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How to Avoid the Pitfalls of Legal English:
A Manual for Czech Lawyers
Barbora Chovancová, Alena Hradilová
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IV. LEGAL FALSE FRIENDS

1. Language note

False friends are expressions that have the same or similar form in two languages but their meanings are different. For instance, the expressions *aktuální* and *actual* seem similar but they have different meanings, cf. *aktuální problémy* = *current issues*; *actual* = *skutečný*. Another commonly confused set of terms is *eventuální* = *possible* and *eventual* – *konečný, závěrečný*.



2. Language study

Some of the most common false friends in legal English and Czech are included in the following table:

English word	Meaning (in Czech)	Czech word	English equivalent
advocate	zastávce (nějakého názoru)	advokát	attorney-at-law, solicitor / barrister (U.K.), advocate (Scot.)
agenda	program (schůze)	agenda	office work
caution	varování, upozornění, napomenutí, poučení o právech zadrženého	kauce	bail
concurrent	souběžný, paralelní	konkurent	competitor
exhibit	věcný důkaz, důkazní předmět	exhibice	exhibition, show
firm	1. pevný, 2. firma (obyč. malá)	firma	1. company, business, 2. (obchodní firma) company/ trade name
ignorance	neznalost, nevědomost	ignorance	lack of knowledge; stupidity
maturity	1. splatnost, 2. zralost	maturita	school-leaving examination
penalty	trest, odplata	penalta	penalty
representation	prohlášení, vyličení skutečnosti	reprezentace	national team
scene	místo činu	scéna	1. (divadelní) stage, 2. (hádk) scene, shouting match
service	doručování (soudních) písemností	servis	1. (služba) service, 2. service station
term	1. smluvní podmínka, 2. doba platnosti, 3. termín	termín	1. (časový) deadline, 2. (výraz) term
title	právní titul, nárok	titul	(akademický) degree, title
viz	totiž (= namely)	viz.	see, cf., compare

3. Use the words from the table to fill the gaps in the sentences below.

advocate	agenda	caution/cautioned
concurrently	exhibit	firm
ignorance	maturity	penalty
representation	scene	served
terms	title	viz



- A person who plays devil's _____ will oppose other opinions just for the sake of discussion.
- Death _____ is a punishment no longer used in most civilized countries.
- He was _____ by the arresting officer.
- Her sentences run _____, therefore she spend only one year behind bars.
- I am going to make you a _____ offer now. Take it or leave it.
- I need to warn you. _____ of the debt will be in one week.
- In English law, there are five essential elements to be met for a contract to be valid, _____ offer and acceptance, valuable consideration, certain terms, legal intention and capacity.
- It does not matter whether you knew about it or not. _____ of the law is no excuse.
- Let's get started. Dealing with the problem of immigration is on top of the _____.
- Officer, you are under oath. Can you describe to the court what you saw when you reached the _____ of the crime.
- Our solicitor will find out who holds the _____ to the property you are interested in.
- She made a false _____ in court yesterday? What do you mean? She lied!
- The _____ and conditions are all in the contract draft. They seem obviously disadvantageous to me.
- The defendant has been _____ a writ of summons.
- Your Honour, may I show the witness _____ A?

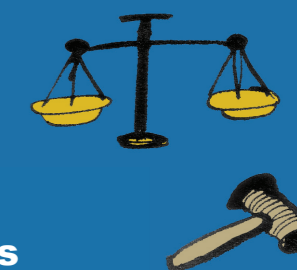


KEY: 1 – advocate, 2 – penalty, 3 – cautioned, 4 – concurrently, 5 – firm, 6 – maturity, 7 – viz, 8 – ignorance, 9 – agenda, 10 – scene, 11 – title, 12 – representation, 13 – terms, 14 – served, 15 – exhibit

Based on: Chovanc, Bázlik, Hrehovčík: Soudní překlad a tlumočení, 2011.

