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Knowledge About the Language of Legislative Acts: An Absent Element in the Development of Key Competences in the Polish Education System³

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Abstract

One of the basic aspects of modern education is the development of key competences. This requirement is included in the legislative acts (domestic ones and those of the European Union) as well as in documents specifying core curricula in individual countries. By analysing this problem as exemplified by Poland, we show that communication competence in the language of the legislative acts, fundamental for a modern, conscious people, is an absent element of key competences. In the article, we show why it is important to learn about the real features of the legislative acts in a rapidly changing, knowledge-oriented society. We present the results of the analysis of the core curriculum applicable in Poland for secondary schools in terms of legal education. We also present a proposal to include issues developing legal communication competence in the secondary school curriculum.

Keywords: language of the legislative acts, key competences, core curriculum.

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Wiedza o języku tekstów aktów prawnych. Nieobecny element rozwoju kompetencji kluczowych w polskim systemie edukacji⁴

Streszczenie

Jednym z podstawowych elementów współczesnej edukacji jest rozwój kompetencji kluczowych. Wymóg ten zawarty jest w tekstach aktów prawnych (lokalnych i unijnych), jak również w dokumentach określających podstawę programową w poszczególnych krajach. Analizując ten problem na przykładzie Polski, wykazujemy, że kompetencje komunikacyjne w zakresie języka tekstów aktów prawnych, mające podstawowe znaczenie dla nowoczesnego, świadomego społeczeństwa, stanowią nieobecny element kompetencji kluczowych. W niniejszym artykule pokazujemy, dlaczego w społeczeństwie, które szybko się zmienia i opiera na wiedzy, ważne jest, by uczyć się o tym, jakie są rzeczywiste cechy tekstów aktów prawnych. Prezentujemy wyniki analizy podstawy programowej obowiązującej w Polsce w odniesieniu do edukacji prawnej w szkole średniej. Podajemy również swoją propozycję włączenia do podstawy programowej dla szkół średnich kwestii, które rozwijają kompetencje komunikacyjne uczniów w zakresie prawa.

Słowa kluczowe: język tekstów aktów prawnych, kompetencje kluczowe, podstawa programowa.

⁴ Badania wykorzystane w artykule nie zostały sfinansowane przez żadną instytucję.

Introduction

Law applies to the most important spheres of human activity in both individual and, even more importantly, social dimensions, regardless of whether this fact is sufficiently well known. Due to the broad range of matters regulated by the law, and due to the number of legislative acts, it is obviously not possible to know the entire law. Therefore, we can speak of a limited extent of knowledge or a general understanding of fundamental issues governed by the law (political and human rights issues, citizens' rights and obligations, etc.). However, knowledge about the law usually does not come from observing the world, but from education.⁵ In general, the issue of legal education (its basics), understood as the obligation to teach about the law, lies mainly with the state, when it ensures universal education. It is also education about the law in its current version. Such a static approach to the law produces a false sense of certainty as to its content, as it does not take into account its modifications. At the same time, universal legal education in schools does not necessarily equal a truly legally conscious society, who can be held accountable for some behaviours in accordance with the *ignorantia iuris nocet* principle. Ignorance of the law, if only in the basic scope, may lead to unwelcome consequences. It is rational to make laws in order to expect those to whom they are addressed to obey them. In legal education, there is less emphasis on know-how than on know-what. As a consequence, with the evolution of law regulations over time, this leads to the obsolescence of legal knowledge obtained at school. For this reason, based on the experience of Polish secondary education,⁶ we propose such an inclusive approach to legal education that will give students a chance to acquire communication competences in the field of universal law, as it will not be relativised to a specific legal or temporal context.

⁵ A. Choduń, *Postulat jasności prawa. Plain language czy praca edukacyjna*, „Krytyka Prawa” 2018, 10(3), pp. 226–244, eadem, *Dlaczego warto uczyć o języku prawnym*, „Krytyka Prawa” 2020, 12(2), pp. 45–55.

⁶ In Poland, post-primary schools include general secondary schools, vocational secondary schools, and first and second-cycle industry schools.

Knowledge of the Law

When talking about legal education, it is worth making a distinction between teaching the law and teaching about the law. Teaching the law involves teaching students to use the language of legislative acts: teaching the tools for comprehending and utilising this text now and in the future. Meanwhile, the sort of teaching that is being delivered in school education is limited to providing more or less detailed information about the law (see the section *Development...*). Taking into account one of the features of legislative acts – their variability over time – this knowledge may be more or less up-to-date or it may be outdated in the future. Moreover, the variability of legislative acts is something different than the variability of literary texts or scientific texts. Literary texts do not undergo the author's changes or at least instances of this are rare. As far as scientific texts are concerned, each change is clearly marked in the next edition of such a publication with a specific number, and a note 'revised edition'. When it comes to the legislative acts, the amendments are not numbered and are not annotated as in scientific texts. On the other hand, changes to the legislative acts are much more frequent than in any other texts. Moreover, the scope for amendments introduced to these texts can sometimes be very large, including the very title of the legislative act. In addition, changes to the legislative acts are not immediately visible. One could say that these texts change 'virtually', but not in real terms. It is noteworthy that the legislative acts are changed by virtue of other legislative acts. It is not until the consolidated text (the text that takes into account the changes to the text that was amended) has been issued and published in the relevant official journal that the amendments made by means of an amending text are applied to the amended text. Thus, there is a permanent risk of potential changes being made to the legislative acts, which produces uncertainty as to the validity of this text with a given verbal form.⁷

