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The Official Journal of the European Union and Gender Inequality

Abstract

The following article deals with the issue of gender equality at text level. Adopting the feminist linguistics perspective the author has analyzed selected issues of three language versions of the *Official Journal of the European Union* that are theoretically equal in meaning. The analysis has shown that the texts are not equivalent in terms of referring to men and women, which may in turn influence the way the texts are perceived in different countries. The article aims to prove that when trying to establish gender equality at an international level, languages that are applied to achieve the goal should be equally gender-neutral, as any trial to cope with gender inequality by means of language that discriminates women is counter-effective.

Keywords: EU, gender mainstreaming, feminist linguistics, translation, legal language.

"Marguerite Ritchie surveyed several hundred years of Canadian law, and discovered that the ambiguity of the generic masculine has allowed judges to include or exclude women, depending on the climate of their times and their own personal biases." (Martyna 1980: 490)

It has been noticed that

in many institutional cultures and discourse [...] not only men but also women are complicit through their habitual, differential participation in their particular communities of practice. Various ways in which the institutionalization of gender inequality is discursively enacted have been critically examined in a wide range of institutions such as the media (Caldas-Coulthard 1995, Lazar 1993, 2004, Talbot 1998), education (Remlinger 2005), government (Lazar 1993, 2000), and

various professional and organizational settings (Ehrlich 2001, Walsh 2001, West 1990, Wodak 2005). (Lazar 2007: 147)

Little research has dealt with the documents produced at the European Union level so far. The aim of the present article is to fill this gap. Analysing these texts from a feminist perspective seems vital to the author not only because there has been little interest in this field but also because the results of such research may improve the social position of women. It needs to be remembered that Swiss women were denied the right to vote for so long because "the paragraph on suffrage in the constitution was written in the masculine" (Braun 1997: 6).

With a view to "bring[ing] the terminology used in legal drafting, public administration and education into line with the principle of sex equality" (Council of Europe 1990) "the Committee of Ministers of the Council of Europe encouraged member states to use non-sexist language" (Hellinger & Pauwels 2007: 666). Three years later, the European Parliament reminded that "the sexism reflected in language is an obstacle to equality between women and men" (EU 2003: 8) and "since equality is one of the democratic values of the European Union" (EU 2003: 30), it was believed obligatory to use non-discriminatory language in European documents.² The problem, however, is that no institution is responsible for monitoring whether all countries have applied these guidelines. As Hellinger and Pauwels (2007: 667) comment, "in many of the 25 EU member states the issue of (non)sexist language has been of little academic and public interest and the translation of the EU Parliament resolutions into practical language policies remains uncertain."

The author has selected parts of the journal that constitute examples of various issues raised by feminist linguists. By comparing the three versions, one may draw conclusions as to the extent to which each language version is gender-biased. If such a comparison proves that the three versions differ considerably in this matter, it could be concluded that these differences may result in differences in the perception of the texts and may in effect lead to differences in the effectiveness of introducing gender mainstreaming policies in given countries. It cannot be expected that a text aimed at establishing gender equality and written with the usage of gender-biased structures will be as effective as the one that does not include such structures. Since a number of scholars accuse recent academic work of a "loss of a broader practical political perspective" (Phillips 2003: 266), the article shall also fill this gap to some extent.

The Official Journal of the European Union is a "periodical published every working day in all official languages of the European Union (EU) [that] consists of two related series (L for legislation and C for information and notices) and a supplement (S for public procurement). There is also an electronic section to the C series, known as the OJ C E. Documents published in the OJ C E are only published electronically."

The L series contains EU legislation, including regulations, directives, decisions, recommendations, opinions [...] [whereas] [t]he C series contains EU information and notices, including summaries of judgments of the Court of Justice and the Court of First Instance, minutes of parliamentary meetings, reports of the Court of Auditors, parliamentary written questions and answers from the Council or Commission, statements from the European Economic and Social Committee and

¹ See also: Trömel-Plötz ([1982] 2007: 201-202).