COMPACT

Kompetence v jazykovém vzdělávání



How to Avoid the Pitfalls of Legal English:

A Manual for Czech Lawyers

Barbora Chovancová, Alena Hradilová

Introduction

Legal language is generally viewed as precise (cf. legislation or contracts), yet allowing for a certain degree of flexibility. Lawyers tend to use a lot of technical terms that make their language quite difficult for non-lawyers to understand. In addition, legal language reflects the legal system in a given country – legal English is thus closely tied to the Anglo-American tradition of common law.

Thanks to the role of English as a language of international communication, many non-native speakers are currently required to use English even across their legal traditions. For instance, Czech lawyers – even those who practise within the Czech Republic – increasingly face the situation when they need to communicate in English in their profession. The need may range from dealing with EU agenda, engaging in international cooperation between states (e.g. investigation), learning from international court cases to applying common EC law.

Despite the fact that the language proficiency in English is relatively high among legal professionals in the Czech Republic, some kind of language assistance may be beneficial since English is their second or third language. The aim of this brief guide is thus to provide a few quick tips on improving one's legal English and to help users to avoid making the most common mistakes. It consists of four parts: (1) lawyers and the legal profession, (2) the meanings of 'law', (3) language and law, and (4) legal false friends.



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I. Lawyers and the Legal Profession

One of the basic problems that lawyers need to deal with is how to describe their profession. Since legal terminology in the Anglo-American countries reflects the common law legal tradition, lawyers from other countries may need to be careful in considering which expression to choose for their profession.

1. Cartoon

What do you do?
I work as a solicitor
in London.



2. Language note

In England and Wales, the basic legal professions include **solicitors** and **barristers**. The former deal with client affairs, such as contracts, conveyancing and preparation of cases for court. The latter have the right of audience, i.e., they specialize in representing clients in courts of all levels. The expression *advocate* is used instead of 'barrister' in Scotland, which has an independent legal system. In the United States, the most common legal profession is described as *attorney* or *attorney-at-law*, which most closely corresponds to the Central European model (e.g. "advokát" in Czech). *Counsel* is a general expression in both British and American English for a lawyer representing a client in court (cf. *counsel for the defence*, *counsel for the prosecution*). The expression *advocate* is sometimes used in EU English, for example in some job advertisements for international companies.

3. Matching exercise – connect the English and Czech equivalents in bubbles



Do you need to specify?

I specialize in... criminal law, business law, employment law, family law, intellectual property law, family law disputes

I have an extensive experience in ... handling child custody cases.

I work as a judge/paralegal at the Supreme Court. I am a Supreme Court judge.



4. Definitions of legal professions – link the profession with its definition *

- A. Attorney
- B. Counsel
- C. Notary public
- D. Barrister
- E. Solicitor
- F. Advocate
- G. Prosecutor
- H. Judge



1. (a) person with right of audience in a court as a representative of a party in a court case, (b) US lawyer, (c) (in Scotland) barrister 2. to suggest (a course of action)
2. a person who brings criminal charges against someone
3. a lawyer who passed the examinations of the Law Society and has a valid certificate to practise and who may have right of audience in certain courts
4. a lawyer (usually but not necessarily a solicitor) who has the authority to witness and draw up certain documents, and so make them official (NOTE: plural is *notaries public*)
5. (a) a person who is legally allowed to act on behalf of someone else, (b) lawyer, attorney-at-law – old title for a barrister
6. a lawyer (especially in England) who can plead or argue a case in one of the higher courts
7. an official who presides over a court and in civil cases decides which party is in the right
8. a barrister acting for one of the parties in legal action

5. Stages in the life of a lawyer

Job advertisement: We are looking for a suitable candidate for the position of In-House Lawyer a lawyer with minimum of 5 years of international legal experience

Abbreviations used in job advertisements:

NQ – newly qualified

PQE – post-qualification experience



* KEY: A5, B8, C4, D6, E3, F1, G2, H7
Source: Dictionary of Law, Peter Collins Publishing, 3rd ed., 2000

II. Law

1. Language note

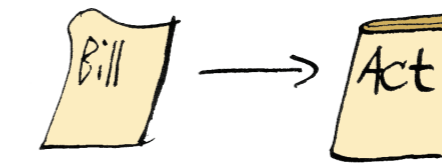
The expression "law" has two meanings in English that can be translated into Czech as *zákon* (a countable noun) or *právo* (an uncountable noun).

a law	laws	zákon/zákony
Law	právo	

The expression "Act" (usually with the capital letter) is used in names of laws, e.g. The Family Law Act 1995; The Domestic Violence Act 1996, etc. These are translated as *Zákon o rodině z roku 1995*, *Zákon o domácím násilí z roku 1996*, etc.

