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## PERFORMATIVES IN CYPRIOT, GREEK AND POLISH TEXTS OF NORMATIVE ACTS. A COMPARATIVE STUDY

**Abstract.** The theory of speech acts, formulated by Austin and developed by Searle, is widely applied to analyse and classify various speech acts. In this paper it is assumed that legal texts, especially normative acts i.e. constitutions and statutes, are direct speech acts. Normative acts (statutory instruments) are linguistic entities and they do not exist outside the language, thus the theory of speech acts may be applied to examine them. They are also considered to be performative utterances according to Austin's classification. In this paper the intention is to compare Cypriot, Greek and Polish normative acts on the basis of the so-called classical theory of speech acts and typology of performativity exponents. The author will compare various methods of expressing performativity in reference to the meaning conveyed by them. Furthermore, other exponents of performativity occurring in the analysed texts (the so-called extra textual methods of expressing performativity) shall also be compared. The results obtained while performing the analysis and comparison may be significant for scholars, lawyers and translators.

*Keywords:* performativity in legislation, performative utterances in legal communication, performative verb, speech act theory in legal communication, performatives in legal discourse, performativity markers, linguistic performativity markers, textual performativity markers.

Language and law are mutually dependent especially in the frame of legal communication. Law needs to be communicated to be enacted and obeyed and thus it needs language to be expressed. Legal communication, as seen in the paper,<sup>1</sup> is executed between legislator and object of the legislation or/and addressee of statutory texts and they are parameters of legal communication (Sandrini, 2009:34–36). Communicative relations between the legislator and the object of the legislation are specific because there is a type of asymmetry between the legislator and the legal object and it clearly visible in the silence of the object (cf. Kurzon, 1998). Legal communication, as every type of communication, needs an instrument to communicate

and in accord with the work of Karl Bühler (2004:25–34) this instrument (*organon*) is the language. Linguistic and philosophical studies concerning communication claim that the main function of the communication is the informative function (cf. Lasswell, 1948; Jakobson, 1989) but alternatively, current investigations present the opinion that the informative function is one of many possible functions of the communication (Wendland, 2012:144).

The legal communication instrument, which is language and more precisely legal language and its products i.e. legal texts, takes part in the act of law enactment because *Law always has a linguistic form; there would be no law without language* (Grewendorf & Rather, 2009:1). The act of enacting laws is an action, which exists in pragmatics and moreover starts to exist while it is verbally expressed. From this point of view legal communication does not have only one function, which is informative, but has a performative function too as it is an action. Thus, relations between the legislator and the object of the legal rule, as seen in the aspect of communication, may be analysed with use of the speech act approach the legal discourse (cf. Fiorito, 2005) as it enables one to investigate legal communication as communication and simultaneously as performance: *Speech act theory relates to an act that a speaker performs when pronouncing an utterance, which thus serves a function in communication* (Baicchi, 2009:212). From this point of view the speech act theory and especially the distinction between locutionary, illocutionary and perlocutionary acts (Austin, 1975:123) is a useful instrument to investigate the act of communication, which is performed between the legislator and the recipient of the legal message (text of normative act).

The legal communication is also a pragmatic act of performance of law. Taking into consideration this statement the speech act theory approach to analyse this act may be useful tool to explain relations between the legislator (sender) and the object of the legal rules (recipient) (Trosborg, 1992:12–13). However, the paper concentrates on textual research material and thus the pragmatic con-situation of performance is not discussed in detail.

### Methodological remarks

The intension of the paper is to investigate performativity markers existing in the communication between the Polish, Greek and Cypriot legislators and the recipients of their messages. In other words the object of the research are legislative texts. Results of the comparative study of that phenomenon provide a set of useful data, which may be useful for comparatists, both linguists and lawyers.

As every investigation like this study needs to be based on some existing theoretical issues. Thus the first step of the investigations is to provide basis terms and their definitions as seen in the paper. These terms and ideas are performative utterances in legal communication seen as messages in legal communications, types of exponents of performativity in legal texts. The author of the paper considers the distinction into linguistic and extra-linguistic features of performative nature of the normative acts, but there is an attempt to propose a different classification of performativity markers of legislative texts. The performativity markers are divided into textual and extra-textual markers, whereas the textual markers include both some strictly linguistic and extra-linguistic markers. Extra-textual markers are not the objects of detailed analysis in the paper, but there are some notices relating to the above-mentioned objective of the paper being to investigate the legislative texts seen as a legal message.

