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Directive Acts in International Legal Discourse: Scale of Illocutionary Force Intensity
Директивні акти в міжнародному правовому дискурсі: шкала інтенсивності
іллокутивної сили

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Abstract. *The article introduces an eight-component taxonomy of directives in international legal discourse, depending on the degree of illocutionary force, based on the criteria of illocutionary markers, directive force mitigators and modifications of the prototypical structure of directives. The research integrates the methods of speech act analysis, tools of the theory of mitigation and discourse analysis. An eight-point degree of intensity distinguishes directives with the verbs "shall" and "must" to indicate obligations in the performative part of the prototypical structure of directives. The seventh-point degree is marked by "should" to designate recommendation. Explicit directives extended with hedges specifying possibilities of the norm adaptation in favor of the capabilities of states fall under the sixth position. The fifth degree of intensity is typical for acts marked with adjectives indicating the urgency of action. The fourth position on the scale of deintensification pertains to directives with obligative verbs in the passive construction of the propositional component, with the performative component being omitted. Directives occupying the third position on the scale of illocutionary force intensity are marked, in addition to the omitted performative component, with hedges that allow for deviation from the norm in application. A two-point degree of intensity distinguishes acts with an omitted performative component in which the position of the phrasal subject is taken by nominations of the object of obligations, instead of legal subjects. Directives with an omitted performative component, where the legal subject is replaced by the designation of the object of the directive action and the performative verb is replaced by an indirect marker of obligation, occupy the first position in terms of de-intensified illocutionary force level.*

Key words: *degree of illocutionary force, taxonomy of directives, international legal discourse, mitigation, hedges.*

Introduction. The characteristics of speech acts in international legal discourse are determined by the specificity of international documents as expressions of will among equal participants. This makes it challenging to employ an authoritarian style of discourse, such as the imperative, and necessitates institutional strategies to foster cooperation and solidarity in order to attract the maximum number of signatory states with

differing interests, national values, and levels of development. Consequently, the variation in illocutionary force of directive speech acts is aimed at achieving consensus without rigid imposition of rules for international behavior. It involves the softening of coercion and the concealment of disagreements.

The difference in the degree of illocutionary force of speech acts, which are the minimal units of discourse construction

[36], directly influences the level of obligation and binding force of a document [18; 25; 28; 29]. Accordingly, the variation of the illocutionary force of prescriptive acts, such as directives, is aimed at achieving consensus without rigid imposition of rules for international behavior, with the softening of coercion and the concealment of disagreements.

Therefore, the differentiation of directive types and the means of their implication, hedging, and mitigation are relevant issues from the perspective of studying international legal communication. They contribute to contemporary discourse research and linguistic theories of mitigation.

The goal of the article is to establish a taxonomy of directive acts in international legal discourse based on the degree of their illocutionary force, which underlies the varying levels of obligatoriness in documents. The research objectives include (a) identifying modifications to the prototypical structure of directives that impact the parameters of illocutionary force (b) specifying lexical markers of directive illocutionary force and its mitigators, (c) justifying the relationship between means of mitigating / intensifying illocutionary force and the binding force of documents, and (d) classifying directive speech acts based on the degree of their illocution.

Literature review. The theoretical foundation of the article consists of research on (a) speech acts and their variation in terms of illocutionary force and (b) types of linguistic mitigation that directly or indirectly influence the illocutionary force of speech acts.

Directive speech acts are understood in the article in their traditional sense – as acts of urging or compelling to a certain action [37; 51] to adopt "the world to words" through commands, orders, requests, granting of permission or prohibition, proposals, appeals, demands, and so on. Researchers of legal discourse note that legal norms are necessarily formulated in the imperative [39], that is, through directive speech acts that participate in the creation, modification, or termination of rights and obligations [25; 42].

However, in any form of communication, direct directives are associated with the face-threatening acts of pressure and restriction of freedom of choice. Therefore, to prevent the threat, various

discourses use indirect, hedged and mitigated directive acts that are widely represented in international legal discourse.