² Cf. Hellinger and Pauwels (2007: 667).

³ http://publications.europa.eu/official/index_en.htm, retrieved 02.04.2013

the Committee of the Regions, competition notices for recruitment by the EU institutions [...], calls for expressions of interest for EU programmes and projects, other documents published pursuant to EU legislation, public contracts for food aid, the table of contents of the OJ CE series. The CE series currently contains the preparatory acts in the legislative process and is only available in the EUR-Lex database or in the monthly CD-ROM edition.⁴

The corpus for the following analysis consists of issues L1–L8 vol. 54, C1–C8E vol. 54 of the *Official Journal of the European Union* available online. The issues were published from 4th to 13th January 2011.

When analyzing the corpus, first the Polish version was scrutinized, then German and English equivalents were found. Due to their complicated grammar, German equivalents may differ in that an auxiliary verb or other verb or some other word as well as a phrase may be missing.

In terms of references to women, examples

- (1) Powołanie członka Trybunału Obrachunkowego Rasy Budbergyte [...]

 Appointment of a member of the Court of Auditors Ms Rasa Budbergyté [...]

 Ernennung eines Mitglieds des Rechnungshofs Rasa Budbergyté [...]
- (2) Decyzja Parlamentu Europejskiego z dnia 25 marca 2010 r. w sprawie nominacji Rasy Budbergyté na członka Trybunału Obrachunkowego
 European Parliament decision of 25 March 2010 on the nomination of Rasa Budbergyté as a Member of the Court of Auditors
 Beschluss des Europäischen Parlaments vom 25. März 2010 zu der Ernennung von Rasa Budbergyté zum Mitglied des Rechnungshofs
- (3) Powołanie członka Trybunału Obrachunkowego Kersti Kaljulaid [...]

 Appointment of a member of the Court of Auditors Ms Kersti Kaljulaid [...]

 Ernennung eines Mitglieds des Rechnungshofs Kersti Kaljulaid [...]
- (4) W tych szczególnych okolicznościach oraz mając na uwadze, że prawo wspólnotowe nie wymaga dowiedzenia związku przyczynowego między zapewnieniami instytucji wspólnotowych a zachowaniem obywateli lub przedsiębiorstw, do których te zapewnienia się odnoszą [...]

In these specific circumstances, and bearing in mind that Community law does not require the demonstration of a causal link between the assurances given by a Community institution and the behaviour by citizens or undertakings to which such assurances relate [...]

Angesichts dieser besonderen Umstände und in Anbetracht der Tatsache, dass das Gemeinschaftsrecht nicht den Nachweis eines kausalen Zusammenhangs zwischen den von einem Gemeinschaftsorgan gemachten Zusicherungen und dem Verhalten der Bürger oder Unternehmen, auf die sich diese Zusicherungen beziehen, verlangt, [...]

show that in English versions the title which indicates whether a given person is a woman – that is, Ms – is used. Parallelly, the masculine title Mr is also found. It can be noticed, however, that these titles are used when the person is mentioned for the first time. As far as mentioning whether the given person is male or female, the English version of the OJ seems straightforward and symmetrical. Neither the title Mrs nor Miss has been found in the corpus. Despite the fact that both Polish and German language systems possess equivalent titles – pan/pani, Frau/Herr – the examples prove that they are not used in the process

⁴ http://publications.europa.eu/official/chapter1_en.htm [ED 2.04.2013]. For more on the OJ see: http://eur-lex.europa.eu/ JOIndex.do

of creating Polish and German versions, although in terms of the first one, the name *Rasa* is inflected in accordance with Polish grammar principles. In most cases, the gender of a person is not mentioned, which could prove problematic as far as inflection (in Polish) and anaphoric reference (in Polish and German) goes.

