

# The Effort for More Understandable Laws in and at the German Federal Ministry of Justice and Consumer Protection — Results from a legal linguistic evaluation project

*Joline Schmallenbach and Friedemann Vogel\**

## Abstract

The article reports on a completed research project on the evaluation of the linguistic legal editorial in the German Federal Ministry of Justice and Consumer Protection (2019-2021). The core objectives of the three-part project were, firstly, the development of a text pragmatic model of criteria for assessing the comprehensibility of norm texts; secondly, the empirical typing of comprehensibility criteria based on a qualitative and quantifying analysis of 50 editorially edited norm texts; thirdly, the empirical survey of reception patterns of norm texts edited by law-editors from the point of view of different recipient groups. The results show that the intensive cooperation of linguistic and legal expertise is both suitable and necessary to make laws more understandable, and thus ultimately makes both legislation and legal practice more efficient.

## Keywords

legislation, drafting, recipient-design of legal texts, law, intelligibility, plain language

Submitted: 7 December 2021, accepted: 20 March 2022, published online: 31 March 2022

---

\* *Schmallenbach*: University of Siegen, [Joline.Schmallenbach@uni-siegen.de](mailto:Joline.Schmallenbach@uni-siegen.de); *Vogel*: University of Siegen, [Friedemann.Vogel@uni-siegen.de](mailto:Friedemann.Vogel@uni-siegen.de). As editors of this journal, neither author was involved in the peer-review process for this article, which was conducted exclusively by another editor.

## 1. Introduction

How can the comprehensibility of norm texts be modelled and evaluated from a text pragmatic and holistic perspective? Which assumptions and contextual conditions accompany the daily work of the legal-linguistic editing in and at the German Federal Ministry of Justice and Consumer Protection (Bundesministerium der Justiz und für Verbraucherschutz, hereafter referred to as BMJV)? How do different recipient groups perceive federal regulations that have been revised in the context of such an editorial? These questions motivated an 18-month legal linguistic research project (2019–2021) for the evaluation of the legal editorial practice at federal level on behalf of the BMJV. The complete study will be published in 2022 as a monograph (Vogel, Deus, Luth, Schmallenbach & Felder, 2022/forthcoming).

The draft laws and regulations of all federal ministries undergo a legal-systemic, formal, and linguistic audit at the BMJV. Within this framework, the legal editorial and language consultation is conducted by the Unit for Legal Drafting Support (Sprachbüro) for in-house drafts of the BMJV and by the Language Scrutiny Office (Redaktionsstab Rechtssprache) for drafts by other ministries. This mandate is enshrined in the Joint Rules of Procedure of the Federal Ministries, stating that “[t]he language used in bills must be correct and understandable to everyone as far as possible” (§ 42(5) GGO)<sup>1</sup>.

The question how, and to what extent, the editorial practice presently fulfils this mandate, has been examined during three subsequent project phases. Table 1 provides an overview of the project phases, analytical methods, and guiding questions at different stages of the evaluation.

project phase	steps/methods	guiding questions
I	development of a holistic model of criteria for assessing the comprehensibility of norm texts	<ul style="list-style-type: none"> <li>▪ How can text-related and contextual comprehensibility factors be merged into a coherent model suitable for describing the specificities of legal norm formation?</li> <li>▪ How can prototypical groups of norm text addressees with divergent (professional) backgrounds be identified and distinguished to provide guidance for law editors?</li> </ul>
II	detailed qualitative case study of four complete legislative procedures at the BMJV	<ul style="list-style-type: none"> <li>▪ What are the underlying considerations and objectives of the editorial practice, and how is it organised?</li> </ul>

<sup>1</sup> Gemeinsame Geschäftsordnung der Bundesministerien (GGO) vom 30. Juli 2020, quoted from the translated document Joint Rules of the Federal Ministries (GGO) as at 30 July 2020, available at: [https://www.bmi.bund.de/SharedDocs/downloads/EN/themen/moderne-verwaltung/ggo\\_en.html](https://www.bmi.bund.de/SharedDocs/downloads/EN/themen/moderne-verwaltung/ggo_en.html) (accessed 6 October 2021).

