial and legal context leading to the gradual standardization of its proceedings. From the drafting of the arbitration clause or agreement clearly stating the intention of the parties to solve any controversies which may arise out of a contract by arbitration until the final award issued by the arbitral tribunal, a range of structured and planned oral and written genres follows upon another framing the sequence and consequence of actions performed by the actors involved. Such system of genres is highly influenced by the common law tradition and legal English, which practice may be completely or partly unknown

to civil lawyers in general or else dealt with differently by common lawyers. Moreover, it is evidenced that traditional common-law litigation mechanisms and tools, such as cross-examination, discovery and expert witness, have been increasingly used in major international arbitration chambers nowadays, which, in the opinion of some, accounts for the contamination of arbitration with unwanted litigative procedures. This paper addresses the system of genres embedded in international arbitration practice by means of a contrastive analysis of the rules set forth by two international renowned arbitration chambers – International Chamber of Commerce (ICC) - Arbitration and Mediation Center of the Chamber of Commerce Brazil-Canada (CCBC). We claim that the identification of the generic system of international arbitration practice may guide the actors involved towards more successful and appropriate performances at each point of the process so as to fulfill the conditions that will restore the non-litigative nature of arbitration.

Giovanni GAROFALO, Università degli Studi di Bergamo

**El arbitraje en materia laboral ante el CMAC (Centro de Mediación, Arbitraje y Conciliación) de la Junta de Andalucía: un ejemplo de hibridación de prácticas discursivas.** La presente comunicación se asienta en la trayectoria trazada por los numerosos estudios críticos del discurso especializado, por lo que atañe al procedimiento de arbitraje (Bhatia 2004; Bhatia y Candlin 2004; Bhatia, Candlin y Gotti 2003; Candlin y Maley 1997; Candlin, Maley, O'Grandy y Porter 1998; Debattista 2005), concebido como «mestizaje» de dos prácticas discursivas heterogéneas que, en principio, deberían presentar protagonistas diferentes y recursos comunicativos propios, a saber, la jurisdicción voluntaria (o acción legal incoada ante un Juez o Tribunal) y los medios extrajudiciales de solución de controversias. La bibliografía hoy disponible demuestra sobradamente que el procedimiento arbitral, lejos de configurarse como práctica profesional independiente, dirigida a agilizar y simplificar la resolución de conflictos sin merma de garantías, se ha visto «colonizado» por el discurso de la jurisdicción voluntaria y por sus relativos géneros. Tanto es así que el laudo arbitral, más que como género profesional autónomo, aparece como el resultado de un cruce de discursos, por la hibridación de convenciones y de modelos semióticos implicados en la confección de estas resoluciones. De hecho, el fenómeno de la interdiscursividad (Bhatia 2004) nos permite interpretar la «colonización», por parte del discurso forense, de los recursos explotados por el árbitro a nivel textual, terminológico, socio-pragmático y de género y – más en general – a nivel de práctica discursiva y de cultura profesional. Partiendo de tales premisas, esta comunicación pretende evidenciar la profunda influencia del discurso forense de lo social en la tramitación y resolución de expedientes arbitrales en materia de conflictos laborales en España. A tal efecto, examinaremos los autos de arbitraje concernientes dos distintos contenciosos (por *reconocimiento de categoría laboral* y por *despido improcedente / acoso laboral*) llevados a cabo por ante el CMAC (Centro de Mediación, Arbitraje y Conciliación) de la Consejería de Empleo de Granada, Junta de Andalucía. Cada expediente ejemplifica un diferente recorrido que pudo seguir el intento de conciliación: en el primer caso, el solicitante (que se define «actor») acude al asesoramiento de un letrado para tramitar su demanda de reclamación, intentando sin efecto el acto de conciliación; en el segundo, el trabajador agraviado por la conducta patronal (quien se autodefine «demandante») redacta de su puño y letra su comparecencia, ciñéndose escrupulosamente al formato textual y a las convenciones del género «demanda», característico de la práctica forense civil. En este segundo ejemplo, el intento de conciliación extraprocésal se concluye con avenencia de las partes. En ambos expedientes, el procedimiento arbitral parece «alimentarse» de las pautas de género (superestructura y macroestructura) y de las convenciones de la acción civil ordinaria, en términos de propósitos, procedimientos discursivos, movimientos retóricos y conocimiento experto implicado. Los rasgos de interdiscursividad se hacen aún más perceptibles en el expediente tramitado por un procurador quien, al fracasar el intento de conciliación, vuelve a presentar al Juzgado de lo Social de Granada la misma demanda de reclamación de reconocimiento de derechos y categoría laboral, previamente presentada al CMAC, modificando sólo el encabezamiento y la secuencia exhortativa final (definida «suplico»). El análisis interdiscursivo, focalizado en la organización pragmática y semiótica de los autos que componen los expedientes, apunta a demostrar que la imitación servil de los prototipos textuales de la jurisdicción ordinaria debe atribuirse a la ausencia de una verdadera cultura arbitral en España y a la percepción de los árbitros (ellos también Licenciados en Derecho) de pertenecer a una comunidad de especialistas aledaña a la de los Jueces y Magistrados, que con su indiscutible prestigio social fija las convenciones de escritura. Estas consideraciones explicarían también por qué, pese a la introducción del procedimiento arbitral en el ordenamiento español por la Ley 60/2003, hasta la fecha no se ha conseguido una verdadera implantación de este instrumento, ya que el ciudadano común sigue considerando los medios extrajudiciales de composición de conflictos como una antesala de los Tribunales.

Claudia GENERAL - University of Applied Sciences Zurich

**Qualification and Quality Control of Court Interpreters in Switzerland. Comparison of consecutive interpreting and on-sight translation from Italian into German.** Two theses on "court interpreting in Switzerland" from the University of Applied Sciences Zurich-Winterthur concluded that until recently a person could be listed on the register of court interpreters without providing evidence of any interpreter training. The only prerequisite was "no criminal record." It was assumed that a person speaking or understanding two languages was automatically able to work as an interpreter. The register was rather like a list of footballers used in penalty shootouts. Anyone who performed well remained on the list; otherwise his or her name was deleted. The canton of Zurich court authorities realized, however, that an unqualified person not only cost time and money during a court trial, but could actually detract from pursuit of the ultimate aim, i.e. assisting someone unable to speak one of the Swiss official languages. Furthermore the right to a faire trial according to article 6 of the European Convention on Human Rights will not be guaranteed if the court interpreter is not qualified. The Department of Continuous Education and the Department of Conference Interpreting at the University of Applied Sciences Zurich-Winterthur worked with the courts in the canton of Zurich to develop three projects for the qualification of court interpreters: a two-day introductory course consisting of eight hours of law and eight hours of interpreting, an eight-day seminar with basic interpreting techniques being taught for seven hours a day and a two-semester course to instruct the interpreter in the workings of the judicial system. In the meantime the participation in the two-day

course and the following exams have become obligatory for all interpreters wishing to be listed on the register. A study was conducted comparing consecutive interpreting and on-sight translation from Italian into German.

Diana GINER - University of Zaragoza

**A contribution to the interrelationship of discursive procedures in judgments and private commercial arbitration awards.**

**A pilot study.** Arbitration is used today with the main purpose of having an alternative method to resolve legal disputes between people or nations. Arbitrators in private commercial arbitration are hired by companies to resolve their disputes and, in consequence, the arbitrator is somehow “forced” to suit both parties, as they are the arbitrator’s customers. In contrast, judges have a more distant relationship with the parties involved, which grants them the possibility to use a more distant while declarative language. In consequence, the discursive procedures in litigation should differ from arbitration for appearing more imposing and declarative and less modulated than in arbitration. However, we may find some similarities in the discursive procedures taking into account that discourse communities in both processes are highly related. Therefore, it is necessary to examine both discursive procedures. In particular, this paper will pay attention to the interactional devices (Hyland, 2005) used in order to create more or less imposing language with regard to the parties involved in the processes. The analysis will be focused in the reasoning genre-part of all these genres. This section, in particular, results interesting for the analysis because it is in this moment within the process of creation of the genre that writers attend to fruitful interactional devices or strategies in order to construct their argumentation. The present research will also bear in mind the possible implications there might be in relation to the generic integrity of both judgments and private commercial awards.

Christopher GODDARD - Riga Graduate School of Law

**Legal linguists: like ghosts and true lovers?** This paper examines what it means to be a legal linguist. The title (with apologies to La Rochefoucauld) sets the scene. Beginning with placing legal linguistics in the context of other related disciplines, the paper goes on to ask, first, whether the term “legal linguist” consists of a specific set of identifiable skills and, second, whether legal linguist is a recognised – or recognisable – profession, or whether legal linguist is subsumed in some other professional classification or classifications. What, for example, distinguishes a legal linguist from a lawyer linguist or a legal translator? Who might want to employ a legal linguist? What is the perception of legal linguist among potential employers? For someone thinking of following a study programme in legal linguistics, what does a legal linguist’s qualification mean for them in terms of professional development or the employment market? Put differently, what can an individual do - or do better - after a legal linguistics study programme than before it? What do they believe they can offer potential employers? And do all offer the same competence, or do, for example, lawyer alumni differ from translator alumni, or alumni who are neither lawyers nor translators? And finally, does the term “legal linguist” contain the same conceptual substance between legal cultures? These are questions that need to be clarified, in order that legal linguistics programmes may be seen by potential applicants, employers, and stakeholders as having clear practical professional relevance, and so that such programmes are appropriately focused. To find answers to these questions, the author combines theoretical and practical research, the latter in the shape of a survey among a focus group including academics, alumni and applicants from a legal linguistics programme, and potential employers and stakeholders. The results are analysed, discussed, and summarised.

Stanisław GOŹDŹ-ROSZKOWSKI - University of Lodz

**Word use patterns among written legal genres. A corpus-based study.** The description of vocabulary use in legal contexts appears to be of utmost importance when developing effective teaching materials and approaching the problem of knowledge dissemination in legal studies. There are a number of important research questions about word use in legal genres related to: 1) the number of words necessary to understand, for example a typical legal textbook or a journal article, 2) whether different legal genres differ in the number and distribution of words they use 3) whether there are some words common in general language (everyday use) and in legal contexts 4) distribution of specialized words across different legal genres. To some extent, such questions, concerning other disciplines and registers, have been explored in the past. Most notably, there have been attempts to, for example, identify lists of the most important words in different domains (e.g. Nation and Waring 1997, Goulden, Nation and Read 1990, GSL in West 1953), or lists developed specifically for academic applications (the University Word List (UWL; Xue & Nation 1984) or the Academic General List (AWL; Coxhead 2000). For the purpose of the present study, an approach similar to that of Biber 2006 (who compared the word use patterns among spoken and written university registers and academic discipline) was adopted in order to compare the word use patterns among different genres rather than concentrating merely on the identification of the most important words. In my presentation, I will focus on findings obtained from two major perspectives: 1) the breakdown of words by frequency level for each genre shown in terms of the number of different words employed in each genre and the number of high-frequency and low-frequency, specialized words; 2) the breakdown of words by part of speech. Finally, some didactic implications for the teaching of legal terminology will be discussed.

