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## STYLISTIC DEVICES AS COMPONENTS OF ARGUMENTATION IMPLEMENTATION IN COURT DISCOURSE

**Summary.** The article deals with the analysis of law and language interaction as well as linguistic argumentation implementation by the participants of the U.S. Supreme Court proceedings. It discusses the crucial importance of logical and accurate argumentation as an irreplaceable component in this process. The article also outlines the law and language interaction as it appears in linguistic argumentation. Stylistic devices as remarkable components of argumentation are revealed and analyzed.

**Key words:** argumentation, court discourse, stylistic devices, linguistics, law.

**Introduction.** Investigation of the English language in the 20<sup>th</sup>–21<sup>st</sup> centuries, development of new paradigms and theories, discussion of modern tendencies and aspects in linguistics have led to the emergence of new terms, phenomena and new methods for analyzing various linguistic processes. One of the main tendencies in modern linguistics is the study of “discourse” as a notion and phenomenon and its functioning in different spheres of human interaction. In the study of language, some of the most interesting questions arise in connection with the way language is used, rather than what its components are. This research deals with the way the language is used in legal sphere, namely in the court.

Since the second half of the 20<sup>th</sup> century discourse and its various types have become the subject matter of scholarly studies of many linguists. In different spheres of human interaction they perform different functions, in the court they are supposed first and foremost to persuade and thus influence the court decision in whatever way. That is why argumentation is a crucial element in court discourse.

This research discusses the interaction between law and language as it appears in linguistic argumentation, which is realized on stylistic level. The court is a perfect place for arguments to be given from different sides that is why they must be convincing, effective, to the point, not devoid of eloquency. The court is a type of social environment, where legal, linguistic, psychological and social aspects are interconnected and can successfully interact together only. If one of them is excluded the effect, influence, power and the ultimate aim could not be achieved at all. Lawyers need to follow the rules of proper argumentation, which include the correct structural, rhetorical organization, relevant lexical, syntactic features and colourful stylistic means. Lawyers need to understand the importance of legal and linguistic interaction in the structure of argumentation to make their messages accurate, persuasive and powerful.

Modern linguistic studies include huge amount of works concerning **the wide range of problems** of language and law interaction within court discourse. Linguistically and logically correct argumentation is especially important nowadays not only for linguists, but for lawyers as well. An accurate set of arguments in this process is considered a powerful tool that can demonstrate the unique and at the same time complicated interaction between language and law. The analysis of language can help to outline the most efficient ways of arguments application as well as to investigate their linguistic structure on stylistic level. Legal language investigation can help to predict the future of its development and influence on the society it is used in.

**The latest publications and researches.** Argumentation, as a part and parcel of discourse, specifically court discourse was investigated by H. Fedorchenko [4], N. Koval [2], T. Skuratovska [3], I. Vasylianova [1], F.H. van Eemeren [6], D. Ehringer [7], M. Galdia [8], R. Grootendorst [6], F.-A. Haase [9] and others.

The topicality of the research is in its interdisciplinary approach. The investigation between language and law has become the subject matter of many linguists. Some scholars believe that logical and accurate set of arguments may play a crucial role in court's decision. The other claim that lawyers are responsible for their legal and linguistic accuracy while argumentation process to make their message persuasive and powerful.

The **purpose** of this interdisciplinary work is determined by the importance of linguistic argumentation analysis in court discourse on stylistic level. It is aimed to demonstrate how the variety of stylistic devices and their accurate use strongly enrich the speaker's utterance while argumentation and even help to change the final decision of the court. In our research, we set ourselves the main goal of thorough linguistic and stylistic argumentation techniques investigation presented in the studied corpus, which is the U. S. Supreme Court proceedings transcripts between 2015 and 2016. The analyzed cases deal mainly with criminal, constitutional and corporate law.

**Research results.** Argumentation is a specific form of communication in any sphere of human interaction. At first glance, it is nothing special, and it seems that any layman can quite normally operate it. To form an accurate and logical set of arguments for the simplest everyday situation can be a challenge without good linguistic background. The one need to understand its structure and the appropriate application.