Amendments to the legislative acts may involve the repeal of some of its parts (e.g. individual legal provisions), which entails the necessity to check whether the legal provisions are valid at a given moment in time. However, an amendment of the legislative act may also be a change of the phrasing, e.g. by adding a word or phrase, removing a word or phrase or replacing one word (or phrase) with another. In such a case, it is also necessary to establish the validity of the legislative act with a given verbal form at a certain moment in time. In addition, such a change may only be a change in the terminology used (when some words are replaced with their synonyms), but it may also lead to a change in the meaning of the text.

⁷ A. Choduń, *Maciej Zieliński's (Derivative) Concept of Legal Interpretation*, „*Studia Prawa Publicznego*” 2015, 10(2), p. 115; M. Zieliński, *Wykładnia prawa. Zasady – reguły – wskazówki*, 7th ed., Warszawa 2017, pp. 192–196.

What follows is that in order to determine the content of the law, the issue of the validity of the legislative act and its verbal form is extremely important. The legislative act may be valid, but it may not be up-to-date at a given moment in time. Therefore, it is possible that a person has access to the text of a valid legal legislative act, but the wording of the sentences and phrases is already outdated.

Having outlined the variability of law over time, we can see that the impact of legal education is rather limited when it comes to the validity of the law.

For the above reasons, teaching (about) the law carries a potential risk of teaching outdated content. Obviously, this obsolescence applies to the future. We are not assuming that the teachers of legal skills pass on outdated knowledge on this subject, but such a situation cannot be ruled out.

Teaching the law does not boil down to the transmission of knowledge about the content of the law, but it also includes teaching the tools that people need to adequately interpret the changing legislative acts. The knowledge required to understand the law can be termed specialist knowledge. Obviously, such knowledge is acquired by law students during their academic education and then legal professional education. It is also gradable knowledge, ranging from the minimum to the highest. It can, obviously, be posited that this specialist knowledge is available to lawyers as persons professionally prepared to interpret (understand) and apply the legislative acts. However, another assumption of universal legal education can be adopted, namely that teaching all people at the same level as future lawyers could minimise the scope of social exclusion in the field of statutory interpretation. However, these are extreme ideas and therefore not very feasible ones. We are of the opinion that education on the law is necessary, but it should be the kind of education that develops certain competences based on the awareness of the (linguistic) properties of the legislative acts.

Regardless of whether in a given legal culture the legislative acts are assumed to be the only source of the law or only one of such sources, the legislative acts and their properties cannot be ignored. Therefore, it is necessary, above all, to know the (linguistic) characteristics specific to the legislative acts in order to be able to adequately interpret such texts.

We base our comments on this subject mainly on the findings of Polish researchers of the legislative acts.⁸ *Prima facie*, it might appear that these findings are local, but this is not the case. The method of structuring Polish legislative acts, as well

⁸ A. Choduń, *Leksyka tekstów aktów prawnych*, „Ruch Prawniczy, Ekonomiczny i Socjologiczny” 2006, 68(4), pp. 19–30; eadem, *Słownictwo tekstów aktów prawnych w zasobie leksykalnym współczesnej polszczyzny*, Warszawa 2007; A. Malinowski, *Polski język prawny. Wybrane zagadnienia*, Warszawa 2006; M. Zieliński, *Interpretacja jako proces dekodowania tekstu prawnego*, Poznań 1972.

as Spanish,⁹ Greek and Cypriot¹⁰ or European Union legislative acts demonstrates that the texts in question are indeed formulated as legal provisions, but read as normative expressions.¹¹ This has a number of consequences. First of all, the legislative acts can be read at two levels: at the level of legal provisions and of legal norms. A legal provision is defined as a sentence in the grammatical sense, which is set off from the main text of a legislative act as a separate unit of the text (e.g. as an article or a paragraph – §). On the other hand, a legal norm is a sufficiently unambiguous expression (indicating who, when is commanded or prohibited to do what), which translates into four syntactic elements making up such an expression: the addressee, circumstances, command/prohibition and conduct. Keeping in view this nature of legal acts, their correct interpretation should be at the level of legal norms, not the level of legal legislative provisions. Legal provisions are frequently phrased in a seemingly descriptive manner that does not directly express an obligation. Moreover, in legal provisions, we rarely encounter an indication of who and when has been commanded or prohibited to do what. Most often, there are only two of the above-mentioned elements – a command and conduct or a prohibition and conduct – so only a hint of an obligation. The addressee or the circumstances are specified in other provisions of this legislative act or in other other legislative acts. This feature is associated with the splitting of norms in legal provisions¹² that occurs both in Polish and EU legislative acts.¹³ In order to determine the content of the law, it is necessary to reconstruct syntactically complete normative expressions from the legal provisions. The splitting of norms is accompanied by another feature of the legislative acts: the condensation of norms in legal provisions. One legal provision may contain elements of more than one legal norm. This occurs when elements of a legal norm are duplicated in one provision, e.g. several addressees or conducts are indicated.

