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## On language(s) of the law and a guiding principle in translating statutory texts

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## **On Language(s) of the Law and a Guiding Principle in Translating Statutory Texts**

### **1.**

Law and its language(s), considered in the broad context of specialist communication, sometimes become an object of common interest to the linguist and the lawyer. Any handbook covering instructions to the rudiments of law is expected to have a chapter devoted to the law and its language(s) (see, for example, J. Jabłońska-Bonca 2007, D. Morawski 2001, A. Redelbach 2000). Any lawyer – when he is making laws or putting laws into effect – notices a specific law language in use. This language is markedly different from the standard national language because of its distinctive words, phrases, modes of expression, and mannerism of composition, yet it remains clearly visible that somehow any law language is an integral part of the official language of the land.

The legal profession is fully aware of the fact that – as D. Mallinkoff aptly puts it (1963: vii): “The law is a profession of words”. Language is the lawyers’ means of expression and it seems relevant to show what languages are used in the law-making process aimed at introducing legislative changes in various domains. This issue will be discussed in this article from the viewpoint of certain concepts currently developed in general linguistics and in linguistics of specialist text (F. Grucza 1983, 1994, 2002, S. Grucza 2007).

When dealing with law language(s) some jurists duly recognise recent developments in linguistics and they speak about linguistic concepts selectively or randomly. For instance, A. Malinowski mentions Noam Chomsky and Franciszek Grucza, attributing to these two eminent scholars the same idea, namely, that “language is a system of linguistic rules which are a property of specific and real speakers-hearers” (A. Malinowski 2006: 28, translated by B.Z.K.). Here A. Malinowski in fact refers only to one part of F. Grucza’s more complex idea, by focussing solely on the statement that “(languages) are a property of specific and real speakers-hearers”.

Malinowski’s passing reference distorts the picture seriously because according to F. Grucza a language is not merely a system of rules, but it is conceived of as consisting of linguistic knowledge (linguistic rules) and skills. Moreover, A. Malinowski (2006) stops at this juncture and in his further discussion on Polish law language(s) fails to reap the benefits of F. Grucza’s highly sophisticated concept of language.

In this article we intend to expand on the linguistic approach mentioned by A. Malinowski (2006: 28) and to combine it with certain concepts of law developed in this country, in order to highlight the nature of the law and its language(s). Another important issue is to point to the crucial factor in the course to be taken when translating statutory texts. In particular, we are looking for answers to the following questions:

- (1) What is meant by the terms: *law*, *legal rule/provision* (= a stipulation, such as a clause in a statute), and *legal norm*?
- (2) What is meant by: *idiolect*, *polylect*, *common language (nationlect)*, and *language for special purposes (LSP)*?
- (3) Can law languages be classified as special languages?
- (4) How is a bill produced, approved and passed?
- (5) How many law languages can be distinguished?
- (6) Which factor is crucial when deciding about the mode of translating statutory texts?

## 2.

When we examine the nature of law we note certain important points. Humans resort to various kinds of social rules to guide their lives, such as moral standards, customs, religions, technical or political precepts. Yet only some general and abstract rules of conduct are classified as law. The law in its fundamental sense comprises a body of generally acceptable rules (norms) laid down or recognised by some official authority. This can be done by a state (in municipal law) or by a supra-national community, e.g. by the European Union in the case of the community law, or by an international community (as in the case of those norms which control and affect inter-state relations). The law establishes rights and duties of its addressees; it is imposed and enforced by sanctions administered in order to secure obedience to its rules.

The terms *legal norm* and *statutory rule/provision* (in Polish *przepis prawny*) are sometimes treated as synonymous (see, for example, paragraph 25 of “Zasady techniki prawodawczej” – “Principles of Legislative Technique, which refers to the content of substantive law provisions). But the lawyers use the term *rule/provision* in yet another sense: they mean a statutory textual unit (article, paragraph, section) that has the form of a grammatical sentence/clause.