	qualitative text analysis of 50 editorially revised draft norms	<ul style="list-style-type: none"> <li>▪ To what extent do the results of quantifying analyses provide a representative insight into the daily editorial practice?</li> </ul>
	quantifying statistical and corpus linguistic analyses of editorial practice	<ul style="list-style-type: none"> <li>▪ At what point and to what extent do the criteria developed in project phase I play a role in assessing the comprehensibility of norm texts in practice?</li> </ul>
	expert interviews with law editors	<ul style="list-style-type: none"> <li>▪ From what experience do editorial interventions feed?</li> <li>▪ Which contextualisation resources do the law editors use when working with norm texts?</li> </ul>
III	online survey of different recipient groups on editorially revised standard texts (pilot study)	<ul style="list-style-type: none"> <li>▪ Is there a difference between unrevised and revised text versions in the perception of the recipients?</li> <li>▪ Which linguistic means and textual characteristics do the respondents identify as effective legibility cues?</li> <li>▪ What influence do socio-demographic factors and diverse knowledge bases of the recipients have on the perceived text intelligibility?</li> <li>▪ Which contextualisation resources do respondents use when working with norm texts?</li> </ul>
	expert interviews with ministerial legal experts	<ul style="list-style-type: none"> <li>▪ How are linguistic qualities of revised and unrevised texts assessed by clients of the drafting support?</li> <li>▪ How do legal experts reflect on formal framework conditions and practical workflows for legal-linguistic cooperation?</li> </ul>

**Table 1:** Project overview and guiding empirical questions

Since it will not be possible to elaborate on each of these questions, this report intends to put forward for discussion our main conceptions and selected empirical findings. In section 2, we propose a model for describing and assessing the comprehensibility of norm texts. Section 3 is dedicated to the quintessential insights of the second project phase, in particular to the empirical findings of quantitative text analyses and qualitative interviews with involved professionals. The results of the online survey are outlined in section 4.

## 2. Comprehensibility of Norm Texts: A Holistic Criteria Model

The many contributions on the comprehensibility of legal texts – or lack thereof – could fill entire bookshelves. The interdisciplinary discourse on legal language postulates, in a pro-democratic tradition, that legal texts should be, in principle, comprehensible for all citizens, i.e., those subjected to the norm. What is controversial, however, is how achievable this requirement is considered to be (cf. Nussbaumer, 2004).

Relevant contributions from different discourse domains (be it in style of feuilletonist-humorous commentaries or scientific reports) typically weigh advantages and disadvantages of ‘simplified’ legal language and, in some cases, provide empirical evidence in form of exploratory corpus or survey studies (cf. Bertlin, 2014; Die Bundesregierung, 2019). Many comments refer to a lack of systematic interdisciplinary comprehension research and to the inadequate applicability of existing linguistic models to the specifics of legal texts (e.g., Nussbaumer, 2002).

In English-speaking countries, efforts to create a clear and understandable legal language gather under the label “Plain Language Movement” (sometimes also “Plain English Movement”) (cf. Adler, 2012)<sup>2</sup>. The idea, which goes back to the Enlightenment, is to make texts of the legal sphere more easily accessible to legal laypersons. Relevant initiatives have produced extensive guidebooks, which provide (usually rather non-specific) guidance on possible test methods for comprehensibility measurement, but their actual consideration in administrative practice is uncertain. In addition, the numerous guidelines often lack communication theory and legal-linguistic foundation, as well as sufficient testing for suitability in practice. Accordingly, “plain language” initiatives are criticised for treating comprehensibility and its optimisation as a predominantly text-structural surface phenomenon and for underestimating pragmatic (especially situative) aspects (cf., for example, Zódi/Scerne, 2019).