Furthermore, it is worth paying attention to one more very important feature, which is related to the fact that the content of one legal provision may be modified

⁹ J. Nowak, *Modalność deontyczna w języku prawnym na przykładzie polskiego i hiszpańskiego kodeksu cywilnego*, Poznań 2012.

¹⁰ K. Gortych, *Struktura polskich, greckich i cypryjskich aktów normatywnych. Studium porównawcze w aspekcie translologicznym*, Poznań 2013.

¹¹ M. Derlén, *Multilingual Interpretation of European Union Law*, Alphen aan den Rijn 2009; A. Doczekalska, *Legal Languages in Contact: EU Legislative Drafting and Its Consequences for Judicial Interpretation*, [in:] S. Marino, Ł. Biel, M. Bajčić, V. Sosoni (eds.), *Language and Law: The Role of Language and Translation in EU Competition Law*, Cham 2018, pp. 163–178; A. Godek, *On Legal Situations and the Interpretation of European Union Law*, „*Studia Prawa Publicznego*” 2015, 9(1), p. 37; A. Jopek-Bosiacka, *Teoretycznoprawne i logiczne uwarunkowania przekładu prawnego*, Warszawa 2019, pp. 55–215.

¹² M. Zieliński, *Wykładnia prawa...*, pp. 101–110.

¹³ A. Godek, *op. cit.*, pp. 35–56.

by another legal provision. Thus, potentially, the content of each legal provision may be incomplete. In order to extract their full and precise meaning, we must take into consideration the content of other parts of the same legislative act, and sometimes other legislative acts.¹⁴

The above-mentioned (linguistic and textual) characteristics of the legislative acts mean that a person who wants to adequately (and thus in accordance with the properties of such texts) understand these texts must perform certain actions which resemble doing a jigsaw puzzle. Let us remember that the knowledge of where to look for the missing elements of this puzzle, which are needed to compose complete normative expressions, is not common knowledge.

The legislative act is a comprehensive message; therefore, if it is to be properly interpreted, it is not enough to stop at reading the fragment that is of interest to us. We must take into account the context of the entire text, and sometimes also other legislative acts. Extra-textual contexts are also important.

Another element that distinguishes the legislative acts from other texts is the language. It is assumed that the texts in question should be precise. This is achieved with the use of sufficiently precise lexis, the use of legal definitions, and elimination of ambiguity. On the other hand, there is also a need for flexibility in order to avoid casuistry. Flexibility of expression is achieved by the use of fuzzy or vague phrases, such as 'significant loss' or 'gross ingratitude', which require the estimation of certain values, in specific cases according to previously adopted criteria. Among the fuzzy or vague phrases, however, there are also those that do not require estimation of size, but which refer to assessments (approvals and disapprovals) that are taken into account when interpreting the legislative acts in relation to some facts.

Determining the meaning of words and expressions used in the legislative acts is another area of knowledge that is not universally recognised. Although the lexis of the legislative acts abounds in general language terms, their meanings may differ, even significantly, from those commonly known, which may mislead a person who is not aware of the distinct nuances of meaning in this respect.

The Problem of Access to Law

Nowadays, access to the legislative acts is not a problem. In Poland, as in other EU countries, access to law is possible through national legal information systems

¹⁴ A. Choduń, *Maciej Zieliński's...*, pp. 113–114; M. Zieliński, *Wykładnia prawa...*, pp. 110–122.

(state or commercial). However, the intelligibility of these acts differs depending on the recipient's interpretative competence.

For a person equipped with communication competences in the field of law, who knows the particularities of both the language and and legislative act, the databases of these legislative acts are sets of provisions that consist of 'prefabricated' elements, used to construct legal norms (using the rules of statutory interpretation).

For those people who do not have this competence, these databases will simply be a collection of the legislative acts that they will read directly. Access to the sources of law must be distinguished from access to the content of law. In view of the salient (linguistic) features of the legislative acts – which, to reiterate, are not commonly known – it is unjustified to demand that the population should be able to understand these texts without prior training. It is also ethically questionable to require legal knowledge from individuals who are not provided with basic legal communication competence.

The barrier of an adequate understanding of the legislative acts constitutes one of the barriers to gaining knowledge about the law, and thus to proper functioning in society.

Reading the legislative acts is not an encounter with a transparent source, because one of their distinguishing qualities are quasi-idiomatic expressions. This feature is related to the horizontal semantics of the texts, and thus the possibility of reading them at the level of legal provisions (descriptive level) and at the level of legal norms (directive level). Normativity is a characteristic of the legislative acts which express an obligation relating to some conduct of a person in some circumstances, regardless of whether these acts are drafted in a manner that directly indicates a command or prohibition of certain conduct or in an apparently descriptive manner (using the present indicative mode).

One simply needs to know that the legislative acts are normative. This is not common knowledge. However, it is the knowledge necessary to understand the legislative acts commensurately to their features.

The Importance of Legal Communication Competence

As already mentioned (see the section *Knowledge of the Law*), awareness of the real characteristics of the legislative acts is necessary for an adequate understanding of these kinds of texts. This knowledge cannot be acquired unconsciously, as is the case with learning one's mother tongue. Linguistic competence is insufficient to interpret the legislative acts.