When occurring with a female name and surname, German occupational titles occur in either a feminine or neutral form, as may be also seen in examples:

- (5) uwzględniając fakt, że na posiedzeniu w dniu 16 marca 2010 r. Komisja Kontroli Budżetowej wysłuchała kandydatkę desygnowaną przez Radę na członka Trybunału Obrachunkowego having regard to the fact that, at its meeting of 16 March 2010, the Committee on Budgetary Control heard the Council's nominee for membership of the Court of Auditors nach Anhörung der vom Rat vorgeschlagenen Kandidatin für die Ausübung der Aufgaben eines Mitglieds des Rechnungshofs durch den Haushaltskontrollausschuss in dessen Sitzung vom 16. März 2010
- (6) wydaje opinię pozytywną w sprawie powołania Kersti Kaljulaid na członka Trybunału Obrachunkowego Delivers a favourable opinion on the nomination of Kersti Kaljulaid as a Member of the Court of Auditors gibt eine befürwortende Stellungnahme zu dem Vorschlag des Rates ab, Kersti Kaljulaid zum Mitglied des Rechnungshofs zu ernennen
- (7) W dniu 17 lutego 2006 r., w odpowiedzi na pytanie posłanki do Parlamentu Europejskiego Sharon Bowles, jeden z komisarzy udzielił w imieniu Komisji następującej odpowiedzi On 17 February 2006, in reply to the parliamentary question by Ms Sharon Bowles MEP, Commissioner answered, on behalf of the Commission, as follows:
 Am 17. Februar 2006 wurde die parlamentarische Anfrage der Europäischen Abgeordneten Sharon Bowles von einem Kommissionsmitglied im Namen der Kommission wie folgt beantwortet:
- (8) W imieniu Komisji Neelie KROES Członek Komisji For the Commission – Neelie KROES – Member of the Commission Für die Kommission – Neelie KROES – Mitglied der Kommission
- (9) Następnie złożył oświadczenie z okazji 4. rocznicy zabójstwa rosyjskiej dziennikarki Anny Politkowskiej i przypomniał, że okoliczności jej śmierci i śmierci innych obrońców praw człowieka w Rosji nie zostały nigdy wyjaśnione. He then made a statement on the fourth anniversary of the assassination of the Russian
 - He then made a statement on the fourth anniversary of the assassination of the Russian journalist Anna Politkovskaya, mentioning that the circumstances of her death and the deaths of other human rights activists in Russia had never been explained.
 - Anschließend gibt er eine Erklärung anlässlich des vierten Jahrestags des Mordes an der russischen Journalistin Anna Politkowskaja ab und erinnert daran, dass die Umstände ihres Todes sowie diejenigen des Todes weiterer Menschenrechtsaktivisten in Russland nie aufgeklärt worden sind.
- (10) PRZEWODNICTWO: Roberta ANGELILLI, Wiceprzewodnicząca IN THE CHAIR: Roberta ANGELILLI, Vice-President VORSITZ: Roberta ANGELILLI, Vizepräsidentin

- (11) Tanja Fajon przedstawiła sprawozdanie. Głos <u>zabrał</u> Cecilia Malmström (członkini Komisji)
 Tanja Fajon introduced the report. The following spoke: Cecilia Malmström (Member of the Commission)
 - Tanja Fajon erläutert den Bericht. Es spricht Cecilia Malmström (Mitglied der Kommission)
- (12) Głos zabrali: Sarah Ludford (sprawozdawczyni komisji opiniodawczej AFET)
 The following spoke: Sarah Ludford (rapporteur for the opinion of the AFET Committee)
 Es sprechen Sarah Ludford (Verfasserin der AFET-Stellungnahme)
- (13) Sprawozdawca: Inés Ayala Sender Rapporteur: Inés Ayala Sender Berichterstatterin: Inés Ayala Sender
- (14) Barbara Matera (sprawozdawczyni), po głosowaniu Barbara Matera (rapporteur), after the vote Barbara Matera (Berichterstatterin) nach der Abstimmung