Legislation

How does a law come into existence? A Bill (*návrh zákona*) is enacted and becomes an Act.



Bill ----- is passed/enacted ----- Act

Related phrases:

to pass a bill – schválit návrh zákona
enactment – přijetí právního předpisu
amendment – novela zákona

Statute

Another synonym for the word law is *statute*. It is used in a similar way, cf. *criminal statutes* or *temporary statute*.

The expression "right" (*právo*) is used with two different prepositions in different set phrases: right to and right of.

right to life = právo na život
right of appeal = právo odvolat se

right to a fair trial = právo na spravedlivý proces
right of privacy = právo na soukromí

2. Study the following words with opposite meanings



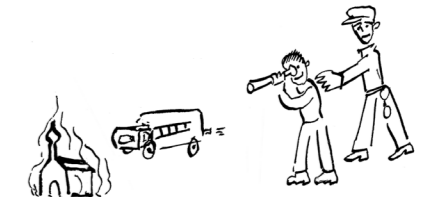
Lawful	Unlawful
Legal	Illegal
Just	Unjust
Justice	Injustice
Rightful	Wrongful
Not guilty / Innocent	Guilty



III. Language and Law

1. Prepositions in legal English

One of the areas where non-native speakers often make mistakes are verbs with prepositions. Here are some phrases commonly used in legal language.



1. to accuse a person ___ arson
2. to be liable ___ debts
3. to sentence the defendant ___ punishment
4. to claim damages ___ mental distress
5. to be entitled ___ financial compensation
6. to bring a case ___ a court
7. to be guilty ___ an offence
8. to fine a driver ___ speeding
9. to charge a suspect ___ an offence
10. to appeal ___ the findings of a court

2. Phrasal verbs

Another feature worth noticing are phrasal verbs – fixed combinations of verbs and prepositions or adverb particles. Although phrasal verbs are used mainly in colloquial speech (e.g. to own up, i.e., to finally tell the truth), certain verbs fulfil the role of legal terms. Here are some useful and practical examples:

draw up (a contract)
pass off (as something else)
wind up (a company)

set forth (the regulations)
set up (a business)

3. Archaic language – compound expressions

Legal English uses many expressions that are old-fashioned and not commonly used in ordinary speech. Sometimes, they appear in fixed phrases, at other times they operate as indispensable tools of the trade. Legislation, contracts, deeds and other written documents contain the archaic adverbs of the type *here/there* + preposition, e.g. *herein*, *hereof*, *hereunder*, *heretofore*, *hereinbefore*, *therein*, *thereafter*, etc. The adverbs with *here* refer to 'this document' and those with *there* to 'that, i.e. some other document'. E.g.:

hereunder = under this document (i.e., according to this document)
hereafter = from this place on in this document

Some similar expressions sometimes increase the formality of the texts, e.g. *henceforth* (from this time onwards), *forthwith* (immediately), etc.

The use of *whereof* is limited only to fixed phrases found at the ends of various documents such as contracts, notarial deeds, etc., cf.

In witness whereof, I sign my hand hereunto.
In witness whereof, the undersigned parties have hereunto set their hands.
In witness whereof, the parties have affixed their respective signatures.
In testimony whereof I have hereunto set my hand and affixed my seal of office in the City of London aforesaid, this thirtieth day of August in the year Two thousand and eleven.

(KEY: 1 – of, 2 – for, 3 – to, 4 – for, 5 – to, 6 – before, 7 – of, 8 – for, 9 – with, 10 – against)