The language user formulates statements (oral and written) according to certain internalised text patterns. Understanding texts is, therefore, based on knowledge of the patterns of these texts in specific communication and cultural models.

Communication competence includes not only unconscious linguistic structures and linguistic habits, but also intentionally learned knowledge which, in the case of communication competence in the field of law (legal communication competence), is specialist knowledge.¹⁵ Without education, at least on the specificity of the language of legislative acts, one cannot expect a person to be able to properly understand such texts.

This problem was aptly diagnosed by an outstanding Polish lawyer, Prof. Maciej Zieliński:

It would be good if at school, for instance, high school graduates not only learned how to calculate the limit of a sequence of infinite fractions – which they usually rarely use in life – but also if they were to learn at least these basic rules about what one needs to know to interpret the legislative acts.¹⁶

Development of Key Competences and Knowledge About the Language of the Legislative Acts in the Education Process

The legal framework of universal formal education in Poland is determined by national¹⁷ and international legislative acts.¹⁸ As Poland is a member of such inter-

¹⁵ S. Šarčević, *New Approach to Legal Translation*, The Hague–London–Boston 1997, p. 59.

¹⁶ M. Zieliński, *Wiedza o tekstach prawnych jako warunek ich rozumienia*, [in:] *Język polskiej legislacji, czyli zrozumiałość przekazu a stosowanie prawa. Materiały z konferencji zorganizowanej przez Komisję Kultury i Środków Przekazu oraz Komisję Ustawodawczą*, Warszawa 2007, p. 30.

¹⁷ In particular, these are: Ustawa z dnia 14 grudnia 2016 – Prawo oświatowe (Dz.U. z 2019 r., poz. 1148 ze zm. / Journal of Laws of 2019, item 1148 as amended), Rozporządzenie Ministra Edukacji Narodowej z dnia 14 lutego 2017 r. w sprawie podstawy programowej wychowania przedszkolnego oraz podstawy programowej kształcenia ogólnego dla szkoły podstawowej, w tym dla uczniów z niepełnosprawnością intelektualną w stopniu umiarkowanym lub znacznym, kształcenia ogólnego dla branżowej szkoły I stopnia, kształcenia ogólnego dla szkoły specjalnej przysposabiającej do pracy oraz kształcenia ogólnego dla szkoły policealnej (Dz.U. poz. 356 i z 2018 r., poz. 1679 / Journal of Laws, item 356 and Journal of Laws of 2018, item 1679), Rozporządzenie Ministra Edukacji Narodowej z dnia 30 stycznia 2018 r. w sprawie podstawy programowej kształcenia ogólnego dla liceum ogólnokształcącego, technikum oraz branżowej szkoły II stopnia (Dz.U. poz. 467 / Journal of Laws, item 467).

¹⁸ In particular, these are: Council Recommendation of 22 May 2017 on the European Qualifications Framework for Lifelong Learning and Repealing the Recommendation of the European Parliament and of the Council of 23 April 2008 on the establishment of the European Qualifications Framework for Lifelong Learning (OJ C 189, 15 June 2017, p. 15), Council Recommendation of 22 May 2018 on Key Competences for Lifelong Learning (Text with EEA relevance), (OJ C 189, 4 June 2018, p. 1), which will

national organisations as UNESCO or the OECD, the shape of education in Poland, including legislation on education, is also influenced by the agencies specialising in this field.

At the end of the 20th century and in the first twenty years of the 21st century, there was growing interest in the issues of education, including formal education, both of institutional entities (EU, UNESCO or the OECD) and representatives of science and educational practice. Contemporary knowledge about education (considered both in descriptive and normative terms) arises from the mutual interaction of the above-mentioned entities: on the one hand, institutions draw from the achievements of science and educational practice, and on the other hand, the publications of institutions intensify the interest of researchers of education in specific issues. What is particularly important at this point, however, is that knowledge developed in this way helps recreate a possibly coherent vision of contemporary education.¹⁹

According to this vision, education represents a significant component of the lifelong learning process.²⁰ The necessity of lifelong learning is, on the other hand, tied to the characteristics of the modern society, defined as the ‘knowledge-oriented or based’, i.e. one in which knowledge (also scientific knowledge) is a vital factor of social and economic development and one of the basic determinants of educational policy.²¹ However, due to the pace of changes taking place in modern society, school is not able to equip people with knowledge that would be valid throughout their lives.²² In order to function efficiently in the know-

be referred to later in the article as the ‘Council Recommendation’, and Council Recommendation of 22 May 2018 on Promoting Common Values, Inclusive Education, and the European Dimension of Teaching (OJ C 195, 7 June 2018, p. 1).

¹⁹ This does not mean, of course, that it is not subject to corrections, and its individual elements are criticised, as it would contradict the essence of science.