When discussing types of performative utterances and types of exponents of performativity, the comparative classifications of performatives in the analysed texts of normative acts are presented. These classifications are a common platform, on which to compare performatives in Polish, Greek and Cypriot Legal communication. The analysed performatives are based on Austin's and partly on Searle's theories and their continuators.

As the intention is to present exponents of performatives in common and in contrary, the results of the analysis include parallel/identical and different exponents of performativity. Thus the intention of the paper is fulfilled, as it is to provide data useful to further investigations performed by comparatists, especially linguists i.e. legal translators, and lawyers i.e. counsel or judge. They very often have a contact with the text, coming from an authentic promulgating journal or not, but there is a great possibility they do not know the extra-linguistic circumstances of the performance of the law act. Thus, according to the author, the study performed in the paper, may provide knowledge and tools to decide whether a certain text is an act of performance of law or not.

The corpus of texts explored in the paper includes national laws, which are constitutions, laws, decree-laws and international treaties enacted in Poland, Greece and in The Republic of Cyprus. The object of the research is corpus of normative acts, which are in force in these states but they are not EU normative acts. They are normative acts of *autonomous EU legal order* (Czuczaj, 2012:3; Barcz, 2009:7). The analysed texts are authentic prints of promulgating journals as the performativity is understood as a type of act characterised as interaction between the participants of the speech act (Wunderlich, 1980:292).

Performative utterances in legal communication

Performative utterances

There is an established sentence among scholars that the theory of **performative utterances** originates from British philosophers of language and especially from J.L. Austins’s speech acts theory (Zdunkiewicz, 2001:259). Austin specified performativity, which was previously introduced as the idea of *performing an act*, and then he introduced the concept of *illocutionary acts* (Oishi, 2006:3). He distinguished them from *locutionary acts* and *perlocutionary acts*, which cannot be separated from each other, but theoretically there is a possibility to classify them as follows (Fiorito, 2006:103):

- 1. locutionary act, the act *of saying* something,
- 2. illocutionary act, the act performed *in saying* something, as contrasted with a locutionary act,
- 3. and also contrasted with perlocutionary act, the act performed *by saying* something. Austin himself, however, explicitly abandoned the *in saying/by saying* text (Austin, 1975:123; Fiorito, 206, 103).

Austin emphasised the conventional character of illocutionary force and noticed that performatives, in contrary to constatives, cannot be seen as true or false utterances but they can be felicitous or infelicitous. Then he characterised felicity conditions (Austin, 1975:14–15) and thus the initial dichotomy of utterances might be as follows (cf. Jacobsen, 1971):

Table 1  
Distinction between constatives and performatives

Constatives	Performatives
Are factual statements that are either <i>true</i> or <i>false</i> . Are <i>the saying</i> of something.	Do not express anything <i>true</i> or <i>false</i> . Are performances; the utterance is <i>the doing</i> of something. Are assessed in terms of being <i>felicitous</i> or <i>infelicitous</i> .

Moreover, according to some scholars, the aforementioned distinction’s important criterion is the speaker’ will or intention (Lizisowa, 2009:2; Grodziński, 1980:169). This criterion is partially one of the felicity conditions described by Austin (cf. Austin, 1975) and Searle (cf. Searle, 1965).

Austin himself reviewed his theory of speech acts and proposed another, more, detailed, taxonomy of speech acts. He divided illocutionary speech acts into five types:

1. Verdictives (sentences, judicial sentences, statements),
2. Commissives (obligations),
3. Behabitives (social behaving as greetings, thanksgivings),
4. Expositives (metalinguistic utterance quotation, explanation),
5. Exercitives (utterances passed on power – prohibitives, orders, indictment).

Giving reasons of those categorisations he wrote *I am not putting any of this forward as in the very least definitive* (Austin, 1975:151).

Austin's reviewed taxonomy was developed by Searl, which started to be more useful and established among linguists. Searle (cf. 1975) has established the following classification of illocutionary speech acts:

1. Representative – speech acts that commit a speaker to the truth of the expressed proposition, e.g. reciting a creed,
2. Directives – speech acts that are to cause the hearer to take a particular action, e.g. requests, commands and advice,
3. Comissives – speech acts that commit a speaker to some future action, e.g. promises and oaths,
4. Expressives – speech acts that express the speaker's attitudes and emotions towards the proposition, e.g. congratulations, excuses and thanks,
5. Declarations – speech acts that change the reality in accord with the proposition of the declaration, e.g. baptisms, pronouncing someone guilty or pronouncing someone husband and wife.