Against this background, we developed a holistic model of criteria for assessing the comprehensibility of norm texts, which follows on from cognitive linguistic and pragmatic text research as well as (legal linguistic) specialist communication research (Christmann, 2004; Busse, 1992; Schendera, 2004). At the same time, it takes into account practical work guidelines (Lutz, 2015). The core of this approach is a pragmatically oriented concept of textual comprehension which, following Heringer (1984), is based on four interrelated components:

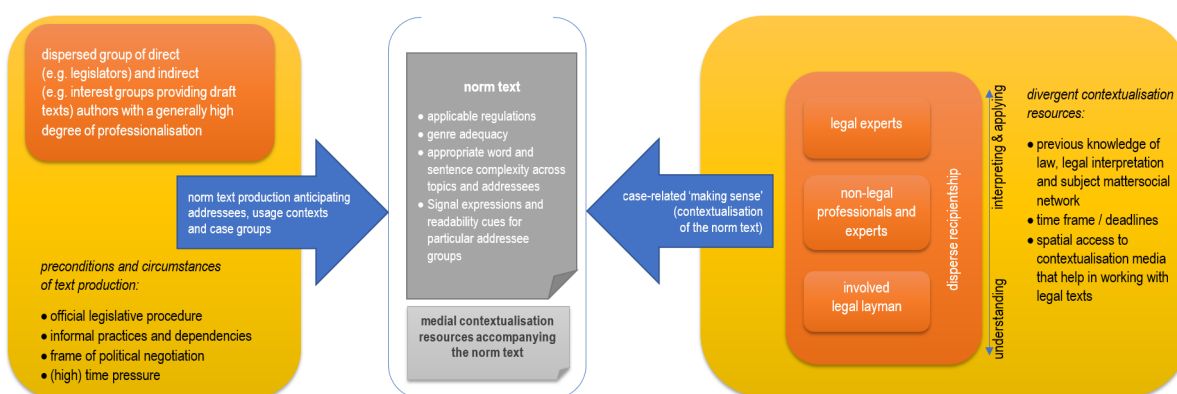
---

<sup>2</sup> A common definition of plain language is proposed by the Plain Language Association International: “A communication is in plain language if its wording, structure, and design are so clear that the intended audience can easily find what they need, understand what they find, and use that information.” (URL: [plainlanguagenetwork.org/plain-language/what-is-plain-language](https://plainlanguagenetwork.org/plain-language/what-is-plain-language), accessed 24 March 2022). For a discussion of different definitions, see Adler (2012).

1. Text producers with assumptions about addressees and other text recipients;
2. addressees and other text recipients with specific expectations, cognitive skills and assumptions;
3. text with its specific structure (text properties on the linguistic surface);
4. the communicative situation, in particular spatial, temporal, and medial circumstances, the common knowledge of the communication partners as well as common or divergent practices of text processing and co-textualisation.

Here, the term “textual intelligibility” is a heuristic and relational term: The understanding (and production) of texts is basically a dynamic and active process of “making sense” (Hörmann, 1980) of linguistic expressions relying on complex prior knowledge (genre knowledge and world knowledge) as well as situationally usable contextualisation resources (e.g., additional concretising texts).

The degree of comprehensibility of texts cannot be measured or defined absolutely. It can only be defined by taking into account its dependency on actual or prototypically anticipated recipient groups and their ability to reconstruct a similar sense of text (i.e., problem-solving following the authors’ ideas) by means of a text and world knowledge shared with the text producers and/or possibilities for compensating knowledge gaps. When transferring the concept of comprehensibility to norm texts (laws, regulations, etc.), the specifics of this text genre must be considered: Norm texts are regulations enforced by institutionalised procedures. Their aim is not (and cannot be in a linguistically economic way) to regulate all imaginable situations of life. Norm texts ideally provide a framework to guide the (legal) practice, which means the shaping of social rules of action as well as the (institutional, mostly judicial) clarification of conflict cases.



**Figure 1:** Criteria Model (Vogel et al., 2022)

As a result, the model (Figure 1), on the one hand, includes lexical-terminological, syntactic and (co)text-structural factors – primarily as constituents of coherence formation, agents-object perspective, and reader-guiding structure. On the other hand, these text-focused aspects are placed in the model abstractly in relation to spatial, tem-

poral, medial, subject-matter (regulatory subject matter, domain, area of law) and personal context conditions of legislation. On an open scale of available “meaning-relevant” legal knowledge (Busse, 2008), we distinguish three ideally-typically formed target groups: (1) legal experts (e.g., judges, lawyers, etc.), (2) non-legal experts with partial (subject-area) legal training (e.g., architects with knowledge of building law), and (3) legal laypersons. This range, which is in principle openly scalable, is gradually differentiated according to the degree of involvement, motivation, and the resulting legal knowledge framework of the individuals. These different groups of addressees also have different conditions of text reception (e.g., different time resources for the interpretation) and contextualisation resources (references, guides, internet forums, etc.), all of which can already be anticipated in the legislative process. The above distinctions and conceptions result in a heuristic model for the descriptive as well as evaluative classification of the empirical results of the second and third project phase, which are summarised in the following sections.