A legal norm is a rule of conduct inferred from a statutory text or texts. It must be observed by persons to whom the statute is expressly or by implication made applicable. Legal norms are institutionalised: they are designed, maintained and enforced by the political authority of the society – by the State.

A simplified representation of a legal norm shows: (1) who and (2) under what circumstances should behave in a certain way; and (in most cases) (3) what legal sanctions will be imposed if the addressee’s behaviour violates the norm.

The legal norm can also be represented as made up of three basic elements. Its first part is *a hypothesis*, which specifies the addressee(s) of the norm (i.e.

subject(s) whose conduct (an act or omission to act) is regulated by the norm), and circumstances in which the norm is applicable. The second part is *the content* of the standard of conduct (an act or omission to act). And the third one is *sanctions*, i.e. coercive interventions annexed to a violation of the norm as a means of enforcing the law, and which consist in, e.g., the punishment of crime, or in mere coercion, or in restitution of what was wrongly accomplished (as in civil law judgements). A public authority usually administers sanctions against relevant addressee(s) (cf. A. Redelbach 2000: 144).

We shall mention yet another concept of 'legal norm'. It distinguishes between: (a) a sanctioned norm, which directly specifies appropriate behaviour expected of primary addressees, and (b) a sanctioning norm, which orders a secondary addressee (the public authority) to impose a sanction on a primary addressee who has violated the sanctioned norm (J. Jabłońska-Bonca 2007: 160). The said models of a 'norm' help to visualise in a simplified way its structure and operation. Sets of legal norms can take the form of chains of sanctioning and sanctioned norms, for instance, in the situation when the secondary addressee (a public authority) plays the role of a primary addressee by being ordered to act in a certain way.

Though regarded as binding rules by most people, certain norms, e.g. conjugal loyalty, are not enforced by institutionalised coercive intervention. Such cases of *leges imperfectae* activate other mechanisms of social control, e.g. moral judgements, social disapproval or ostracism.

Today, under the Polish municipal law, all legal norms must be enacted as normative acts and they take the form of official rules and regulations. By contrast, some rules of customary public international law owe their validity as law to the actual practice of states, the evidence of which can be gathered from published materials, writings of international lawyers, judgements of national and international courts etc.

We can now say that the term *legal norm* and *statutory rule/provision* are not co-extensive in scope. A legal norm is usually constructed out of several provisions, each of which contains a relevant constituent part. It may happen that one statutory provision contains constitutive parts of several legal norms. On but rare occasions an article or a section contains all the constituent parts of a legal norm. This phenomenon has important implications for the interpretation of statutory regulations by a professional lawyer and by a layman. A lawyer knows how to put together pertinent provisions collected from various sources of law (statutes, orders, etc.) as constituents of the legal norm in question. In this way he establishes the rights and duties of subjects/parties and their mutual relations. By contrast, a non-lawyer is likely to get easily confused by a veritable jungle of rules and regulations, because he is grossly ignorant about the whole system of law, its links and connections. The complexity of the language of the law makes his job even more difficult. The layman is usually unable to untangle all the complicated legal issues of a given case, and in the end he must ask a professional lawyer to take over and save him from pending disaster.

## 3.

Now we shall briefly discuss linguistic aspects of the communication process and point to some of its fundamental issues. Following F. Grucza (1983, 1994, 2002) we assume that in the ontological terms there exist only languages of individual persons, i.e. their idiolects. Language is an inherent property of man; it takes the form of his ability to share and exchange opinions, feelings, impressions, information etc., by producing utterances in certain contexts (F. Grucza 1983: 318). To do so, particular speakers-hearers must know certain operational rules (that is, possess a relevant linguistic knowledge), (2) have an adequate fund of knowledge about the world, and (3) be able to use such operational rules and kinds of knowledge about the world. The said rules regulate human communication and enable the speakers-hearers to produce and transmit utterances, to receive and differentiate utterances, as well as to assign meanings to utterances and utterances to meanings (F. Grucza 1983: 294).