The concept “argumentation” comes from Latin “argumentum”, “arguo” and means “an explanation”, “to explain”. Oxford

Advanced Learner's Dictionary defines an argument as a reason or set of reasons that somebody uses to show that something is true or correct [13, p. 68]. An argument is one of the basic concepts in court discourse and in legal discourse globally. According to, I. Vasylianova states that argumentation is the activity aimed to reach the goal by both parties satisfaction or by dominance of one of them. The argumentation in court discourse is a process where two parties who did not resolve the dispute, engage the third one (the court) to rule the communicative situation and change it [1, p. 5]. It is a system of cognitive statements gained to accept or refute one's opinion [4, p. 278].

French linguists O. Ducrot and J. Anscombe, linguistic communication is closely connected with argumentative communication [5, p. 275]. They have assumed that in most cases, communication includes the components of argumentation and the one who is a competent speaker has abilities essential for argumentation [5, p. 276]. The ability to argue demonstrates a good command of discursive features of the speaker's language.

While conducting this research, we have studied some selected the U. S. Supreme Court proceedings transcripts in terms of argumentation and discourse analysis, which performs both as a theory and a method of reading legal texts. We discovered that on its nature and structure argumentation is a complex phenomenon. It is the activity of subject, whose main task is first and foremost to persuade an addressee or to make him/her change his/her personal position or standpoint [2; 4–6; 8].

Argumentation in court discourse appears on different linguistic levels. According to this research, the most visible argumentation techniques are on lexical, syntactic and stylistic. We mainly focus on the diversity of stylistic devices applied in court proceedings transcripts.

The court is a place for law and language to perform. Those both substances are interconnected and can successfully function while court proceedings, being implemented together only. The language applied within court discourse is followed by the variety of expressive means and stylistic devices, which are claimed to be an excellent supplement for both positive and negative rendering of argumentation. *Epithets* are one of those essential stylistic devices, which appear not specifically in legal texts, but the other include them as well. Based on the interaction of logical and nominal meanings, epithets are one of the most significant stylistic devices. Their function is to make their qualitative and quantitative characteristics more complicated and to some extent figurative. As K.Ya. Lototska states, structurally epithets are divided into *simple e.g. plain language, collateral case, significant relationship, unreserved error, reasonable interpretation, open question, safe passage, categorical rule, etc.* [12], *compound e.g. deferred-action status, defendant-friendly State, public-trial right, contract-based distinction, bright-line rule, harmless-error context, backwards-looking liability, etc.* [12], *hyphenated belt-and-suspenders legal system; injury-in-fact requirements; zone-of-interest test; nice-and-comment procedure; case-by-case determination; to-be-formed-limited-liability company, etc.* [12], *two-step, e.g. voluntarily-accepted action; jointly-owned property; above-entitled matter; inherently-unfair proceeding; simple-minded way; long-forfeited argument; voluntarily-accepted action; simple-minded person, etc.* [12]. Sometimes, *reversed* or *inverted* epithets appear too. For instance: theory of the case = case theory; applied for debt = debt application, a case of excessive punishment = excessive punishment case;

*mistake of law* = legal mistake; *course of a criminal trial* = criminal trial course; *exclusion of the public* = the public exclusion; *canon of construction* = construction canon; *the nature of the lawsuit* = lawsuit nature [12]. The conducted research and following statistics demonstrate that the most frequently applied are simple epithets. They include 38% of the final counting, than go two-step and compound epithets – about 21% and 18% respectfully. Hyphenated is not that common. They possess 7% only. The percentage of *inverted epithets* used by court participants is almost 23%.

Another stylistic device, used in the court proceedings, is *metaphor*. It is used to make the argumentative language powerful and persuasive. Legal texts contain metaphoric reconceptualization as well [11, p. 151]. The speeches of the court participants are more expressive than some ordinary ones. The language of lawyers is full of metaphors. *E.g. We know that Congress would have intended to sweep these financial services companies into the coverage under that because it did* [12, 16–349]. *That's assuming I buy your argument* [12, 16–466]. *And this was, in a sense, heart of the dispute at trial* [12, 16–309].

The phenomenon of *conceptual metaphor* appears mostly in constitutional and corporal law cases. *E.g. Commercial activity is a due process test* [12, 13–1067]. In this case, commercial activity is compared with a due process test because it verifies whether it is conducted strictly according to established principles and procedures, laid down to ensure that everything is done fairly, without breaking the rules and laws. *E.g. The guarantor is a requestor* [12, 14–520]. The guarantor in this case is compared with a requestor, because a guarantor is someone or something that provides a guaranty. The guarantor is responsible for a person or organization. In court discourse, the guarantor is a state that guarantees the rights and freedoms of its citizens, and could request the citizens about their compliance with these rules.