Christoph HAFNER - City University of Hong Kong

**Developing professional legal literacy: A comparative analysis of student and expert barrister’s opinions.** The process of learning to write appropriate texts in the professional legal context may be viewed as a movement from peripheral participation to full participation in the sociocultural practices of the professional legal community of practice (Lave & Wenger, 1991). In order to participate in these practices, novice lawyers must make a transition from the legal academic world to the more pragmatic world of legal practice. This paper addresses some of the difficulties entailed by this transition, by drawing on an exploratory case study into legal professional writing practices in the Hong Kong context. The study compares the performance, perceptions, and writing practices of novice and expert legal writers, as they respond to the communicative demands of the barrister’s opinion genre. The participants are 5 practising barristers and 20 students of law, all of the latter enrolled in the Post-graduate Certificate of Laws at the City University of Hong Kong (bar exam equivalent). The study draws on the participants’ writing and (in the case of

students) its evaluation, focus group interviews, and data from background information questionnaires. Comparing student and expert writing reveals interesting differences. In particular, differences in rhetorical structure and referencing style suggest that students write in a more academic style than do their expert counterparts. The study also highlights clear differences in the use of modality as a discursive resource to manage certainty and doubt. The paper concludes by drawing implications for legal education and training as well as instruction in Languages for Specific Purposes.

Frédéric HOUBERT - Société Française des Traducteurs (SFT)

**Introduction à la lexicographie juridique (Introduction to Legal Lexicography).** “To what extent should a law dictionary contain encyclopedic information? To what extent is a law dictionary a work of original scholarship?” Formulées par Bryan A. Garner, responsable éditorial du Black’s Law Dictionary, dans un article publié en 2003, ces questions se posent depuis toujours au lexicographe juridique. Elles étaient déjà d’actualité à l’époque de Rastell (*Les Termes de la Ley*, 1523), de Cowell (*The Interpreter*, 1607), ou de Ferrière (*Dictionnaire de droit et de pratique*, 1734), lexicographes prestigieux dont les ouvrages, pour imparfaits qu’ils soient, n’en ont pas moins posé les bases de la lexicographie juridique moderne. Il est en effet impossible de consulter les dictionnaires qui font aujourd’hui autorité dans le domaine du droit (Black’s, Cornu...) sans revenir sur la lente maturation qui, depuis plus de 500 ans, en a permis l’épanouissement. Le premier volet de la communication sera donc consacré à l’évocation de quelques dictionnaires qui auront marqué de leur empreinte l’histoire de la lexicographie juridique : Rastell, Cowell et Ferrière, donc, mais aussi le *Law Dictionary* de Bouvier, le *Dictionnaire pratique de droit* de Dalloz ou encore le *Jowitt’s Dictionary of English Law*, dont la parution en 2010 d’une troisième édition témoigne incontestablement de la grande vitalité de la production lexicographique dans cette langue de spécialité si particulière que constitue le langage du droit. Ainsi replacées dans un contexte historique, les grandes problématiques de la lexicographie juridique ne s’en laisseront que plus facilement appréhender : le dictionnaire doit-il procéder d’une démarche descriptive ou prescriptive ? Qu’est-ce que définir en droit ? Quid de la nomenclature du dictionnaire et en particulier du traitement des néologismes et des archaïsmes ? L’intervenant s’efforcera d’apporter quelques éléments de réponse et, plus généralement, s’attachera à souligner la double valeur – historique et linguistique – des dictionnaires anciens, qui méritent amplement d’être redécouverts. D’autres pistes de réflexion (cas particulier des dictionnaires bilingues, utilisation des dictionnaires par les tribunaux...) viendront compléter le propos, qui s’inscrit dans le prolongement de l’ouvrage de référence d’Ethel Groffier et David Reed, *La lexicographie juridique*, paru en 1990.

Lee Kim HUNG - City University of Hong Kong

**Two speech styles in one speech: how judges undermine their social identity and power.** The court of Hong Kong enjoys a prestigious status encompassing some of the core values indispensable to the stability and development of the city. If judges are presumably in need of projecting their identity as representatives of the court, their language serves as an indicator of such intention. From time to time, however, there are criticisms on the speech style of magistrates by senior judges. To understand the nature of these criticisms, a case study was carried out and its findings reveal that magistrates tend to mix different speech styles which are mutually incompatible by social definition in their speeches and hence compromise their identity as well as the dignity of the judicial process. Such findings were further validated by data obtained from interviews with a magistrate and a high court judge who said that the wrong choice of speech style by judges has undermined the social identity of the legal professionals and the status of the court, something vital not only to the court but also to the sustainability of the current social formation. Judges, therefore, should be trained on the awareness of the relations between speech style, identity and social power relations. While the case study was conducted in Hong Kong, the implications of its findings detailed in this paper are worldwide.

Snježana HUSINEC - University of Zagreb

**The Use of Comparative Legal Analysis in Teaching the Language of Law.** Within the process of globalization and in view of Croatian accession to the European Union the importance of cross-cultural legal communication skills for practicing professionals in Croatia is rapidly growing. Consequently there is an increasing need of legal practitioners to develop their legal language skills. One of the major issues in teaching the language of law for cross-cultural communication is how to teach divergent culture specific terminology. The problems mostly arise from different legal traditions, and hence the asymmetry of legal systems. The significance of this asymmetry and its consequences on the process of legal language teaching can most clearly be illustrated on the example of teaching legal English in Croatia. The English legal system, which is based on common law, differs considerably from the Croatian legal system, which is a civil law legal system. Therefore, where the participants of legal English courses expect to be taught matching equivalents, which would enable them to communicate more efficiently in their international contacts, they are confronted with only partial overlap of legal systems and the relativity of concepts. This requires a teaching approach in which the teaching of language cannot be separated from the teaching of content. In this respect comparative legal analysis is a very useful and efficient method, which helps us to clarify the content and serves as a basis for a discussion about the appropriateness of usage of certain legal terms as near or approximate equivalents. This paper aims to demonstrate the use of comparative studies as a useful and sometimes necessary tool for teaching legal language. Several illustrative examples from the field of company law as an area of frequent terminological confusion and misinterpretation (company formation, company management and fundamental changes of a company) will be analyzed to illustrate it. The analysis will be based on the comparative study of the UK Companies Act 2006 and the Croatian Companies Act in the above mentioned areas.

Ersilia INCELLI - Università di Roma ‘La Sapienza’.

**The impact of legal form on ‘principles’ and ‘policies’: identifying stance in legislative language through corpus analysis.** This paper examines the construction and choice of legal terms in EU directives and legislation to foreshadow and influence the type of action and policy measures in each EU member state. The current debate on a common EU immigration policy and the efforts to converge on a shared vision provides a case study for a linguistic analysis of the data from a contrastive study of EU, Italian and British immigration legislation. Such an analysis of the legislative terminology and lexis highlights the different stance

of member states in accordance with national and cultural interests, reflecting priorities and attitudes which may stand in the way of a comprehensive agreement, despite the willingness to cooperate, in principle. (Gotti et al, 2003). A brief glance at how legislation is interpreted and represented in the press (Italian and British), and how cultural and political stance may influence a country's legislative language, supports results from the study. The theoretical and methodological frameworks combine discourse analysis and corpus linguistic techniques, and are applied to a small corpora of 400,000 words, spanning 1998-2008, subsequently divided into 3 sub-corpora. As a starting point, the data are analyzed with regard to synchronic variation by carrying out concordance analyses of keywords, collocations and the frequencies of specific terms (clusters/n-grams/bundles). (Scott and Tribble, 2006; Biber et al, 1999). The notion of semantic prosody (Louw, 1993) and discourse prosody (Stubbs, 2001) is used, in that a semantic annotation analysis of the texts points to negative categories created even in legislative language: for example the cultural keywords and collocates of 'immigrant' and 'illegal' with their implied connotations, the nexus immigrant/security/crime, and the embedded presuppositions of 'shall'. The final objective of the paper discusses the extent to which inferred stance in terminology, using corpus linguistic techniques, can inform a descriptive analysis of legislative language.

Åse JOHNSEN - University of Bergen

**We must also rise. In comes the judge. The interpreter's visibility.** This presentation will focus on the interpreter's visibility, as represented in her/his translated discourse, and the extent to which s/he seems to identify with the participants in the trial. I will consider how professionals, semi-professionals and non-professionals interpreters differ in relation to these aspects. In *Revisiting the Interpreter's Role* (2004:28) Claudia Angelelli states that the visibility of the interpreter at work, i.e. the various degrees of interpreter's interventions, results from the interplay of social factors. She also states that "[...] in a court case where the defendant belongs to a less dominant group (aside from being a member of a linguistic and ethnic minority), [...] the interpreter may have more factors in common with one party or with the other, but clearly not with both." The analyses will be based on audio-recordings and observations of trials from Bergen Town Court, Norway, and a survey among court interpreters in Bergen. Some years ago, Norway created a national register of interpreters. The register has a hierarchy of five levels, where interpreters registered at the level 1 are to be considered as professional interpreters. They have been accredited through a national exam, in addition to having at least 30 ECTS in interpretation studies. The interpreters at the opposite end of the scale have only passed a vocabulary test and attended a short course on the interpreter's responsibility. The courts are requested to choose interpreters from this register when possible. The register makes it possible to study interpreters according to a hierarchy of professionalism.

Tinatn KBILASHVILI - Ivane Javakhishvili Tbilisi State University (Georgia), University of Lapland

**Georgia's Way to Eurointegration: Harmonisation of Legislation & the Related Linguistic Issues in Georgian & English.** *Georgia – home to first Europeans:* A team of scientists working in Georgia have unearthed human remains dating back 1.8 million years. It is believed the early hominids may have been among the first to leave Africa to colonise the rest of the world. Dubbed Mzia and Zezva, the ancient hominids were discovered in the ancient settlement of Dmanisi in the South of Georgia – which has resulted in their popular nickname 'the first Europeans'. *October 29, 2007, 8:52* <http://www.russiatoday.com/features/news/16134>. The above is the article from one of the official news service websites stating that Georgia is Home to First Europeans, so here must be the clue why the Republic of Georgia is so passionate to become the official member of the European Family. As my paper refers to the harmonisation of Law of Georgia to the European one, as well as the related linguistic issues both in Georgian and English, I consider that particular part of my paper must "accommodate" the brief description of the Georgian Legal system comparing to European one, as well as background of translation of the legal documents which is the cornerstone for the approximation and harmonization of the law of Georgia to that of European. Harmonization process implies drafting and adoption of "harmonized" laws by the relevant governmental bodies on the basis of the EU law via adjustment to the Georgian legal background and the current Georgian legal system. Drafting the new laws leads to the introduction of the absolutely new legal concepts to the Georgian legal system by way of analogy of the legal system of the EU community or USA as well which gives birth to legal neologisms. According to all above mentioned my paper aims at outlining the main changes and "amendments" in the Georgian legal system in the process of Eurointegration from both legal and linguistic points of view.

