

THE METAPHORICAL IMAGERY IN POLISH LEGAL LANGUAGE: THE POLISH CIVIL CODE¹

SYLWIA WOJTCZAK

University of Lodz, Faculty of Law
swojtczak@wpia.uni.lodz.pl

IWONA WITCZAK-PLISIECKA

University of Lodz, Philological Faculty
iwona.plisiecka@uni.lodz.pl

Abstract

The present paper comments on the use of metaphorical imagery in The Polish Civil Code. The theoretical background for analysis is cognitive linguistics in the tradition of researchers such as George Lakoff, Mark Turner, Gilles Fauconnier. It is accepted that language as a system is inherently metaphorical, and that metaphorical images are not just rhetorical devices which help make language more interesting and poetic, but rather constitute mechanisms of cognition, thanks to which human beings can make sense of the world and then refer to it in an efficient way. Metaphoricity in legal context can be found at different levels and may serve various aims. Our main interest is in the basic, mostly frozen metaphors which are inevitable in the law.

Keywords: metaphor, legal language, cognitive linguistics

1. Introduction

The present paper comes in a series of our publications in which we have addressed the issue of metaphors in legal language (cf. Wojtczak and Witczak-

¹ The paper has been supported by two research projects: „The role of cognitive context in legal interpretation”. [Rola kontekstu kognitywnego w wykładni językowej prawa] (OPI 2023/49/B/HS5/01183) and “Metaphor as a mechanism to understand language of law and legal language and to experience law (quoting examples of Polish legal language)”. [Metafora jako mechanizm rozumienia języka prawnego i prawniczego oraz doświadczania prawa na przykładzie polskiego języka prawnego i prawniczego] (OSF, ID 220257, 2013/09/B/HS5/02529).

Plisiecka 2019, Wojtczak, Witczak-Plisiecka & Augustyn 2017, Witczak-Plisiecka 2013), and in which we claim that legal language, including the Polish language of the law, is inherently metaphorical in nature. With law being a social science, all legal concepts, including the simplest ones, such as the “legal person”, “justice”, “wrongdoing”, “measure”, in their cognition and in referential processes require metaphorical imagery. Further, in their later interpretation, and in legal disputes they involve metaphor-related processes, whose “visibility” is relative to the situation in question. Seeing legal language as metaphorical, we follow research lines demarcated by George Lakoff, Mark Turner, Gilles Fauconnier (e.g., Lakoff & Johnson 1980/2003, Lakoff 1987, Lakoff & Johnson 1999, Lakoff & Turner 1989) or Kövecses (2000, 2015). and then explored by researchers with interest in law, such as Larsson (2011) and Winter (2003). Metaphoricity can be found in the language of the law at different levels; while our primary interest here is in the basic, often frozen, or even dead metaphors, we do realize that there are purely rhetorical uses at work in different legal contexts.

In this paper we want to discuss selected metaphors identified in Polish normative legal texts, i.e. in the Polish Code of Civil Law. We believe that elucidating the language found in the codes can help understand some intricacies in the relevant legal discussions and disputes, especially when the language of particular codes, e.g. The Civil Code, The Code of Civil Procedure, The Criminal Code, and the Code of Commercial Companies are eventually compared with regard to the images incorporated in their texts.

2. Metaphorical Imagery in Polish Code of Civil Law

2.1. Selected legal institutions in the Civil Code.

Legal institutions contained in the Civil Code are very often construed based on metaphors whose source domains are the physical world, or more precisely the world of material objects that can be manipulated in various ways. A possible explanation for such imagery can be seen in the functions performed by civil law, which are undoubtedly closely related to the economic aspects of human life, e.g., the production of all kinds of goods and the related trade.

The basic function of all civil law can be considered to be enabling the exchange of goods between the subjects of this law (cf. Mularski 2011). Metaphors referring to the source domain of MATERIAL OBJECT are most often highly conventionalized, especially if they refer to concepts whose typical examples or substrates may be material objects, e.g., property, document, product, contribution to a cooperative, work, component of property, etc. However, interestingly, those metaphors that refer to abstract concepts and intangible objects are also highly conventionalized. This can be seen as further proof of the validity of the thesis posed by cognitive linguists that learning about the world of abstraction is only possible with some mediation of the physical world. One of the reasons for the strong conventionalization of metaphors used in civil law can be

seen in its long-standing tradition, dating back to antiquity, and its connections with ancient Roman law. As civil law-related metaphors are highly conventionalised, there is a limited set of conceptual metaphors whose source domain lies in the domain of MATERIAL OBJECT. Here are selected relevant examples:

(1) PRICE IS AN OBJECT

²Art. 313. If the subject of the pledge are items with a fixed price determined by an order of the competent state authority, it may be agreed that in the event of a delay in the payment of the debt, they shall become property of the pledgee in an appropriate proportion instead of payment, according to the price on the day the secured claim becomes due.

(2) MEMBERSHIP IS A VALUABLE OBJECT

Art. 438. § 1. In the event of loss of membership by a partner whose name was placed in the company name, the company may retain the name of the former partner in its company name only with his written consent, and in the event of his death – with the consent of his spouse and children.

(3) LEGAL ACT IS AN OBJECT

Art. 89. Subject to exceptions provided for in the Act or resulting from the nature (features) of the legal act, the occurrence or the cessation of the effects of a legal act may be made dependent on a future and uncertain event (condition).

(4) DATA ARE MOVABLE OBJECTS

Art. 661. § 2. An entrepreneur submitting an offer in an electronic form is obliged to inform the other party before concluding the contract in an unambiguous and understandable manner about: (...)

4) methods and technical means for detecting and correcting errors in the entered data, which he is obliged to make available to the other party; (...).

(5) DEBT IS AN OBJECT

(6) THE RECEIVABLE (DEBT, LIABILITY) IS AN OBJECT

(7) BENEFITS IS AN OBJECT

² All translations of the Codes used in the present paper have been prepared by the authors. Official translations of the Codes have not been used to avoid discussing the imagery of the translation, possibly diverging from the imagery of the original Polish text.

Art. 379. § 1. If there are several debtors or several creditors, and the benefit is divisible, both the debt and the claim are divided into as many independent parts as there are debtors or creditors. Such parts are equal, unless the circumstances indicate otherwise.

(8) BUSINESS ACTIVITY IS AN OBJECT

Art. 43¹. An entrepreneur is a natural person, a legal person and an organizational unit referred to in art. 331 § 1, conducting business or professional activity on its own behalf.

(9) FIRM [P] IS A OBJECT

Art. 43². § 1. An entrepreneur operates under a business name.

(10) INFORMATION IS AN OBJECT

Art. 72¹. § 1. If during negotiations a party has made information available with the reservation of confidentiality, the other party is obliged not to disclose and not to transfer it to other persons and not to use this information for its own purposes, unless the parties have agreed otherwise.

(11) BENEFIT IS AN OBJECT

Art. 406. The obligation to return a benefit includes not only a benefit obtained directly, but also everything that, in the event of disposal, loss or damage, was obtained in exchange for this benefit or as compensation for the damage.

(12) LOYALTY IS A VALUABLE OBJECT

Art. 760. Each party is obliged to maintain loyalty towards the other.