*Simile* is used to compare one thing with another of a different kind and to make a description more emphatic or vivid. *E.g. Within the aggravated felony statute, we have generic offences, very serious ones like murder or burglary* [12, 14–1096]. *E.g. Who wrote this statute? Somebody who takes pleasure out of pulling the wings off flies?* [12, 16–529]. In this example, somebody is compared to very fussy person, who pays attention to small details, irrelevant and useless details like picking wings off flies. *E.g. The upshot of the Petitioner's position is that any time there's an interstate-commerce jurisdictional element in any of the Federal provisions that are referred to, only a violation of the Federal statute, only a Federal criminal prosecution and conviction will count as an aggravated felony because no State crime, no foreign crime is ever going to have interstate commerce as an element* [12, 14–361].

*Antithesis* is another stylistic device in court discourse. It is used to express the opposition of ideas demonstrated in parallel constructions [10, p. 146]. *E.g. Absence of counsel is the very essence of the violation* [12, 16–240].

*Metonymy* is frequently used too. It is a stylistic device where "one object or idea is implied and the other, contiguous, associated one is named" [10, p. 80]. Almost each page of the studied case transcripts contains metonymy. *E.g. Article III would not speak to that particular bad idea by Congress* [12, 16–605]. *E.g. As this Court explained in Goodyear, specific jurisdiction lets a State exercise authority over activity within its borders, which it has a strong interest in controlling. But a State lacks a comparable interest in exercising authority over out-of-State defendants for entirely out-of-*

*State conduct* [12, 16–466]. **The Court said in *Omni* that in order to assert personal jurisdiction, you have to have a statute or a rule making the defendant amenable to service of process** [12, 16–405]. **E.g. Congress provided consequences. If they decide not to sue, then they can only get a reasonable royalty** [12, 15–1039].

**Allusion** is another stylistic device used by lawyers. Y. Skrebnev argues that it is considered to be a special variety of metaphor. The speaker just mentions some details of what he analogues in fiction/history to the topic discussed, without having to expand on it. In order to recognize and decode the meaning of allusion the one should take into consideration his/her educational level and previous background from different fields [10, p. 110]. **E.g. In response to Justice Sotomayor's question, I have to say that the penal versus remedial dispute, there's a certain "angels on the head of a pin" quality of whether something is really penal or not** [12, 16–529]. This instance is the allusion to the philosophical question "How many angels can stand on the point of a pin?". Thousands years ago, people used to study angels and would sit around discussing them for days at a time. Today, the phrase means to waste time debating things, which have very little practical value.

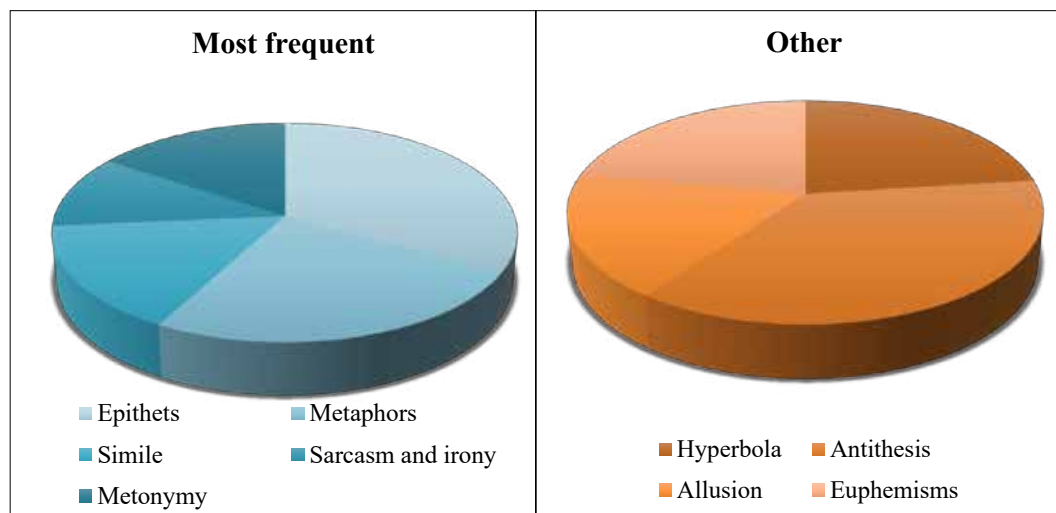
**Hyperbola** is a powerful stylistic device used in court discourse. It is "an intentional exaggeration for emphasis or comic effect" [10, p. 98]. **E.g. But we've said it. We've said it a hundred times** [12, 16–240].