Research on acts belonging to the same illocutionary type, focusing on their intensity, gradation, and the degree of their illocutionary force [21], is crucial for our study. Specifically, among the five classes of commissives based on the degree of variation in their illocutionary force, researchers identify direct commissives, hedged direct commissives, indirect commissives, indirect implied commissives and hedged indirect implied commissives [27, p. 1042].

A study based on epideictical discourse identifies directive classes such as direct strong directives, direct weak directives, hedged directives, nominalized obligation, and indirect hedged directives, implied under the constatives [29, p. 167]. This classification overlaps with the taxonomy of directives divided into strong direct, weak direct, conventionally indirect, and non-conventionally indirect/hints [32].

Based on these classifications and taking into account the specific implementation of speech acts in international legal discourse, the article proposes its own comprehensive eight-component taxonomy of directives based on the degree of their illocutionary force.

A crucial aspect of the theoretical framework of the article is establishing a connection between illocutionary force and linguistic means of mitigation [3; 4; 12; 35] that influence its intensity. Mitigation encompasses various strategies that soften the interactive parameters of speech, including manipulating the components of illocutionary force [22; 41] and thereby reducing potential communicative risks [4, p. 171] and "expected negative effect" [16, p. 342; 21, p. 346] for both the addressee and the addresser in directives [20, p. 510] and commissives [27].

Materials and research methods. The research involves speech act analysis [1; 2; 19; 29; 37] added by the elements of critical discourse analysis [15; 36] and explanatory tools to specify the mechanisms of mitigation [4; 46]. The corpus of analyzed texts includes twelve international legal documents of various legal force, which include markers of directive illocutionary force and its mitigation.

Data analysis incorporates seven consecutive stages:

The first stage consists in identifying the fragments of international legal discourse, marked by primarily or secondary directive illocutionary forces. Specifying the direct and indirect speech acts the article relies on the concept of a performative verb that explicitly marks an illocution [2; 30] and the notion of an illocutionary force indicating device as any linguistic element that indicates or delimits the illocutionary force of an utterance [39].

This stage of analysis also involves the distinction between "primary" and "secondary" illocutionary acts in indirect directives. The primary illocutionary act is the indirect one, which is not performed literally. The secondary illocutionary act is a direct act, performed when a sentence is understood literally [37, p. 178]. For example, in (1) the below-mentioned utterance the primary illocutionary act is calling on States to take legislative measures at the national level to ensure the protection of children from all forms of physical or mental abuse (de-intensified directive illocutionary act), and the secondary illocutionary act is the statement of the need for the corresponding actions (assertive illocutionary act).

(1) *It is required that children be protected from all forms of physical or mental violence, injury or abuse* (article 19, Convention on the Rights of the Child [8]).

In its formal-structural organization, (1) represents an assertive speech act in which both the performative verb and the subject of the performative action (legal subject) are absent. However, it contains a means of indicating the illocutionary force - the adjective "required" - to assert that child protection is necessary or obligatory, thus associated with a directive illocution.

The second stage of analysis relies on identifying the gradation of directive acts based on the degree of their illocutionary force, with a formulaic explication of the identified classes of directives. At this stage, in addition to the method of speech acts analysis, the article uses some explanatory tools of critical discourse analysis [15; 31; 50] to identify linguistic markers that affect the illocutionary force of acts and correlate with mitigation.

Critical discourse analysis highlights certain means of transitivity, such as the

choice of passive/active voice, marked / unmarked theme, as well as personalization, generalization, nominalization, etc., which realize strategies for reducing imposition. At the same time, such means contribute to reducing the categoricity of normative requirements, functioning in this sense as mitigators [26], which prompted the use of the method of linguistic mitigation in this stage of the research.

In particular, the article applies the classification of mitigators [4] into bushes, that is associated with propositional scope of the utterance implicating its true meaning, hedges that distance the speaker from his / her proposition and affect the illocutionary scope, and shields as the personal and chronotype markers of deictic scope that "defocuses" the speaker and his/her intentions [5, p. 883]. At the same time, when mitigators function in directive acts, the boundary between their classes is partially blurred, since all of them are, to some extent, downtoners [40], which reduce the directness and categoricity of statements and, accordingly, affect the degree of intensity of directive illocution.