(13) OUTPUT IS AN OBJECT

Art. 226. § 2. An independent possessor in bad faith may only demand reimbursement of necessary outlays, and only to the extent that the owner would be unjustly enriched at his expense.

(14) A NEW CLIENT IS A VALUABLE OBJECT

Art. 7643. § 1. After termination of the agency agreement, the agent may demand a compensatory performance from the principal if during the term of the agency agreement he has acquired new clients or has led to a significant increase in

turnover with existing clients, and the principal continues to derive significant benefits from contracts with these clients (...).

(15) LIABILITY IS A SUBJECT THAT HAS ITS BEGINNING (RISING FROM NOTHINGNESS – UPWARDS)

Art. 33¹. § 2. Unless a separate provision provides otherwise, for the obligations of the entity referred to in § 1, subsidiary liability is borne by its members; this liability arises at the moment when the organizational entity becomes insolvent.

(16) OFFER IS A SUBJECT

Art. 68². If the entrepreneur has received from a person with whom he/she is in permanent economic relations, an offer to conclude a contract within the scope of his/her activity, the lack of immediate response shall be deemed as acceptance of the offer.

(17) LEGAL PERSONALITY [P] IS A VALUABLE OBJECT

Art. 37. § 1. An organizational unit acquires legal personality upon its entry into the appropriate register, unless specific provisions provide otherwise.

(18) DECLARATION OF INTENT IS AN OBJECT

SECTION IV

Defects of declaration of intent

(19) SIGNATURE IS AN OBJECT

Art. 78. § 1. To maintain the written form of a legal act, it is sufficient to place a handwritten signature on a document containing the content of the declaration of intent (...).

(20) POSSESSION IS AN OBJECT

Art. 155. § 2. If the subject of the contract obliging to transfer ownership are things specified only as to their type, the transfer of ownership requires the transfer of possession of the thing (...).

(21) PROCEEDINGS ARE AN OBJECT

Art. 13. § 1. A person who has reached the age of thirteen may be completely incapacitated if, due to mental illness, mental retardation or other types of mental

disorders, in particular alcoholism or drug addiction, they are unable to control their conduct.

(22) A LAW WITH LOWER PRIORITY IS AN OBJECT PLACED LOWER THAN ANOTHER OBJECT

(23) A LAW WITH HIGHER PRIORITY IS AN OBJECT PLACED HIGHER THAN ANOTHER OBJECT

Art. 250. § 1. The priority of limited property rights may be changed. The change does not affect the rights that have a priority that is lower than the right that yields priority and higher than the right that gains priority to the right that yields.

(24) SUBJECT RIGHT IS AN OBJECT

Art. 5. One may not make use of one's right in a way that would be contrary to the socio-economic purpose of this right or to the principles of social coexistence. Such action or omission of the entitled person is not considered to be exercising the right and does not enjoy protection.

(25) PROCURATION IS AN OBJECT

Art. 109⁶. Procuration cannot be transferred. (...)

(26) TRANSFER IS AN OBJECT

Art. 921². § 1. If the transferee has declared to the recipient of the transfer that the transfer is accepted, they are obliged towards the recipient to fulfil the performance specified in the transfer.

(27) CLAIM IS AN OBJECT

Art. 441. § 3. A person who has remedied damage for which they are liable despite lack of fault, has a recourse claim against the perpetrator, if the damage was caused by the perpetrator's fault.

(28) OBJECTION IS AN OBJECT

Art. 811. § 2. In the absence of an objection, the contract shall be concluded in accordance with the content of the insurance document on the day following the expiry of the deadline for filing an objection.

(29) DILIGENCE IS A VALUABLE OBJECT

Art. 472. Unless otherwise stated in a specific provision of the law or in a legal act, the debtor shall be liable for failure to exercise (keep) due diligence.

(30) A DEADLINE (TERM) IS A VALUABLE OBJECT

Art. 564. In cases provided for in art. 563, the loss of rights under the warranty for physical defects of the item does not occur despite failure to observe the deadlines for the buyer to examine the item or to notify the seller of the defect, if the seller knew about the defect or assured the buyer that the defects did not exist.

(31) CONTENT OF THE AGREEMENT IS A VALUABLE OBJECT

Art. 661. § 2. An entrepreneur submitting an offer in electronic form is obliged to inform the other party in an unambiguous and understandable manner before concluding the agreement about: (...)

3) the principles and methods of recording, securing and making available by the entrepreneur to the other party the content of the concluded agreement; (...).

(32) SHARE IS AN OBJECT

Art. 166. § 1. In the event that a co-owner of an agricultural property sells a share in the co-ownership or part of this share to the remaining co-owners, they have the right of pre-emption if they run an agricultural farm on the common land.

(33) AUTHORITY IS AN OBJECT

Art. 7603. In the event that the agent concluding the contract on behalf of the principal does not have authorization or exceeds its scope, the contract is deemed to be confirmed if the principal does not immediately after receiving information about the conclusion of the contract declare to the client that he does not confirm the contract.

(34) DEFECT IS AN OBJECT

Art. 291. If after the establishment of a real easement an important economic need arises, the owner of the encumbered property may, for compensation, demand a change in the content or method of exercising the easement, unless the requested change would cause disproportionate damage to the dominant property.

(35) PERPETUAL USE IS AN OBJECT

(36) OWNERSHIP IS AN OBJECT

Art. 237. The provisions on the transfer of ownership of real estate shall apply accordingly to the transfer of perpetual usufruct.

(37) AUCTION/TENDER CONDITIONS ARE OBJECTS

Art. 701. § 4. The organizer, from the moment the conditions are made available, and the bidder from the moment the offer is submitted in accordance with the auction or tender announcement, are obliged to proceed in accordance with the provisions of the announcement, as well as the auction or tender conditions.

(38) FREEDOM IS AN OBJECT

Art. 445. § 2. The above provision shall also apply in the event of deprivation of liberty and in the event of inducing by means of deceit, violence or abuse of a dependency relationship to submit to an indecent act.

(39) COOPERATION IS AN OBJECT

Art. 640. If the execution of a work requires the cooperation of the ordering party, and there is no such cooperation, the party accepting the order may set an appropriate deadline for the ordering party with the threat that after the deadline has expired without effect, the party accepting the order will be entitled to withdraw from the contract.

(40) PERFORMANCE OF AN ACT IS A VALUABLE OBJECT

Art. 429. Whoever entrusts the performance of an act to another person is liable for damage caused by the perpetrator while performing the act entrusted to him, unless he is not at fault in choosing that person, or he entrusted the performance of the act to a person, enterprise or establishment which performs such acts within the scope of their professional activity.

(41) SECURITY IS AN OBJECT

Art. 269. § 2. The user may request the revocation of the management if he/she provides appropriate security.

(42) EARNINGS (GAINS) ARE AN OBJECT

Art. 21. A person limited in legal capacity may dispose of his/her earnings without the consent of the statutory representative, unless the guardianship court decides otherwise for important reasons.

(43) PLEDGE IS AN OBJECT

Art. 323. § 2. A pledge may not be transferred without the receivable (the claim) which it secures.

(44) CAPACITY FOR LEGAL ACTS IS AN OBJECT (CONTAINER)

Art. 11. Full legal capacity is acquired upon reaching the age of majority.