### 3. Empirical Perspectives on Legal-Linguistic Editing Practices

The second project phase was dedicated to the empirical collection, description and theoretical classification of prototypical procedures, expertise, and challenges in the legal-linguistic editing practice of the Unit for Legal Drafting Support (Sprachbüro) and the Language Scrutiny Office (Redaktionsstab Rechtssprache). For this purpose, a random sample of 50 editorially revised norm texts was evaluated quantitatively.

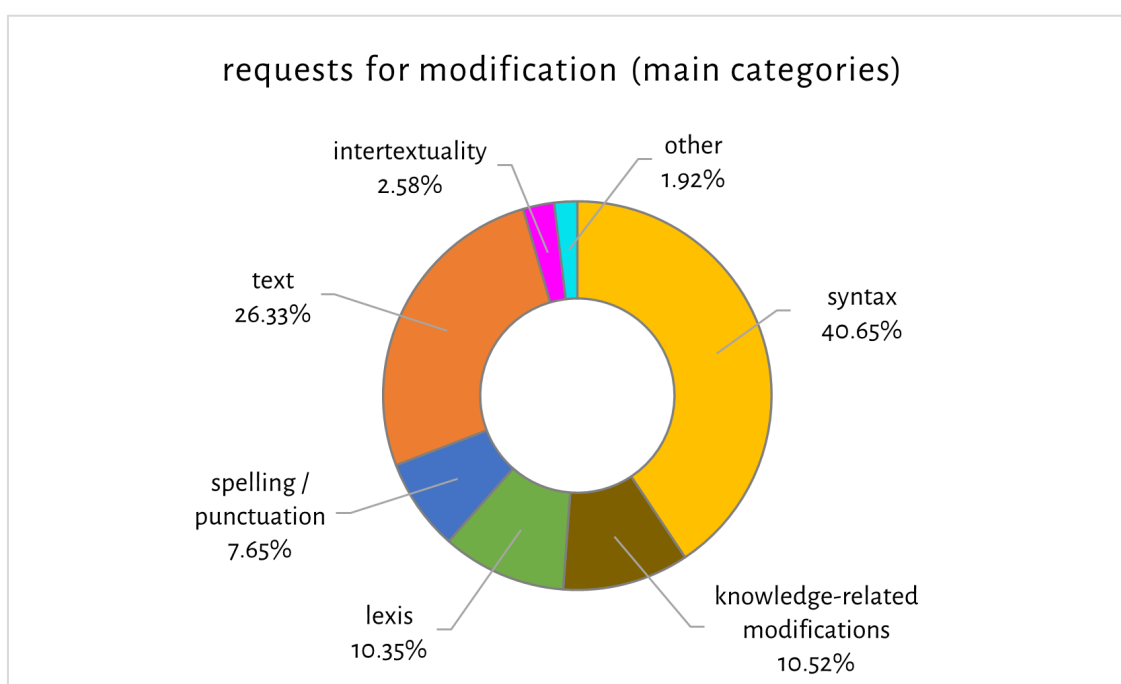
#### 3.1. Empirical Typing of Comprehensibility Criteria

Figure 2 shows, by way of example, an intervention by a law editor, which realises several frequently occurring revision types at once: By advancing the prepositional phrase following *for*, the information structure is being reorganised. Also, the division of the original sentence in two parts reflects on a structural level that the regulation ‘contentwise’ comprises two different regulatory goals. At the same time, the length of the individual sentences is reduced in a reader-friendly manner.