The third stage of the research is associated with the systematization of directive acts in international legal discourse through the introduction of an eight-component taxonomy based on the degree of illocutionary force. This taxonomy is developed using a set of criteria, including the presence/absence of a performative component, types of illocutionary markers, and mitigators.

Results and Discussion. The analysis of international legal documents made it possible to distinguish different types of directive speech acts, which are characterized by variations in the degree of their illocutionary force. The identification of illocutionary markers was carried out considering, on the one hand, the components of the prototypical structure of directives and their modifications, and, on the other hand, modern EU recommendations on the use of modal verbs associated with directive illocution in legal texts.

The structure of the "ideal" directive speech act comprises (1) a performative part that includes (i) deictic personal pronouns "I" or "we", (ii) illocutionary verbs or other illocutionary force indicating devices

designating obligations, requests, advice, warnings, prohibitions, orders, instructions, appeals, etc., and (iii) nomination of the addressee of the guidelines and norms of behavior; (2) an informative part that conveys the propositional content of the act. Such a structure may be displayed as the performative formula: "I / we + illocutionary verb / illocutionary force indicating device + addressee-destinator of directive act + propositional (informative) part" [29, p. 173].

With regard to International Legal Discourse, the structure of a directive act will differ from the classical formula due to the fact that deictic markers, that is, the personal pronouns, are replaced with the designation of participating states while the structural position of the addressee remains unfilled because states develop norms of international behavior for themselves, being simultaneously subjects of lawmaking and law enforcement.

Accordingly, the structural formula of a directive act consists of the nomination of law-setting / law-enforcing subjects, an illocutionary or performative part that establishes obligations and includes illocutionary verbs such as "must/shall/should", and a propositional-descriptive part that sets out the content of the action, to which the addressee is urged.

Based on this, the marker of an explicit expression of the directive illocutionary force must be contained in the performative part of the directive formula in combination with the nomination of the subject of the action. Correspondingly, if the performative part is omitted, and the marker of the directive illocution is contained in the descriptive part, this will decrease the illocutionary force of the act, transforming it into an indirect directive in the form of an assertion.

In accordance with the EU recommendations, modal verbs of obligation, in turn, vary in degree of their directiveness-obligation. Both in the Principles and rules for the structure and drafting of ISO and IEC documents (ISO, 2021, Table 3 – Requirement [24]) and in English Style Guide [14, p. 55], "shall" is defined as a verb of positive imperative "to impose an obligation or a requirement", which is equivalent to the meaning of the verb "must". The verb "should" is used to express recommendations (ISO, Table 4 – Recommendation [24]) and

has less directive force compared to obligations or requirements [28, p. 274].

In this vein, the highest intensity of illocutionary force is characteristic of explicit directive acts that are based on the performative verbs "shall" and "must" to designate obligation in performative-illocutionary part of prototypical structure of directives as in (2), (3) and (4).

(2) *The sending State must make certain that the agrément of the receiving State has been given for the person it proposes to accredit as head of the mission to that State.* (Article 4, Vienna Convention on Diplomatic Relations [47]).

(3) *States Parties shall prohibit all discrimination on the basis of disability and guarantee to persons with disabilities equal and effective legal protection against discrimination on all grounds* (Article 5, Convention on the Rights of Persons with Disabilities [9]).

(4) *States shall enact effective environmental legislation* (Principle 11, Rio Declaration on Environment and Development [34]).

This type of explicit directive is displayed by the notation: Illocutionary part (DIS + PV: must / shall) << propositional part, where DIS denotes Directive Illocution Subject and PV designates Performative Verbs and

The second position on the intensity scale of illocutionary force in explicit directives is occupied by acts whose performative part contains a modal verb "should" to designate recommendation as in (5) and (6).

(5) *States should cooperate to strengthen endogenous capacity-building for sustainable development* (Principle 9, Rio Declaration on Environment and Development [34]).