(45) LEGAL CAPACITY IS AN OBJECT

Art. 8. § 1. Every person has legal capacity from the moment of birth.

(46) ORDER IS AN OBJECT

Art. 737. The person accepting the mandate may, without the prior consent of the person offering the mandate, deviate from the method of executing the order indicated by him, if it is not possible to obtain their consent and there is a justified reason to assume that the mandator would agree to the change should they know about the existing state of affairs.

(47) OBLIGATION IS AN OBJECT (A NODE)

Art. 17. Subject to exceptions provided for in the Act, the validity of a legal act by which a person limited in their capacity to perform legal acts assumes an obligation or disposes of their right requires the consent of their legal representative.

(48) LIFE IS A VALUABLE OBJECT

Art. 32. If several people have lost their lives during a danger that threatened them together, it is presumed that they died simultaneously.

2.2. Metaphorical subdomains within metaphors with the MATERIAL OBJECT source domain

A) All concepts conceptualized through metaphorical projection from the source domain of the MATERIAL OBJECT, categorize objects that:

A.1. may have a beginning or an end or change (transform) on their own. It should be remembered that the end, the beginning or transformation of material objects are also conceptualized by appropriate metaphors, such as: EXISTENCE IS LIFE (LIFE IS FORCE, FORCE IS FIRE, LIFE IS A CONTAINER), THE BEGINNING IS BIRTH (LIFE IS UP, BIRTH IS OPENING), THE END IS DEATH (DEATH IS DOWN, DEATH IS

EXTINGUISHING, DEATH IS CLOSING), etc. Hence, metaphors identifiable in the Civil Code are sometimes multi-level in nature.

Art. 331. § 2. Unless a separate provision provides otherwise, for the obligations of the entity referred to in § 1, its members bear subsidiary liability; this liability arises from the moment when the organizational unit becomes insolvent.

Art. 14. § 2. However, if a person incapable of performing legal acts has concluded a contract belonging to contracts commonly concluded in minor current matters of everyday life, such contract becomes valid from the moment of its performance, unless it entails gross harm to the person incapable of performing legal acts.

Art. 70⁵. § 2. The above entitlement expires after one month from the day on which the entitled person learned of the existence of the reason for invalidation, but no later than after one year from the date of conclusion of the agreement.

Art. 506. § 1. If, in order to cancel the obligation, the debtor undertakes with the consent of the creditor to perform another performance or even the same performance, but on a different legal basis, the previous obligation expires (renewal).

Art. 394. § 3. In the event of termination of the agreement, the deposit should be returned, and the obligation to pay twice the amount is eliminated (...).

Art. 924. The inheritance opens upon the death of the testator.

A.2. *They may have their own weight and other dimensions (they may be vertical or spatial) and may be measured and compared; they may contain other objects.*

Art. 43⁵. § 2. The company name contains a description of the legal form of the legal person, which may be given in short, and may also indicate the subject of activity, the registered office of that person and other freely chosen terms.

Art. 212. § 1. If the termination of joint ownership takes place by virtue of a court decision, the value of individual shares may be compensated by additional payments. When dividing land, the court may encumber individual parts with necessary land easements.

Art. 385¹. § 4. The burden of proof that the decision was agreed individually rests with the person who invokes it.

Art. 498. § 2. As a result of offsetting, both claims are remitted mutually to the amount of the lower claim.

Art. 774. By a contract of carriage, the carrier undertakes, within the scope of its enterprise's activities, to transport for remuneration persons or goods.

A.3. They may have certain non-scalar features: be wholes, be divisible, be movable, or immovable, etc.

Art. 46. § 1. Real estate is a part of the Earth's surface constituting a separate subject of ownership (land), as well as buildings permanently attached to the land or parts of such buildings, if under special provisions they constitute a separate subject of ownership from the land.

Art. 47. § 1. A component part of a thing cannot be a separate subject of ownership and other property rights.

Art. 379. § 1. If there are several debtors or several creditors, and the performance is divisible, both the debt and the claim are divided into as many independent parts as there are debtors or creditors. These parts are equal, unless the circumstances result otherwise.

§ 2. The performance is divisible if it can be partially fulfilled without a significant change in the subject or value.

Art. 583. § 1. A sale by instalments is a sale of movable goods to a natural person within the scope of the business activity of the enterprise for a price payable in specified instalments, if according to the agreement the goods are to be delivered to the buyer before the full payment of the price.

Art. 779. The sender should provide the carrier with his address and the address of the recipient, place of destination, marking of the shipment according to type, quantity and method of packaging, as well as the value of goods of particular value.

A.4. They have a shape or can be given a shape.

Art. 435. § 2. The company name contains a description of the legal form of the legal person, which may be given in abbreviation, and may also indicate the subject of the activity, the registered office of this person and other freely chosen descriptions.

Art. 73. § 1. If the law reserves the written form for a legal act, an act performed without observing the reserved form is invalid only if the law provides for the penalty of invalidity.

§ 2. If the law reserves another special form for a legal act, an act performed without observing this form is invalid. However, this does not apply to cases

where the maintenance of a special form is reserved only to produce specific effects of a legal act.

A.5. They can be tools used for something.

Art. 98. A general power of attorney includes authorization to perform acts of ordinary management. For acts exceeding the scope of ordinary management, a power of attorney specifying their type is required, unless the law requires a power of attorney for a specific act.

Art. 145. § 1. If the property does not have appropriate access to a public road or to farm buildings belonging to the property, the owner may request that the owners of neighbouring land establish the necessary road easement (necessary road) for a fee.

Art. 537. § 1. If at the place and time of conclusion of the sales contract there is a regulation in force according to which only a strictly defined price (fixed price) may be paid for things of a given type or kind, this price shall bind the parties regardless of the price they have agreed in the contract.

A.6. They may fall into someone's hands or remain in someone's possession or they may be lost or thrown away.

Art. 172. § 1. A possessor of real estate who is not its owner acquires ownership if he possesses the real estate continuously for twenty years as an independent possessor, unless he has acquired possession in bad faith (adverse possession).

Art. 180. An owner may dispose of ownership of a movable thing by abandoning the thing with this intention.

Art. 304. A personal easement cannot be acquired by adverse possession.

Art. 337. An independent possessor does not lose possession by giving the thing to another in dependent possession.

Art. 395. § 1. It may be stipulated that one or both parties shall have the right to withdraw from the contract within a specified period. This right is exercised by a declaration made to the other party.

A.7. They can be manipulated: they can be held, moved, thrown, handed over, accepted (taken into the hand), taken away by force, attached to other objects, placed one on top of the other or one behind the other, inserted one into another, led, and sat upon.

Art. 43⁸. § 3. Whoever acquires an enterprise may continue to run it under its previous name. However, he should provide an addition indicating the company name or surname of the acquirer, unless the parties have agreed otherwise.

Art. 120. § 1. The limitation period begins to run from the day on which the claim became due. If the due date of the claim depends on the authorized person taking a specific action, the period shall begin to run from the day on which the claim would have become due if the authorized person had taken the action at the earliest possible date.

Art. 155. § 1. A contract of sale, exchange, donation, transfer of real estate or any other contract obliging the transfer of ownership of a thing as to its identity transfers ownership to the acquirer, unless a special provision provides otherwise or the parties have agreed otherwise.