Searle (1975:345–350) noticed many *Different Types of Differences between Different Types of Illocutionary Acts*, which are connected with the so-called extra-linguistic circumstances of illocutionary acts. Involving pragmatic con-situation as a tool to analyse textual markers of performativity may be criticised (Malinowski, 2006:99). Moreover, if the intention of the paper is to investigate legislative texts (legal messages), considering mixed extra-linguistic and linguistic patterns of performativity together seems to be an inadequate methodological approach. Thus, Austin's primary taxonomy of illocutory speech acts is adopted as the basis of the empirical analysis performed in the paper as the legislative texts (normative acts) create legal reality. This assumption is a direction to perceive the illocutionary force of the entire normative act as a legal message sent by the legislators to its recipients and not only the illocutory force of every single legal provision. Then the primary criterion of the analysis of the textual performatives is the existence of the textual features of performativity and secondly their comparison on the basis of Polish, Greek and Cypriot legislative texts.

Austin (1975:69) distinguished performatives into: i) implicit (or primary or primitive) performative utterances and ii) explicit performatives utterances. *Primary performative utterances* in general have no lexical illocutionary indicators (illocution). In contrast, *explicit performative utterances* usually have the form of a sentence with a *performative verb* (cf. Searle, 1976; Kurzon, 1986 et al.). Both implicit and explicit performative utterances, understood as utterances performing law, are linguistic markers of performativity on the paper.

The performative nature of the normative act originates from i) linguistic features and ii) extra-linguistic features. Point ii) means the features seen in the text thus having textual character and they may refer to symbols, signs, signatures etc. (Panaretou, 2009:99) which are outside of the “pure” text of the normative act.

### **Performative nature of statutory texts**

According to the aforementioned statements, a performative utterance is the illocutory act only because it is said and moreover if the performative utterance provokes extra-linguistic, pragmatic effects. If the effects appear, it means that the utterance is effective (felicitous).

The legislator uses performatives to impose special behaviour, acting or not acting in some manner or simply to express rules and more specifically legal rules as the legal rules impose definite acting/not acting. Legal rules are made, interpreted and enforced by governments and the legislator codifies the legal rules in statutory texts. The statutory texts (texts of normative acts) create a certain legal reality. They are part of the legal system and it is sufficient to perform them to change this system.

There is nothing to be gained by discussing further the performative and directive nature of a statutory text as it is established in legal theory as no one may say if a legislator’s utterance – statutory act is false or true, one may investigate only the fact if this utterance was legalised correctly or not in the aspect of legalisation. In legal bibliography a statutory act is considered as type of an utterance, which causes extra-linguistic effects in the area of law legal rules recipient (cf. Malinowski, 2006; Opalek, 1974; Twinning & Miers, 1982 et al.).

The legislator gives the performative frame (Gortych-Michalak, 2013: 253) to the normative act and it might be called the higher speech act in the hierarchy of speech acts existing in the text of a normative act. The lower speech acts have a modal character, which is expressed in a modal verb. These utterances are: imperative clauses, prohibitive clauses and empowering clauses (Lizisowa, 2009:30–32).

## **Textual markers of performativity in texts of normative acts**

According to previously made methodological remarks, the empirical investigation concentrates on textual markers of performativity. They are: i) linguistic markers of performativity, including explicit and implicit performatives and ii) extralinguistic markers of performativity, seen in the visual form of the texts of normative acts. The investigation does not refer detail to extra-textual (pragmatic) markers of performativity. They are legislative process and types of legislative institution empowered to performance of the laws. As the performed investigation is addressed to the legal linguist including translators, they play an auxiliary role in their work if it is assumed they are not immediate objects of the legal message – text of normative act as the object of their investigations and work is the legislative text.

The extra-textual markers of performativity help the investigator to select the proper research material because knowledge about the certain national legal system assures that one may select equivalent texts. The equivalent texts are the texts, which have parallel or the same function in the legal system. Thus, the object of the research is for instance the laws and the constitutions and they are not the laws together with criminal law judgements. Moreover, extra-textual markers of performativity are also institutions empowered to issue the specific legislative act, which is in force and they do it in conventional method. i.e. they publish the texts of normative acts in promulgating journals, when referring to Poland, Greece and Republic of Cyprus.

### **Algorithm of the comparative analysis**

A sequence of actions undertaken to perform the entire analysis is called the algorithm, it explains not only the basis of the certain action but also provides the sequence of the steps. The algorithm may be executed in various sets of research material. The selected texts of Polish, Greek and Cypriot normative acts have an exemplary character.

Step 1. Collecting research material.