(1) *Für die Besetzung der Kommission für Kinoförderung schlagen Die im Verwaltungsrat vertretenen Verbände der Kinowirtschaft schlagen insgesamt mindestens zehn Personen vor, für die Besetzung der Kommission für Kinoförderung vor, wobei die von einem Ein Verband muss jeweils genauso viele Frauen und Männer vorschlagen. vorgeschlagenen Personen zu gleichen Teilen Frauen und Männer sein müssen.*

**Figure 2:** Proposed changes by the law editor in the draft document (anonymised).<sup>3</sup>

Using content-analytical methods<sup>4</sup>, more than 11,000 proposed changes could be reconstructed, analytically categorised, and statistically evaluated. Roughly summarised in seven main categories, the distribution of revision types for the entire data is presented in Figure 3.



**Figure 3:** Proposed changes by main categories; absolute and relative frequencies.

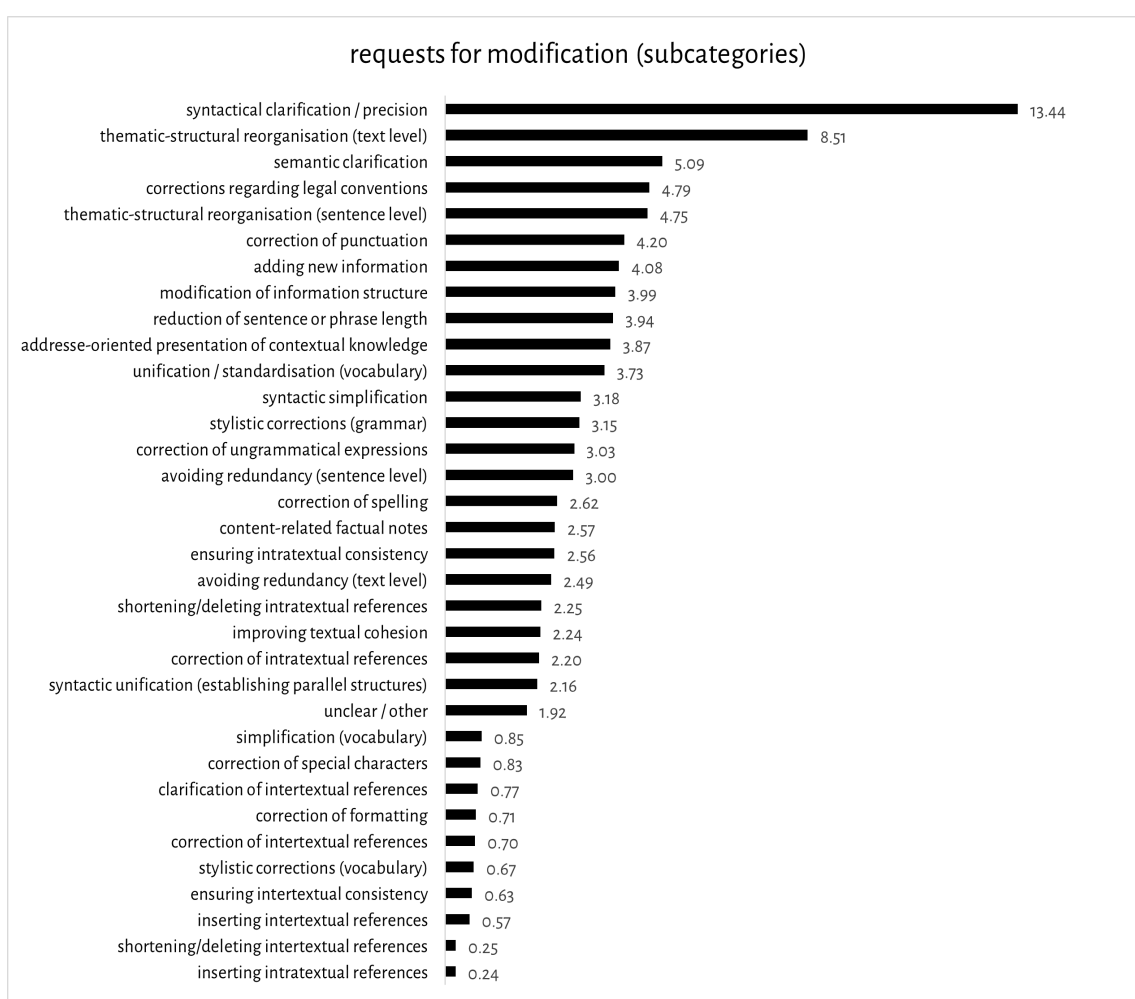
Changes at the syntactic level, with a relative frequency of around 41 %, can be considered editorial ‘standard interventions’: Hypotaxes are dissolved; the guiding principle of formulating separate regulatory ideas in separate sentences proves to be particularly guiding. Reference structures and syntactically-logical links, realised for example by pronouns, adverbs or conjunctions, are specified; redundancies are erased, and style and grammar are standardised. About 10 percent of all interventions relate to the vocabulary or to the anticipated prior knowledge of the addressees. The lexical inventory of