Art. 172. § 1. A possessor of real estate who is not its owner acquires ownership if he possesses the real estate continuously for twenty years as an independent possessor, unless he has acquired possession in bad faith (adverse possession).

Art. 250. § 1. The priority of limited property rights may be changed. The change does not affect rights that have a lower priority than the right yielding priority and a higher priority than the right that gains priority to the yielding right.

§ 2. To change the priority of limited property rights, an agreement is necessary between the person whose right is to yield priority and the person whose right is to gain priority to the yielding right. If at least one of these rights is disclosed in the land and mortgage register, an entry in the land and mortgage register is also necessary.

Art. 436. § 1. The liability provided for in the preceding article is also borne by the independent possessor of a mechanical means of communication moved by natural forces. However, when the independent possessor has given the means of communication into dependent possession, the liability is borne by the dependent possessor.

Art. 790. § 1. In order to secure claims arising from the contract of carriage, in particular: carriage, storage, customs duties and other expenses, as well as to secure such claims to which previous forwarders and carriers are entitled, the carrier has a statutory right of lien on the shipment, as long as the shipment is with him or with the person who holds it on his behalf, or as long as he can dispose of it by means of documents.

Art. 1012. The heir may either accept the inheritance without limitation of liability for debts (simple acceptance), or accept the inheritance with limitation of this liability (acceptance with benefit of inventory), or reject the inheritance.

A.8. They may be divided into parts or combined, replaced one with the other.

Art. 47. § 2. A component part of a thing is anything that cannot be separated from it without damaging or substantially changing the whole or without damaging or substantially changing the separated thing. § 3. Objects connected to a thing only for transient use do not constitute its component parts.

Art. 64. A final court decision stating the obligation of a given person to make a specified declaration of intent replaces this declaration.

Art. 336. The possessor of a thing is both the person who actually controls it as an owner (independent possessor) and the person who actually controls it as a user, pledgee, lessee, tenant or holder of another right, with which a specific control over another person's thing is connected (dependent possessor).

Art. 506. § 1. If, in order to extinguish the obligation, the debtor undertakes with the consent of the creditor to perform another performance or even the same performance, but on a different legal basis, the previous obligation expires (renewal).

Art. 875. § 3. The remaining surplus of the joint property is divided among the partners in the same proportion in which they participated in the profits of the partnership.

A.9. They may be the subject of conservative, revitalizing or destructive actions.

Art. 498. § 1. When two persons are simultaneously debtors and creditors to each other, each of them may offset their claim against the claim of the other party, if the subject of both claims is money or things of the same quality designated only as to their type, and both claims are due and can be claimed in court or before another state body.

§ 2. As a result of offsetting, both claims are mutually cancelled to the amount of the lower claim.

Art. 846. § 1. A person who runs a hotel or similar establishment for profit is liable for the loss or damage to things (...).

Art. 92114. § 1. The cancellation of securities is regulated by special regulations. § 2. If a security has been legally cancelled, the debtor is obliged to deliver to the person in whose favour the cancellation was made, at her cost, the new document, and when the claim is due – fulfil the obligation.

A.10. *They may have value.*

Art. 655. If the completed object is destroyed or damaged as a result of defective materials, machines or devices supplied by the investor or as a result of carrying out works according to the investor's instructions, the contractor may demand the agreed remuneration or an appropriate part thereof, if he has warned the investor of the risk of destruction or damage to the object or if despite exercising due diligence he could not determine the defectiveness of the materials, machines or devices supplied by the investor.

Art. 678. § 1. In the event of sale of the thing leased during the lease, the purchaser enters into the lease relationship in place of the transferor; however, he may terminate the lease with the statutory notice periods.

Art. 9218. Registered securities legitimize the person namely indicated in the content of the document. The transfer of rights occurs through a transfer combined with the issuance of a document.

2.3. Selected key Civil Law institutions and their metaphorical images

B. The richness of metaphorical imagery in the Civil Code can also be presented by analysing several key institutions for civil law. Here we are going to look at three of them: renewal, easement, inheritance).

B.1. *Renewal is an institution that has its roots in Roman law.*

Hence its Latin name *novatio*, derived from the word *novare*, which means to make something new, to renew (from *novus*, meaning "new", cf. Burrill 1860, p. 246). As a result, renewal is an institution that is constructed by the following key metaphors, all of which assume the replacement of something old with something new:

- (49) RENEWAL IS REPLACEMENT OF OLD OBJECTS WITH NEW OBJECTS
- (50) RENEWAL IS BRINGING NEW BEINGS INTO LIFE IN PLACE OF OTHERS THAT WERE KILLED
- (51) RENEWAL IS ESTABLISHING NEW BONDAGES IN EXCHANGE FOR THE CUTTING OF OLD ONE(S)

The metaphors indicated above are a consequence of other metaphors that stay in interaction with them. Such background operations include very strongly

conventionalized metaphors (some of them originating from legal and juridical language, and some from general language), e.g.,:

- (52) OBLIGATION IS A KNOT (BOND)
- (53) OBLIGATION IS A MATERIAL OBJECT
- (54) OBLIGATION IS A LIVING ENTITY
- (55) TO DIE IS TO KILL
- (56) FIRE IS LIFE
- (57) EXTINGUISHING OF FIRE IS DEATH

The imagery described above can be observed by analyzing the following provisions containing linguistic realizations and metaphorical implications of the above metaphors:

Art. 374. § 1. A novation made between a creditor and one of the joint and several debtors releases the co-debtors, unless the creditor has reserved that he retains his rights against them.

Art. 506. § 1. If, in order to discharge the obligation, the debtor undertakes, with the consent of the creditor, to perform another performance or even that same performance, however based on a different legal requirement, the previous obligation expires (novation).

Art. 507. If the claim was secured by a guarantee or a limited property right established by a third party, the guarantee or limited property right expires upon renewal, unless the surety or third party consents to the continued duration of the security.

B.2. Easement

Easement is an institution originating from Roman law (Latin servitus from servire, meaning "to serve"¹⁶⁰. The Roman lawyer Paulus wrote about it in the following way: Cum fundus fundo servit, vendito quoque fundo, servitutes sequuntur. Aedificia quoque fundis, et fundi aedificiis eadem conditione serviunt (D.8,4,12, Paulus 15 ad Sab.). The quote means: "If land serves another land, after the land is sold, the easement follows it. If the buildings on the land are part of the easement for the benefit of the other land, or vice versa, we apply the same principle." This institution is constructed in the Polish law

through many metaphorical images similar to those used in Roman law. In particular:

