

NOUNS

In keeping with the nominal tendencies in the English language, nouns are sometimes used in constructions with semantically vague verbs to refer to processes, where other languages, e.g. Czech, give preference to verbal constructions.

In Czech, too, alternative nominal forms occasionally occur (used with a semantically vague verb, e.g. *dělat, udělat, činit, učinit, uskutečnit, podat*) and are felt to be more “official”, e.g.,

to make an appeal – odvolat se, podat odvolání
to make a delivery – dodat
to make a decision – rozhodnout, učinit rozhodnutí
to make a record of the payment – zaregistrovat platbu
to make a written application – písemně požádat
to give a description – popsat, poskytnout popis
to give effect to – uskutečnit, uplatnit, prohlásit za platné
to give a notice – oznámit, dát výpověď
to give evidence in court – svědčit u soudu
to inflict punishment – potrestat, uložit trest

Proper nouns

In some legal texts common nouns referring to the parties to a contract or to legal proceedings, as well as other common nouns acting as key words in the text (often specially defined for the given purpose, thus having their meaning restricted, or unique) are distinguished from the same words used in their more common meanings by capitalizing their initials. Restricted in their use to just one particular person or item, they are then treated, more or less, as proper nouns, which is also manifested in some cases in their use without determiners.

The legal documents following this practice often contain a special introductory article entitled “Definitions” that defines the terms used throughout the document in a special meaning. Here is how definitions can be introduced:

1.01. Definitions. Except as otherwise defined herein, all capitalized terms used herein shall have the meanings respectively ascribed to them in the Loan Agreement.

The defined nouns are subsequently used with capital initials wherever the meaning shown in the definitions is intended. If the same terms are used in their ordinary meaning the initials are not capitalized.

*In consideration of Seller's permission to **Purchaser** to take possession of the premises, **Purchaser** agrees ...*

*This **Agreement** may be amended only by an **agreement** in writing signed by each of the parties hereto.*

Count and non-count nouns

The classification of nouns into **count** and **non-count** (also called *countable* and *uncountable/mass nouns*) can be subject to transition (or conversion) between the two subclasses. In legal English it is mainly the conversion of a non-count noun to a count noun that is immediately noticeable:

*When a legal or judicial mortgage securing **an indebtedness** due by a former owner of property is sought to be enforced ...*

*... if the offense be a misdemeanor, the attorney shall forthwith prepare **an information** based upon such complaint and file the same in the court having jurisdiction; provided, that in counties having no county attorney, misdemeanor cases may be tried upon complaint alone, without **an information**, provided, however, in counties having one or more criminal district courts **an information** must be filed in each misdemeanor case.*

Number

In order to achieve better precision, nouns in **coordinated singular and plural** forms are sometimes used to provide for all possibilities of interpretation.

*The Bank will be entitled to sell ..., grant **an option or options** to purchase or otherwise dispose of all or any part of the Real Property in one or more parcels, at public or private **sale or sales**, ...*

A legal document can make reference to either one or several persons involved as parties or in another capacity. As is indicated above, a legal document sometimes contains a specific provision about the validity of certain nouns in the sense of referring to entities understood both as singular and plural. A statutory provision referring to grammatical number is quoted in the Introduction (see above). References to the meaning of singular and plural terms are also found in other legal documents, such as contracts:

Except as otherwise defined herein, all capitalized terms used herein shall have the meanings respectively ascribed to them in the Agreement. Such definitions shall be equally applicable to the singular and plural forms of the terms defined.

The names of legal entities (business companies, foundations, banks, etc.) can have either singular or plural form. As they represent units formed by groups of people, they are often treated as plurals including in the cases where the name itself is singular in form. Sometimes the name appears as the apposition to the pronoun *we*, e.g.

We, the undersigned company styled Excellence Ltd., hereby appoint ...

Some nouns, e.g. *money*, used only in the singular in some other registers can be found in the plural in legal English.