²⁰ About this process, see: D.N. Aspin, J.D. Chapman, *Towards a Philosophy of Lifelong Learning*, [in:] D.N. Aspin, J.D. Chapman, K. Evans, R. Bagnall (eds.), *Second International Handbook of Lifelong Learning*, Dordrecht–Heidelberg–London–New York 2012, pp. 3–35; B. Brownhill, *Lifelong Learning*, [in:] P. Jarvis (ed.), *The Age of Learning. Education and the Knowledge Society*, London–New York 2001, pp. 69–79; N. Longworth, K. Davies, *Lifelong Learning. New Vision, New Implications, New Roles for People, Organizations, Nations and Communities in the 21st Century*, London–New York 2013.

²¹ M. Dinu, *What Is the Knowledge Society*, “Theoretical and Applied Economics” 2008, 2(519), pp. 45–50; N. Stehr, *Knowledge Societies*, [in:] N. Stehr, V. Meja (eds.), *Society and Knowledge: Contemporary Perspectives in the Sociology of Knowledge and Science*, 2nd ed., New York 2017, pp. 299–322; idem, *Modern Societies as Knowledge Societies*, [in:] M.T. Adolf (ed.), *Nico Stehr: Pioneer in the Theory of the Society and Knowledge*, Mosbach 2018, pp. 309–331; A. Wilson, *Knowledge Power: Interdisciplinary Education for a Complex World*, Abingdon, Oxon 2010.

²² H. Dumont, D. Istance, *Analysing and Designing Learning Environments for the 21st Century*, [in:] H. Dumont, D. Istance, F. Benavides (eds.), *The Nature of Learning: Using Research to Inspire Practice*, Paris 2010, pp. 19–34.

ledge-based society, one needs to acquire certain key competences and basic skills (problem solving, critical thinking, collaborative skills, creative thinking, computational thinking and self-regulation), which must then be developed through lifelong learning.²³ Modern teaching methods – activating and integrating students, including the use of modern technologies based on the conceptions of effective learning – support the development of specific competences.²⁴

The Council Recommendation defines ‘competence’ as a dynamic combination of knowledge, skills and attitude,²⁵ and specifies the key competences as: 1) literacy competence; 2) multilingual competence; 3) mathematical competence and competence in science, technology and engineering; 4) digital competence; 5) personal, social and learning to learn competence; 6) citizenship competence; 7) entrepreneurship competence; 8) cultural awareness and expression competence. While in line with the introduction to this legal act: ‘People need the right set of skills and competences to sustain current standards of living, support high rates of employment and foster social cohesion in the light of tomorrow’s society and world of work. Supporting people across Europe in gaining the skills and competences needed for personal fulfilment, health, employability and social inclusion helps to strengthen Europe’s resilience in a time of rapid and profound change’.

The Council Recommendation sets out the basic framework for regulating the education in EU countries so that it serves the most effective development of key competences of citizens of the Member States. In turn, the basic framework for the content of teaching in Polish schools is outlined in the core curriculum (hereinafter referred to as: ‘the CC’). The requirements specified by the indicated acts (the Council Recommendation and the CC) should complement each other:

²³ J. Glaesser, *Competence in Educational Theory and Practice: A Critical Discussion*, “Oxford Review of Education” 2019, 45(1), pp. 70–85; G. Halász, A. Michel, *Key Competences in Europe: Interpretation, Policy Formulation and Implementation*, “European Journal of Education” 2011, 46(3), pp. 289–306.

²⁴ S. Baroncelli, F. Fonti, G. Stevancevic, *Mapping Innovative Teaching Methods and Tools in European Studies: Results from a Comprehensive Study*, [in:] S. Baroncelli, R. Farneti, I. Horga, S. Vanhoonacker (eds.), *Teaching and Learning the European Union: Traditional and Innovative Methods*, Dordrecht 2014, pp. 89–110; S. Bocconi, P. Kampylis, Y. Punie, *Innovating Learning: Key Elements for Developing Creative Classrooms in Europe*, Report No. EUR 25446 EN, 2012; E. de Corte, *Historical Developments in the Understanding of Learning*, [in:] H. Dumont, D. Istance, F. Benavides (eds.), op. cit., pp. 35–67; J. Hattie, *Visible Learning for Teachers: Maximizing Impact on Learning*, London–New York 2012; Y.A. Zhang, D. Cristol (eds.), *Handbook of Mobile Teaching and Learning*, 2nd ed., Singapore 2019.

²⁵ ‘Competence’ is similarly defined in OECD documents: the ‘ability to successfully meet complex demands in a particular context through the mobilization of knowledge, (cognitive, metacognitive, socio-emotional and practical) skills, attitudes and values’, D.S. Rychen, *Education 2030: Key Competencies for the Future* (working paper OECD DeSeCo), Beijing 2016, p. 3. Review of OECD research on key competences, D.S. Rychen, L.H. Salganik (eds.), *Key Competencies for a Successful Life and a Well-Functioning Society*, Göttingen 2003, pp. 1–12.

in other words, the implementation of the teaching content set forth in the CC should contribute to the acquisition of key competences. The answer to the question whether this is really the case is beyond the scope of this study. Therefore, we will limit ourselves to presenting some observations made during the analysis of the CC applicable in Poland²⁶ with regard to elements of legal education,²⁷ taking into account the issues of the development of key competences.

In accordance with the CC, issues related to legal education are mainly taught as part of such school subjects as Civic Education and Basics of Entrepreneurship.²⁸ However, there is no school subject that is entirely devoted to legal education.