The main criterion to create the set of legislative acts is the estimation of whether the normative acts are sources of law in certain countries. In Poland, Greece and Republic of Cyprus the laws and the constitutions are sources of law.

Step 2. Determination of linguistic markers of performativity.

Linguistic markers of performativity are implicit and explicit performative utterances.

Step 2a. Comparison of implicit performatives.

Comparison of performative utterances, which do not include performative verb and providing equivalent linguistic forms of performativity originating from Polish, Greek and Cypriot texts of normative acts.

Step 2b. Comparison of explicit performatives.

Comparison of performative utterances, which include performative verb and providing equivalent performative verbs coming from Polish, Greek and Cypriot texts of normative acts.

Step 3. Determination of extra-linguistic markers of performativity.

Investigation of the texts, their visual forms, in the scope of non-linguistic features of performativity. Providing a comparison of extra-linguistic markers of performativity.

Step 4. Comparative study of performativity markers.

Determination of similarities and differences between textual markers of performativity intending to provide the set of characteristic features of the performative acts. They may be present fully or partially in investigated national legislative processes.

## **Analysis**

**Research materials** are texts of the constitutions and the laws (see References). The given quotations are examples to illustrate the specific discussed phenomenon. As the comparative analysis has a synchronous character, the investigated texts are still in force at the time when the paper is being written.

**Linguistic markers of performativity** are **implicit** and **explicit performative** utterances. The first category refers to utterances, which are not content of the performative verb and the second is based on the performative verb.

The **implicit performative utterances** arise from lexical and syntactic structures. Detailed analysis leads one to the conclusion they can be located at the beginning and at the end of the text of a normative act, respectively to every national model of the constitution, the laws and the decrees. They may be classified in following categories: i) name and number of the promulgating journal, ii) type and name of the normative act, iii) name of the institution empowered to enact and to promulgate the normative act, iv) signature. Markers of implicit performativity existing in the aforementioned categories are present in the part of the statutory text outside of the articles, paragraphs and other superstructural elements of the text (cf. Gortych-Michalak, 2013a; Gortych-Michalak, 2013b).



**Name and number of the promulgating journal** is the obligatory element of the text of normative act when editing in the conventional, primary source of law. This is exactly the promulgating journal. The names of the analysed journals are as presented in Table 2. The name of the journal is not sufficient because there are dozens of its editions in national legal systems. Thus, the name is always accompanied with the number and the date and the following classification present some exemplary full titles of the promulgating journals.

**Table 2**  
**Titles of the promulgating journals**

Polish promulgating journal	Greek promulgating journal	Cypriot promulgating journal
<i>Journal of Laws of the Republic of Poland</i> . Warsaw, 31 <sup>st</sup> of December 2012. Item 1551	<i>Official Journal of the Hellenic Republic (FEK)</i> , Ser. A, No 18. 25 <sup>th</sup> of January 2013	<i>Cyprus Government Gazette</i> , First Attachment. Legislation – Part I. Number 4317, Monday, 17 <sup>th</sup> of December 2012. Item 1863
[ <i>Dziennik Ustaw Rzeczypospolitej Polskiej</i> . Warszawa, dnia 31 grudnia 2012 r. Poz. 1551] <sup>2</sup>	[ <i>Εφημερίς της Κυβερνήσεως της Ελληνικής Δημοκρατίας</i> Τεύχος Πρώτο Αρ. Φύλλου 18 25 Ιανουαρίου 2013] <sup>3</sup>	[ <i>Επίσημη Εφημερίδα της Κυπριακής Δημοκρατίας</i> Παράρτημα Πρώτο Νομοθεσία – Μέρος Ι. Αριθμός 4371. Δεύτερα, 17 Δεκεμβρίου 2012. 1863] <sup>4</sup>

All titles of the promulgating journals include: the name of the journal [Dziennik (Pl) Εφημερίς (Gr), Εφημερίδα (Cy)], number of the journal (optionally series, number, item – respectively to the national legislative convention) and the date of the edition of the journal. The title of the Polish journal includes the place, which is the capital city of Poland.

The elements of the title, which appears in all analysed texts, may be considered textual markers of implicit performativity when discussing performatives according to Austin's primary division of utterances (constatives and performatives). Performance of the law is effective if the law (in its linguistic form – text) is edited specifically for every national legal system of promulgating journal. This requirement may be considered a felicitous condition.

**Type and name of the normative act** are included in title of the normative act. The detail analysis of the legislative systems of Poland, Greece and the Republic of Cyprus in comparative approach gives the results as presented in the Table 3.

The given exemplary titles of the normative acts present a diversity of names and moreover of types of the normative acts.