- (58) EASEMENT IS A PHYSICAL BURDEN
- (59) EASEMENT IS TOOL
- (60) EASEMENT IS A MATERIAL OBJECT (AN OBLIGATION IS A MATERIAL OBJECT)
- (61) EASEMENT IS A FORCE WITH A DEFINITE DIRECTION OF ACTION (PHYSICAL WEIGHT IS A FORCE)
- (62) AUTHORITY IS A FORCE
- (63) USING EASEMENT IS TO EXERCISE POWER
- (64) USING EASEMENT IS TO EXERCISE POWER OVER AN OBJECT
- (65) EASEMENT IS A POWER WITH A STRICTLY DEFINED LIMITED MANNER OF EXERCISE
- (66) LAND EASE IS AN OBJECT THAT IS TRAINED BY ONE REAL ESTATE AND SURPRUSSING ANOTHER REAL ESTATE
- (67) PERSONAL EASE IS AN OBJECT THAT IS TRAINED BY A PERSON AND SURPRUSSING ANOTHER REAL ESTATE
- (68) DOMESTIC ESTATE IS A REAL ESTATE TO WHICH AN OBJECT THAT IS SERVING IT IS TRAINED (EASEMENT)
- (69) THE BURDENED PROPERTY IS A PERSON WHO HAS A CERTAIN DUTY TOWARDS ANOTHER PERSON (SERVANT)
- (70) THE DOMINANT PROPERTY IS A PERSON WHO HAS POWER OVER ANOTHER PERSON (THE ONE WHO IS SERVED)

The imagery as indicated above can be observed by analyzing the following provisions containing linguistic and metaphorical images evoking the above-mentioned conceptual metaphors:

Art. 145. § 1. If the property does not have adequate access to a public road or to farm buildings belonging to this property, the owner may demand that the owners of neighboring land establish the necessary road easement for compensation (necessary road). § 2. The construction of a necessary road shall be carried out taking into account the needs of the property that does not have access to a public road and with the least burden on the land through which the road is to run. If the need to establish a road is a consequence of the sale of land or another legal act, and the interested parties do not reach an agreement, the court shall, if possible, order the construction of the road through the land that was the subject of that legal act.

Art. 146. The provisions of the preceding article shall apply accordingly to the independent possessor of real estate; however, the possessor may only request the establishment of a personal easement.

Art. 212. § 1. If the termination of co-ownership is effected by a court decision, the value of individual shares may be compensated by additional payments. When dividing land, the court may encumber individual parts with necessary land easements.

Art. 285. § 1. Real estate may be encumbered in favour of the owner of another real estate (dominant estate) with a right, the content of which consists either in that the owner of the dominant estate may use the encumbered estate to a specified extent, or in that the owner of the encumbered estate is limited in his ability to perform specific actions in relation to it, or in that the owner of the encumbered estate is not allowed to exercise specific rights to which he is entitled in relation to the dominant estate under the provisions on the content and exercise of ownership (land easement).

§ 2. A land easement may only have the purpose of increasing the usability of the dominant estate or its designated part.

Art. 289. § 1. In the absence of a different agreement, the obligation to maintain the facilities necessary to perform the easement of land rests with the owner of the dominant estate.

Art. 290. § 1. In the event of division of the dominant estate, the easement is maintained in force for the benefit of each of the parts created by the division; however, if the easement increases the utility of only one or several of them, the owner of the encumbered estate may request its release from the easement in respect of the remaining parts.

Art. 292. A land easement may be acquired by adverse possession only in the event that it consists in the use of a permanent and visible device. The provisions

on the acquisition of ownership of real estate by adverse possession apply accordingly.

Art. 293. § 1. A land easement expires as a result of non-exercise for ten years.

Art. 294. The owner of the encumbered property may request the termination of a land easement for compensation if, as a result of a change in relationships, the easement has become particularly burdensome for him, and it is not necessary for the proper use of the dominant property.

Art. 295. If the land easement has lost all significance for the dominant property, the owner of the encumbered property may request the termination of the easement without compensation.

Art. 296. Real estate may be encumbered in favor of a designated natural person with a right whose content corresponds to the content of the land easement (personal easement).

Art. 299. A personal easement expires at the latest with the death of the entitled person.

Art. 300. Personal easements are inalienable. The right to exercise them also cannot be transferred.

Art. 301. § 1. A person who has a residential easement may accept his spouse and minor children into the apartment. He may accept other persons only if they are supported by him or needed for running the household. Children who have been accepted as minors may remain in the apartment even after they have reached the age of adulthood.

Art. 303. If the person entitled under a personal easement commits gross misconduct in exercising his right, the owner of the encumbered real estate may request that the easement be converted into an annuity.

Art. 352. § 1. Whoever actually uses another person's real estate to the extent corresponding to the content of the easement is the possessor of the easement.

§ 2. The provisions on possession of things apply accordingly to possession of the easement.

B.3. Inheritance

Inheritance: The institutions of inheritance, succession and inheritance are a special case of legal institutions, the metaphorical imagery of which is the effect of embodiment that governs our cognition. The bodily experience of the difference in height between older and younger people, death as a phenomenon that usually affects older generations – ascendants before descendants, and the use of force to get rid of and spatially remove what is unwanted (rejection) have determined this and no other way of perceiving inheritance. Experience from the natural world also tells people that ripe fruit falls and people pick it up in order to use it. Fruit that is spoiled or useless is discarded. In addition, historical and social experiences associate inheritance with taking up some service in place of the testator who leaves his post. It is no accident that the Polish words "dziedzic" "dziedzictwo" (which come from the word "dziad", meaning "an old man", "a grandfather"), and in a more general sense: an ancestor are all synonyms of "spadkobiercy", i.e. heirs, literally "inheritance-takers". The Polish words used for inheritance and heirs sound elevated, have an ennobling, lofty or even pathetic tone in contemporary Polish. This can still be seen as a consequence of the significance of the institution of inheritance in Roman law, which is expressed, for example, in the well-known parody: Indigno aufertur hereditas ("An unworthy person is deprived of his inheritance") and the institution of unworthiness of inheritance, still well known in contemporary Polish law.

- (71) INHERITANCE IS AN OBJECT
- (72) AN INHERITANCE IS AN OBJECT THAT FALLS TO SOMEONE FROM ABOVE
- (73) TO REJECT INHERITANCE IS TO THROW AWAY AN OBJECT
- (74) TO ACCEPT AN INHERITANCE IS TO TAKE AN OBJECT FROM SOMEONE
- (75) A TESTATOR IS THE ONE WHO GIVES AN OBJECT AWAY
- (76) AN HEIR IS THE ONE WHO ACCEPTS AN OBJECT
- (77) INHERITANCE IS FRUIT
- (78) INHERITANCE IS FRUIT THAT, WHEN IT IS RIPE, FALLS DOWN
- (79) TO REJECT INHERITANCE IS TO THROW AWAY USELESS OR ROTTEN FRUIT

- (80) TO THROW AWAY INHERITANCE IS NOT TO WANT INHERITANCE
- (81) INHERITANCE IS A CONTAINER
- (82) INHERITANCE IS A COMPLEX OBJECT (THE WHOLE, A COLLECTION)
- (83) INHERITANCE IS POSSIBILITY
- (84) INHERITANCE IS AN HONORABLE SERVICE

The above-indicated imagery can be observed by analyzing the following provisions containing linguistic realizations and metaphorical implications of the above metaphors:

Art. 922. § 1. The property rights and obligations of the deceased pass upon his death to one or more persons in accordance with the provisions of this book.

§ 2. The estate does not include the rights and obligations of the deceased that are closely related to his person, as well as rights that upon his death pass to designated persons regardless of whether they are heirs.