Polish equivalents have either masculine forms or feminine forms. The corpus contains such Polish feminine designations as *kandydatka*, *posłanka*, *wiceprzewodnicząca*, *dziennikarka*, *członkini*, *sprawozdawczyni*. German ones include *Kandidatin*, *Abgeordnete*, *Journalistin*, *Vizepraezidentin*, *Verfasserin*, *Berichterstatterin*. No German noun of a masculine grammatical gender has been found next to a female name and surname. In terms of Polish, however, masculine nouns are also used to refer exclusively to women. Interestingly, in one text both masculine and feminine equivalents may be found to refer to women, as in the Appointments of a member of the Court of Auditors found in C04E, in which Rasa Budbergyte is referred to as *kandydat* (*nominee*, *masc.*), whereas Kersti Kaljulaid is referred to as *kandydatka* (*nominee*, *fem.*) Similarly, in C084 Barbara Matera is first referred to as *sprawozdawca* (*rapporteur*, *masc.*), then as *sprawozdawczyni* (*rapporteur*, *fem.*). In the same issue of the OJ, the two terms are used interchangeably to refer to women.

In terms of references to women, the following example indicates that the Polish version may be an overly faithful translation of the English term, as the English *Roma women* could have been translated into Polish as *Romki* (*Roma*, *fem.*) instead of *kobiety romskie* (*Roma women*), which apart from having the meaning of the English equivalent, also has the meaning of *women belonging to Roma*.

(15) uwzględniając swoją rezolucję z dnia 28 kwietnia 2005 r. w sprawie sytuacji Romów w Unii Europejskiej (1), z dnia 1 czerwca 2006 r. w sprawie sytuacji kobiet romskich w Unii Europejskiej (2), z dnia 15 listopada 2007 r. w sprawie stosowania dyrektywy 2004/38/WE w sprawie prawa obywateli Unii i członków ich rodzin do swobodnego przemieszczania się i pobytu na terytorium państw członkowskich (3), z dnia 31 stycznia 2008 r. w sprawie europejskiej strategii dotyczącej Romów (4), z dnia 10 lipca 2008 r. w sprawie spisu Romów we Włoszech w oparciu o pochodzenie etniczne (5) oraz z dnia 11 marca 2009 r. w sprawie sytuacji społecznej Romów i ułatwienia im dostępu do rynku pracy UE having regard to its resolutions of 28 April 2005 on the situation of the Roma in the European Union (1), of 1 June 2006 on the situation of Roma women in the European Union (2), of 15 November 2007 on application of Directive 2004/38/EC on the right of EU citizens and their families to move and reside freely within the territory of the Member States (3), of 31 January 2008 on a European Strategy on the Roma (4), of 10 July 2008 on the census of

the Roma on the basis of ethnicity in Italy (5), and of 11 March 2009 on the social situation of the Roma and their improved access to the labour market in the EU

unter Hinweis auf seine Entschließung vom 28. April 2005 zur Lage der Roma in der Europäischen Union (1), seine Entschließung vom 1. Juni 2006 zur Situation der Roma-Frauen in der Europäischen Union (2), seine Entschließung vom 15. November 2007 zu der Anwendung der Richtlinie 2004/38/EG über das Recht der Unionsbürger und ihrer Familienangehörigen, sich im Hoheitsgebiet der Mitgliedstaaten frei zu bewegen und aufzuhalten (3), seine Entschließung vom 31. Januar 2008 zu einer europäischen Strategie für die Roma (4), seine Entschließung vom 10. Juli 2008 zur Zählung der Roma in Italien auf der Grundlage ihrer ethnischen Zugehörigkeit (5) und seine Entschließung vom 11. März 2009 zu der sozialen Lage der Roma und die Verbesserung ihres Zugangs zum EU-Arbeitsmarkt

It may be stated that in terms of referring to women, the English and German versions seem not only symmetrical but also consistent. The Polish version, however, lacks symmetry as much as consistency.

In the Polish and German parts of the corpus that have been analysed, feminist linguists could find many generics of masculine grammatical gender. Some of them refer to either a person or an institution *i.e. powiadamiający (notifier), beneficjent (beneficiary)*. Others cannot possibly refer to institutions *i.e. pracownik (worker), audytor (auditor)*. The table below shows generics that in everyday language tend to be interpreted as referring to people, but in legal context can also refer to institutions.