*No third party or agents, insurers, or attorneys for third parties shall participate in the settlement or resolution of such an action if they actually know, or should know, that the claimant or victim has received **moneys** from the fund and is subject to the subrogation provisions of this article.*

*All such agents, insurers, and attorneys are personally liable to the fund for any **moneys** paid to a claimant or victim in violation of this subsection, up to the full amount of the fund's right to reimbursement.*

Moneys in the above examples illustrates the **shift of meaning in some plurals**, its meaning being 'funds.' In legal English, similarly as in other registers, some nouns acquire a new meaning in the plural besides the original meaning, for example *present*, *damage*. The translator is thus faced with the problem of deciding which meaning is appropriate in the given context.

*To all those to whom these **presents** shall come...*

*Tímto (**dokumentem**) se všem dává na vědomí...*

*Award **damages**...*

*Přisoudit **odškodné**, přiznat náhradu škody...*

Information used as a count noun has the plural form with -s. Its meaning is shifted to 'report on somebody' (*trestní oznámení*).

*The party states find that charges outstanding against a prisoner, detainees based on untried indictments, **informations**, or complaints, and difficulties in securing speedy trial of persons already incarcerated in other jurisdictions, produce uncertainties which obstruct programs of prisoner treatment and rehabilitation.*

Some nouns, e.g. *proof*, *evidence*, corresponding to nouns used in both numbers in some other languages, are used as non-count singular only nouns in English. Therefore they are not preceded by the indefinite article.

*When the accused has been brought before the magistrate, he shall hear **proof** as to the accusation ...*

*Whenever it appears by satisfactory **evidence** to any judge authorized to issue such writ that ...*

A special case is when a noun normally used only in the plural (at least in the meaning in question) needs to be used with reference to a single entity. Here, to avoid confusion, the plural ending remains with the noun but since the noun is used in the singular meaning, it can combine with the indefinite article or, when used as the subject, with a singular verb. We have encountered the noun *premises* used several times in this way and presume the following are not just isolated cases.

*An order entered pursuant to this section may not authorize a covert entry into or onto **a premises** for the purpose of intercepting an oral communication unless:*

*A person commits an offense if the person intentionally or knowingly hinders the entrance of a justice of the peace to **a premises** where a death occurred or a body is found. ... **the premises** into or onto which the covert entry is authorized or the person whose communications are to be obtained **has been** the subject of an interception of wire or electronic communications previously authorized in connection with the same investigation ...*

Case

The 's **genitive** is used in legal English with a relatively limited number of nominal expressions, the typical ones being, e.g., *person*, *entity*, *corporation*, *defendant*, *judge*, *court*, *principal*, *state*, *attorney general*, *victim*, sporadically also temporal nouns, e.g. *day*, *month*, exceptionally other nouns such as *vehicle* (*vehicle's owner*) or the pronoun *the latter*. It is hard to determine its frequency since one work of literature can have 10 times more 's- genitives than another. As the above exemplification of the nominal expressions reveals, the 's inflection occurs mostly with a rather restricted group of nouns, more restricted than in non-legal English. The preposition *of*, which is a common alternative to the 's genitive, has a much higher incidence in the legal texts examined, being about four times as frequent as in literary texts. This can be due to the fact that legal English is rich in nominal expressions involving complex noun phrases. The *of* construction

tends to be restrictive rather than descriptive in its meaning, a factor which suits the nature of legal English. On the contrary, modification by adjectives tends to be descriptive, which explains the relatively low incidence of adjectival pre-modifiers as compared to post-modifiers in noun phrases.

An interesting case is the use of the 's genitive morpheme added to nouns converted from *-ed* participles.

*If the accused is a deaf person, **the accused's** statement under Section 2 or Section 3(a) of this article is not admissible against the accused unless the warning in Section 2 of this article is interpreted to the deaf person by an interpreter who is qualified and sworn as provided in Article 38.31 of this code.*

It is important to note that the 's genitive can be formed from a coordinated nominal structure and relates to all coordinated elements, e.g. *an owner or interest holder's interest in property, the Secretary of State's office.*

Similarly as in non-legal uses the plural of the 's genitive is less frequent than the singular.