§ 3. The estate debts also include the costs of the testator's funeral to the extent that such funeral corresponds to the customs accepted in a given environment, the costs of inheritance proceedings, the obligation to satisfy claims for compulsory share and the obligation to execute ordinary bequests and instructions, as well as other obligations provided for in the provisions of this book.

Art. 924. The estate opens upon the testator's death.

Art. 925. The heir acquires the estate upon the opening of the estate.

Art. 926. § 1. The inheritance is established (called upon) by law or by a will. § 2. Statutory inheritance for the entire estate occurs when the testator has not named (appointed) an heir or when none of the persons he has named wishes or can be an heir.

§ 3. Subject to the exceptions provided for in the law, statutory inheritance for a part of the estate occurs when the testator has not named an heir for that part or when any of the several persons he has named for the entire estate does not wish or cannot be an heir.

Art. 928. § 1. An heir may be deemed unworthy by the court if:

- 1) he has intentionally committed a serious crime against the testator;
- 2) he has deceived or threatened the testator into making or revoking a will or in the same way has prevented him from performing one of these acts;

3) intentionally concealed or destroyed the testator's will, forged or altered his will or consciously used a will forged or altered by another person.

§ 2. An unworthy heir is excluded from inheritance as if he had not lived to see the opening of the inheritance.

Art. 931. § 1. First in line to inherit are the children of the testator and his spouse; they inherit in equal shares. However, the share falling to the spouse cannot be less than one-fourth of the entire estate. § 2. If the testator's child did not live to see the opening of the estate, the share of the estate that would have fallen to him falls to his children in equal shares. This provision applies accordingly to further descendants.

Art. 961. If the testator has bequeathed to a designated person in his will individual property items that exhaust almost the entire estate, that person is considered, in case of doubt, not as a legatee, but as an heir called to the entire estate. If such a disposition in a will was made in favour of several persons, these persons are considered, in case of doubt, to be entitled to the entire estate in fractional parts corresponding to the ratio of the value of the items intended for them.

Art. 964. A provision of a will by which the testator obliges the heir to retain the acquired estate and to leave it to another person, has only the effect that this other person is entitled to the estate in the event that the heir does not wish or cannot be the heir. However, if it follows from the content of the will or from the circumstances that the heir would not be entitled without such limitation, the appointment of the heir is invalid.

Art. 965. If the testator has named several testamentary heirs, and one of them does not wish or cannot be an heir, the share designated for him, in the absence of a different will of the testator, falls to the remaining testamentary heirs in proportion to their shares (increment).

Art. 1012. The heir may either accept the inheritance without limitation of liability for debts (simple acceptance), or accept the inheritance with limitation of this liability (acceptance with benefit of inventory), or reject the inheritance.

Art. 1020. An heir who rejects the inheritance is excluded from inheritance as if he had not lived to see the opening of the inheritance.

Art. 1035. If the estate falls to several heirs, the provisions on co-ownership in fractional parts shall apply accordingly to the community of estate and to the division of the estate, subject to the provisions of this title.

Art. 1042. § 1. The inclusion in the inheritance is carried out in such a way that the value of gifts or vindicatory bequests subject to inclusion is added to the estate

or to the part of the estate that is to be divided between the heirs mutually obliged to include them, after which the inheritance of each of these heirs is calculated, and then the value of the gift or vindicatory bequest subject to inclusion is included in each of them towards his inheritance.

2.4. Selected ontological, structural and constructional metaphors as present in the Polish Civil Code.

C. The Civil Code can also identify a number of ontological, structural and constructional metaphors specific to law in general. Several of them will be discussed below as examples.

C.1. *The Civil Code, using the concepts and expressions used in it, builds its own image of what law is in general. Here, metaphor co-occurs with metonymy, because law as a target domain is usually designated as its parts or rather as its material¹⁷⁰, and thus as regulations, code, act, etc. Taking this into account, the following metaphors can be identified in the text of the Civil Code:*

(85) LAW IS A BUILDING (STRUCTURE)

(86) LAW IS A BUILDING MATTER

(87) LAW IS A BASE (FOUNDATION)

Art. 24. § 1. A person whose personal rights are threatened by someone else's action may demand that the action be abandoned, unless it is not illegal. In the event of a violation, he may also demand that the person who committed the violation takes the actions necessary to remove its effects, in particular that they submit a declaration of appropriate content and in an appropriate form. Under the principles provided for in the Code, they may also demand pecuniary compensation or payment of an appropriate sum of money for a specified social purpose.

Art. 38. A legal person shall act through its bodies in the manner provided for in the Act and in the statute based thereon.

Art. 40. § 2. In the event of free takeover, on the basis of the applicable Acts, of a specific asset from a state legal person in favour of the State Treasury, the latter shall be jointly and severally liable with the legal person for obligations arising during the period when the asset was the property of the given legal person, up to the value of that asset determined according to the state at the time of takeover and according to the prices at the time of payment.

Art. 405. Whoever, without legal basis, has obtained a financial benefit at the expense of another person, is obliged to return the benefit in kind, and if this were not possible, to return its value.

A broader discussion of the above metaphors can be found in Wojtczak et al. 2017 (in Polish).

(88) LAW IS A PERSON

Art. 3. An act does not have retroactive effect, unless it results from its wording or purpose.

Art. 24. § 3. The above provisions do not prejudice the rights provided for in other regulations, in particular in copyright law and in invention law.

(89) LAW IS THE LEGISLATOR (GIVER, COMMANDER)

Art. 1. This Code regulates civil law relations between natural persons and legal persons.

Art. 7. If the law makes legal effects dependent on good or bad faith, good faith is presumed.

Art. 37. § 1. An organizational unit acquires legal personality at the time of its entry in the appropriate register, unless special provisions provide otherwise.

Art. 73. § 2. If the law reserves for a legal act another special form, an act performed without observing this form shall be invalid. However, this does not apply to cases where the observance of a special form is reserved only for the purpose of producing specific effects of a legal act.

Art. 110. If the law, court ruling or decision of another state body or a legal act indicates a period without specifying the method of calculating it, the following provisions shall apply.

(90) LAW IS A SPEAKER

Art. 33. Legal persons are the State Treasury and organizational units to which special provisions grant legal personality.

Art. 773. § 1. In order to secure claims for commission and claims for reimbursement of expenses and advances granted to the commissioning party, as well as for securing any other receivables resulting from commission orders, the commissioner has a statutory right of lien on the items constituting the subject of

the commission, as long as these items are with him or with the person who holds them on his behalf, or as long as he can dispose of them by means of documents.

§ 2. The aforementioned receivables may be satisfied from receivables acquired by the commissioning party on the commissioning party's account, with priority over the commissioning party's creditors.

(91) LAW IS A GUARDIAN

Art. 5. One may not make use of one's right in a way that would be contrary to the social and economic purpose of this right or to the principles of social coexistence. Such action or omission of the entitled person is not considered to be the exercise of the right and does not enjoy protection.

Art. 343¹. The provisions on the protection of possession apply accordingly to the protection of possession of premises.

TITLE X

Protection of the creditor in the event of the debtor's insolvency

(92) LAW IS A STORY

Art. 331. § 1. The provisions on legal persons apply accordingly to organizational units that are not legal persons, to which the law grants legal capacity.

Art. 43. The provisions on the protection of personal rights of natural persons apply accordingly to legal persons.