Susan KERMAS - University of Salento

**English legal language and the French continuum.** The presence of English loanwords in languages worldwide is an irrefutable result of globalization. What is less evident and under-searched is the influence of other languages on English, especially within the field of specialized discourse. No scholar would deny that English is receptive to foreign influence and that French – particularly Norman French – has had a huge impact on English legal discourse. The bulk of English terminology within this field has indeed come down to us from French and many Anglo-Saxon administrative terms lost forever (cf. Hughes 2003: 112-113). What has not been discussed is the persistence of French influence on legal discourse today. Though the various movements to simplify legal language have emphasized the necessity to avoid foreign words and phrases (cf. Gotti 2005: 5) – especially Latin and French – it is words of Romance origin common to many European languages that have made English a particularly suitable vehicular language for intercultural communication within Europe. The role of English as an international legal language has undeniably speeded up the simplification process but has at the same time made the language more vulnerable to change. What I propose in this paper is that the EU's policy to translate all documents into the 20 European languages has triggered another phase of French/Romance influence and that as in all language contact situations English is buckling under pressure. My analysis of a selection of European statutes published since 2000 will demonstrate not only that many new words are French – something already pointed out by Williams (2005: 32) – but more importantly that the gradual assimilation of French meanings in cognate words is creating a new set of false cognates and may be unwittingly causing further ambiguity.

Tuija KINNUNEN - University of Joensuu

**Translators and lawyers as collaborators in court processes with international aspects or foreign elements.** My postdoctoral research project explores the ways in which translators, interpreters and lawyers collaborate in court. More specifically, it is an analysis of the tools of collaboration, the further parties involved in this collaboration, the sharing and the development of collective expertise in this field as well as the social role of the translator and interpreter in this shared activity. The aim of the project is to determine the kinds of social practices (forms of collaboration) that can be detected in situations in which a court needs the expertise of a translator or an interpreter in order to guarantee the success of the process and a fair trial for the parties. The most important research question is: How do lawyers and translators share their knowledge and expertise and produce new kind of expertise? In my paper I will present the basic ideas and the research design of the project. The work in the legal profession is these days increasingly characterized by multilingual tasks. This occurs, i.e., in the courts, when a party of the process is a foreigner who appeals to the law of his or her country of origin. In addition, situations arise where a domestic court has to give an opinion on a matter that is being processed in another country. Translations play an essential role here. Deciding on an international case requires a linguistic and communicative competence from lawyers and a judicial competence from translators. In other words, translators work here at the interface of the legal profession. Further, there is a huge number of court proceedings, where a party of the process is an immigrant and the court does not speak his or her language and thus needs the service of an interpreter.

Marita KRISTIANSEN - Norwegian School of Economics and Business Administration (NHH)

**Transparency and consistency in international financial reporting. A conceptual study of the application of IFRS in Norwegian listed companies.** Sound and efficient international capital markets are reliant upon transparent and consistent financial reporting. This has been one of motives for establishing a common global standard for how to present financial statements of public limited companies. The need for such transparency and consistency has been highlighted by the global credit crisis in recent months. In this paper we will present a study which aims at analysing conceptual and eventually financial consequences of Norway's adoption of the international accounting standards (IAS) and the international financial reporting standards (IFRS). As of the accounting year 2007 Norwegian companies have to prepare their consolidated financial reports in accordance with these international financial reporting standards. To analyse the possible consequences of the harmonisation of the international accounting standards with Norwegian legislation and well-established Norwegian accounting practices, we will monitor the financial reporting of two Norwegian companies over time, including the reporting prior to the implementation of the IAS/IFRS frameworks. The analysis will focus on two standards in particular, i.e. *IAS 16 Property, Plant and Equipment* and *IAS 40 Investment Property* to see to what extent harmonisation and standardisation of cross-cultural accounting practices are feasible. The study will have a conceptual focus in that concepts described in the two accounting standards systems will be analysed to assess whether harmonisation has been achieved. This perspective will also include an evaluation of the terminological changes that have been made in the Norwegian accounting terminology. A second perspective may be to consider to what extent the harmonisation of the two accounting standards systems creates a common basis for measuring the actual value of assets of the two companies.

Fatima-Zahra LAMRANI - University Mohammed V, Rabat

**The impact of the Literacy/ Illiteracy parameter on Moroccan criminal trials.** In Morocco, illiteracy is a social flaw that the Moroccan society is still fighting in the twenty first century. A high proportion of Moroccan people are illiterate, and the great majority of court attendants( defendants, plaintiffs, and witnesses) are illiterate. From the 62 criminal trials that I recorded, only 6 cases involved literate litigants. This presentation considers the effects of literacy and illiteracy in Moroccan criminal trials. It seeks to show, using genuine data extracts of criminal trials, observed and audio-taped in the Moroccan criminal courtroom of Rabat, how literacy enhances effective communication and how illiteracy impedes it. That is to say, trials involving literate defendants and witnesses engender a smooth and successful communication while trials involving illiterate litigants are characterized by a great deal of hostility and tension. The danger of this phenomenon lies in the impact that the quality of communication has been found to exert on the final verdict. This presentation seeks to show that in Moroccan criminal trials, literacy is a source of empowerment for the literate defendant while illiteracy is a source of disempowerment for the illiterate, and as such, illiteracy constitutes a source of injustice and seems to disturb the balance of justice, the first requirement of which is to be impartial. This aspect is explored by focusing on how discourse serves as a tool for negotiating power, which is an important feature of the social reality of the courtroom, and a crucial element for maintaining and reinforcing the authority of the court as an institution. "Power" in this study is viewed as a relational, interactional and dynamic process, which is developed through interaction in a multiplicity of relations. More specifically, this presentation focuses on the use of Questions as power-constructing devices exclusively reserved for court officials (judges), and on Responses as power-disrupting devices available to defendants and witnesses. Attention is given to the ways the literate versus illiterate litigants' responses resist the judge's power and control, and the impact that their resistance has on the quality of communication in the Moroccan criminal courtroom.

Jieun LEE - Macquarie University, Sydney

**Impact of face on interpreter-mediated courtroom examination.** Courtroom interpreting offers unique research site in the sense that it is situated in power-laden institutional setting and it is mediated communication. The court interpreter is expected to interpret every utterance as faithfully and closely as possible to the original. However, empirical court interpreting studies have revealed that court interpreters often omit, add to, or alter original utterances, which may be largely attributable to the interpreters' competence and their lack of awareness about the implications of such interpreting choices for court proceedings. This paper, drawing on approximately 100 hours of Korean interpreter-mediated court proceedings in Australia, examines facework in interpreter-mediated courtroom examination and how it is closely linked to the accuracy of interpreting. It indicates that interpreters were conscious of their face when they faced challenges in interpreting, related to implicit utterances and culture-specific expressions. This study demonstrates how courtroom interactants threaten and/or protect the face of other interactants,

namely interpreters. The results indicate that court interpreters' concerns for face, a concept which is associated with respect, reputation, credibility, and competence, may have potentially significant bearings for the accuracy of interpreting in the courtroom.

Patrick LEROYER - Aarhus School of Business, University of Aarhus

Kirsten Wølch RASMUSSEN - Aarhus School of Business, University of Aarhus

**Assisting the translator of legal discourse: access to textual data types in bilingual legal dictionaries.** Intercultural knowledge on textual conventions in legal discourse is quite helpful to the legal translator in his/her decision-making process (Acuyo-Verdejo 2004: 167; Sørensen 1999: 137), and bilingual dictionaries should help the user by providing easy access to this type of knowledge. It has been asserted by metalexigraphers (Tarp 1999) that dictionaries are most useful at word and term level, and, to a certain extent, at collocation and idiom level. Their functional power at sentence level is limited, and at text level, dictionaries have hardly any functional utility at all. In the present article we will argue that this categorical judgment seems to be partly distorted by a predominantly paper-based approach to lexicography. Lexicographical key notions such as lemmas, articles, micro- and macrostructures, article structure and item categories are structuralist and semiotic products of general linguistics and of the Gutenberg galaxy, which have inhibited the development of functional metalexigraphy. On the basis of corpus studies of aligned French and Danish law texts from the European Union, and of lexicographical studies of a number of monolingual and bilingual legal dictionaries, as well as multilingual terminographical resources, we will analyse selected translation problems at text level (cf. in particular Leroyer and Rasmussen 2004). To solve these problems, we will subsequently outline a number of new methodological proposals concerning such issues as the selection and presentation of, as well as access to, textual data types. This will be done by showing how paper, electronic and online dictionaries for legal translation can be developed in order to effectively help their users at text level. Electronic and online dictionaries have exactly the same functions as paper dictionaries. However, their communicative and cognitive assistance can be expanded so as to solve specific problems encountered in the translating process. This can be achieved by selecting and presenting new textual data types – a candidate designation could be here the term of *textonyms* – and by combining the use of cross-references to related entries with lists of topics and keywords. The solution should also include hypertextual links to integrated document bases. The application of such a lexicographic design could ensure better dictionary assistance in carrying out text editing tasks in the process of legal translation.