Table 1. Generic nouns referring both to people and institutions

beneficjent, podatnik, nabywca, pożyczkobiorca, oferent, skarżący, konkurent, udziałowiec, wierzyciel, sprzedający, adresat, inwestor, użytkownik, partner, akcjonariusz, wykonawca, podwykonawca, etc. (beneficiary, taxpayer, purchaser, borrower, bidder, complainant, competitor, shareholder, creditor, seller, addressee, investor, user, partner, stockholder, contractor, subcontractor)

human being		institution
masculine	feminine	

When advocating the "visibility of women in language" one could argue in favour of the introduction of feminine forms that would occur in a text along with masculine ones. As far as generics that refer exclusively to people are concerned, this seems feasible. It seems worthwhile to advocate changing Polish masculine nouns such as pracownicy (staff, Bediensteten), obywatele (citizens, Buerger), imigranci (immigrants, Einwanderer), posel (member, Mitglied), konsumenci (consumers, Verbraucher), studenci (students, Studierende), etc. in the EU texts so that they would also include their feminine counterparts pracownice, obywatelki, imigrantki, poslanki, konsumentki, studentki, etc.; however, it needs to be remembered that not all generics may be changed or replaced, as apart from referring to people they have the additional meaning of referring to institutions. In terms of generics that may refer either to people or to institutions, the splitting of any other form of feminization seems impossible, as nouns of feminine grammatical gender do not contain a parallel semantic field.

In terms of generics, the English version of the OJ seems transparent and free of gender bias. The German one contains mostly generic expressions, although some exceptions can be observed, such as *Buerger und Buergerinnen*, or *Studierende*. The Polish version contains exclusively generics of masculine grammatical gender, even in some cases when they refer exclusively to women.

In a number of cases, the masculine form in Polish is so dominant that masculine forms may be found even in strictly feminine contexts. The following examples illustrate this point.

- (16) Głos zabrał (sic!) Cecilia Malmström (członkini Komisji) (The following spoke (masc.): Cecilia Malmström (Member, fem. of the Commission)
- (17) Danuta Maria Hübner zadał (sic!) pytanie ustne (Danuta Maria Hübner moved, masc. an oral question)

In both cases, the verb that has been used is in its masculine form, although it should be congruent with nouns of feminine grammatical gender.

The differences in the three versions may be related to the various reference works that are supposed to be followed when drafting each language version of the OJ. For matters of a linguistic nature the creators of the Polish version should write in accordance with Wielki słownik ortograficzny, PWN, 2010, Wielki słownik poprawnej polszczyzny, PWN, 2006, Słownik języka polskiego, vol. 1, 2, 3, PWN, 1998, J. Podracki, Nowy słownik interpunkcyjny jezyka polskiego z zasadami przestankowania, Świat Książki, 2005.5 The German version is written in accordance with Duden, Band 1, *Die deutsche* Rechtschreibung, Bibliografisches Institut & F. A. Brockhaus AG; Duden, Band 9, Richtiges und gutes Deutsch, Bibliografisches Institut & F. A. Brockhaus AG; Meyers großes Taschenlexikon, 24 Bde., Bibliografisches Institut & F. A. Brockhaus AG; Wahrig, G., Deutsches Wörterbuch, Bertelsmann Lexikon Inst.; Interinstitutionelle Regeln für die Variantenschreibung,6 and the English one in accordance with Concise Oxford English Dictionary (Oxford University Press), Butcher's Copy-Editing - The Cambridge Handbook for Editors, Copy-Editors and Proofreaders (Cambridge University Press), the New Oxford Dictionary for Writers and Editors (Oxford University Press), New Hart's Rules: The Handbook of Style for Writers and Editors (Oxford University Press), English Style Guide (European Commission, Directorate-General for Translation – available online⁷) and *Fowler's Modern English Usage* (Oxford University Press). The rules that are to be applied when drafting the texts include in the English version guidelines on how to avoid sexist language. It could prove worthwhile to create parallel guidelines for other language versions. As a result, the versions could become also equivalents in terms of referring to women.