(93) LAW IS AN OBSTACLE

Art. 58. § 1. A legal act that is contrary to the law or is intended to circumvent the law is invalid, unless the relevant provision provides for a different effect, in particular that the invalid provisions of the legal act are replaced by appropriate provisions of the law.

(94) LAW IS A CAUSE

Art. 56. A legal act produces not only the effects expressed in it, but also those that result from the law, the principles of social coexistence and established customs.

Art. 73. § 2. If the law reserves for a legal act another special form, an act performed without observing this form is invalid. However, this does not apply to cases where the observance of a special form is reserved only to produce specific effects of a legal act.

(95) LAW IS PHYSICAL FORCE, CAUSATIVE FORCE

Art. 46. § 1. Real estate is part of the earth's surface constituting a separate subject of ownership (land), as well as buildings permanently attached to the land or parts of such buildings, if under special provisions they constitute a separate subject of ownership from the land.

Art. 417. § 1. The State Treasury or a local government unit or another legal person exercising this authority by operation of law shall be liable for damage caused by unlawful action or omission in the exercise of legal public authority.

(96) LAW IS MEDICINE (A REMEDY, TREATMENT)

(97) LAW IS A TOOL

Art. 681. § 2. The provisions of the preceding paragraph shall not be applied if the content of the offer indicates that it may be accepted only without reservations, or when the offeror immediately objected to the inclusion of reservations in the contract, or when the other party, in response to the offer, made its acceptance contingent on the offeror's consent to the inclusion of reservations in the contract, and did not receive such consent immediately.

Art. 649⁵. The provisions of Art. 6491–6494 shall apply to contracts concluded between the contractor (general contractor) and further contractors (subcontractors).

(98) LAW IS A NODE (BOND)

Art. 684. The tenant may install electric lighting, gas, telephone, radio and other similar devices in the rented premises, unless the method of their installation is contrary to binding regulations or endangers the safety of the property. If the installation of the equipment requires the cooperation of the lessor, the lessee may demand such cooperation against reimbursement of the costs resulting therefrom.

(99) LAW IS FORECAST (AN ORACLE)

Art. 17. Subject to exceptions provided for (envisaged) in the statute, the validity of a legal act by which a person limited in their capacity to perform legal acts assumes an obligation or disposes of their right requires the consent of their legal representative.

Art. 73. § 1. If the statute reserves the written form for a legal act, an act performed without observing the reserved form shall be invalid only if the statute provides for (envisages) the penalty of invalidity.

C.2. *In the Civil Code, one can also identify a number of metaphors by means of which the legislator constructs the concept of liability. It must be remembered, however, that this may refer to the general concept of liability, as well as the specific concept of civil liability for civil law in its various varieties (liability in tort, liability under contract).*

(100) LIABILITY IS AN OBJECT (WHICH CAN BE SHARED WITH SOMEONE, WHICH CAN BE A RESERVE)

Art. 331. § 2. Unless a separate provision provides otherwise, for the obligations of the unit referred to in § 1, subsidiary liability is borne by its members; this liability arises from the moment when the organizational unit becomes insolvent.

Art. 843. If several persons jointly accepted or gave an item for safekeeping, their liability towards the other party is joint and several.

(101) LIABILITY IS A PHYSICAL BURDEN

Art. 40. § 1. The State Treasury is not liable (does not carry the responsibility) for the obligations of state legal persons, unless a separate provision provides otherwise. State legal persons are not liable for the obligations of the State Treasury.

Art. 385³. In case of doubt, it is considered that prohibited contractual provisions are those which, in particular:

- 1) exclude or limit liability towards the consumer for personal injury;
- 2) exclude or significantly limit liability towards the consumer for non-performance or improper performance of an obligation (...);
- 21) make the liability of the consumer's contractor dependent on the performance of obligations by persons through whom the consumer's contractor concludes the contract or with whose assistance he performs his obligation, or make this liability dependent on the fulfilment by the consumer of excessively burdensome formalities (...).

(102) LIABILITY IS THE NECESSITY TO PROVIDE A RESPONSE (METAPHOROUSLY UNDERSTOOD) TO THE ALLEGATION OF INFRINGEMENT OF THE STANDARD

Art. 421. The provisions of art. 417, art. 4171 and art. 4172 shall not apply if liability for damage caused in the exercise of public authority is regulated by special provisions.

Art. 4495. § 1. The manufacturer of the material, raw material or component part of the product is liable as the manufacturer, unless the exclusive cause of the damage was the defective design of the product or the manufacturer's instructions.

§ 2. Whoever, by placing his name, trademark or other distinguishing mark on the product, presents himself as the manufacturer, is liable as the manufacturer. The same liability applies to anyone who introduces a product of foreign origin into domestic circulation within the scope of his business activity (importer).

(103) LIABILITY IS AN AREA

Art. 554. The purchaser of an enterprise or farm is jointly and severally liable with the vendor for the vendor's obligations related to running the enterprise or farm, unless at the time of acquisition he was not aware of these obligations, despite exercising due diligence. The purchaser's liability is limited to the value of the acquired enterprise or farm according to the state at the time of acquisition, and according to the prices at the time of satisfying the creditor. This liability cannot be excluded or limited without the consent of the creditor.

(104) LIABILITY IS A POSITION RELATIVE TO A POINT IN SPACE

Art. 556. The seller is liable to the buyer if the sold item has a physical or legal defect (warranty).

(105) LIABILITY IS A BOND (ARE BONDS)

Art. 4495. § 5. If the seller of the product cannot indicate the manufacturer or the persons specified in § 4, he is released from liability by indicating the person from whom he himself acquired the product.

Art. 827. § 1. The insurer is free from liability if the insured caused the damage intentionally; in the event of gross negligence compensation is not due, unless the contract or general terms and conditions of insurance provide otherwise or payment of compensation corresponds to the principles of equity in the given circumstances.

(106) LIABILITY IS A STATE OF THINGS THAT CONTINUES IN TIME

Art. 813. § 1. The premium is calculated for the duration of the insurer's liability (...).

Art. 814. § 1. Unless otherwise agreed, the insurer's liability shall begin on the day following the conclusion of the contract, but not earlier than on the day following the payment of the premium or its first instalment (...).

§ 3. In the event of payment of the premium in instalments, failure to pay the next

premium instalment on time may result in the termination of the insurer's liability, only if such an effect was provided for in the contract or general insurance conditions, and the insurer, after the deadline, called upon the insured person to pay with the threat that failure to pay within 7 days from the date of receipt of the call will result in the termination of liability.

C.3. *Another important concept for law in general, present and metaphorically illustrated in the Civil Code, is guilt. It should be remembered that guilt in civil law differs from guilt in other branches of law, and especially from guilt in criminal law. The concept of guilt is reflected in the following metaphors used in the Civil Code:*

(107) GUILT IS A BURDEN

Art. 431. § 1. Anyone who keeps or uses an animal is obliged to repair the damage caused by it, regardless of whether it was under his supervision, or whether it strayed or ran away, unless neither he nor the person for whom he is responsible is at fault.

(108) FAULT IS A MEASURABLE OBJECT

Art. 757. Whoever, in order to avert a danger threatening another saves their good, may demand reimbursement of justified expenses from them, even if their action had no effect, and is liable only for intentional fault or gross negligence.