Table 3

Exemplary titles of normative acts

Polish normative acts	Greek normative acts	Cypriot normative acts <sup>5</sup>
<i>Constitution of the Republic of Poland</i> [ <i>Konstytucja Rzeczypospolitej Polskiej</i> ]	<i>Constitution of Greece</i> [ <i>Σύνταγμα της Ελλάδας</i> ]	<i>The Constitution of the Republic of Cyprus</i> [ <i>Το Σύνταγμα της Κυπριακής Δημοκρατίας</i> ]
<i>Law of 25th of February 1964. Codice of family and Tutelary law</i> [ <i>Ustawa z dnia 25 lutego 1964 r. Kodeks rodzinny i opiekuńczy</i> ]	<i>Compulsory Law No AN 2250/1940 "Civil Code".</i> [ <i>Αναγκαστικός Νόμος υπ. αριθ. 2250/1940 "Αστικός Κώδιξ"</i> ]	<i>Law of 1988 on official languages of the Republic of 1988 No N 67/1988</i> [ <i>Ο περί των Επισήμων Γλωσσών της Δημοκρατίας Νόμος του 1988 (67/1988)</i> ]
<i>Decree of the Minister of Finance of 26th of July 2010 concerning obligatory registration record exemption with use of cash register</i> [ <i>Rozporządzenie Ministra Finansów z dnia 26 lipca 2010 r. w sprawie zwolnień z obowiązku prowadzenia ewidencji przy zastosowaniu kas rejestrujących</i> ]	<i>Decree of the President No 283 of 1985. "Penal Codice"</i> [ <i>Προεδρικό Διάταγμα 283 του 1985 "Ποινικός κώδικας"</i> ]	<i>Decree of the President of the Republic No 565/2005 of 12.09.2005</i> [ <i>Πράξη του Προέδρου της Δημοκρατίας Αρ. 565/2005 ημερ. 12.9.2005</i> ]
<i>Agreement between the Government of the Hellenic Republic and the Government of the Polish People's Republic for the Avoidance of Double Taxation With Respect to Taxes on Income and on Capital, drawn up in Athens on the 20th November 1987</i> [ <i>Umowa między Rządem Polskiej Rzeczypospolitej Ludowej a Rządem Republiki Greckiej w sprawie unikania podwójnego opodatkowania w zakresie podatków od dochodu i majątku, sporządzona w Atenach dnia 20 listopada 1987 r.</i> ]	<i>Agreement between the Government of the Hellenic Republic and the Government of the Polish People's Republic for the Avoidance of Double Taxation With Respect to Taxes on Income and on Capital, drawn up in Athens on the 20th November 1987</i> [ <i>Συμφωνία μεταξύ της Κυβέρνησης της Ελληνικής Δημοκρατίας και της Κυβέρνησης της Λαϊκής Δημοκρατίας της Πολωνίας για την Αποφυγή της Διπλής Φορολογίας Αναφορικά με τους Φόρους Εισοδήματος και Κεφαλαίου της 20ης Νοεμβρίου 1987</i> ]	<i>Agreement between the Government of the Republic of Poland and the Government of the Republic of Cyprus for the Avoidance of Double Taxation with Respect to Taxes on Income and on Capital of 30th of March 2013</i> [ <i>Σύμβαση μεταξύ της Κυβέρνησης της Δημοκρατίας της Πολωνίας και της Κυβέρνησης της Δημοκρατίας της Κύπρου για την Αποφυγή της Διπλής Φορολογίας αναφορικά με Τους Φόρους πάνω στο Εισόδημα και πάνω στο Κεφαλαίο της 30ης Μαρτίου 2012</i> ]

Detailed analysis of the Polish legal systems results in wider range of normative acts' taxonomy: constitution (konstytucja), law (ustawa), decree (rozporządzenie), decree-law (rozporządzenie z mocą ustawy), treaty

(umowa). The type of the normative act is included in the title of the act but it may be associated with the exact name of the normative act, which is specifically: constitution (konstytucja), law (ustawa), decree (rozporządzenie), codice (kodeks), treaty (umowa).

Analysis of the Greek legal system provides parallel results as the taxonomy of Greek normative act is as follows: constitution (σύνταγμα), law (νόμος), decree (διάταγμα), treaty (συμφωνία). Titles of the Greek normative acts, as also Polish normative acts, may include their names: constitution (σύνταγμα), law (νόμος), codice (κώδικας), decree (διάταγμα), treaty (συμφωνία) and in more details: decree of the President (Προεδρικό Διάταγμα), decree of the King (Βασιλικό Διάταγμα),<sup>6</sup> legislative decree of the King (Νομοθετικό Βασιλικό Διάταγμα), legislative decree of the President (Νομοθετικό Προεδρικό Διάταγμα), legislative decree (Νομοθετικό Διάταγμα), Compulsory law (Αναγκαστικός Νόμος), executory law (Εκτελεστικός Νόμος).

