

CRITERIA FOR CLASSIFYING LEGAL TEXTS

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Abstract. *The significant difference between different legal texts in their functions, structure and linguistic properties, which are discussed in the article, proves the fact that legal discourse is not monolithic. To understand the criteria for classifying legal texts, it is necessary to know the specific features of legal texts. The article highlights the classifications of legal texts by genre. Classifications are based either on textual or textual factors, such as branches of law, functions of the text, situations of use, subgroups of lawyers, or formalities of style and form of the material. Some classifications include only written legal texts, while other typologies include both written and oral legal texts. It is necessary to investigate the lexical and grammatical features of legal texts, since this sheds light not only on the general features of legal discourse, but also on the nature of law itself.*

Keywords: *classification, legal discourse, legal genres, legal texts.*

Being a complex type of discourse, legal discourse is implemented through legal texts written in legal language, which are considered specialpurpose texts that differ from other types of texts by their internal and external properties. The great variety of legal texts reflects the diversity of law itself. As different legal texts have different functional, structural, and linguistic features, they are classified by genre based on various criteria. The consideration of legal text genres contributes to the general understanding and construction of legal discourse in general, and legal texts in particular. This article aims to review and describe the genres of legal texts, with an emphasis on the specific features of legal texts and the criteria for classifying legal texts by genre. Although different genres of legal texts have been the subject of discussion in many academic works, no comprehensive classification of legal texts by genre has been proposed. This can be explained by the multi-vector nature of law, which makes specifying a typology of legal texts a difficult task. Some attempt to classify legal texts into genres according to their function or situation of use, while other classifications are based on branches of law or groups of lawyers. An overview of these classification criteria is provided below. Speaking about the genres of legal texts, Filho and others [1] argue that texts belonging to a given genre must have at least the following properties:

- common communicative function;
- a similar macrostructure, i.e. format or organizational plan;
- similar discursive mode of development of macrostructure and similar discourse techniques;

- common lexical-syntactic arrangement of material and a common set of functional units and formal features;
- common socio-pragmatic conventions.

Due to the diverse activities of lawyers (e.g., judges, lawyers, advocates), one can expect a variety of genres of legal texts. Even though Mouritsen [2] offers a detailed analysis of different genres, such as university theses and diplomas, certificates, statutes, legal reports, decisions, contracts, deeds, insurance policies, wills, powers of attorney, and professional articles, their classification of legal texts by genre seems somewhat unclear. There is a tendency to point out three classes of genres of legal texts. The first group includes legal texts in the fields of statutory law, public law, and court decisions; the second group consists of private law legal texts that establish legal measures of private individuals (e.g., contracts, deeds, wills, etc.); while academic works on the law (e.g., textbooks, professional articles) fall into the third group. The author notes that the genres of legal texts belonging to the second and third groups are "more flexible and more open in their subject matter, although they still have distinctive macrostructural features that make them instantly identifiable as legal genres"[2, p. 69]. On these grounds, it can be noted that Mouritsen's classification of legal texts into genres is mainly based on the legal domain, i.e. the field of law.

The same basis for classifying legal texts into genres, i.e. the fields of law, is proposed by Duběda. He explains that, by classifying legal texts into genres according to the fields of law, the main distinguishing criterion then becomes the specialized terminology of each field [3]. Thus, this type of legal text typology would be based on the internal features of the text. The scholar notes that a significant part of the legal terminology of different branches of law is universal, although, for example, criminal law uses terms that are never used in property law. In addition, in other branches of law (for example, tax, land law), legal terminology is sometimes mixed with non-legal technical vocabulary. A typology of legal texts based on branches of law is one of the possible solutions for classifying legal texts by genre, but taking terminology as the main criterion for differentiation seems insufficient, as it can lead to great confusion.

Both oral and written legal texts are taken into account in the classification proposed by Ginsburg and Stephanopoulos [4, p. 150]. However, the main criterion in his typology of legal texts is the discourse situation (it corresponds to Zeifert's "situation of use", which will be described below). According to the situation in which legal texts are used, Maile distinguishes the following groups:

1. Sources of law and sources of legal process (legislative, regulatory, by-laws, precedents, wills, contracts, etc.) – written texts.