Rocco Cesare LOIACONO - University of Western Australia, Perth

**Translation of bilateral agreements between Italy and Australia - which approach – linguistic or functional? Aim of presentation:** To present an outline of the application of translation theories to the translation of legal documentation from Italian to English, in the context of bilateral agreements between Italy and Australia, and comparing the application of those theories to those applied in other multilingual and bi-legal contexts. *Background:* The research question is: how can legal concepts be translated from one language to another, when not only the languages are different, but (in particular) the legal systems are different, and sometimes radically so? The texts that are the subject of this study are the various bilateral agreements entered into between Italy and Australia (*Agreements*). The Agreements have already been published by the various government departments responsible for administering them. The Agreements cover such diverse subjects as: 1) Extradition and mutual assistance on criminal matters; 2) Double taxation; 3) Pensions and social security; 4) Cultural co-operation; and 5) Economic and commercial co-operation. The presentation will analyse these published translations and look at how different translation theories have been (consciously or unconsciously) applied by translators in attempting to achieve “equivalence”. By “equivalence” we mean not only “equivalence” in terminology, but also “legal” equivalence; that the legal document in question has equal legal status (i.e. that they are equally authoritative) in both the original and translated version (they are *legally equivalent*). Is it possible to compile the same legal provisions in different languages? In each of the Agreements it is provided that they are equally authoritative in each of the signatory nations. Article 33(3) of the *Vienna Convention on the Law of Treaties* (1969) provides that texts of treaties in different languages are equally authoritative in each language. *European Union v Canada:* To build a comparative model, I have researched the application of translation theories of legal documentation in a multilingual context (the European Union), and in a bilingual and bi-legal context (Canada), and I then intend to compare the application of those theories to the Agreements. In the European Union context, broadly speaking, the approach that appears to be supported is that of “linguistic equivalence”, as developed by Jakobson and Nida. As the European Union has 23 official languages, above all, according to Šarčević (1997), translators must honour the principle of language consistency. Canada is not only a bilingual, but also a bi-legal nation, i.e. it is governed by two different legal systems, common law and civil law. With the recognition of French as having status equal to English, it appears a more functional, creative approach is applied by translators of Canadian legislation. Which of these two approaches has been adopted in the preparation of the Agreements? Is it one based on “linguistic equivalence”, which prevails in the EU, or one that is closer to the functional approach, which is utilised in Canada? These are some of the important questions my thesis aims to address as they may apply to the Australia-Italy situation.

Alessandra LOMBARDI - Università Cattolica del Sacro Cuore, Brescia

**Die subtile Kunst des Definierens: juristische Definitionen im Vergleich.** Der Vortrag präsentiert die Ergebnisse einer kontrastiven Pilotstudie zur Form und Funktion der Definitionen in deutschen und italienischen Rechtstexten. Obwohl das Definieren als unverzichtbares Mittel der juristisch bedingten Bedeutungsabgrenzung angesehen wird, ist die definitorische Praxis im Recht schon lange Gegenstand heftiger Diskussionen. Das alte Diktum von Iavolenus (11 Epist., in Dig. 50.17.202): „omnis definitio in iure civili periculosa est“ ist für viele Rechtstheoretiker immer noch gültig und in allen Rechtsgebieten zu Hause. Als besonders heikel erweist sich das Problem des Definierens im Bereich des Strafrechts. Hier entlarvt sich die Definitionsarbeit oft als Versuch, das Gleichgewicht zwischen semantischer Präzision und funktionsbedingter Offenheit der Rechtsbegriffe fortwährend *neu zu adjustieren* und somit die Unsicherheiten, die vor allem mit der strafrechtlichen Qualifizierung und Reglementierung neuer Handlungsfelder verbunden sind, zu verringern. Anhand ausgewählter definitorischer Kontexte aus unterschiedlichen Textorten des neueren Strafrechts wird aufgezeigt, wie deutsche und italienische Strafrechtler pragmatisch mit

dem Problem des Definierens umgehen und wie sie bei der definatorischen Eingrenzung eines Begriffes konkret vorgehen. In Anlehnung an Soffritti („Die doppelte Fachsprachlichkeit in aktuellen Norm setzenden Texten“, 2002: 59 ff.) werden Definitionen in ihrer kontextuellen Einbettung mit besonderem Blick auf die damit zusammenhängenden pragmatischen, lexikalischen und syntaktisch-textuellen Faktoren analysiert. Daran anknüpfend wird eine Typologisierung der Definitionen nach strukturellen und funktionalen Kriterien vorgeschlagen. Aus dem Vergleich der somit ermittelten Definitionsleistungen deutscher und italienischer Juristen sollen Rückschlüsse auf sprachspezifische wie sprachübergreifende Ansätze zum Definieren gezogen werden. Strategien zur Auffindung von Definitionen in den untersuchten Texten (Suche nach linguistischen bzw. nicht-linguistischen Indikatoren für Definitionen) werden abschließend erläutert und zur Diskussion gestellt.

Anna LÓPEZ SAMANIEGO - Universitat de Barcelona

**Recomendar según la ley. El género profesional del informe jurídico.** Entre el nutrido grupo de colectivos profesionales que tienen entre sus tareas profesionales la de asesorar a un cliente a la hora de tomar una decisión relevante se encuentra el de los abogados. Además de la defensa jurídica de los clientes que deben hacer frente a un proceso judicial, estos profesionales del Derecho ofrecen también a sus clientes asesoramiento jurídico. Este asesoramiento que realizan los abogados en tanto que expertos en Derecho suele tener lugar mediante una interacción oral, en el despacho del abogado; pero también es frecuente que el cliente solicite al abogado asesoramiento por escrito, es decir, un informe jurídico. El género del informe jurídico es, pues, un documento redactado por un jurista con el objetivo de responder a una consulta planteada por un cliente, a menudo, una empresa, que debe tomar una decisión importante. A pesar de que el informe constituye uno de los géneros profesionales por excelencia, su análisis solo recientemente ha sido abordado por el Análisis del Discurso y, generalmente, se ha concentrado en los ámbitos de la economía y las organizaciones. A) Objetivo: El objetivo de esta comunicación es doble: por una parte, nos proponemos caracterizar el género profesional del informe jurídico; por otra, describir las formulaciones lingüísticas más frecuentes que emplea el jurista para presentar sus recomendaciones profesionales. B) Metodología y estructura: El análisis se ha realizado sobre un corpus de informes jurídicos integrado tanto por informes procedentes de un bufete de abogados, de carácter privado, como por informes emitidos por la Agencia Española de Protección de Datos, de acceso público en Internet. En primer lugar, se presenta la estructura textual del género profesional del informe jurídico, así como las características sociopragmáticas del evento comunicativo en el se enmarca. En segundo lugar, se analizan y clasifican las estructuras lingüísticas que expresan la recomendación del abogado en estos informes. Por último, se caracteriza el acto de recomendar realizado por el jurista en tales textos profesionales.

Laura MARTÍNEZ ESCUDERO - Universidad de Zaragoza

**Exploring Metadiscourse and Rhetorical Resources in Constitutional Law Research Articles.** Metadiscourse is closely associated not only with the stance of the writer, but also with the rhetorical engagement with the reader. Since writers consciously promote the presence of interactive and interactional resources (Hyland, 2005) in their writing, the need for knowledge on this subject reveals to be central when purporting to analyse the dialogical construction of rational plausibility and affective appeals in law discourse. Following the theoretical framework suggested by Hyland (2000, 2004, 2005), this paper seeks, thus, to examine those metadiscursive manoeuvres which help guide the reader through the text and those which attempt to involve the reader within it. In other words, the present work endeavours to deconstruct how writers fruitfully establish an addressee-oriented perspective so as to meet both the necessities to the audience and the perspectives of writers in Constitutional Law research articles. To carry out a quantitative and qualitative exploratory survey of metadiscursive features, this paper looks at a small corpus of Constitutional Law research articles. Using a corpus-based approach, I aim to present corpus data regarding the dialogical effects of rhetorical strategies within a context of use. Preliminary findings suggest that the implications of rhetorical strategies in this specialized discourse contribute to arrange a dialogical framework which modulates the positioning of the reader by bringing it closer to writer's stance. By doing so, the present perusal of rhetorical manoeuvres brings to the fore how writers require metadiscursive resources as an efficient tool to engage readers and convince them of the claims made, which not only should be understood as an enhancement of persuasiveness to frame disciplinary knowledge but also confirms the central role of interactional and interactive resources in Constitutional Law research articles.

Aleksandra MATULEWSKA, Adam Mickiewicz University, Poznan

**Translation problems resulting from polysemous and culture-bound legal terminology.** This paper is devoted to translation problems occurring in English-Polish and Polish-English translation of legal polysemous, homonymous and system-bound terminology. The phenomena of polysemy and homonymy are broadly discussed by theoreticians of translation as they occur in all ethnic languages (Pisarska, Tomaszewicz 1996: 94) and because translators repeatedly have to struggle with translation problems resulting from them. A very interesting classification of polysemy in legal language is proposed by Souriou and Lerat (1975: 94-96), who differentiate between linguistic polysemy and legal polysemy. The next source of translation problems are culture- or system-bound terms. System-bound terms 'designate concepts and institutions peculiar to the legal reality of a specific system or related systems' (Šarčević, 2000: 233). Legal language is culture-bound to a large extent. According to Sandrini (1994:16) legal languages are shaped by the legal systems in which they are used and the translator participates in the transfer of language and culture (Sandrini, 1994:8). Translation is regarded as a *cross-cultural event* (Snell-Hornby, 1988:46 in Šarčević, 2000:2) and the translator is a cultural operator (Hewson, Martin, 1991:133, in Šarčević, 2000:2). Cultural features of the source text translated by translators are distinct from the target text ones. In order to show major translation problems, the author will present selected examples illustrating the abovementioned problems. This paper deals with the problems connected with providing equivalents for the purpose of legal translation. The examples are taken from different fields of law that is to say insolvency law, laws on securities and stock exchanges, civil law, and law of contracts in force in the USA, Great Britain and Poland. The main purpose of the paper is to show terminological problems occurring most frequently in English-Polish and Polish-English translations of legal texts. First, the methods of providing equivalence applicable to legal translation are discussed.

Second, a selection of problems resulting from (i) the polysemy and homonymy of terms, and (ii) the culturally-conditioned differences in legal realities of investigated languages are presented.

Davide MAZZI - University of Modena and Reggio Emilia

**“If the drafters of the regulation had intended such a far-reaching change in the law, surely they would have said so...”:** **the centrality of counterfactual conditionals in House of Lords and US Supreme Court judgments.** The importance of argumentation in the judicial process is an age-old acquisition of argumentation studies from ancient rhetoric to the present day (Bobbio 1958 and 1977). In the last few decades, increasing attention has been paid to the most widely spread forms of argument used in judicial texts (Goodrich 1986, Peczenik 1989; Feteris 2002) as well as to the prominent linguistic features characterising the discourse of judges (Mortara Garavelli 2001; Nivelles and Van Belle 2007; Santulli 2008). In this last respect, Nivelles and Van Belle's (2007) study on counterfactual conditionals (CTFs) is of particular interest in that these forms seem to shed light on an overall key-feature of argumentative discourse, i.e. the expression of causation. However rigorously constructed, the work by Nivelles and Van Belle (2007) mainly concentrates on the context of Belgian law. In order to test the validity of their research apparatus on a further amount of data, this paper is set to explore the textual functions of CTFs within two corpora representative of the Common Law legal tradition. By taking on a comparative perspective, the analysis is based on two related corpora of judgments delivered by the English House of Lords and the US Supreme Court respectively. In spite of their apparent proximity, as a matter of fact, these two courts have been observed to diverge in many respects when it comes to a closer examination of the peculiarities of judges' discourse (Kurzon 2001). The paper retains the distinction proposed by Nivelles and Van Belle (2007: 990) between CTFs expressing causation and those criticising causation, and it aims at carrying out a quantitative and qualitative study of these elements. Results show that the pervasiveness of CTFs is common to both courts, with particular incidence of the dialogic value CTFs assume in US Supreme Court judges' argumentation.