(6) *States and all actors should take appropriate measures within their powers to: (a) formulate and implement policies and actions to mitigate and adapt to climate change (...)* (article 6, Declaration of Ethical Principles in relation to Climate Change [10]).

This type of explicit directive is represented by the notation: Illocutionary part (DIS + PV: should) << propositional part.

The next group of directive acts is formed by direct hedged directives that in their descriptive part contain parenthetical

hedge structures, which weaken directive illocutionary force by providing the possibilities of variable interpretation of the norm in favor of national law enforcement, the individual capabilities of states, etc. as in (7) and (8).

(7) *All Parties, taking into account their common but differentiated responsibilities and their specific national and regional development priorities, objectives and circumstances, shall: (a) Develop, periodically update, publish and make available to the Conference of the Parties, in accordance with Article 12, national inventories of anthropogenic emissions (article 4.1 (a) United Nations Framework Convention on Climate Change [10]).*

(8) *Each State Party shall adopt such measures as may be necessary, including, where appropriate, domestic legislation, to ensure that criminal acts within the scope of this Convention, (...) are under no circumstances justifiable by considerations of a political, philosophical, ideological, racial, ethnic, religious or other similar nature (article 6, International convention for the suppression of the financing of terrorism [23]).*

We share the point of view of researchers who believe that such structures (which in the work cited below are generalized as hedges) introduce contextual connotations of permissive modality and dynamic modality – the execution of an action under certain circumstances [27, p. 1043] thus scaling down the strength of illocutionary force.

The next position on the scale of decreasing the intensity of directive illocutionary force is held by acts in which constructions with an adjective denoting immediate necessity of action is used instead of a performative verb in the illocutionary part as in (9).

(9) *To ensure that present and future generations are able to meet their needs, it is urgent that all States and pertinent actors: (a) promote the implementation of the United Nations 2030 Agenda for Sustainable Development and its SDGs (...) (Article 5, Declaration of Ethical Principles in relation to Climate Change [10]).*

Acts in which the performative part is reduced to an impersonal construction *it is urgent* underlying the need to perform actions

are qualified in the article as the indirect directives in which the urge to action is implied under the structural arrangement of an assertive. Such acts are multicomponent in their intentional structure, since they simultaneously contain the illocutionary force of assertives associated with the signatory states' confidence that the action must be performed, and a directive urge to act.

This type of indirect directive with two-component assertive-directive illocutionary force is represented by notation: Illocutionary part (DIFID: it is urgent) << propositional part, where the abbreviation DIFID means the directive illocutionary force indicating device.

Further, on a scale of decreasing intensity of directive illocution, the article identifies speech acts, in which the illocutionary-performative part is omitted, and the descriptive part contains the nomination of law enforcement subjects and verbs to indicate their obligations in the passive as in (10) and (11).

(10) *The present Convention shall be applied with the cooperation and under the scrutiny of the Protecting Powers whose duty it is to safeguard the interests of the Parties to the conflict (article 8, Geneva Convention relative to the Treatment of Prisoners of War [17]).*

(11) *In their actions to achieve the objective of the Convention and to implement its provisions, the Parties shall be guided, inter alia, by the following: (article 3, United Nations Framework Convention on Climate Change [10]).*

The absence of a performative part turns the directive into an indirect speech act, which combines two illocutionary forces – of secondary assertive act, stating the conditions for the application of the document or the need for guidance by a set of norms, as well as primarily directive act implying urge to action represented by notation: Illocutionary part (omitted) << propositional part: PV: must / shall / should in the passive + DIS.

The analysis of mitigators in the international legal discourse testifies to the blurring of the boundaries between their classes distinguished in the traditional classification. On one hand, the passive voice, which distances the subjects from their obligations, is found in the descriptive part of the speech act and thus belongs to the

category of bushes, which are associated with softening the propositional content of the utterance.

On the other hand, distancing agents of action from their discourse by means of a passive erodes personal deixis, thereby relegating such a structural mitigator to the category of shields. In addition, the use of the passive structure to convey a binding meaning reduces the illocutionary force of the directive, thus correlating with a hedging function.