Any person adequately equipped physically and mentally can develop/create his/her language (idiolect) by imitating languages (idiolects) of other persons who are members of a given linguistic community. In other words, languages are devices designed to produce and to interpret texts. A language consists of the rules which govern the production of texts conceived as utterances, and the regular (socially established) ways of their interpretation, as well as the forms of “texts” in the expression plane and *texts* in the content plane (S. Grucza 2007: 111 f.).

People belong to various population groups or clusters: to a nation, social class, professional group, yet they can communicate successfully because the idiolects of community members are similar by having been formed through social interactions. The common language of a community, i.e. its *polylect* in the sense of a shared part or sum of the idiolects used by a given group of people, constitutes the common property of its members. A group or a community of people in fact shares a language in the sense of “either (1) a logical cross-section (a common part), or (2) a logical sum of languages of all its living members” (F. Grucza 1994: 11). Item (1) above refers to grammar, and item (2) – to lexis. In this collective sense a special *polylect* constitutes a social property. The members of a given community can exchange ideas because their idiolects are similar.

The utterances, i.e. signalling objects (strings of sounds, their graphic or tactile representations) act as substitutes for meanings and serve as the tools of communication. Such utterances as signs have their specific phonetic, phonemic or graphematic properties on the basis of which they can be identified and differentiated. Meaning, by contrast, is a property assigned to utterances by the speakers-hearers in the following manner. In the first stage, a sender makes his feelings, opinions, information, etc., known to and understood by others by using language (speech or writing or bodily movements). In the second stage, a receptor can interpret the utterance according to his linguistic knowledge, his knowledge of the world and of the subject matter, his attitude, objectives. “Texts” in the expression plane function as signs (substitutes for meaning values) (F. Grucza 1983: 307); they are substitutes for meanings assigned to them by their senders. The ways in which a text can be interpreted are likely to differ. The degree of similarity between the sender’s intended

meaning of a given text, and the meaning assigned to it by the receptor depends on a number of factors. These include the degree of similarity between the participants' idiolects, their linguistic competence, internal (mental) contexts of producing and understanding texts, external contexts (the context and situation of the utterance). Naturally, mutual understanding is only relative.

The grammar and semantics of the language in which utterances are made have an inter-subjective nature, and that is why a text can be interpreted by any person who has acquired a given language and who has necessary knowledge about the subject matter.

#### 4.

Now we shall focus our attention on the nature of special languages in an attempt to define the status of languages used in the law-making process.

The concept of 'special languages', by which we mean professional polylects, is closely connected with the concept of 'common' (basic) language, in which we communicate in fundamental existential matters (cf. F. Grucza 2002: 17). A common polylect has its phonetics, phonemics, grammar and lexis, shared by all members of a given community. The role of a basic language can be played by a language treated as national (nationlect), or by an ethnic language (ethnolect), or by a regional language. Yet special polylects have developed to serve professional activities and they seem to have a different status: they are treated rather as "complementary to or as extensions of" a given general lect (F. Grucza 1994: 21), especially at its lexical level. However, they select their grammatical and stylistic devices from the general fund of the basic lect, and the common part of such devices has special and easily recognisable qualities. It appears that special languages are not autonomous as to their components. Yet from the point of view of their functions they are *relatively* autonomous lects of professional groups, used for special purposes. Like any other lects, special languages (special idiolects) exist only as specific properties of particular persons (F. Grucza 1994: 23).

