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LEGAL LANGUAGE: THE PASSIVE VOICE MYTH

Abstract

The paper examines whether it is a myth that the passive voice is unnecessarily and excessively used in legal language, more particularly in a statute as a genre. It gives an overview of the attitudes to legal English over time and of earlier research done by both legal professionals and linguists, whose research of the passive voice has resulted in a number of rules as to when the passive voice is justified and when it serves no other function but to give the text the appearance of a legal text. The paper applies three general rules to analyse the use of passives in two pieces of modern legislation in English and the other in Montenegrin which both focus on consumer protection. The results indicate that there is a great degree of similarity between the two languages in the way they use the passive in legal texts. More importantly, all the uses of the passive are justified in both corpora and serve a communicative function. However, it is suggested that more legislation should be analysed in order to arrive at some general conclusions. In particular, it would be interesting to see how content, i.e. area of law, affects the selection of voice in this legal genre.

Key words

discourse, (plain) legal language, passive, statute, English, Montenegrin.

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