The presented analysis shall be considered from the perspective of gender mainstreaming, defined by the Council of Europe as "the reorganization, improvement, development and evaluation of policy processes, so that a gender equality perspective is incorporated in all policies at all levels at all stages, by the actors normally involved in policy making" (Lithander 2000: 14) the ultimate goal of which is to establish gender equality. Since the policy assumes gender equality at all levels, the linguistic level should be incorporated, as well. A comparison of three versions of the OJ has shown that this is not the case in all languages. The Polish version especially seems to be lacking in terms of consistency and basic linguistic structures reflecting this kind of equality. The reason might be that "[i]n Poland, gender mainstreaming is treated merely as a 'soft' tool, the application of which is not subject to monitoring and evaluation at the state level" (Rutkowska 2008: 89). Differences are introduced at the level of drafting the texts, which are usually first written in English or French and then translated into all the other languages of

⁵ http://publications.europa.eu/code/pl/pl-10100.htm

⁶ http://publications.europa.eu/code/de/de-10100.htm

⁷ http://ec.europa.eu/translation/english/guidelines/documents/styleguide_english_dgt_en.pdf

⁸ See: United Nations (2002).

the European Union member states. "In the case of the EU, the authentic language versions of EU laws [...] are equivalent, since they have the same legal force and value and can be invoked indiscriminately in appeals to the ECJ by EU citizens or businesses" (Correia 2003: 41). An issue that arises here, however, is that the texts prove not to be linguistically equivalent. Differences in various language versions of the law may lead to different interpretations, as can be seen in the OJ, an example of which can be seen in the passage:

Germany stated that the application of the criterion 'geographical proximity' is inappropriate for the purpose of preventing subsidy increases, since not all language versions of footnote 55 of the RAG include the requirement that the investment sites be in 'immediate' geographical proximity to one another (e.g. the French version does not specify 'immediate' but only 'geographical proximity'). Germany argued that the criteria in footnote 55 therefore do not form a uniform legal framework for the regulation of subsidy spirals. (OJ, L7 2011: 44)

It seems that this issue is inextricably linked to the translation of legal texts, which "is a practice that stands at the crossroads of legal theory, language theory and translation theory" (Joseph 1995: 14). If we assume that law is a cultural phenomenon, not only do translators need to possess the knowledge of a given language but also of a given culture. Additionally, when translating from a language that does not possess grammatical gender – such as English, for example – into a language in which all nouns (Polish and German) or nouns, verbs, numerals, adjectives, etc. (Polish) are of grammatical gender, be it feminine, masculine or neutrum, very special attention must be paid to these forms. Ensuring that member is translated as either posel or poslanka, depending on the context, seems to the author of the article a matter of correct translation and not necessarily a feminist one. It could be argued that translating citizens as obywatele i obywatelki or Buerger und Buergerinnen in terms of is a strategy related to feminist translation. Despite the fact that a number of scholars reject feminist translation, along with feminist linguistics or pragmatics, it seems that to create truly equivalent texts at all levels, such a strategy of translation is unavoidable, especially if the texts are performative and the aim of the authors of the original is gender equality.

One of the reasons for which gender mainstreaming does not seem successful in some countries could be that the language of directives, regulations, notices, announcements, *etc.* is not in line with the assumptions of gender mainstreaming. Changing the social position of women should start with the usage of language that does not discriminate against them. The use of derogatory language marks women and makes them invisible, perpetuating their inferior social status and failing to provide a useful tool in trying to deal with gender bias.

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⁹ Cf. Cao (2007: 31).

¹⁰ As I argue in my book (Pałczyńska 2010), cultural differences are most problematic for translators, especially when we deal with those whose performative effect needs to be the same in the TL as in the SL.

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