2. Pre-trial processes (police interview, video, petition, consultation, jury summons) – oral and written texts.

3. Trial processes (court examination, cross-examination, intervention, rules and procedures, jury summaries, decisions) – oral texts

4. Recording court decisions in legal reports – written texts.

It is obvious that the last three categories cover legal texts relating to legal proceedings, while the first group includes all other legal texts. A somewhat similar division into groups based on external factors relating to the situation of use is considered by Zeifert [5, p. 415]. However, Trosborg does not speak specifically about legal texts, but applies the classification to legal discourse in general. Bearing in mind that discourses are realized through texts, this division of legal language into groups is quite suitable for classifying legal texts by genre, both written and spoken.

Similarly, Glodar [6] chooses the situation of use as the main criterion for classifying legal texts. However, he excludes genres of colloquial legal discourse and distinguishes four main groups of legal texts:

1) legislative texts (domestic statutes and bylaws, international treaties and multilingual laws, other laws produced by legislative bodies;

2) judicial texts written during legal proceedings by judicial officers and other legal bodies;

3) legal scientific texts written by academic lawyers or jurists in scientific works and commentaries, the legal status of which depends on the legal systems of different jurisdictions;

4) private legal texts, which include texts written by a notary, such as contracts, leases, wills and court documents, private agreements, witness statements, as well as other documents written by non-lawyers.

Another basis for the classification of legal texts is proposed by Solan and Gales. They introduce a two-way system of classifying legal texts by genre [7, p. 1311]. His classification is based on two main functions of language: regulatory (prescriptive) and informative (descriptive). Accordingly, the researcher divides legal texts into genres according to their function (i.e., external properties of the text):

1) predominantly prescriptive;

2) predominantly descriptive, but also prescriptive;

3) purely descriptive.

Predominantly prescriptive are “normative texts that prescribe a certain course of action that a person must confirm”. Such texts have a normative nature and, as a rule, they contain rules and norms of behavior, commands, prohibitions or permissions. Laws and regulations, codes, contracts, agreements and conventions are attributed to this group of genres of legal texts. As was explained, these genres of legal texts are considered as “documentary sources

of law, that is, primary sources from which the Law of a particular system derives its authority and coercive force [7, p. 1126]”.

The second group of genres includes hybrid legal texts, which are predominantly descriptive but also contain prescriptive parts. Judgments, actions, motions, reports, appeals, requests, etc. fall into this category. Finally, the third group includes legal texts that “constitute what is known as legal doctrine, the authority of which varies in different legal systems”. In other words, legal texts belonging to this group are not considered legal instruments, they are written by legal scholars and are purely descriptive in nature. Examples of such legal texts include legal essays, textbooks, articles, etc.

In addition to the classification based on the branches of law, the function of the text and the situation of use, there are other criteria used in the classification of legal texts by genre. Zeifert [5] proposes another classification of genres of legal texts, taking into account their formality of style and the form of information (written or oral). Regarding the formality of legal texts, he distinguishes between frozen, official, advisory, unplanned and personal types of texts and provides the following typology of legal texts, based on the register and the medium of information (written and spoken: composed and spontaneous, used in different legal texts:

1. Frozen written: insurance policies, contracts, leases, wills.
2. Frozen spoken: marriage ceremonies, indictments, oaths of witnesses, verdicts.
3. Formal written: statutes, letters, appellate opinions.
4. Formal spoken: examination of witnesses by lawyers during trials, lawyers' motions.
5. Advisory speech: witness testimony.
6. Advisory spoken-spontaneous: lawyer-client interaction,
7. Stand-up conferences.
8. Spontaneous conversations: lobby conferences, lawyers' conversations.

It is clear that Ginsburg's [4] classification is broader than the typologies discussed above, since it includes not only written but also spoken genres of legal texts. However, at first glance, such a detailed way of classifying legal texts by genre seems somewhat confusing. It would probably not be difficult to classify legal texts into the categories of written or oral texts, but then the question may arise of how to distinguish, for example, frozen legal texts from official ones? It is also unclear to which category legal scientific texts belong. He proposes a fifth criterion that can be applied to the classification of legal texts, although he specifically speaks of the application of this criterion to the division of legal language. In his opinion, legal discourse can be classified into different subgroups of lawyers.

In conclusion, there is an explanation that each subgroup of lawyers uses a legal language that has certain characteristics, such as vocabulary and style. In this way, we can speak of discourse and legal texts developed and used by legal writers, legislators, judges, notaries, and lawyers.

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