Bettina MOTTURA - Università degli Studi di Milano

**The image and the role of the State in the People's Republic of China conveyed by legal texts in the last thirty years.** Since the beginning of the 1980's one main problem the Chinese leadership had to face was the need to rebuilt the institutions which had ceased functioning during the Cultural Revolution. One fundamental step of the process was a large scale legal production, aimed at guaranteeing regularity in the work of institutions and at fostering economic and social stability. Solid institutional basis were part of the prerequisites for an effective application of the Reform and Opening up policy promoted by Deng Xiaoping and for the success of the economic development and the modernization of China. The part of this legal production relevant for the present work is the one aimed at institutionalizing the legal machinery and processes and reinforcing the State. In the framework of the 1982 *Constitution*, a number of legal texts regulate the State institutions' activities and procedures. For instance the content of the *Organic Law of the National People's Congress*, of the *Organic Law of the State Council*, of the *Legislation Law* and of the *Civil Servants Law*, suggested the idea of a consistent and independent institutional and legal system. The renewed image of the State promoted by those laws was largely influenced by pieces of Western law patterns and legal thought scattered through the texts (i.e. the concept of the 'rule of law' 法治) as they only seldom refer to the Chinese Communist Party authority or to its ideology. Translating those legal texts for teaching purposes, the complexity of the language used emerged and its deep roots grounded in the Maoist rhetoric and in the traditional Chinese thought appeared. The hypothesis of this paper is that the multilayered language of these legal texts need to be analyzed in order to fully understand what sort of State image the Chinese leadership is trying to promote and how the balance of power between the Chinese Communist Party and the State has been effectively redefined in the last thirty years.

Maria MUSHCHININA - Saarland University

**Legal Terminology: A Model of Empirical Description.** Legal terminology is the most important information source in the field of law. During the period of development of a legal system, terminology demonstrates a high degree of instability. For lack of up-to-date lexicographical sources, lexicography, technical translation and other fields of terminological analysis depend highly on the evaluation of text sources. What is needed is an empirically-based method of terminological description, considering the structure and methodology of the special field as well as the functions of its texts. The proposed model of semantic description incorporates semasiological and onomasiological description of the relation between terminological expression (name) and legal concept, in particular the description of synonymy, polysemy and of incongruent usage of the terminology. It considers quantitative aspects of term application, and includes two perspectives of description: concept system and usage situation. This allows the building of so-called *denomination-concept-fields*, thus providing information pertinent to the use of denomination and verbalising of concepts in question. The model of terminology description has been based on the evaluation of Russian legal terminology of intellectual property, dating from 1992 to 2003. The corpus (approx. 1,5 million words) includes most important Russian acts legislating intellectual property, texts of legal doctrine and legal decisions.

Solfrid MYKLAND - The Norwegian School of Economics and Business Administration, Bergen

**Linguistic pictures in judicial mediation - an analysis of metaphors in an alternative dispute resolution process.** In this exploratory study, mediators' metaphors in 15 judicial mediations are observed and explored. The judicial mediation is a quite new Norwegian dispute resolution process. The process was a trial programme from 1997, and was put into practice for all Norwegian courts from 1. of January 2008. The judicial mediation has had great success, and e.g. a settlement rate of about 80 %. It implies that all parties in civil cases are offered to try mediation in the court context, as an opportunity to settle the case before ordinary court hearing. The mediator is normally a judge, but if the parties don't settle, a new judge will take over and start the process from scratch with the parties. I found that the mediators use a lot of different metaphors when they mediate. The following eight metaphors are described and discussed: (1) War, (2) Journey, (3) Gift, (4) Machine, (5) Party, (6) Trade, (7) Role exchange and (8) the Court. The focus has been on how these different metaphors affect the mediation process. The analysis

draws primarily on the conceptual metaphor theory, as developed by Lakoff and Johnston (1980; 2003). Metaphors seem to have great impact on the mediation process. They expand the explanatory power in the language, contribute to highlight important aspects of the mediation process and can also create mutual understanding between parties in a conflict. At the same time, the metaphors can frustrate the parties and give a wrong and narrow impression of the mediation process. In addition to that, it seems in general to be low consciousness by mediators related to the use of metaphors in the mediation process. Since metaphors both affect the process *and* it seems to be low consciousness related to the use of it, it seems to be important for mediators to gain more insight into their own use of language. It is also important to focus on competence related to this in future training of mediators.

Iulia Daniela NEGRU - University of Trieste

**Acceptability versus accuracy in courtroom interpreting.** The conflict between acceptability and correctness or accuracy seemed to raise its controversial head exactly fifty years ago when Noam Chomsky (1957) attempted to define grammaticality in accordance to whether or not a linguistic structure is intuitively acceptable on the part of the native speaker of a language. No other genre, not even scientific discourse, gives as much as importance to its linguistic vehicle as the law. Certainly, it is the professional context par excellence in which the accuracy and the lack of ambiguity of an utterance determines the very substance of the profession itself. The aim of this paper is to present the acceptability/accuracy factors in courtroom interpreting in Italy with reference to hearings, arrests and intercepting phone conversations within proceedings of the Trieste Corte d'Appello, Corpo Carabinieri and the Procura della Repubblica.

Isil OZYILDIRIM - Hacettepe University, Department of Linguistics, Ankara

**The Discoursal Features of the Turkish Legislative Language : A Comparative Study.** Biber and Conrad (2001:175) define 'register' as a cover term for all language varieties associated with different situations. In addition to the studies that describe the situational and linguistic characteristics of a particular register, there are also studies that make comparisons across registers. These studies have shown that there are systematic and important linguistic differences across registers. Bhatia (1993: 101-2) states that legislative writing differs significantly from most other varieties of English, not only in terms of its communicative purpose, but also in the way it is created. Since "there is very little comparative work on legal discourse" (Danet 1985 : 275), the aims of this study are (1) to determine the discoursal features of Turkish legislative language by analysing the functional associations between the situational and lexico-grammatical features, and (2) to compare these features with five other registers, namely, scientific research articles, newspaper feature articles, TV commercials, man/woman magazines and stand-up shows. Turkish Criminal Code is used as the corpus of the legal register. Each text type in the study consisted of approximately 30.000 words. For the purposes of analysis and comparison, 'the multi-dimensional approach' which was developed by Douglas Biber(1988) is used. Considering the limitations of this study, only the first dimension 'informative(planned) versus interactional(involved) production' is analyzed. The lexico-grammatical categories presented in this dimension are counted in each text type and the results are statistically analysed. The findings of the study indicate that legislative language in Turkish has a highly informative and planned discourse. When all text types are compared in terms of this dimension, it is found out that legislative language has the highest frequencies of the features of a planned and informative discourse. It is followed by scientific research articles, newspaper feature articles, man/woman magazines and stand-up shows in this order. Among the text types analysed in our corpus, the most interactional(involved) discourse is found to be as TV commercials.

Michèle PERRIN-TAILLAT

**Computer Technologies and Legal Language.** There is a constant need to interpret the law, be it by judges and advocates at the courts, by legal experts within legal committees and law commissions, or by translators who strive to find the right equivalent in the target language. Whosoever tries to capture the meaning of a legal text can but be amazed – and sometimes frustrated – at its fleeting nature. The nature of legal language is in that respect akin to non-specialist language and, despite many attempts at classifying legal concepts and rationalizing the legal approach, retains to a certain extent a degree of fuzziness – or open texture. Existing terminology feeds legal discourse and legal discourse surreptitious changes legal terminology. The question of adequacy and cohesion therefore always has to be asked again and again. Unlike the scientist, the legal expert has to take into account the views of the various strata of lay society. Considering how concepts evolve and how far they can be classified is no simple task, and it is argued that it cannot be approached without computer tools. After a brief detour on issues of natural language processing, it is argued that fully automated stochastic models of language and information processing can yield better representations of legal language than more traditional classifications that rely on man-fed databases. By defining much finer grain units of meaning than words, such models can measure the difference between terms both within a single language and culture, and across cultures and / or languages, synchronically as well as diachronically. As new methods of extracting information from large corpora in other specialist domains have proved successful, it is suggested that they ought to be tried on large legal language corpora as well. Indications as to how this could be done are proposed.

Sieglinde POMMER - Harvard Law School / University of Vienna

**Law as Communicative Culture?** Law is a cultural domain, occupying an important place among the cultural practices of society. The roles of legal institutions cannot be fully comprehended if not seen as part of their culture and at the same time a culture cannot be fully understood without attending to its form of law. The relationship of law and culture has long been a concern of legal anthropology and sociology of law. Recently, it has also become a topic of debate in legal theory and comparative law scholarship discussing the significance of culture for the nature of law, the differences in legal traditions, and the values that the law represents. While many scholars argue that the concept of culture is of only limited usefulness for law because the term embraces a too indefinite and indeterminate range of phenomena. The Cultural Turn in Translation Studies has promoted the understanding of translating as a complex activity raising difficult questions about how to handle culture-specific assumptions. For international legal discourse understood as intercultural expert communication in the field of law, this understanding has

important implications for dealing with the divergent previous knowledge of lawyers coming from different legal systems or legal traditions. Taking an integrative approach, this presentation explores the complex interaction of language and law from communication and culture perspectives and investigates the advantages of describing law as communicative culture also for the practice of legal translation. Introducing parameters to concretize the common and overlapping concerns of culture and communication in their attempts to more clearly grasping the phenomenon of law in this era of globalization, this contribution offers a more comprehensive framework for the interdisciplinary challenges of global legal discourse in the jurilinguistic tradition of the law and language movement.

Giorgia RIBONI - University of Milan

**Constructing the Terrorist in the Decisions of the Supreme Court of the United States and The European Court of Human Rights.** This paper examines decisions taken by the Supreme Court of the United States and by the European Court of Human Rights after the events of September 11th 2001 in order to investigate the way people accused of performing terrorist attacks as well as the so-called “war on terror” are represented on both sides of the Atlantic. For this purpose two parallel *corpora* of decisions dealing with issues connected with terrorism were collected. The decisions taken by the Supreme Court of the United States and by the European Court of Human Rights can be legitimately compared because they are final; as a matter of fact these institutions represent the last possibility of appeal in the European Union and in the United States. The cases selected for this study deal with people accused of belonging to terrorist organizations who appeal to seek relief from what they consider an unlawful detention. The qualitative approach usually taken by Critical Discourse Analysis to investigate social identities (Fairclough: 1992) has been here combined with the quantitative examination typical of *Corpus* linguistics to obtain a more systematic description of the discursive practices deployed in referring to the characteristics of the Islamic terrorist (Garzone and Santulli: 2004). Preliminary findings underline in both American and European decisions a preoccupation with the definition of status but, whereas the European Court of Human Rights derives its categories from the legal tradition following the French Revolution and considers the individual as a “person”, the Supreme Court relies on the notion of “citizenship”, as emphasized by the frequent occurrence of the term. Another difference to be noticed concerns the use of the key words “terrorism/terrorist”. As a matter of fact, even though these terms occur relatively scarcely also in the European Court of Human Rights decisions, they are almost completely absent in the American texts taken into analysis where the expression “enemy combatant” is preferred.