The Cypriot normative acts, from the typological point of view, may be divided into: constitution (σύνταγμα), law/chapter (νόμος/κεφαλαίο), decree (πράξη), treaty (σύμβαση). As in the above cases, the titles of Cypriot normative acts include both the title and the name of the act and they are as follows: σύνταγμα), law/chapter (νόμος/κεφαλαίο), codice (κώδικας), decree (πράξη), treaty (σύμβαση).

Another marker of implicit performativity in an analysed normative act is the **name of the institution** empowered to enact and to promulgate the normative act. The detailed comparative analysis results in the statement that names may be given in the preamble (πreambula/προοίμιο) or in the title of the normative act, as in the examples given in table 3. The names of the empowered institutions are very often given at the end of the normative act, after the last article. The institution, which enacts the normative act, need not be the same institution, which promulgates the act. For instance, in Poland the laws are enacted by the Parliament but they are promulgated by the President. All possible names of the institutions and persons empowered to enact and to promulgate.

The last marker of implicit performativity is the **signature** of the empowered person or the representative of the empowered institution to enact and to promulgate the specific normative act. Authentic documents are manually-undersigned and they may be officially sealed. This form provides the prototype for printed copied in official journals and in the secondary publications. The signature must appear together with printed name of the person and his or her function in the state. i.e. President of Greece (ο Πρόεδρος της Δημοκρατίας) Konstantinos D. Tsatsos (Κωνσταντίνος Δ. Τσάτσος),

Table 4

**Institutions enacting and promulgating normative acts**

Polish institutions	Greek normative acts	Cypriot normative act
Parliament: Sejm and Senate (Sejm i Senat) Prime Minister (Prezes Rady Ministrów) Government (Rada Ministrów) Minister (Minister) President of the Republic of Poland (Prezydent Rzeczypospolitej Polskiej)	Helenic Parliament (Βουλή των Ελλήνων) Prime Minister (Ο Πρωθυπουργός) Minister/s (Υπουργός/οί) President of the Greek Republic (Ο Πρόεδρος της Ελληνικής Δημοκρατίας)	House of Representatives (Βουλή των Αντιπροσώπων) President/Government <sup>7</sup> (Ο Πρόεδρος της Δημοκρατίας/ Υπουργικό Συμβούλιο)

Ministers (οι Υπουργοί). Moreover the signature of the normative act may include the date and the place, i.e. Athens, 9th of June 1976 (Εν Αθήναις, τη 9η Ιουνίου 1976).

The **explicit performative utterances**, according to aforementioned theories of speech acts are based on the presence of the performative verb. If the utterance creates the law, the performative verb has conventional form meaning and concerning the enacting of the normative act. These verbs are observed in the beginning of the text, in preamble (preambula/προοίμιο) and in the end of the text, in most cases in last articles of the normative act. Thus two types of sentences including performative verbs are examined: i) preamble, ii) final regulations.

The preamble is a part of normative act present in authentic printing of the act in promulgating journal. Secondary editions of the text of normative act (i.e. commentaries) very often do not include the preamble. Referring to the basic assumption saying that legal performatives create the law, the primary source of the analysed texts is their edition in promulgating journals. Thus the following comparison of performative verbs is based on the authentic editions of the texts.

In most cases the **preamble** is an introductory statement where the motions to enact the specific normative acts are given, It may also explain historical or cultural background of the act. When analysing Polish, Greek and Cypriot normative acts varied content and purposes are seen in the preambles.

Preambles in Polish normative acts appear very rarely. The most significant recent preambles of the normative acts being in force are: the preamble of the Constitution of 1997 and the preamble of the Law on Polish Language of 7<sup>th</sup> of October 1999. They are rather large textual units when compared

with the Greek and Cypriot preambles. Thus some excerpts including performative verbs are given below.

1. Constitution of the Republic of Poland of 1997: (...) *we, Polish Nation* (...) establish the Constitution of the Republic of Poland (...) [(...) *my, Naród Polski* (...) ustanawiamy Konstytucję Rzeczypospolitej Polskiej (...)].
2. Law on the Polish Language of 7th of October 1999: *The Parliament of the Republic of Poland* (...) enacts the present law. [*Parlament Rzeczypospolitej Polskiej* (...) uchwala niniejszą ustawę.].