Gender

In statutory regulations the pronoun *he* is understood to include both the masculine and feminine gender. Pronominal forms such as the phrase *he or she* or *s/he*, as well as the plural *they, them* used with reference to one person, etc. are not as frequent as in non-legal texts.

*This jurisdiction must be based upon the submission of **the party** to the exercise of jurisdiction over **him**...*

In the whole of the Texas Code of Criminal Procedure the masculine third person singular pronoun *he* occurs 475 times. Its feminine counterpart *she* has zero occurrence. *His* and *him* counted together occur 318 times, while their feminine counterpart *her* again has zero occurrence.

In legal documents such as contracts, powers of attorney, etc., natural persons and legal entities may act in a similar way, i.e. either of them can be a seller, a principal, an appointee, a secretary. Even where it is known that a particular position is held by a natural person (of masculine or feminine gender), the possibility (although sometimes merely theoretical) for such a position to be held by a legal entity prevails and results in the selection of the neuter pronoun *it*. (This also solves the problem of the choice of the pronoun when the gender

of the natural person in question is unknown or the position can be held by a person of either gender.)

*The Mortgagor hereby covenants that **it** will: (a) do or permit to be done ...*

The plural form *they*, which is a common means for avoiding the gender distinction in ordinary non-legal, is not used in legal English. On the other hand, when a company refers to itself, it usually uses the plural pronoun *we*, since the singular *I* would be interpreted as referring to a natural person. This use can be extended also to sole traders who are simultaneously a legal entity and a natural person.

A similar instance is that of the use of the relative pronoun *which* after nouns having human associations. Again, the problem of the choice of the pronoun used in co-reference with a noun referring to either a natural person or a legal entity is solved by favouring the non-human pronoun.

*Any legal **owner which** in the regular course of its business conducts sales of repossessed or surrendered motor vehicles may take possession and conduct the sale of the vehicle if it notifies the officer to whom the vehicle is surrendered of its intent to conduct the sale within 15 days of the mailing of the notice pursuant to subdivision (a).*

As can be seen, gender is a property of pronouns rather than of nouns.

Definiteness

As has already been pointed out, in legal documents such as business contracts, the parties involved are named by contrasting terms, e.g., as the *Lessor* and *Lessee*, *Buyer* and *Seller*, etc. These names are first defined as standing for the concrete natural persons or legal entities, often by a phrase as, e.g.

(hereinafter referred to as the 'Buyer'),

or alternatively, the name intended to be used throughout the document for a particular party is used in brackets and in inverted commas (*the "Buyer"*). The same practice is used for reference to other notions and entities defined.

... the Mortgagor hereby unconditionally and irrevocably provides to the Bank ... a first ranking mortgage over land, buildings and immovable assets of the Mortgagor listed in Annex I hereto (the 'Real Property').

In the example above the phrase *Real Property* in inverted commas and capitalized will be, whenever used with capital initials throughout the same document, understood as *land, buildings and immovable assets of the Mortgagor listed in Annex I*. Since *Real Property* thus acquires unique reference it is treated as a proper name. Having acquired the status of proper nouns, such names often occur **without determiners**, the conversion from common to proper nouns thus becoming complete.

The inventory of determiners or other similar (mainly anaphoric) markers is enriched with some markers specific for legal English. For example, *such* (used predominantly as a pre-determiner in ordinary English) is used as a determiner pronoun (not followed by the indefinite article). The form *said* is no longer felt as a verb form. It is used either preceded by *the* (thus functioning as a post-determiner) or at the beginning of the NP (functioning as a determiner pronoun with a definite meaning used only anaphorically).