The directive illocution based on the passive structure can be additionally mitigated by a hedge-downtoner indicating possible variability in the application of the norm, thereby modifying the indirect directive structure as: "Illocutionary part (omitted) << propositional part: PV: must / shall / should in the passive + DIS + hedges-derogations represented by (12).

(12) *In order to protect the environment, the precautionary approach shall be widely applied by States according to their capabilities* (Principle 15, Rio Declaration on Environment and Development [34]).

In terms of decreasing the directive illocutionary force, the next position is held by indirect directives with omitted illocutionary part and replacement of law enforcement subjects by a phrasal subject denoting the object of the directive act in the notation: "Illocutionary part (omitted) + propositional part: Obj. + PV in active / passive as in (13) and (14).

(13) *Actions taken in furtherance of the present Declaration shall respect fully the national sovereignty and territorial jurisdiction of Member States, as well as the rights and obligations of Member States under existing treaties and international law and shall be consistent with human rights and fundamental freedoms* (Principle 11, UN Declaration against Corruption and Bribery in International Commercial Transactions [45]).

(14) Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms (article 26, Universal Declaration of Human Rights [46]).

In (13) and (14) the action-enforcement agent is omitted, and the designations of the object or result of the action are in the position of the phrasal subject. Respectively, the level of "responsibility" of the law

enforcement subjects is significantly reduced, de-intensifying the directive illocution that underlies the binding force of the normative provision.

The maximum deintensification of the directive illocutionary force is revealed in indirect acts with the omission of both the performative part and the law-enforcers, with the replacement of obligative verbs by an adjective with the sense of "need" in action as in (15) and (16).

(15) *Strong political commitment is necessary to develop and support, at the national, regional, and international levels, comprehensive multisectoral measures and coordinated responses* (Article 4 (2), WTO Framework Convention on Tobacco Control [49]).

(16) *Tolerance at the State level requires just and impartial legislation, law enforcement and judicial and administrative process* (Article 2 (2.1), Declaration of Principles on Tolerance [11]).

Despite the fact that the structural transformations associated with passivation, or moving the object and the purpose of the action to the position of the phrasal subject are carried out in the propositional part, in the article we consider such means of reducing the binding force of the document as a kind of the hedges-downtoners, since they affect the illocutionary force of directives, transforming them into indirect acts with primary directive and secondary assertive forces.

Based on a set of criteria, including the presence / absence of a performative part in the structure of a directive act, types of illocutionary markers and mitigators, and designation or omission of law enforcement subjects the article identifies eight classes of directives summarized in Table 1.

Conclusion. Based on modern approaches to the study of speech acts and their classifications according to the intensity scale of illocutionary force and using the research tools of the linguistic theory of mitigation, the article examines directive acts in international legal discourse underlying various binding force of documents. Basic structure of directive speech act includes the illocutionary part with designating the collective subject of obligation and its directive performatives-based intention as well as propositional part stating the normative content of obligation.

Type of directive speech act directive	Notation of directive act	The degree of intensity of illocutionary force on an eight-point scale
Ab explicit directive with <i>must / shall</i>	Illocutionary part (DIS + PV: must / shall) << propositional part.	8
An explicit directive with <i>should</i>	Illocutionary part (DIS + PV: should) << propositional part	7
An explicit hedged directive	Illocutionary part (DIS + PV: must / shall / should) << propositional part with hedges- derogations.	6
An indirect directive with two-component assertive-directive illocutionary force	Illocutionary part (DIFID: it is urgent) << propositional part	5
An indirect directive in the passive with the illocutionary part omitted.	Illocutionary part (omitted) << propositional part: PV: must / shall / should in the passive + DIS.	4
An indirect hedged directive in the passive with the illocutionary part omitted.	Illocutionary part (omitted) << propositional part: PV: must / shall / should in the passive + DIS + hedges-derogations	3
An indirect directive with omitted illocutionary part and replacement of law enforcement subjects by a phrasal subject denoting the object of the directive act.	Illocutionary part (omitted) << propositional part: Obj. + PV: must / shall / should in active / passive	2
An indirect directive with the illocutionary part omitted, the replacement of legal subjects with a phrasal subject denoting the object of directive action and substitution of performative verbs by DIFID	Illocutionary part (omitted) << propositional part: Obj. + DIFID.	1