Let us note that the legal education constitutes only a small part of the designated teaching content of these subjects.²⁹ It does not mean, however, that the legal issues that are included in the CC constitute an equally small or insignificant part of the legal problems. It can be said that the elements of legal education are underestimated as compared with the other teaching content and at the same time overestimated as compared with the intersubjectively perceived needs, and perhaps also the perceptual abilities of students, as well as in terms of the possibility of effective implementation of the curriculum content.³⁰ Let us take a closer look at the issue of 'overestimation'.

The analysis of the CC leads to the conclusion that some teaching content engages with very broad issues, e.g.:

- (1) *[The student] presents the course of criminal proceedings in the Republic of Poland and the parties involved in this process; lists the main rights of the victim, perpetrator and witness of a crime; writes a notification of a crime* [Civic Education, basic level, core curriculum].

²⁶ Due to the basic assumptions of the project of learning about the language of legislative acts and the place of legal education in the process of formal education in Poland, we will limit ourselves to analysing the core curriculum for secondary schools (students aged 15–19).

²⁷ We understand 'legal education' as the process of shaping knowledge about law: its content, creation, interpretation or application geared towards people who are not lawyers or law students.

²⁸ According to the CC, Civic Education classes are conducted in secondary schools at the basic and extended level, while Basics of Entrepreneurship classes are conducted only at the basic level.

²⁹ Legal education is more broadly delivered within the framework of Civic Education. Under Basics of Entrepreneurship, it is constrained by the business orientation of the subject. For instance, the curriculum of Civic Education (extended level) includes 3 (out of 16) thematic blocks are included, which are entirely or almost entirely dedicated to legal issues: *The legal system in the Republic of Poland, Human Rights and International Protection and European Integration*.

³⁰ Similar conclusions have already been formulated in the literature, J.A. Farhan, M. Jamiołkowska, *Nauczanie prawa w szkołach średnich – analiza status quo i ocena rozwiązań systemowych*, "Krytyka Prawa" 2020, 2(12), p. 75.

- (2) *[The student] indicates the specified types of offences in the Republic of Poland (against: person, health, property and safety of persons and property) and crimes (against: life and health, personal freedoms and property [Civic Education, extended level, the CC].*

Sometimes one might even get the impression that some teaching content are voluminous quotations from the tables of contents of academic textbooks, e.g.:

- (3) *[The student] explains the legal institutions of property law in the Republic of Poland (joint and fractional ownership; movable property and real estate; perpetual usufruct, use, possession, easement, collateral, mortgage [Civic Education, extended level, the CC].*

On the other hand, some teaching content relates to specialist issues, which are not always included in the CC of legal university courses, e.g.:

- (4) *[The student] discusses the functions of accounting vouchers and basic accounting principles, and fills in accounting vouchers and a book of revenues and expenditures for the purposes of accounting for income tax [Basics of Entrepreneurship, the CC].*

The analysis of the above and many other examples of teaching content that can be considered elements of legal education leads to the conclusion that most of them represent the know-what, not the know-how. However, there are also elements of the CC that undoubtedly serve to develop practical skills. These include: analysis of banking services and financial services offered by non-banking financial institutions; critical analysis of the loan or credit agreement; analysis of the provisions of general insurance conditions; writing a complaint to financial market institutions and a complaint to the Financial Ombudsman [Basics of Entrepreneurship, the CC]; writing an appeal against an administrative decision; analysis of templates of complaints against decisions of administrative bodies and complaints to the voivodship administrative court; writing a notification of a crime; writing an application requesting public information; writing the charter of an association or foundation according to a template; analysis of templates of lease agreements, contracts of mandate and contracts for specific work; writing a statement of claim in a civil trial; analysis of appeal templates; writing a private indictment [Civic Education, basic and extended levels, the CC].

The implementation of such tasks requires the use of activating teaching methods that engage students, and thus it favours the acquisition of specific competences. However, taking into account the above-mentioned tasks, one can have justified doubts not only as to whether carrying them out will optimally affect the development of the skills that students need, but also as to whether these tasks are feasible at all within the framework of a lesson. These are complex and time-consuming tasks; assuming, obviously, that they are performed conscientiously.

It is hard to imagine that a student will write a civil lawsuit during a 45-minute lesson.³¹ One may also have reasonable doubts as to whether teachers are fully prepared to properly supervise the performance of some tasks by students, such as, for instance, writing a private indictment or a critical analysis of a loan agreement, and also whether these types of practical tasks do not exceed the capabilities of secondary school students. In order to be able to complete these tasks, the students would need to acquire at least basic knowledge related to it (for which there may be not enough time during the lesson) or the help of a teacher fully competent in specific legal issues.

It also seems that some issues, e.g. the recognition in which situations the Supreme Court may grant a cassation appeal,³² are not tailored to the needs of secondary school students (even graduates of these schools).