<sup>3</sup> Revised version: ‘The cinema industry associations represented on the Board of Directors propose a total of at least ten persons for appointment to the Commission for Cinema Promotion. In each case, an association must propose the same number of men as women.’ [our translation]

<sup>4</sup> Vogel et al. (2022/forthcoming) provides a more detailed description of the content-analytical categorisation as well as the full code book.

the norm texts is checked for terminological consistency within the text, but also with regard to other texts of the same field of law, and for semantic precision. In-depth interventions concerning text structure and organisation are also common; for example, when sections or paragraphs are restructured to increase clarity or to better reflect the logical-thematic progression of the regulatory content. Purely formal corrections of spelling and punctuation are less frequent at around 8 percent.

In total, 34 revision types were inductively subcategorised and evaluated depending on different variables (including, among other things, the type of law and the work area). These subcategories and their frequency distributions allow insight into the everyday practices of law editors at the micro level. Figure 4 shows the distribution of editorially proposed changes (n=11,622) by subcategories:



**Figure 4:** Proposed changes by subcategories; relative frequencies.

This more detailed analysis reveals the complexity and multi-layer character of editorial text work, strongly contradicting the idea of the legal-linguistic editorial as a provider of proofreading and linguistic ‘surface cosmetics’. Each linguistically edited draft involves a variety of correction types relating to all levels of the language system. Especially



in the main category ‘knowledge-related modification’, the proposed changes go beyond text-inherent criteria and touch upon the reception conditions of normative texts conceptualised in our criteria model (for example, when contextual knowledge for possible addressees is made explicit in the text).

The focus of editorial text work, as the data shows, lies on the sentence and text level.<sup>5</sup> Reformulating sentences improving their syntactical precision comprises a large proportion of all correction types (13.44%). Here, syntactically ambiguous relations are specified or emphasised with grammatical means, e.g., the clarification of the reference word of a participle or relative clause. Other correction types on the sentence level include thematic-structural reorganisation, modification of the information structure, reduction of sentence or phrase length, syntactic simplification, and corrections of grammatically or stylistically incorrect sentences.

Going beyond the sentence level, extensive interventions in the text structure aiming at a thematic-structural reorganisation of (parts of) the draft, are very common (8.51%). This includes, for instance, dividing or restructuring paragraphs, or moving them to more appropriate places in the text. That references are also treated as important text-structuring elements, becomes clear when the law editors remove unnecessary references (for simplicity and clarity), add missing references (for traceability and transparency), or specify imprecise references. As subcategories related to reference structure add up to 6.98% of all modifications, the editorial team strives to strike a balance between the best possible (inter- and intratextual) traceability on the one hand and an unnecessary burden of legal references on the other hand.

### 3.2. Corpus Linguistic and Stylometric Analysis

The same sample of 50 revised norm texts was in the next step quantitatively evaluated using corpus linguistic and stylometric methods: What effect does legal-linguistic editing have on the frequency of selected linguistic units, in particular at the level of parts of speech and syntagms? — This question can be approached by a corpus linguistic comparison of part-of-speech-annotated subcorpora, i.e., by contrasting POS-unigrams and POS-bigrams of the unrevised versions (corpus  $K50N_{pre-A}$ ) with those of the revised versions (corpus  $K50N_{post-A}$ ). Linguistic units which in a statistical sense are particularly typical for the one subcorpus are at the same time untypical for the other subcorpus.

---

<sup>5</sup> Changes at the word level turn out to be relatively infrequent in our data. For example, considering the weight which is given to vocabulary simplification in some drafting guidelines (e.g., in form of vocabulary lists), this correction type seems to be relatively infrequent (0.85%). Actually, when altering expressions on the word level, it is far more common to replace ambiguous words or words with misleading connotation by more suitable words (e.g., in the context of an education ordinance, the term *Kursteilnehmer* (‘course participants’) was deemed more suitable than *Auszubildende* (‘trainees’), due to the latter being usually tied to the pursuit of a formal degree in Germany).