*I, W., Presiding Judge of the Superior Court ... do hereby certify that J.A. CLARKE is Executive Officer of the Superior Court...; that the signature to the foregoing certificate is the genuine signature of **the said** J.A. CLARKE as **such** officer is the legal custodian of the original records ..., is the proper officer having the authority to execute **the said** certificate, and **such** attestation is in due and proper form.*
*The Court of Criminal Appeals, the District Courts, the County Courts, or any Judge of **said** Courts, have power to issue the writ of habeas corpus;*
***Such** definitions shall be equally applicable to the singular and plural forms of the terms defined.*

The counterpart of the two determiner pronouns in the function of a noun-phrase pronoun (see below) is the phrase (*the*) *same*. In ordinary English the personal pronoun *it* or *they* would be used.

*...that the foregoing is a full, true and correct copy of the original...and that I have carefully compared **the same** with the original.*
*I, CONNY B. McCORMACK, Registrar-Recorder/County Clerk of the County of Los Angeles, State of California, **the same** being a public entity having by law a seal, do hereby certify...*

Actually, the additional inventory of both determiner and NP pronouns is not evenly distributed over the functions of this class of words. In general, definite determiners and NP pronouns with a definite meaning, the class of which is enriched by the above items (*such, same, said*), are used anaphorically

(referring back to something in the preceding context), cataphorically (referring to something to be found in the context that comes after the NP to which they belong), or exophorically (establishing a link with the situation). Of these three uses legal English avails itself only of the **anaphoric** function. This is because cataphoric and exophoric reference as such is not needed in legal expressions.

In legal texts the determiner pronoun *any* has a very high frequency. As its meaning is 'no matter which' it logically indicates that no item of the particular class is excluded and therefore all items come into consideration. Thus it can be treated as synonymous with *all*, with which it is sometimes coordinated (*any and all, any or all*), and obviously has a universal rather than selective meaning. In the following paragraph, which represents one legal provision, the word *any* appears several times in various functions:

*Where a defendant, in the course of a criminal action, gives bail before **any** court or person authorized by law to take same, for his personal appearance before a court or magistrate, to answer a charge against him, the said bond shall be valid and binding upon the defendant and his sureties, if **any**, thereon, for the defendant's personal appearance before the court or magistrate designated therein, as well as before **any** other court to which same may be transferred, and for **any and all** subsequent proceedings had relative to the charge, and each such bond shall be so conditioned except as hereinafter provided.*

The phrase *any person who* is typically used as the equivalent of the Czech *kdo* in the individual provisions of the criminal code (*Kdo jiného úmyslně usmrtí, bude potrestán odnětím svobody na 15 let*).

***Any person who** commits an assault against a member of the United States Armed Forces because of the victim's service in the United States Armed Forces shall be punished by a fine.*

It is interesting to note that in the Texas Code of Criminal Procedure, of which we used a sample consisting of approx. 368,000 words, the word *any* appears 2362 times, while the same item appears 21 times in a sample of literary text of 70,600 words (i.e. a text about five times shorter), which multiplied by 5 to get comparable data, still has just over a hundred occurrences in a text of the same length as the legal source.

On the other hand, *some* appears 71 times in the literary sample, thus being about 3.4 times more frequent, while in the legal sample the ratio is about 32 occurrences of *any* per one occurrence of *some*.

	<i>Some</i>	<i>Any</i>	Words total
Literary text (x 5)	71 x 5 = 355	21 x 5 = 105	70600 x 5 = 353,000
Legal text	74	2362	368,000

The determiner *any*, when used in non-legal texts, occurs mainly in non-assertive sentences (mostly negative sentences, questions, conditional clauses). In legal English questions hardly occur and very few of the contexts in which *any* is used are negative (those which are negative are mostly marked as such by using the inherently negative structures with *fail*, cf. the section on negation below).

Although *any* can potentially function both as a determiner and as an NP pronoun, the latter hardly ever occurs, the only notable exceptions being the relatively frequent phrase *if any* (in the meaning of ‘if there are any such things’, etc.), and the use of *any* followed by the preposition *of* (*any one* is discussed later.)

Any of the designations, preferences, limitations, and relative rights, including voting rights, of any class or series of shares may be made dependent upon facts ascertainable outside the articles of incorporation.

Any most frequently precedes nouns, less frequently nouns preceded by adjectives (in such cases the most frequent adjectival word is *other*).