The presentation of all conclusions resulting from the analysis of the CC in terms of legal education in Poland requires a separate study. At this point, it should be emphasised that there is a justified fear that the implementation of the CC content relating to legal issues will not effectively develop the competences, including key competences, of secondary school students. Such a supposition is justified, first of all, by the significant domination of know-what teaching in relation to practical tasks. On the other hand, bearing in mind the too broad and complicated scope of legal issues, we can suppose that teachers will use the least time-consuming teaching methods, i.e. primarily the transmission method,³³ which is not conducive to the effective development of competences.

Let us now present our proposal for shaping knowledge about the language of the legislative acts within formal secondary education. We will take citizenship competence, entrepreneurship competence and literacy competence as reference points, because, in our opinion, the development of these key competences may be supported through knowledge about the language of the legislative acts.

The development of citizenship and entrepreneurship competences aims to educate students to become active citizens who are aware of the principles govern-

³¹ This carries the risk that tasks of this type will be the subject of homework, which is sometimes even suggested in the way that the instruction is phrased, for instance, '[the student] finds templates of court appeal and analyses them'. It is easy to guess that at first (if not only), the student will look for such templates on the Internet. In carrying out this task, the student should, on the basis of the template that he or she is supposed to find and verify, obtain reliable information about the structural elements of the appeal. Such a demand from a student is obviously illegitimate, as the procedures which are the subject of this demand do not meet the basic criteria of praxeological rationality.

³² Pursuant to Polish law, the parties are represented by professional representatives in proceedings before the Supreme Court. A non-professional participant in the proceedings may not submit a cassation appeal on their own.

³³ J.A. Farhan, M. Jamiołkowska, *op. cit.*, p. 75.

ing the efficient operation of society, the state and the economy. Functioning in the social system is always connected with the law. A common feature of modern legal systems – as mentioned before – is their variability, which may exhibit different levels. As the research results have shown, between 2012 and 2014 Polish law showed the highest variability in the entire EU,³⁴ and this level is still very high.³⁵ In such a rapidly changing social reality, including the legal system, legal education based solely on the transfer of knowledge about specific legal regulations is insufficient. Undoubtedly, it should be supplemented with a provision of more universal competences, preferably the ones that will be independent from the variable content of the law. As indicated in the section *Knowledge of the Law*, such competence is the ability to understand the legislative acts, the basic and necessary component of which is the awareness of their specific features.

According to the above-cited excerpt from the introduction of the Council Recommendation, social inclusion is one of the factors that strengthen Europe in the time of rapid and profound changes. Ignorance of the law may expose citizens to legal exclusion. Certainly, it is impossible to provide citizens with a level of legal education that will allow them to participate freely in the legal system. As shown above, there are justified doubts as to whether legal education in Poland, in the form that can be seen in the CC for secondary schools, is effective. Although formal education in the field of law is supported by informal legal education,³⁶ the knowledge acquired in this process is at the risk of becoming obsolete due to the legislative acts changing over time. In order to counteract legal exclusion, particularly in the professional sphere, citizens should be provided with a competence that they will be able to use in the future. Due to the variability of the law, knowledge about specific legal regulations acquired during school education must be verified at the time when individuals start their professional activity. Such verification can only be performed by a person who has specific competences anchored in the awareness of the (linguistic) characteristics of the legislative acts. Therefore, disseminating knowledge about the language of the legislative acts is so important from the perspective of counteracting legal exclusion, and, more broadly, social exclusion.

³⁴ *Polska liderem produkcji prawa w Unii Europejskiej. Barometr stabilności otoczenia prawnego w polskiej gospodarce. Edycja 2016* (Grant Thornton), https://grantthornton.pl/wp-content/uploads/2016/02/BarometrPrawa_GT_luty2016.pdf (access: 25.01.2022).

³⁵ *Zmienność prawa nadal przytłacza. Barometr stabilności otoczenia prawnego w polskiej gospodarce. Edycja 2020* (Grant Thornton), <https://barometrprawa.pl/wp-content/uploads/2020/03/Barometr-prawa-RAPORT-2020-03-05-2020.pdf> (access: 25.01.2022).

³⁶ Informal legal education in Poland is provided by legal professional associations, universities and social organizations. The activities of these entities, however, are not continuous and consistent.

Unquestionably, social inclusion, including legal inclusion, may be fostered through the availability of information on the content of the law, mainly on the Internet. However, it should be remembered that in the era of a vast and often uncontrolled supply of information, people come across not only true and valuable information, but also untrue, incomplete and intentionally manipulated information. An example of such falsehood is citing a specific legal provision as an example of a legal norm. A competent member of society, aware of the (linguistic) features of the legislative acts, knows that it is not the provisions abstracted from the normative context that shape the normative situations of entities, but the legal norms recreated on the basis of the entire text of a legal legislative act, and sometimes even taking into account other legislative acts (see the section *Knowledge of the Law*). And even if, in a given situation, this person decides not to verify the information on their own, they may seek expert advice because they will be aware that such verification should be done.

We should also pay attention to the universality of shaping knowledge about the language of the legislative acts from a global perspective. Normativity (a fundamental feature of the legislative acts) is a characteristic feature not only of Polish legislative acts.³⁷ Therefore, shaping knowledge about the language of the legislative acts allows for the development of competences that are relatively independent from the legal context, which is extremely desirable in the era of globalism, and free movement of goods, services and employees.