**Euphemisms** should be taken into consideration as well. Their use is closely connected with norms of social behavior. In the court discourse, euphemism is actively used, because it demonstrates the speaker's desire to be courteous, tolerant, considerate. The key

aim of euphemisms is to avoid direct offences to the audience. They replace scared words, which are not accepted to be spoken aloud [11, p. 335]. **E.g. I mean, do you – suppose that the structural error were excluding African-Americans from the jury, or women from the jury. Okay? That's the error. They select a different jury. All white men. Now, we have no way of knowing whether that made a real difference in that case. We don't know. So it's a structural error** [12, 16–240].

Legal interpretation differs in several ways from ordinary understanding. In ordinary language, what really matters is what a speaker means by an utterance (speaker's meaning), rather than what a word or utterance means (word or sentence meaning). **Irony** provides a good example. **E.g. Mr. Fletcher, the one thing about this case that seems perfectly clear to me is that nobody who is not a lawyer, and no ordinary lawyer could read these statutes and figure out what they are supposed to do** [12, 16–529].

The **sarcasm** of Justice Scalia made him the king of Supreme Court sarcasm. In the U.S. Supreme Court it is a combination of harsh language and irony. **E.g. Today's tale... is so transparently false that professing to believe it demands this institution. But reaching a patently incorrect conclusion on the facts is a relatively judicial mischief; it affects, after all, only the case at hand. In its vain attempt to make the incredible plausible, however – or perhaps as an intended second goal – today's opinion distorts our Confrontation Clause jurisprudence and leaves it in a shambles. Instead of clarifying the law, the Court makes itself the obfuscator of last resort** [12, 9–150]. **Oh, I see. What sense are we talking about here? Poetic?** [12, 15–1189].



The percentage of stylistic devices in the studied court proceedings transcripts

**Conclusion.** The accurate argumentation is irreplaceable component in court discourse. It has formed its style and the language used while arguing in court is different from the others. The function of argumentation is to cause the effect of persuasion, complexity and frequently emotiveness. The task of lawyers is to know how to "impress" the audience and how to make their speech powerful. A good command of legal language demands accurate structures, relevant interpretation of legal concepts and facts, the ability of their application and clarification, professional as well as specific linguistic knowledge. According

to this research, which examined the language of American lawyers, a successful argumentation is possible when the language and law are interconnected. Stylistic devices of implementation are excellent addition to argumentation process. They have been shown to be the effective means of fulfilling the persuasive function. The diversity of epithets and metaphors, metonymy, simile sarcasm and irony are the most frequently used. The other stylistic devices such as allusion, hyperbole and euphemism are common components in constitutional and corporate law cases argumentation.

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**Федорчук М. М., Гордиловська М. Т. Стилiстичні засоби як компоненти реалізації аргументації в судовому дискурсі**

**Анотація.** Статтю присвячено аналізу взаємодії права та мови, а також реалізації лінгвістичної аргументації учасниками засідань Верховного суду США. Окреслено вагомe значення логічної та правильної аргументації як незамінного компонента в цьому процесі. Виокремлено та проаналізовано стилістичні засоби як важливі компоненти аргументації.

**Ключові слова:** аргументація, стилістичні засоби, судовий дискурс, лінгвістика, право.

**Федорчук М. М., Гордиловская М. Т. Стилистические средства как компоненты реализации аргументации в судебном дискурсе**

**Аннотация.** Статья посвящена анализу взаимодействия права и языка, а также реализации лингвистической аргументации участниками заседаний Верховного суда США. Определено весомое значение логической и правильной аргументации как незаменимого компонента в этом процессе. Выделены и проанализированы стилистические средства как важные компоненты аргументации.

**Ключевые слова:** аргументация, стилистические средства, судебный дискурс, лингвистика, право.