Now we have entered the crucial stage, at which the issues of law and its language(s) can be discussed as special cases of professional communication. Extensive researches (such as B. Wróblewski 1948, D. Mellinkoff 1963, B.Z. Kielar 1977, S. Šarčević 1997, A. Malinowski 2006, A. Jopek-Bosiecka 2008) show the specificity of law languages in comparison with the standard nationlect, mainly at the lexical level. They also reveal their distinctive grammatical and stylistic devices. That is why we can speak of special idiolects and special polylects of law used in particular branches of the law. As we have already said, from a linguistic point of view, such law-related lects are rather *semi*-lects because they are supplementary to or extensions of the basic nationlect. The relevant law polylects are distinguished by the common part (logical sum or cross-section) shared by the idiolects of the people-members of a given law community. Hence, to classify the law languages we must use the criterion of *who* speaks a given law language.



It has been a long-established tradition to adopt B. Wróblewski's (1948) division of the language of the law into two kinds. The first one is "język prawny" (i.e. the Legislator's language in which laws are made). The second one is "język prawniczy" (i.e. the lawyers' language used by persons who practice law in different capacities and roles, such as academic writers, judges, public prosecutors, barristers). We shall focus our attention on the so-called Legislator's language, in an attempt to find out who in fact speaks it.

A text intended to become an act of Parliament is created in the highly complex institutional context of legislative activities organised by the State. In practice, the democratic process of drafting a document that contains a proposal for a new bill, sponsored by the government or by other bodies, involves a great number of people because major pressure and interest groups seek to promote specific causes. These are teams of experts and advisers who labour over the text to give it a proper wording, and – last but not least – members of Parliament who formally have the power to create new laws. In other words, in this country a bill passes through many stages, from a proposal for legislative changes, its numerous modifications, up to the final stage of the bill being passed by the Legislative Sejm and the Senate. In this long process, the text is shaped and modified by various people acting single-handed or as groups, by commissions, by deputies and senators, and finally, after having been adopted by the Sejm and the Senate, the bill is submitted to the President of the Republic for signature. This is the last hurdle to be cleared. At this point the President can question the constitutionality of the whole or of a part of the bill and refer it to the Constitutional Tribunal for adjudication. Alternatively, he can send it back to the Sejm for its reconsideration and passing again by a three-fifth-majority vote in the presence of at least half of the statutory number of deputies. When the President signs a bill and orders its promulgation in the Journal of Laws (*Dziennik Ustaw*) of the Republic of Poland, the bill becomes an act of Parliament and is part of the law of the land.

Linguistic and legal aspects are inextricably intertwined in the legislative process. A text written according to *The Principles of Legislative Technique* is likely to fully conform to the linguistic and stylistic requirements, but it finally becomes a *statutory* text as a result of the legislative process, after having been duly adopted by Parliament, signed by the President and promulgated. It is the law that decides when a linguistic product "text" becomes a statutory text.

Taking part in the legislative process, every co-author of a bill uses his special idiolect within his internal context (his internalised world knowledge, information about the relevant legal system, participants in the communication process etc.), while acting in a certain situation, at a particular stage of lawmaking. As a result, the use by certain speakers-hearers of their individualised idiolects contributes to the shape of the bill. We have said "individualised idiolects" because: (1) each lawyer-legislator has his special idiolect, and (2) law languages differ according to the regulated domain. In actual fact, lawyers-legislators can communicate successfully when they are drafting a bill because their special idiolects are so similar that they constitute a special law polylect. We shall return to the question of variants of such law polylects in part 6.

It seems now obvious that it does not make much sense to artificially simplify the image of the legislative process by creating an entirely fictitious figure of the Rational Legislator. He would need a profound expert knowledge of law and the world in general, a coherent value system etc., and he should be able to use the language of the law flawlessly (arguments against such a concept are quoted by A. Malinowski 2006: 23 and 27). In the real world there is no such person as a Rational Legislator. Any idiolect is a lect conceived as a property of an individual living person, and that is why non-existent, fictitious collective subjects and purely abstract speakers-hearers have no linguistic properties and no specific world knowledge.