(109) FAULT IS A SCALE (STAIRS)

Art. 362. If the injured party contributed to the occurrence or increase of damage, the obligation to redress it is appropriately reduced according to the circumstances, and especially to the degree of fault of both parties.

(110) FAULT IS A STATE OF MIND

Art. 151. If during the construction of a building or other device the boundaries of neighboring land were crossed without intentional fault, the owner of that land may not demand the restoration of the previous state, unless he objected to crossing the boundary without undue delay or he is threatened with disproportionately great damage (...).

(111) FAULT IS LACK OF NEGLIGENCE

Art. 788. § 1. Compensation for loss, shortage or damage to the shipment from its acceptance for carriage until its delivery to the recipient may not exceed the

normal value of the shipment, unless the damage resulted from the intentional fault or gross negligence of the carrier.

(112) FAULT IS CAUSE

Art. 777. § 1. The carrier is liable for luggage that the traveler carries with him only if the damage resulted from the intentional fault or gross negligence of the carrier.

Art. 8598. § 2. The provisions of § 1 shall not apply in the event that the damage is the result of intentional fault or gross negligence.

(113) FAULT IS A (FLEXIBLE) MATTER

Art. 425. § 2. However, anyone who has suffered a disturbance in their mental functions as a result of using intoxicating beverages or other similar substances, is obliged to redress the damage, unless the state of disturbance was caused without their fault.

Art. 435. § 1. A person running an enterprise or an establishment operated by natural forces (steam, gas, electricity, liquid fuels, etc.) on their own account is liable for damage to a person or property caused to anyone by the operation of the enterprise or establishment, unless the damage was caused by force majeure or exclusively by the fault of the injured party or a third party for whom they are not responsible.

(114) FAULT IS AN ELEMENT ESSENTIAL TO CREATE A CERTAIN WHOLE

Art. 224. §2. However, from the moment when the autonomous possessor in good faith learned about the action brought against him for the return of the thing, he is obliged to pay compensation for the use of the thing and is responsible for its wear and tear, deterioration or loss, unless the deterioration or loss occurred without his fault (...).

3. Conclusions

The language of law and the conceptualization of law have a metaphorical dimension, because all human cognition is metaphorical (at least in its large part), and as a result the linguistic image of the world also includes metaphors.

The law is special in the relationship which it invites between legal theory and language. The linguistic dimension is omnipresent in the law, as whenever there is a question of legal interpretation, or a legal dispute, the resolution will involve some kind of linguistic divagations. This is due to the fact that law in the form in which we know it in the European tradition is expressed in language. One can of course speculate about natural law, law as an abstraction, which is "understood", "grasped" directly. This aspect of communication in the context of law is often the subject of disputes between lawyers and people outside the magic circle of the law. However, even among professionals in a situation of conflict, law is considered through references to the "meanings" contained in relevant texts.

It is therefore worth considering what a look at the metaphorical dimension of law and legal language can give us in the context of the quality of social life, communication, understanding of the mechanisms of law, its adequacy and objectivity. The problems associated with legal metaphor, as we can briefly call it, are so multifaceted and complex that even its description falls beyond the scope of the present discussion. However, even a description of a fraction of the problem can offer some insights into the nature of both language of the law, and law itself. The description of metaphorical imagery in the Polish Code of Civil Law confirms certain claims, e.g., it shows that metaphor is omnipresent in the linguistic image of the legal world, and it may be assumed it is also omnipresent on the cognition related to civil law. It further shows that legal language is never completely objective and literal, and that it relies on both contemporary and much older, often dating back to ancient Roman time, imagery, well-established in the European legal tradition. It is clear that metaphor appears in cognition and language spontaneously, but once grasped, it can also be used instrumentally. Law is not "reality" in the common sense of the word, but there is social legal reality whose nature can at least partly be discovered by scrutinizing images that people use in order to define, or describe it.

References

- Burrill, A.M. 1860. *A Law Dictionary and Glossary*. New York.
- Kövecses, Zoltán. 2000. *Metaphor and Emotion: Language, Culture, and Body in Human Feeling*. Cambridge: Cambridge University Press.
- Kövecses, Zoltán. 2015. *Where Metaphors Come From: Reconsidering Context in Metaphor*. Oxford: Oxford University Press. <https://doi.org/10.1093/acprof:oso/9780190224868.001.0001>
- Lakoff, George 1987: *Women, Fire and Dangerous Things: What Categories Reveal about the Mind*. Chicago: University of Chicago Press.
<https://doi.org/10.7208/chicago/9780226471013.001.0001>

- Lakoff, George & Mark Johnson. 1980/2003 (2nd ed.) *Metaphors We Live By*. Chicago: University of Chicago Press. <https://doi.org/10.7208/chicago/9780226471013.001.0001>
- Lakoff, George & Mark Johnson. 1999. *Philosophy in the Flesh*. New York: Basic Books.
- Lakoff, George & Rafael E. Núñez. 2000. *Where Mathematics Comes From: How the Embodied Mind Brings Mathematics into Being*. New York: Basic Books.
- Lakoff, George & Mark Turner. 1989. *More than Cool Reason: A Field Guide to Poetic Metaphor*. Chicago: University of Chicago Press. <https://doi.org/10.7208/chicago/9780226470986.001.0001>
- Larsson, Stefan. 2011. *Metaphors and Norms: Understanding Copyright Law in a Digital Society*. Lund: Lund University.
- Mularski, K.. 2011. *Czynności podobne do czynności prawnych*, Warszawa.
- Winter, Steven. 2003. *A Clearing in the Forest: Law, Life and Mind*. Chicago: Chicago University Press.
- Witczak-Plisiecka, Iwona. 2013. "Speech action in legal contexts". In Marina Sbisà & K. Turner (eds.), *Pragmatics of Speech Actions* [Handbook of pragmatics; Part 2], Berlin/Boston: Mouton de Gruyter, pp. 613-658. <https://doi.org/10.1515/9783110214383.613>
- Wojtczak, Sylwia & Iwona Witczak-Plisiecka. 2019. "Metaphors and Legal Language: a Few Comments on Ordinary, Specialised and Legal Meaning". *Research in Language*, Vol. 17, No. 3, pp. 273-295. <https://doi.org/10.18778/1731-7533.17.3.04>
- Wojtczak, Sylwia, Iwona Witczak-Plisiecka, Rafał Augustyn. 2017. *Metafory konceptualne jako narzędzia rozumowania i poznania prawniczego* [Conceptual Metaphors as Tools in Legal Reasoning and Cognition]. Warszawa: Wolters Kluwer.

Sylwia Wojtczak is professor of law and head of the Department of Law Policy at the University of Lodz, Poland. Her main interests are in cognitive linguistics aspects of law and in artificial intelligence.

ORCID: <https://orcid.org/0000-0001-6054-0963>

Iwona Witczak-Plisiecka is a linguist and a professor at the English Philology Department in the University of Law. Her main interests are in sociopragmatics, the nature of meaning in natural language, the semantics-pragmatics interface and performativity. She is also interested in the relation between language and the law and the theory of (specialised) translation.

ORCID: <https://orcid.org/0000-0002-0708-2091>