Both verbs concern the process of performance of the law. The Polish verb “ustanawiać” (to establish) means to create and the verb “uchwalać” (to enact) means to create conventionally, with common decision, in public.

Preambles in Greek normative acts are a constant element of the normative acts. They are very short and in most cases include only one sentence. The preambles are present in the laws and some decrees. Even the Constitution, despite its primary and fundamental function in the state, includes a very short preamble, which differs from the preambles of the other normative acts. It does not include any performative verb<sup>8</sup>. There are also other schemes of the preamble of Greek normative acts which is given entirely:

1. Most normative acts are undersigned by the President: *President of the Republic, We issue the present law, which was enacted by the Parliament.* [*Ο Πρόεδρος της Δημοκρατίας. Εκδίδουμε τον ακόλουθο νόμο που ψήφισε η Βουλή.*]
2. The laws rewritten from katharevousa into dimotiki (Gortych-Michalak 2013a: 45–51) i.e. Decree of the President No 283 of 1985. “Penal Codice” [*Προεδρικό Διάταγμα 283 του 1985 “Ποινικός κώδικας”*]: *Taking into consideration the regulations of the article 36, par. 2, point C and 3 of the law No 1406/83 (FEK 182 A), with the proposal of the Minister of Justice, we govern:* [*Έχοντας υπόψη: Τις διατάξεις του άρθρου 36 παρ. 2 εδ. Γ και 3 του ν. 1406/83 (ΦΕΚ 182 Α), με πρόταση του υπουργού Δικαιοσύνης, αποφασίζουμε:*]

The first model of the Greek preamble is the most common. It includes two performative verbs, one in the past tense and one in the present tense. Thus the complex sentences present the historical development of the legislative process, which preceded the performance of the law. The most important is the verb “to issue” (εκδίδω) as it gives the information that herewith the law is being enacting.

The preambles of the Cypriot Normative acts are also a constant part of the text of normative act. It should be emphasised that the Constitution of

the Cypriot Republic does not include any preamble. The other normative acts have one model of the preamble and it is as follows:

*The House of Representatives enacts as follows: [Η Βουλή των Αντιπροσώπων ψηφίζει ως ακολούθως:]*

The present performative verb is the same as that used in Greek normative acts. It has the same function and meaning – it creates the law. This fact is highlighted by the present tense of the verb.

There are not many performative verbs existing in the analysed normative verbs as they have a conventional character. It results from their exact function and determined field of use, which is legislation – performing the law. A short list of performative verbs present in the preambles is a feature of Polish, Greek and Cypriot normative acts.

The **final regulations** of the normative acts are located in the last articles of different editorial units. Their function is to determine the exact time from when the normative act is in force. The final provisions have their conventional pattern observed in the analysed texts. There are only a few variations noted, thus the entire sentences expressing final regulations are given below.

Typical final regulation in Polish Normative acts:

1. *The law starts to be in force after 14 days from the date of its issue. [Ustawa wchodzi w życie po upływie 14 dni od dnia ogłoszenia].*
2. *The decree starts to be in force on 1st of January 2011. [Rozporządzenie wchodzi w życie z dniem 1 stycznia 2011.].*

Typical final regulation in Greek Normative acts:

1. *The validity of the present law, which will be enacted legally according to the article 44 paragraph 1 of the Constitution, begins after its issue in the Official Journal of the Hellenic Republic, unless it is regulated differentially in detailed regulations. [Η ισχύς της παρούσας, η οποία θα κυρωθεί νομοθετικά κατά το άρθρο 44 παράγραφος 1 του Συντάγματος, αρχίζει από τη δημοσίευσή της στην Εφημερίδα της Κυβερνήσεως, εκτός αν άλλως ορίζεται στις επιμέρους διατάξεις],*
2. *We proclaim the issue of the present law in the Official Journal of the Hellenic Republic and its execution by the Government. [Παραγγέλλομε τη δημοσίευση του παρόντος στην Εφημερίδα της Κυβερνήσεως και την εκτέλεσή του ως νόμου του Κράτους].*
3. *The law starts to be in force on 1st of July 1941. [Η ισχύς του παρόντος νόμου αρχίζει από την 1η Ιουλίου 1941].*

Typical final regulation in Cypriot Normative acts:

1. *The law starts to be in force on 1st of July 2002. [Ο παρών νόμος τίθεται σε ισχύ από 1η Ιουλίου 2002].*

2. *The validity of the present law is confirmed as it started on 1st January 2011.* [*Η ισχύος του παρόντος Νόμου θεωρείται ότι άρχισε της 1η Ιανουαρίου 2011*].