Table 1. Scale of intensity of directive illocutionary force in International Legal Discourse:

Modification of the prototypical structure affects the parameters of the illocutionary force of the directive act. It is revealed that changes in the illocutionary part, based on the semantics of the performative word, its replacement by another device or the omission of the law enforcement subject, influence the intensity of the illocutionary force of the explicit directive. The omission of the illocutionary part leads to indirect/implicit acts, the illocutionary intensity of which is deintensified depending on the mitigators and structural transformations in the propositional part of the directive structure.

It is revealed that the highest eight-point degree of intensity is typical for explicit directive acts based on the performative verbs "shall" and "must" to designate obligation in performative-illocutionary part of prototypical structure of directives. The directives with illocutionary force based on the performative "should" to denote recommendation are in second position on the intensity reduction scale.

The weakening of illocution, corresponding to the sixth position on the scale of decrease in intensity, characterizes

explicit directives with performative verbs in the illocutionary part and the derogation hedge phrases in the propositional part, which provide for the possibility of adaptive application of the norm in favor of national law enforcement, individual capabilities of states and other factors of variation.

The fifth class of directives is formed by indirect acts with adjectives to indicate the urgency of actions in constructions located in the performative part, in which the directive call to action is implied by the structural arrangement of the assertive.

The fourth position on the scale of de-intensification of illocutionary force is occupied by a class of indirect directive acts with omitted illocutionary-performative part and the designation of legal subjects and verbs in the passive voice in the propositional-descriptive structure to denote their obligations. The specification of the construction with an omitted illocutionary-performative part through a hedge-derogation forms the third class of directives in terms of decreasing their illocutionary force.

The class of directives with a two-point degree of intensity includes implicit acts with

illocutionary part omitted and replacement of law enforcement subjects by a phrasal subject denoting the object of the directive act. Replacing a performative verb with an

indirect marker of obligations turns acts of two-point intensity into implicit directives of the lowest degree of illocutionary force.

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Анотація. У статті представлено восьмикомпонентну таксономію директивів у міжнародно-правовому дискурсі, залежно від ступеню їхньої ілокутивної сили, що визначається з огляду на критерії ілокутивних маркерів, мітігаторів директивної сили та модифікацій прототипної структури директивів. Дослідження інтегрує методи аналізу мовленнєвих актів, інструменти теорії мітігації та дискурс-аналізу. Найвищий ступінь інтенсивності вирізняє директиви з дієсловами «shall» і «must» для позначення зобов'язань у перформативній частині прототипної структури директивів. Сьомий рівень за шкалою інтенсивності маркується словом "слід" на позначення рекомендації. Експліцитні директиви, ускладнені хеджами, що визначають можливості адаптації норми на користь можливостей держав, підпадають під шосту позицію. П'ятий ступінь інтенсивності характерний для актів, позначених прикметниками, що вказують на терміновість і невідкладність дії. Четверту позицію за шкалою деінтенсифікації займають директивні акти з облігативними дієсловами в пасивній конструкції пропозиційного компонента, з опущенням перформативного компонента. Директиви, що посідають третю позицію за шкалою інтенсивності ілокутивної сили, відзначаються, окрім редукованого перформативного компонента, хеджами, які допускають відхилення від норми у процесі її застосування. Двобальний ступінь інтенсивності відзначає акти з пропущеним перформативним компонентом, у яких позицію фразового суб'єкта займають, замість позначення правових суб'єктів, номінації об'єкта зобов'язань. Перше місце за рівнем деінтенсифікованої ілокутивної сили займають директиви з пропущеним перформативним компонентом, де юридичний суб'єкт замінюється позначенням об'єкта директивної дії, а перформативне дієслово – непрямим маркером зобов'язання.

Ключові слова: ступінь ілокутивної сили, таксономія директив, міжнародно-правовий дискурс, мітігація, хеджування.