Colin Douglas ROBERTSON - Lawyer-linguist, Council of the European Union, Brussels

**Legal-linguistic revision of EU legislative texts.** This paper looks at the role and task of legal-linguistic revision in the preparation of EU multilingual legislation. Legal-linguistic revision plays a role in maintaining semantic equivalence and quality. It involves steps and procedures which can be explained. The paper first considers the general place of legal-linguistic revision within EU multilingual legislative text production. Second, it considers the aims and purposes of such revision (why? added value?) It then focuses on detail and practical methods (with examples): (a) a legal perspective to examine requirements as to form, structure, layout and linkage to other legal texts; (b) a linguistic perspective regarding layout, presentation, spelling, grammar, syntax, terminology, intertextuality, semantic aspects, polysemy. (c) a policy perspective: clarity of policy message; revisers discuss with domain experts, authors and negotiators the inconsistencies and problems identified. The reviser is not a policy-domain expert and looks at the text from the expert legal national and EU point of view as ‘innocent reader’, ‘quality controller’ and ‘aid to authors’, to enhance quality. The task is not to touch policy but to clarify the message, and prepare the texts for signature. The multilingual act is reviewed in parallel for all language versions. One version is taken as a base and revised; it serves as model for other (target) languages which are revised similarly, first for horizontal equivalence with the base and other language versions; second, vertically within the particular language. The base text may be corrected with input from target languages, in particular regarding polysemy. Language versions are mediated. This is seen as coming towards ‘co-drafting’. The paper concludes with observations on restrictions and limitations of legal-linguist revision, linked to political context, multiculturalism, the need to find consensus; the inelegant text that is functional - or is it?; personal idiosyncrasies; deep structure problems; the need for liaison between all participants in the process of making the quality text.

Jan ROALD - Norwegian School of Economics and Business Administration

Sunniva WHITTAKER - Norwegian School of Economics and Business Administration

**Legal roles and reference resolution in French and Norwegian legislative texts. A contrastive study.** The transposition of EU directives into national law has led to a harmonization of the content of legislative texts across the EU member states and EEA countries. The fact that the directives serve as a common base for legislative texts in the different countries also facilitates the comparison of the linguistic form of these texts. In our paper we will first analyze the various roles involved in public tender processes, such as interested parties, tenderers, tender awardees. These roles correspond to different stages in the tender process and are assumed by the same legal persons. In legislative texts these may be referred to by the role they assume at a given stage in the process or in more generic terms such as agent, enterprise, supplier, etc. The use of one single term throughout the text has the advantage of ensuring a coreferential reading, whereas the use of terms referring to the various roles provides a more accurate description and thereby a better understanding of the tender process. We will present the results of a study we have undertaken in which we have compared the terms used to refer to the legal persons involved in the tender process in French and Norwegian legislative texts. Our preliminary findings show a striking difference in the choices made in the French and Norwegian texts. Finally we will discuss our findings in the light of research in contrastive linguistics dealing with the specificity of nouns in endocentric (Germanic) versus exocentric (Romance) languages.

Michele SALA - University of Bergamo

**Argumentative aspects in Italian arbitration awards.** This paper offers an analysis of the discursive features found in arbitral awards which are intended to confer a specific deontic connotation and make arbitration discourse recognizable as a normative

type of communication. Arbitration, as an alternative dispute resolution method, is based on the free will of the parties to resolve their dispute through the appointment of arbitrators who are required to write an award meant as a definitive resolution (Nariman 2000, Bhatia et al. 2003, Belotti 2003). For the sake of judicial definitiveness, the appointment of lawyers as arbitrators has become a standard practice in Italy (Gotti/Anesa forthcoming). Legal experts, in fact, have the linguistic competence to discuss concepts in ways that are appropriate to legal contexts and to formulate decisions which have the impact and deontic force of normative acts by drawing on linguistic and rhetorical choices that are typical of the litigative procedure (Bhatia/Candlin 2004). Based on a corpus of twenty awards, this paper investigates to what extent and through which discursive resources experts of the legal profession interpret and transform the conciliatory nature of arbitration to support their claim and to substantiate their final decision. The analysis will focus primarily on the frequency and position of syntactic indicators of argumentation like consequential or contrastive connectors (i.e., *thus, therefore, however, although*, etc.), and the use of epistemic modality.

Tarja SALMI-TOLONEN - University of Turku

**Language Risk and International Commercial Contracting.** Business relations, partnership and contracting are all language-related issues and similarly failures in these relationships are failures in language use in one way or another. Language risks in contracting potentially leading to arbitration, mediation or litigation need further investigation. It is the contract that expresses the will of the parties to a contract and lays down the law for the relationship between the parties. Participants negotiating business transactions come from various fields of expertise and in today's world rarely the same legal culture. Specialised knowledge is constructed and constituted in language, and differences in knowledge are differences in language. One of the aims of this study is first of all try and identify some language events that constitute language risks. What are the causes of misinterpretation, where do the potential stumbling blocks lie in international commercial contracting? Law, in most countries, protects the parties against ambiguously written contract clauses providing that it is the specialist who drafted the contract who carries the risk. If the parties to a contract have understood what they have agreed upon differently, who then carries the risk? It is better to avoid the above mentioned situations by identifying the risks and managing the risks. This paper tries to cast light on language risk issues by discussing some real life examples of such risks. The paper is a part of the author's more comprehensive research project on international commercial contracting and language risk.

Ingrid SIMONNÆS - Norwegian School of Economics and Administration (NHH)

**TK-NHH – Aufbau und Zielsetzung eines multilingualen Übersetzungskorpus mit Norwegisch als Ausgangssprache – Methodologische Fragen und Fallstudie von Übersetzungen von deutschen und englischen Rechtstexten.** In Norwegen gibt es, anders als in vielen Ländern Europas und auch sonst in der Welt, keine universitäre Übersetzerausbildung, wohl aber eine nationale Übersetzerprüfung (*statsautorisert translatøreksamen*). Diese wird seit bald 30 Jahren am Institut für Fachsprachen und Interkulturelle Kommunikation der Norwegischen Wirtschaftsuniversität (NHH) abgehalten. Wichtiger Bestandteil dieser Prüfung ist die Übersetzung eines Rechtstextes – einfachheitshalber hier abgegrenzt allein durch seine thematische Zugehörigkeit zum Fachbereich Recht (Busse 2000). Diese Prüfungsleistungen stellen ein potentiell reichhaltiges empirisches Material u.a. von Rechtstexten dar, das sich unter den verschiedensten Aspekten analysieren lässt. Erst seit 2006 liegen die (meisten) Antworten in elektronischer Form vor. Dies hat dazu geführt, dass 2007 ein gemeinsam initiiertes Forschungsprojekt in Angriff genommen worden ist, bei dem diese Prüfungsleistungen aus dem Norwegischen in die vier großen europäischen Sprachen, Deutsch, Englisch, Französisch und Spanisch, in eine zu annotierende Datenbank eingegeben werden. In meinem Beitrag stelle ich das noch im Aufbau befindliche Spezialkorpus von hauptsächlich Fachtexten vor und greife Beispiele aus Übersetzungen von Rechtstexten heraus, wobei neben dem Sprachenpaar Norwegisch-Deutsch, auch das Sprachenpaar Norwegisch-Englisch herangezogen wird, um eine breitere Vergleichsbasis zu haben. Da das deutsche und das englische Rechtssystem zwei unterschiedlichen Rechtskreisen angehören, kann, so meine Erwartung, der Übersetzungsvergleich deutliche(re) Beispiele bringen, wann und wo AK und ZK auseinanderklaffen und mit welchen Übersetzungsstrategien die Prüfungskandidaten diese Kluft zu überbrücken versuchen. Aufgrund des im Vergleich zu den üblicherweise weit größeren Umfangs von Corpora wie z.T. *The Translational English Corpus (TEC)* von der Universität Manchester oder *The English-Norwegian Parallel Corpus (ENPC)* von der Universität Oslo, die keine Fachtexte i.e.S. enthalten, wird es sich bei diesem Spezialkorpus wegen seines geringen Umfangs um eine qualitative Analyse drehen.

Lelija SOČANAC - University of Zagreb

**Multilingualism In Croatian Legal Texts.** Influences of different legal cultures can be shown to change over a certain period of time. Foreign influences on national legal science can be shown by analyzing loanwords and citations in foreign languages using statistical methods (Mattila 2006). This paper will present results of the research based on a corpus of Croatian legal texts, mainly articles published in Croatian law periodicals in 1950's, 1990's and today. The diachronic perspective offers an overview of different political and legal systems in Croatia in the past sixty years, from the Yugoslav Communist period, the war of independence in 1990's, to recent trends of globalization and internationalization of law. By dividing citations and loanwords into groups according to various languages, we shall try to identify which foreign legal cultures have influenced national legal thinking and, indirectly, the legal system of Croatia in the periods under consideration.

Inmaculada SORIANO GARCÍA Universidad de Granada

**Propuesta didáctica para la introducción del alumnado a la Traducción Jurídica.** El primer contacto del estudiantado con la Traducción Jurídica viene marcado por cierta sensación de miedo e inseguridad. Esta sensación encuentra su origen en las dificultades intrínsecas que conlleva la práctica de la Traducción Jurídica, el oscurantismo del Derecho y la complejidad de la formulación jurídica. Realizar una introducción a esta disciplina, prestando especial atención a la adquisición previa de conceptos jurídicos básicos y a la comprensión y uso de términos y fraseología específicos permite, al menos inicialmente, facilitar la labor de los estudiantes a la hora de analizar y traducir textos jurídicos. Nuestra comunicación consiste en la presentación de una

propuesta didáctica. Dicha propuesta se estructura a partir de las actividades realizadas en clase de traducción jurídica (francés-español) en la facultad de Traducción e Interpretación de la Universidad de Granada. Las actividades propuestas consisten fundamentalmente en: 1) lecturas introductorias a los sistemas jurídicos francés y español; 2) ejercicios de comprensión de dichas lecturas; 3) actividades de familiarización con el código civil (francés y español); 4) tareas de reconocimiento de las diferentes tipologías textuales en el ámbito de la Traducción Jurídica; 5) actividades de traducción intralingüística, etc. Nuestra práctica como docentes a lo largo de los últimos años, nos ha mostrado la utilidad de las actividades propuestas, tanto a nivel personal como a nivel académico del estudiantado.