## 5.

In part 2. we have pointed to the difficulties experienced by a non-lawyer when he tries to interpret a statutory text. The language of the law is supposed to be precise and understandable to ordinary persons, especially because of the fundamental principle that *ignoratio juris nocet*. Ignorance of the law is no excuse, and that is why – naturally - a citizen should understand statutes and their legal effects.

The lawyers who act as legislators are willing and eager to regulate various public and private domains, and in order to do so efficiently they specify, among other things, the key textual principles underlying parliamentary legislation. This, in turn, affects the form and content of law idiolects and polylects. Like other countries, Poland also has a set of special directives entitled *The Principles of Legislative Technique* (issued in the year 2002). This instruction lays down stylistic and typographical rules about how to present in a statutory text the thoughts of the legislators in a form that is appropriate to its subject matter, and how such texts ought to be interpreted. We shall quote several such rules to illustrate how specific they seem to be in imposing intellectual rigour and in ensuring uniform standards of conduct. We have selected but a few provisions out of 163 paragraphs of *The Principles*, by way of illustration. A bill ought to regulate a given matter fully but within clear and reasonable limits as to its substance (par. 5). Statutory texts should be written in such a way as to adequately express the legislator's normative intent and to be comprehensible to their addressees (par. 6). Standard expressions must be used in their natural, generally accepted meanings. Wherever possible, technical terms, loan words and neologisms should be substituted with corresponding common words of the (basic) national language (par. 8). The same concepts must be signified by the same words/terms (par. 10). *The Principles* state exactly the structure of a bill, especially the form of its title and the sequence of various provisions: namely, substantive law provisions ought to be followed by general, specific, amendatory, transitional, adaptive and final provisions (par. 15). There are a great number of fixed phrases and expressions to be closely reproduced in bills. The final practical effect is that statutory texts seem to be highly uniform, as if written by a single person: the fictitious Legislator. We shall show that in fact they are products of collective work governed by stringent formal rules.



**6.**

The law is a system of legal norms that regulate a wide range of domains in a given state. Law is the cement of society and also an essential medium of change. New branches of law emerge in different forms and at different stages of social development.

There are four fundamental branches of law: constitutional, civil, criminal and administrative. This division is based on the type of regulated social relations, the subjects concerned, and the mode of regulation. For instance, the constitutional law (or political law) deals with the nature, organisation and functions of the principal organs of government and their relationship to one another. It specifies the type and status of the sources of law and legislative procedures. It establishes the relationship between the citizen and the public authority, grants human rights, etc.

The civil law is concerned with the rights and duties of individuals towards each other. It includes such sub-branches as commercial law, law on copyright, family law etc. The criminal law is a branch of jurisprudence that characterises certain offences against the state, punishable by the state. The administrative law regulates the organisation and powers of executive organs and of the bodies of local government in a large number of areas.

Many other branches of law have been distinguished, such as arbitration law, banking law, merchant law, patent law, tax law, company law, insurance law, the law of nations, the law of the sea, the law of air space and outer space – to quote but a few examples.

In a democratic state the criterion of the type of subjects concerned is now incidental in any classification into law branches because all citizens have equal rights and duties, for example, the Polish Penal Code has a special part devoted to military law.

Three distinct modes of regulation are applied in relevant branches of law: civil, penal and administrative.

We have mentioned some divisions of the law into branches to show that no lawyer is (or could be) an expert in all the fields regulated by the law. The legal profession is highly diversified. Lawyers work in a large number of areas and in different capacities: legislators, judges, barristers, public prosecutors, legal advisers, civil servants, publicists, university teachers etc. All of them recognise the fundamental concepts of 'law', 'legal norm', 'right', 'obligation', 'human and civil rights and duties', 'subsidiarity', etc. In practice, it is easy to communicate if you belong to a small, cohesive professional group that has developed specific law idiolects and a common polylect of law.

Law languages can be divided into branches according to the two basic criteria: (1) The types of speakers-hearers (Who, i.e. which groups of the legal profession use a given law language? In which roles?). (2) Areas of law activity (In which branch of law is a given law language used?). Incidentally, these two factors are randomly distributed and they overlap in M. Zieliński's classification (1999).

