

The overall aims of the proposed project are (1) to demonstrate that the traditionally understood linguistic interpretation of the law is, in fact, something more than is believed, namely also a cognitive interpretation of the law, and (2) to show the consequences of a change of perspective on that issue.

Although within the Western legal tradition there are many concepts of how legal interpretation is/ or should be done, in most of them the special status is given to the legal interpretation performed with and justified by the linguistic reasons and linguistic context, both narrowly construed. This kind of legal interpretation is named and described differently in different countries and different theories, but its common element is treating the language as a phenomenon governed by its own specific rules and entirely decisive for the accepted content of the interpreted law. While some part of social context is taken into account when linguistic interpretation of the law fails, especially the role of cognitive context in the process of legal interpretation is unrecognised by lawyers in legal theory, dogmatics, and in practise.

Linguists, however, who are surely experts on language and interpretation, when describe the process of interpreting and attributing meaning to linguistic expressions, distinguish between linguistic, sociocultural, social, cognitive, and sociocognitive contexts. All these contexts cannot, in fact, be separated because they are strongly linked and create an infinite number of layers which may be presented by the metaphor of onion.

This is why it is assumed in the project that for establishing both descriptive and normative adequate theories of legal interpretation, it is necessary to know and to consider the mechanisms governing human cognition, which are determinants of cognitive context and this context itself. Thanks to this knowledge, it is possible to learn in what way information is processed by humans and to identify what cognitive mechanisms and abilities people in general share (these may be the basis for interpretative consensus), which of them may considerably differ (these may be the source of disputes on interpretation), which of them are more reliable than others (these may support better interpretation) and which of them can be misleading (these may suggest worse interpretation). Such knowledge may function not only for the purposes of justification but also plays a heuristic role. When a founder of the given theory of interpretation, or even interpreters themselves, are aware of such phenomena and mechanisms like prototype effects and other mechanisms of categorisation, framing, embodiment, conceptual metaphorization, mental spaces, blending, heuristics, semantical aspect of grammar and so on, which were discovered and still have been researched by cognitive psychology and cognitive linguistics, they may make the theory of interpretation and the interpretation itself in a better and more conscious way.

The dominant narrow understanding of the linguistic interpretation of the law may cause some important misunderstandings and may prevent the solution of some significant problems of legal theory and practise. Abandoning it in favour of an approach that takes stronger account of contemporary knowledge of language and cognition, and incorporating this new approach into theories and canons of interpretation, will make it possible to incorporate many phenomena difficult to date for lawyers to consider in the interpretation of the law, such as the variability of language over time and the variability of context. This would make it possible to solve many problems, such as dichotomies like creative legal interpretation v. reconstructive legal interpretation, textualism v. intentionalism, or even, in part, activism v. judicial passivism.

What else can be noted against the background of the current state of art is also the deficiency of the model of law application dominant to date in legal sciences which is the so-called subsumption or syllogistic model. Discovering the role of cognitive context in legal interpretation will help explain the doubts and character of the act traditionally called 'subsumption'. Then taking into account the issue of cognitive context and its interplay with other contexts during the process of legal interpretation may help to describe the real mechanisms governing the process of applying the law.