Raquel TARANILLA - Universitat de Barcelona

**Las Recomendaciones De La Comisión Europea: Del Acto De Recomendar Al Acto De Imponer Como Proceso De Creación De Normas.** La necesidad de coordinar y armonizar las políticas de los diversos Estados Miembros ha hecho que el llamado “Soft Law” (SL) se convierta en una herramienta de primer orden en el proceso de construcción de la Unión Europea. Se consideran SL aquellas normas que, en principio, carecen de fuerza vinculante, pero que, no obstante, pueden tener efectos prácticos (Snyder 1993: 32). El objetivo preliminar de esta comunicación es presentar uno de los géneros legales que se pueden encuadrar dentro del concepto de SL, las Recomendaciones de la Comisión Europea, dispuestas en el artículo 249 TCE. Las Recomendaciones, que se dirigen fundamentalmente a los Estados Miembros, tienen un propósito estimulador, esto es, pretenden persuadir de la necesidad de tomar ciertas medidas, a fin de coordinar y armonizar legislaciones y políticas nacionales (Senden 2004). En los últimos años, el concepto y la naturaleza jurídica de las Recomendaciones y, en general, del SL, han generado un profundo debate. Para unos, las Recomendaciones son una herramienta alternativa y complementaria al “hard law” o derecho plenamente vinculante. Para otros, en cambio, el SL constituye un primer paso hacia la creación de normas de “hard law” (Cini 2000: 5-6); dicho de otro modo, de cristalizarse, el SL de hoy puede considerarse la ley de mañana. Por ello, en ocasiones, en las Recomendaciones es posible reconocer provisiones formuladas en un estilo claramente impositivo (Senden 2004: 164). Partiendo de la idea de que los derechos “soft” y “hard” no son una dicotomía, sino que constituyen un continuo, el propósito de esta comunicación es (i) examinar la configuración lingüística del acto de recomendar en el género de la Recomendación de la Comisión; (ii) compararla con las características propias del texto normativo “clásico”; y (iii) apuntar criterios que permitan identificar zonas híbridas entre la recomendación y el mandato legal. Para ello, hemos empleado un corpus formado por quince Recomendaciones de la Comisión. Esta investigación se enmarca en el seno del proyecto “Análisis Lingüístico y Pragmático de la Recomendación Experta en Documentos de Ámbitos Profesionales” (FFI2008-00823) de la Universitat de Barcelona.

Pius TEN HACKEN - Swansea University

**The Linguistic Nature of a Legal Term.** In linguistics, it is common to distinguish the language system, realized as knowledge in the mind/brain of the speaker, and language use, realized in sound or letters. Chomsky calls these competence and performance, respectively. Performance is the result of the interaction of (linguistic) competence with other types of knowledge. This model is sufficient to account for LSP, e.g. legal discourse, but not for legal terminology. A legal term must have a precisely delimited correct meaning, because otherwise it would not be possible to use it in law enforcement. It is not sufficient to appeal to competence and performance in order to account for legal terms. It is generally acknowledged that we need to appeal to competence in order to recognize errors in performance. This applies to general language as well as to terminology. In the case of terms, however, we can also evaluate a speaker’s competence. The standardized form and meaning of a term is logically independent of any individual speaker. It is an extra-linguistic, abstract object. There are two ways such abstract objects can come into existence. One is that new legislation creates new terms. An example from traffic law is *Congestion Charge Zone*. The other is the precise definition of an existing expression. An example is *motorway*. In such cases the formal definition may diverge from the meaning assigned to it in general language, because general language concepts tend to have a prototype structure. Whereas in the case of *motorway* it is possible to stipulate precise numeric boundaries to delimit the concept, other concepts such as *road accident* are more difficult to delimit. As I will show, these distinctions can be explained on the basis of the properties of the concepts.

Girolamo TESSUTO - Seconda Università degli Studi di Napoli

**Canadian arbitration awards: a genre-based linguistic investigation.** An arbitration award is a decision on the object of the parties’ claims (the merits) by an arbitration tribunal, and is part of the arbitration process to resolve legal disputes arising in a variety of industries. In a context where awards are typically monetary in nature, variations in their content and purpose can be detected which affect the legal-rhetorical action constructed in awards. Thus, it is usual for the latter to fall under different labels, such as *provisional* awards (subject to the final decision on the merits), *reasoned* awards (where the arbitration tribunal sets out in writing the reasons for its decision), and *additional* awards (where the tribunal deals with a claim that was omitted from the earlier award). These labels are usually attached to the recognition or enforcement of awards in Canada (governed by a number of different pieces of legislation, depending on the subject matter of arbitration) or in England and Wales and Northern Ireland (under the English Arbitration Act 1996). Using a corpus-based approach, this paper provides a linguistic description of 10 *reasoned* awards produced in the Canadian loci of arbitration law and written by two different arbitrators (5 sample texts for each). Qualitative and quantitative data are drawn from the Canadian Railway Industry arbitration awards heard in Montreal from 2005 to 2008 years. Sample awards appear in their full text form, including arbitrator signature and date of award, on the CROA official website archives (<http://www.arbitrations.tk/>). Based on the analytical perspective of discourse and genre studies, the paper will investigate the textual organisation (macrostructure) and the lexico-grammatical resources (microstructure) employed by the disciplinary members in order to achieve the intended communicative goals in professional, workplace discourse practices. The paper will focus on the most frequent tools used in the construction of legal argumentation in the genre structure – namely, agenthood, reported argumentation and modality patterns to construct authoritative stance, as well as lexical choices. What emerges from the cognitive structuring of corpus awards is the tendency of arbitrators to appropriate the lexico-grammatical and

discourse organisational devices that are used across other Common Law text genres (in particular, civil court judgments). As a result, arbitrators incorporate the interpersonal functions of 'justifying' and 'declaring' (Maley 1994) the merits of their final and binding awards, as is analogous to such judgments. Analysis of data will be supplemented by considerations of the similarities and differences with the form and structure used in English arbitration awards (Tessuto 2008), so as to highlight intercultural variations of drafting awards in two geographically distinct areas of the Common Law sharing the same language.

Judith TURNBULL - University of Rome Sapienza

**The harmonization of the law and legal cultures in the EU: a linguistic approach.** The European Court of Justice is composed of twenty-seven judges and eight Advocates General who are appointed from all the Member States and hence belong to different legal systems and cultures. Historically speaking, the role of judges in common law and civil law systems, a fundamental distinction for classifying legal systems in Europe, has been founded on divergent principles; in the former judges interpret and, at times, even create the law, whilst in the latter they act as "the mouth of the law". This diversity is reflected in the style and approach adopted in writing judgments, which have been described, respectively, as rhetorical and conversational as opposed to fixed, impersonal and anonymous. Although there has been some convergence in their roles in recent years, the administration of law in the European context brings these different legal cultures and traditions in close contact. The purpose of this paper is to assess to what extent and in what way the two traditions have adapted to and accommodated the characteristics and style of the other. In other words, has the harmonization of the law been accompanied by the harmonisation of the language, style and rhetoric of the judges? The analysis has been carried out on the Opinions of British and Italian Advocates General at the European Court of Justice. An Advocate General produces an independent Opinion which is made available to the panel of judges hearing the case. As he sits 'alone' in the Court, his written Opinion will probably mirror the conventions of his own domestic legal culture. Given the central role of the judge in common law systems and the development of case law in the ECJ, the analysis will focus on overtly direct and personal expressions of the judge's stance and attitude, including personal pronouns, adjectives, adverbs, verbs of cognitive processes, statements declaring position (I agree, I accept) and modifiers intensifying the force of statements.

Piotr TWARDZISZ - University of Warsaw

**Unavoidable metonymy or terminological inconsistency in an agreement between the governments of the Republic of Poland and the United States of America.** On 20th August 2008 in Warsaw the following agreement was signed: Agreement between the Government of the Republic of Poland and the Government of the United States of America concerning the deployment of ground-based ballistic missile in the territory of the Republic of Poland. It consists of a Preamble, 16 Articles, an Annex and an Appendix in the form of a map. The Agreement was drafted in Polish and English, where both texts are equally authentic. The key players in this Agreement are: the Government of the Republic of Poland, the Government of the United States of America, the Republic of Poland and the United States of America. Additionally, the Agreement uses the term 'Parties', defined in the Preamble as the Government of the Republic of Poland and the Government of the United States of America. Upon a closer analysis, it appears that the Agreement makes use of the above five terms each in a number of senses, some of them significantly overlapping with each other. If treated as metonymic occurrences, the five terms in question constitute reference points giving access to a number of targets. The proposed paper has two aims. One of them is to define the potential targets of the above reference points/terms in order to show a multitude of meanings involved in the use of the above terms. The other aim is to establish the target(s) of the reference point *the Parties*. The findings of the research show that either the metonymic relations involved between the reference points and targets unavoidably criss-cross or the Agreement contains some dose of terminological inconsistency. In either case, a closer reading reveals certain interpretational problems.

Ole VÅGE -Norwegian School of Economics and Business Administration (NHH)

**With license to harvest the blue field: Equivalence in the legal terminology of aquaculture.** Apparently, legal terms may look similar between different languages and the translator may run the risk of creating misunderstandings by interchanging them in a translation. This is also the case regarding the legal terminology of aquaculture, an activity which has experienced a boom during the last two decades. The farming of salmon has been the mayor success in this sector, where two countries dominate the world production: Norway and Chile. In this paper I will show how a conceptual analysis of the terms *concesión* and *konsesjon* in the field of aquaculture in Spanish and Norwegian, respectively, shows only a partial equivalence due to different legal and cultural traditions in Chile and Norway. A concession is a necessary permit which the authorities grant to aquaculture operators in order to use a defined segment of a public good, such as a body of water in our case with the purpose of farming fish or other marine species. However, Norway and Chile represent two different cultural and legal traditions with respect to property rights. I will show how the satellite model of Nuopponen (1998) can be used as a tool to analyze the concept 'concession' and illustrate the differences between the apparently similar terms of *concesión* in Spanish and *konsesjon* in Norwegian. This is part of a PhD-project where I study the terminology of aquaculture and analyze the degree of equivalence in three involved fields: biology, technology and law. Hence, the knowledge in aquaculture becomes transdisciplinary. The degree of equivalence between Norwegian and Spanish, thus, mirrors the different dynamism of transdisciplinary knowledge of aquaculture.