Literacy competence is considered to be one of the most crucial competences, also in the context of the economic development of individuals and society.³⁸ An important element of this competence is the ability to interpret texts written in various registers of one's native language. As indicated in the section *The Importance...*, for an adequate understanding of the legislative acts, we need such a skill whose basic component is knowledge of the (linguistic) features of the legislative acts. It should be noted here that, in accordance with the Polish CC, students' communication competence is developed chiefly during Polish lessons. At the same time, it should be emphasised that the CC for this school subject does not provide for teaching knowledge about the language of the legislative acts. As a consequence, it is not possible for students to form an integrated communicative competence at the level of formal secondary education (or primary education,

³⁷ A. Godek, op. cit., pp. 35–56; A. Jopek-Bosiacka, *Theoretical and Logical Prerequisites for Legal Translation*, "International Journal of Language and Law" 2018, 7, pp. 47–69.

³⁸ R. Carneiro, J. Gordon, *Warranting Our Future: Literacy and Literacies*, "European Journal of Education" 2013, 48(4), pp. 476–497; F. Xiao, L. Barnard-Brak, W. Lan, H. Burley, *Examining Problem-Solving Skills in Technology-Rich Environments as Related to Numeracy and Literacy*, "International Journal of Lifelong Education" 2019, 38(3), pp. 327–338.

for that matter). Additionally, it is difficult to understand why texts of such importance for the functioning of society were not included in the CC for developing communication competence.

Let us consider another aspect of developing literacy competence. The language of the legislative acts can be perceived as exclusive both due to the use of terms with a specific, legal meaning (in particular, defined in the text of a legal legislative act) and due to other particular features, primarily those related to the normativity of the legislative acts. Full and conscious participation in the legal discourse requires competence in understanding the legislative acts, the basic component of which, once again, is knowledge of their (linguistic) features. The actions currently taken in Poland to overcome the exclusive character of the language of the legislative acts are mainly activities of lawyers,³⁹ but also linguists.⁴⁰ Their main goal is to advocate the most transparent and intelligible information on the content of the law in official texts or in the mass media. Participation in a discourse of a given type always requires achieving a certain level of communicative competence, and for this purpose, it is necessary to involve all discourse participants. Acquisition of knowledge about the language of the legislative acts surely requires some effort on the part of the learners. This effort may, in our opinion, lead to a real breakdown of the barrier of exclusion caused by the language of the legislative acts,⁴¹ which is also important from the point of view of the moral right to enforce legal norms.

Conclusions

The responsibility for acting in accordance with the law lies with those to whom it is addressed, i.e. both lawyers and non-lawyers. However, not all addressees of legal norms have the same level of legal communication competence. The school education that we propose in this area of legal competences is one of the tools to minimise the risk of people understanding the legislative acts in the same way as a regular text written in their language.

³⁹ A. Choduń, *Postulat jasności prawa...*, pp. 226–244; eadem, *Dlaczego warto uczyć...*, pp. 45–55; T. Gizbert-Studnicki, *Postulat jasności i zrozumiałości tekstów prawnych a dostęp do prawa*, [in:] A. Mróz, A. Niewiadomski, M. Pawelec (eds.), *Prawo i język*, Warszawa 2009, pp. 17–18; M. Zieliński, *O potrzebie nauczania języka prawa*, [in:] W. Miodunka (ed.), *Edukacja językowa Polaków*, Kraków 1998, pp. 103–111; idem, *Wiedza o tekstach prawnych...*, pp. 26–30.

⁴⁰ H. Jadacka, *Dlaczego nie wszyscy mogą rozumieć teksty prawne*, [in:] A. Mróz, A. Niewiadomski, M. Pawelec (eds.), *Prawo, język, etyka*, Warszawa 2010, p. 30.

⁴¹ This does not mean, obviously, a naive belief that this barrier will completely cease to exist.

For the proposal to be successful, it requires the cooperation of specialists in several disciplines: lawyers, linguists, educators and methodologists. Its aim would be to develop a plan of several hours of lessons on the language of the legislative acts. The acquisition of knowledge about the language of the legislative acts should take place at the stage of secondary school. As education is compulsory until the age of 18,⁴² a very large number of members of society could participate in this process. At the same time, what is very important in this context is that legal education is the most intensive at the secondary school level. It is also not without significance that these students will soon become full members of society, including the political, economic and professional life. Thanks to the implementation of this project, the students' communication competence would be extended to include legal comprehension skills, which is the most important element in the development of conscious people. This education strategy would bring both national and international benefits, as it follows the Council Recommendation to develop key competences common to EU citizens.

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⁴² Article 35, ustawa z dnia 14 grudnia 2016 Prawo oświatowe (Dz.U. z 2019 r., poz. 1148 ze zm. / Journal of Laws of 2019, item 1148 as amended), *secondary general education* usually lasts until the age of 18 or 19 in the European Union, The Structure of the European Education Systems 2019/20: Schematic Diagrams. Eurydice Facts and Figures (European Commission/EACEA/Eurydice), Luxemburg 2019, <https://op.europa.eu/en/publication-detail/-/publication/d7885072-f3ac-11e9-8c1f-01aa75ed71a1/language-en/format-PDF/source-107292535> (access: 25.01.2022).

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