In addition to any other liabilities imposed by law upon directors of a corporation...

Zero determiner

In non-legal English a zero determiner is used mainly in some phrases relating to the activities carried out in certain places but not necessarily the places themselves. These include phrases like *at/to school*, *in/to hospital*, but also phrases used in legal English *to/in prison/jail*, *in (open) court* (meaning ‘a court session’) *in chambers* (‘in a private hearing’). Such phrases are not absent in legal English, and, in addition, other uses of the zero determiner can be found as well. For example, phrases with the noun *counsel* are generally used with

a zero determiner. When used with a restrictive modifier, however, the definite article is used.

*... if the defendant is not represented by **counsel** and the court finds that the defendant is not able to obtain **counsel** for the purposes of the proceeding, the court shall appoint **counsel** to represent the defendant at the proceeding.*

*The interpreter may not disclose a communication between the defendant and **defense counsel** or a fact that came to the attention of the interpreter while interpreting those communications if **defense counsel** may not disclose that communication or fact.*

*If the defendant withdraws a waiver, the trial court, in its discretion, may provide **the appointed counsel** 10 days to prepare.*

As is mentioned above, the participants in legal relations (parties, etc.), once they have been defined as such, are named by common nouns with a zero determiner (behaving like proper nouns).

In legal English the relative pronoun *which* is used as an anaphoric determiner pronoun, i.e. followed by a noun, in spite of the fact that such use is not recommended in non-legal English (see the following section on pronouns).

*He falsely testified that he was truthful to his aides when he gave accounts of his relationship, **which** accounts were subsequently disseminated to the media and the grand jury.*

*The accused in any felony case shall have the right to an examining trial before indictment in the county having jurisdiction of the offense, whether he be in custody or on bail, **at which time** the magistrate at the hearing shall determine the amount or sufficiency of bail, if aailable case.*

As is well known, the indefinite article developed from the numeral *one* and as such preserves the meaning of ‘one-ness’. In legal English the word *one* is often used where non-legal English has *a/an* instead.

*Whenever, in the presence or within the observation of a magistrate, an attempt is made by **one** person to inflict an injury upon himself or to the person or property of another, including the person or property of his spouse, it is his duty to use all lawful means to prevent the injury.*

*The state may not file an answer after the 30th day after the date of service, except that for good cause the convicting court may grant the state **one** 30-day extension.*

One is also used instead of the indefinite article when the meaning of ‘a certain’ is implied with proper names, e.g. *one Emily French*.

PRONOUNS

English uses pronouns in two main functions: **determiner pronouns** functioning in a similar way as articles, and **noun-phrase pronouns (NP pronouns)**, which substitute complete noun phrases and are inherently definite or indefinite. Having discussed determiners (including determiner pronouns) above, we will now concentrate on the NP pronouns.

Legal texts usually strive to appear impersonal and therefore the first and second person pronouns are rarely employed. 1st and 2nd person pronouns appear only in personal documents such as the oath or affirmation, power-of-attorney, affidavit, last will and testament. The third person pronouns are typically used to refer to the parties in contracts and similar documents.

*The Mortgagor hereby covenants that **it** will...*

Apart from personal documents the first person pronouns are used in documents such as verification clauses issued by notaries public or government authorities, especially when such pronouns are used in apposition to the proper names of such persons:

I, John Smith, notary public in and for the county of Dade, do hereby certify...

Though hardly used in statutory provisions, the personal pronoun combination *he/she* is commonly used with reference to male and female persons alike, and occasionally the coordinated structure *he or she* is found as well. The masculine pronoun is particularly frequent with reference to the parties that are natural persons involved in a contract or legal proceedings where the gender of such persons is irrelevant. Otherwise, where a law uses the masculine pronoun it is understood as applicable to men and women alike.

The neuter pronoun *it* or the corresponding non-personal relative pronoun *which* are used with reference not only to non-human entities but also to humans, if the particular status can potentially be ascribed to either of them, i.e. if either a natural or legal person can be referred to.