María-José VARELA SALINAS - University of Malaga

Isabel CÓMITRE NARVÁEZ - University of Malaga

**A Spanish-French Glossary of Legal Terminology on Immigration.** Immigration is an important current issue in Europe. Without question we are tending to a multicultural society formed by persons coming from different cultures and ways of life, and, of course, speaking different languages. That is why the work of terminologists, translators and interpreters is becoming more and more necessary to reach an efficient communication. This is crucial when it comes to legal questions. One of the most concerned countries is Spain with its high figures of immigrants, partly because of its geographical situation, partly because of the newly adopted legal measures that soften the immigration law into force in 2001. That means that all these legal texts plus

the related regulations and legal comments have to be translated to the languages immigrants speak i.e. for administration forms, legalization or trials related to labour rights so he/she can know his/her rights and duties in the society he/she has chosen to live in. In consequence, the issue of immigration law is a broad working field for language professionals. Translators and interpreters are expected to be reliable in legal terminology in order to present a trustworthy and understandable discourse, since their errors may have drastic consequences. This was what led us to meet the challenge of creating a glossary on legal terminology referring to immigration. We chose the pair of languages Spanish-French because there are many immigrants coming from francophone Africa to Spain, but still no terminological resources on immigration law for this linguistic combination. Our aim is to make available a helpful information source that can be consulted in an easy way by translators and interpreters. In our paper we explain the steps in the making of the glossary and of the database where it is available, and which criteria we applied for term selection. We also offer examples of how legal changes because of both new immigration laws in Spain and in France did affect term selection. Furthermore, we stress on the regularities of lexical formation giving examples of them.

Ignacio VÁZQUEZ ORTA - Universidad de Zaragoza

**A genre-based view of judgments of appellate courts in the common law system: Intersubjective positioning and the reasoning of judges.** Judgments of appellate courts are important texts in the common law system. They contain the rules as they have been declared by the judges on a case-by-case basis and are therefore a primary source of law and they provide a public account of the judges' reasoning processes. This makes judgments important texts also in legal education. Despite this importance, relatively little linguistic research has so far been carried out on these texts. There has been some research into their macrostructure, communicative purpose and the intertextual nature of judgments and the consequences of this for teaching reading in English for Academic Purposes. At the macro level, a generic structure of judgments has been identified (Maley 1985; Bhatia 1993) as well as a relationship between the structural elements and the communicative functions of declaring and justifying. At the micro level, modality has been found to play an important role in the justifying function of judgments, but the reasoning of judges, the negotiation of previous decisions, the positioning of writer and reader are still unexplored territory. My purpose in this article is to explore the way judges reason and negotiate their decisions by focusing on the use of boosters and hedges in judgments within the framework of metadiscourse (Hyland 2005). I will carry out a corpus-based approach to a set of appellate judgments in order to analyse the linguistic resources of intersubjective positioning as they are reinterpreted within the framework of metadiscourse.

Francisco J. VIGIER - University of Granada

**Legal Translation and Interpreting in the UK today.** Specialised literature on Translation and Interpreting studies and practice does not abound in research contributions dealing simultaneously with the fields of legal translation and interpreting in the UK. Legal interpreting, most commonly referred to as court interpreting, meant as a section of the much broader field of public service interpreting, has deserved greater attention from academics and practitioners, and has lately undergone a professionalisation process in Britain, especially after the setting up of the National Register of Public Service Interpreters in 1994, which is run by a subsidiary of the Chartered Institute of Linguists. The realm of legal translation, however, is still a rather patchy and unknown domain in the UK, principally due to its lack of regulation, which allows anyone claiming to have certain language knowledge to act as a translator. This paper is chiefly aimed at presenting a comprehensive outline of the current situation of both court interpreting and legal translation in the UK, by contrasting the existing, out-of-date literature with the findings of a recent research project. In this research project, not only have legal translating and court interpreting been taken into account as professional activities, but attention has been most predominantly paid to the professionals involved. To this end, interviews were carried out and practicing legal translators and court interpreters were gathered in order to discuss in group a variety of issues from their professional and personal perspectives. This paper collects and analyses their most significant experiences in an attempt to shed some light on a range of aspects including work conditions, rates, qualification and accreditation procedures, professional standards, and translator-client relationships.

Leonhard VOLTMER - EURAC Bolzano

**Translating law: theoretically impossible practice.** Heidegger stated that translation is in a certain sense not possible at all, because two words of different languages are never congruent; all translation is therefore interpretation. While the translation theory is committed to this "subjective" method apparently allowing several correct results, the practice of legal translation embraces the idea that transporting the exact meaning is not only possible, but must always be achieved. How could a legal system like the EU with 23 official and binding languages work when there would be at least 23 possibly different interpretations of the law text? This article attempts to reconcile theory with practice. The article will argue that interpretation is actually not the enemy, but the friend of objectivity and precision, and the deeper the interpretation of legal scope, function and target, the more correct the result will be. The open nature of language allows nevertheless often several correct formulations, but the way of expressing an idea does not change the idea itself, which has been transferred faithfully. In this respect legal translation has a reduced number of goals compared to literary translation, where the target text has to correspond also in form, time and aesthetics. Using examples especially from the translation of the Italian *Codice del Consumo* into German, the article will show how precise legal interpretation can become. Given that legal translation is in many aspects profoundly different from "general" or literary translation, the aporia of translation is not resolved. How is legal translation, i.e. equivalent content across languages possible, when no legal term of one legal system corresponds to any other legal term in another legal system? The article offers the idea that you can build the same house with different stones, hence reach the same legal goal in different legal systems through different legal norms, instruments and concepts.

Eva WIESMANN - Universität Bologna

**Der Sprachgebrauch des italienischen Notars in diachronischer Perspektive Betrachtungen zu Veränderungen im Bereich der Phraseologie.** Der vorliegende Beitrag setzt sich in diachronischer Perspektive mit italienischen notariellen Urkunden auseinander. Nach einem Überblick über die Ursprünge des Notariats werden verschiedene Arten von notariellen Urkunden (beispielsweise Kaufverträge, Schenkungen und Testamente) von der Verabschiedung des italienischen Notariatsgesetzes bis zur heutigen Zeit untersucht. Im Mittelpunkt der Betrachtung stehen die verschiedenen Arten von phraseologischen Wortverbindungen, ihre sprachlichen Variationsmöglichkeiten zu einer gegebenen Zeit und ihre Veränderung über den Zeitraum, der bei der Untersuchung berücksichtigt wird. Ausgehend von einer Klassifikation, die nicht nur formal-lexikalischen Kriterien, sondern auch den unterschiedlichen Graden der Normbedingtheit der phraseologischen Wortverbindungen Rechnung trägt, wird nach dem rechtlichen Stellenwert der verschiedenen Arten von Wortverbindungen gefragt und ihre Bedeutung analysiert. Besondere Aufmerksamkeit wird dabei den für Nichtjuristen schwer verständlichen Formulierungen geschenkt. Der Beitrag schließt mit Betrachtungen zum Überschneidungsbereich zwischen Phraseologie und Stil und zu den Möglichkeiten der Übersetzung.

Christopher WILLIAMS - University of Foggia

Onofrio TROIANO - University of Foggia

**Binomials and trinomials in contracts: a comparison between English and Italian.** As is well-known, binomials (e.g. *will and testament*) and trinomials (e.g. *amended, supplemented or modified*) have long been a characteristic feature of legal English, the consequence of the 'all-inclusive' logic of the Common law system which has tended to make prescriptive texts verbose and repetitive. Such expressions have long been stigmatized, especially by exponents of the Plain language movement, because in some cases one of the terms contained in the binomial/trinomial is – or has become – functionally redundant. However, the fact that binomials and trinomials are still massively present in private law even today, especially in contracts, tends to suggest that in certain cases they may still have a useful role to play. In Italy, with its Civil law tradition deriving from Roman law, such binomial and trinomial expressions have tended to be less frequent, and the language of private law in Italian in general contains fewer cases of fossilization and redundancy. In this paper we have selected a number of binomials and trinomials in English relating in particular to the realm of breach of contract (e.g. *breach or violation; violate, conflict with or result in any breach, default or contravention*) or the (in)validity of contract (e.g. *null and void; legal, valid and binding*). Our aim is: i) to see exactly how these expressions are rendered in modern Italian; ii) to analyse what strategies are adopted in attempting to ensure the highest possible degree of equivalence between the two languages; iii) assess which binomials and trinomials may still be considered as having a *raison d'être* in functional terms in contracts today. Our comparison is based on a selection of authentic (i.e. legally binding) texts.

Iwona WITCZAK-PLISIECKA - University of Lodz

**Equivalence, pragmatic meaning, and legal language.** The paper addresses the issues related to problems of equivalence and translation in the legal context. It includes a brief discussion of the notions of translation and equivalence and presents relevant phenomena found on the intra- and inter-linguistic levels. The discussion is illustrated with data from corpora (in part parallel) of legal texts drafted in English and Polish, with limited reference to other languages and to translated texts. Legal translation forms a very heterogeneous field due to factors such as the variety of situations in which legal language is used, differences in the level of expected formality and local tradition. Furthermore, every legal document may be translated in a number of different ways depending on the purpose of translation and demands of the party who commissions it, the view already sanctioned in the skopos theory. The context which plays so central a role in any search for equivalence in the legal domain determines that legal translation is necessarily pragmatic in nature. Linguistic pragmatics, even though it has not yet been sufficiently defined, evidently offers analytical tools immediately relevant for the language of the law. This paper also aims to show the evaluation and (possible) adequacy of the speech act approach in legal interpretation and translation.

Diana YANKOVA - New Bulgarian University

**Supranational multilingual texts: the emergence of a new genre.** The presentation will look at the specific functional, linguistic and communicative characteristics of the legal genre in the context of European legal texts. EU legislation texts will be considered from the point of view of their communicative and rhetorical purpose: the interplay between the rhetorical strategies resorted to in producing a text in order to achieve a specific communicative aim. The main function of statutory writing is to legislate, to set down obligations, permissions and prohibitions. It is directive writing (Bhatia 1983) or instruction without option (Hatim & Mason 1990). For the purposes of the present study we will follow the Hallidayan functional-systemic framework in which the relationship between the discourse type and the social situation is determined by the broad categories of context taking into account genres and text-types. It will consider the discrepancy in the formulation of 'context' between linguists and legal theorists. Some of the textual and contextual parameters that are considered to be of the highest possible relevance will be discussed: the generic structure of the text, the participants in the communication, the purpose of communication, the production strategies employed, the general context including the broader context of culture within which a text originates or in general, how the unique process of continuous approximation and harmonization of legislation affects text creation, production and reception. The ultimate aim is to provide some insights to the issue of whether we are witnessing the creation of a EU interculture and a new genre.