When law languages are approached from a linguistic point of view relatively, the following pattern emerges:

- A. In respect to an individual speaker-hearer of a given language: *the idiolect of a lawyer x acting as y in the branch of law Z.*
- B. In respect to a given language community (as a common part of constituent idiolects): *the polylect of a group of lawyers X acting as Y in the branch of law Z.*

Naturally, classifications of law languages can vary in their attention to details. For instance, for translation purposes we need highly specific patterns of target language use, reflected in parallel texts.

When discussing the nature of the law we have noted several popular misconceptions about law, which ought to be dispelled by clearly ascertaining the relevant facts. Here are two examples. Some people tend to treat the law as if it were a being that controls other persons. The language reflects this tendency towards law personification in a number of expressions. They include: *law forbids/allows/prohibits (something)*, *the law says*, *to go to law* (said of a private person bringing a matter to a court of law for a decision), or a humorous remark *the long arm of the law*, referring to the police and their ability to catch criminals. But in fact, the term *law* means the whole set of rules that are supported by the power of government and that control the behaviour of members of a society. The law is made and enforced by the people organised as a state, in other words by the Nation in whom supreme power is vested. Such power is exercised directly or through their representatives (see Article 4 of the Constitution of the Republic of Poland, 1997). Admittedly, members of the legal profession play the leading role in this domain.

Here we have come to the key question: What languages are used by the lawyers (and other people) involved in enacting, interpreting and enforcing the law? When the key question is paraphrased in this manner, it automatically reveals the artificial and fictitious nature of the so-called Rational Legislator/Lawmaker that allegedly has his idiolect, knows everything perfectly, and is guided by fully rational principles. There is no such person! In practice laws are imperfect because they are made and enforced by imperfect people. Laws are given particular shapes and forms when moulded largely by lawyers acting individually or collectively. They draft statutory texts using their special idiolects, whose logical sum and cross-section result in their common/shared law polylects, differentiated according to the sphere of life and the role played by the speakers-hearers. A demythologised legislator takes the form of a number of people, each person knowing different semi-autonomous special languages of the law. They all focus their efforts upon the main issues of crystallising social norms into the law.

## 7.

In this section I will confine myself to pointing to a basic factor that affects the mode of translating statutory/legal texts. Nowadays there is a fundamental change in the options available to the translator because the emphasis has shifted from a traditional set of linguistic and stylistic aspects to that of communicative, functional and legal aspects.

According to a traditional approach the letter of the law was to prevail in legal translation. The translator was supposed to reproduce the form and content of the source language (SL) text in the target language (TL). But this approach proved to be insufficient both in theoretical and practical terms because translation is a genuine act of communication. It is “an attempt to communicate one world in terms of another” as V.A. Bathia (1997: 204) succinctly puts it. That is why legal translation requires exploration of social and cultural as well as semiotic systems of the two languages involved to make appropriate communicative and linguistic choices that depend on a number of extra-linguistic pragmatic factors, including the relevant legal systems.

There is no exact correspondence between legal concepts and institutions that belong to different legal systems: national, regional, inter- and supranational because each system of law has evolved in distinct social and cultural conditions, and each coexists as part of a relatively autonomous specialist culture.

A legal text is a communicative occurrence produced at a given time and place, and intended to serve specific function(s). Its primary function is authoritative and regulatory. As regulatory instruments legal commands and prohibitions operate in the context of two powerful and authoritative social institutions: the State(s) and the law. The legal norms are enacted, applied and enforced by the authorities of the State. Moreover, like any other types of texts, a legal text is informative in its secondary function. For these reasons cultural, legal and linguistic factors ought to jointly contribute to the form and content of TL texts.