The performative verbs do not have a “pure” form in the final regulations. They have a periphrastic form, the function of which is to determine the starting point of the time from when the law is in force. The performativity is based on the act of the establishment and in the analysed cases this condition is fulfilled as the normative act is created, the law is performed and it exists. The moment of being in force confirms the fact the law is enacted and it will be applied at the certain moment in the future. There is always one specific situation present in the Cypriot final regulation as seen in point 2. The regulation referred to there confirms the act of performance of the law as the verb used there is given in the past tense, (started/άρχισε).

### **Extra-linguistic markers of performativity**

There are also more textual markers of performativity. They are not strict linguistic markers, but they are part of the visual, textual legal message. In the analysed cases the performance of the law took place at the moment of issuing the text in the officially, promulgating journal. Thus the authentic text originating from the journal is the object for the investigation of other textual markers of performativity.

The texts published in promulgating journals have some visual and editorial patterns. They are common to the Polish, Greek and Cypriot texts of normative acts. They are also obligatory if the normative act is to be enacted. Otherwise the text does not fulfil the condition *sine qua non* the performance of the law may be executed. They are as follows:

1. Determined form, style and size of the characters in the text.
2. Presented symbols, for instance §.
3. Division of the text into conventional editorial units where separated smaller units are divided with a gap line or other marks or the text is given in columns or in any other conventional and determined method.

Moreover, there are also other visual – textual characters of performativity connected with the obligatory publishing of the texts of normative acts in the promulgating journal. The journals have always the symbol of the specific state in the front page. This symbol is the feature of official, promulgating journals and if the text is included in the journal, it has the national symbol and thus the essential condition of promulgating is also fulfilled. Then the performative act is valid.

## Conclusions

The executed comparative analysis of the validity markers might be fruitful for various sciences: legal linguistics, law, comparative linguistic studies, and comparative legal studies. Thus exploring a legal text demands both linguistic and legal knowledge. The interdisciplinary character of the investigation highlights the pragmatic aspect of legal language and its products. They are the object of philological investigation but they may not be investigated separately from legal pragmatics.

The theory of speech acts proved to be useful tool to execute comparative analysis of the act of performance of the law from the linguistic point of view. I realise the proposed method is based on one of many approaches to the theory of speech acts, but I believe it has explained many of the phenomena existing in Polish, Greek and Cypriot Normative acts. When discussing the text of a normative act its entire function must be considered as a macro-sign and not the functions of parts of the text. Then the function of performativity is very clearly seen.

Moreover, the comparative studies executed in the paper provide very interesting results in the field of applied linguistics. When comparing the text on the basis of the specific, common criterion for instance performativity markers, equivalent language forms may be determined. As presented above they are functionally equivalent and as established they may be applied immediately to legal translation or lexicography.

The proposed algorithm of the comparative analysis may have wider appliance either in the wider field of national legal systems or in the field of more national languages. The legilinguistic comparative studies (Matulewska, 2007) based on the parallel texts are a very reliable source of legal and linguistic information (Matulewska, 2010). The model of analysis proposed in the paper can be developed in the scope of legal pragmatics and thus opens new perspectives for further investigation of performativity in legal communication.

## NOTES

<sup>1</sup> Legal communication has vast meaning as it means communications in different legal environments (Gortych-Michalak, 2013:89–109). Typology of legal communication may be based for instance on the type of message, which is text. Some classifications of legal text are given by Zieliński, 1948:56, 136 and developed by Zieliński, 1999:71–72, Mattila, 2006:4–5, Galdia, 2009:91 et al.

<sup>2</sup> Polish Law of 9<sup>th</sup> November 2012 (see References).

<sup>3</sup> Greek Law of 25<sup>th</sup> of January 2013 (see References).



<sup>4</sup> Cypriot Law of 17<sup>th</sup> of December 2012 (see References).

<sup>5</sup> The object of the investigations are normative acts enacted by the legislators. It must be taken into consideration that in some national legal systems the sources of law are traditional (common law) and judgements.

<sup>6</sup> The normative acts enacted by the Greek Kings are still in force, but the Greek kingdom has not existed since 1974.

<sup>7</sup> International treaties.

<sup>8</sup> In the name of the Holy and Consubstantial and Indivisible Trinity [Εἰς τὸ Ὄνομα τῆς Ἁγίας καὶ Ὁμοουσίου καὶ Ἀδιαίρετου Τριάδος].

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