The mode of rendering legal texts into another language is governed by specific translation rules determined – first and foremost – by legal considerations. A set of assumptions must first be made about the legal status of a TL text to be produced and its primary social function to be performed in the new communicative situation in the target State(s) and law. In fact, the SL text used in the function of a statutory text in the source legal system can be translated into a TL text that either (1) performs the same function in the target State, and becomes authoritative and regulatory, or (2) by changing its function, becomes purely informative.

An authoritative text (1) is regulatory. It is an instrument vested with the force of law in the target legal system by the operation of external legal framework. Such a text must be authenticated, that is approved or adopted in the manner prescribed by the law. When interpreted within the mechanism of the law (cf. S. Šarčević 2000) such a legal translation is expected to contribute to producing legal effects equal to those intended for the SL text in its legal system. A regulatory text operates within the mechanism of the target law on the basis of uniform intent leading to uniform interpretation and resulting in a uniform application of the law, respected equally in the SL and TL legal frameworks. Metaphorically speaking, by the force of the law, such a text becomes *a TL receptors-oriented legal-norm vehicle operating within the target mechanism of the law*. Its informative function is secondary in the new context. Such translations are made in close co-operation between translators and lawyers in multilingual jurisdictions and they are regarded as originals. They are usually not referred to as translations but as parallel texts

producing equal legal effects. In fact, their main objective is to produce such effects.

By contrast, a purely informative TL text (2) gives a description of certain legal arrangements adopted in the SL legal system and State. Its primary function is to provide foreign lawyers, businessmen and other receptors with adequate information about the content of the SL legal text within its context. Such a TL text must be easily comprehensible to TL receptors and it ought to show the unique nature of the source law and its institutions. The translator tries to break through linguistic and juridical barriers when he establishes approximate equivalents of TL and SL terms and modifies textual conventions. Being free from responsibility for achieving an equal legal effect he is more of a rapporteur. Naturally, a purely informative text is not regulatory in the new communicative situation.

There is another aspect of legal translations to be mentioned, namely the number of law languages and legal systems involved. In this respect legal translations can be conveniently categorised under three headings (cf. A.L. Kjær 1999: 65):

- (i) translations of legal texts within multi-lingual national systems of law, for example in Canada or Switzerland (discussed by S. Šarčević 1997);
- (ii) translations of international or supranational law, as exemplified by the European Union law;
- (iii) translations of texts that belong to one national (domestic) system of law into another language, for instance the Constitution of the Republic of Poland, 1997, translated into English (see B.Z. Kielar 2008).

In this section we have briefly discussed the fundamental choice to be made as a necessary preliminary step when translating legal texts. A large variety of strategies, methods and techniques must be used to finally obtain the right kind of product. Yet this fundamental choice enables the translator to adopt the right course of action in the highly complex circumstances of legal translation.

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#### O językach prawa i przewodniej zasadzie tłumaczenia tekstów prawnych

Badania nad językami prawa prowadzą zarówno lingwiści, jak i prawnicy, każda grupa zawodowa w nieco innym zakresie. Prawnicy skupiają uwagę na instytucjach państwa i prawa, tworzeniu i stosowaniu przepisów prawa i na kwestiach (re)konstruowania norm prawnych. Lingwiści natomiast interesują się komunikacją językową w zakresie prawa w różnych kontekstach oraz istotą języków prawa występujących jako idiolekty i polilekty specjalistyczne. Tworzenie tekstu zamierzonego jako prawny/ustawowy odbywa się w zinstytucjonalizowanym kontekście działania różnych zespołów oraz organów prawotwórczych w ramach państwa, przy użyciu odpowiednich języków prawa. Natomiast czystą fikcją prawną jest koncepcja tzw. racjonalnego prawodawcy, który używa języka prawnego. O przebiegu i sposobie tłumaczenia tekstów prawnych decyduje w pierwszym rzędzie funkcja przekładu w społeczeństwie docelowym: (1) regulacyjna (z mocy prawa), lub (2) czysto informacyjna.