At the level of POS-unigrams (i.e., the frequency of certain parts of speech as annotated with the Stuttgart-Tübingen tag set, c.f. Schmid, 1994), there are some significant differences: In the revised texts (K50N<sub>post-A</sub>), there are fewer nouns and attributive adjectives (e.g., *öffentliches Auftragswesen*, *wesentliches Ziel*), fewer substitute demonstrative pronouns (*dies gilt auch*, *das sind knapp*), and fewer prepositions (*bei der Vergabe*, *von der Teilnahme*). At the same time, the data comprises significantly more parentheses and periods, more participles, substituting relative pronouns, finite auxiliary verbs, and articles.

These findings based on POS-unigram frequencies are complemented by POS-bigram frequencies: the revised texts contain significantly more relative clauses (\$, PRELS) and passive constructions (VVPP VAPP/VAPP VAFIN)<sup>6</sup>. The frequency of the pattern (\$ . ART) hints at an increase in (main) clauses starting with an article (presumably resulting from the common practice of splitting longer sentences into two or more shorter sentences). Coordinating conjunctions (*und*, *auch*, *aber*; cf. KON NN and KON ART) – and, in conclusion, syntactically complex sentences – are less frequent in the revised versions. Reducing complexity could also be a motive for the reduction of bigrams from adverbs (*insoweit*, *auch*, *nur*, *zugleich*) and articles (ADV ART). The reduction of ART APPR, NN ADJA, and APPR NN in revised texts confirms the tendency already apparent from POS-unigrams to dissolve notionally and syntactically complex prepositional phrases (e.g. *der* [ART] *für*[APPR] *die*[ART] *Vergabeentscheidung*[NN] *erforderliche*[ADJA] *ergänzende*[ADJA]).

POS-bigram	Chi	K50N <sub>pre-A</sub>	K50N <sub>post-A</sub>	K50N <sub>pre-A</sub> per/10.000	K50N <sub>post-A</sub> per/10.000
ART APPR	4.241	2921	2820	35.3	33.5
NN ADJA	3.510	8300	8218	100.5	97.6
APPR NN	2.717	28735	28896	348.0	343.3
ADJA NN	2.551	44133	44516	534.5	528.9
KON NN	1.271	8213	8226	99.4	97.7
KON ART	1.170	4695	4680	56.8	55.6
ADV ART	1.159	2594	2566	31.4	30.4
VAPP VAFIN	6.203	565	664	6.8	7.8
VVPP VAPP	5.785	622	723	7.5	8.5
\$. ART	4.281	5952	6297	72.0	74.8
\$. PRELS	3.895	3674	3918	44.4	46.5

**Table 2:** Absolute and relative frequencies of POS-bigrams in revised and unrevised text versions.

The overall review of the findings presented in 3.1. and 3.2. reveals a high degree of practical experience and linguistic reflection in legislative text optimisation. In addition to the results of qualitative content analyses, also the quantifying corpus linguistic approach indicates that legal-linguistic editing improves the intelligibility of norm texts.

<sup>6</sup> However, it must be noted here that a large number of passive constructions may come from internal communication accompanying the text in form of commentaries (e.g., *X ist geändert worden* 'X has been changed').

Whether this impression is confirmed from the point of view of different recipient groups, is the subject of the third project phase (see section 4).

### 3.3. Legal-linguistic editing from the retrospective of involved actors

During project phases 2 and 3, discussions with the professionals involved in the norm text production accompanied the text-based analyses and provided an insight into the contextual conditions under which the examined drafts developed, as well as into procedures and routines of the editorial process. To this end, a) two guide-based group discussions were conducted with editors from the Unit for Legal Drafting Support and the Language Scrutiny Office, and b) supplemented by interviews with five legal experts from the BMJV and other ministries, who were involved in the respective legislative processes as spring leaders and clients of the legal-linguistic editorial team. From these discussions, the following theses on the context conditions of norm text production emerged:

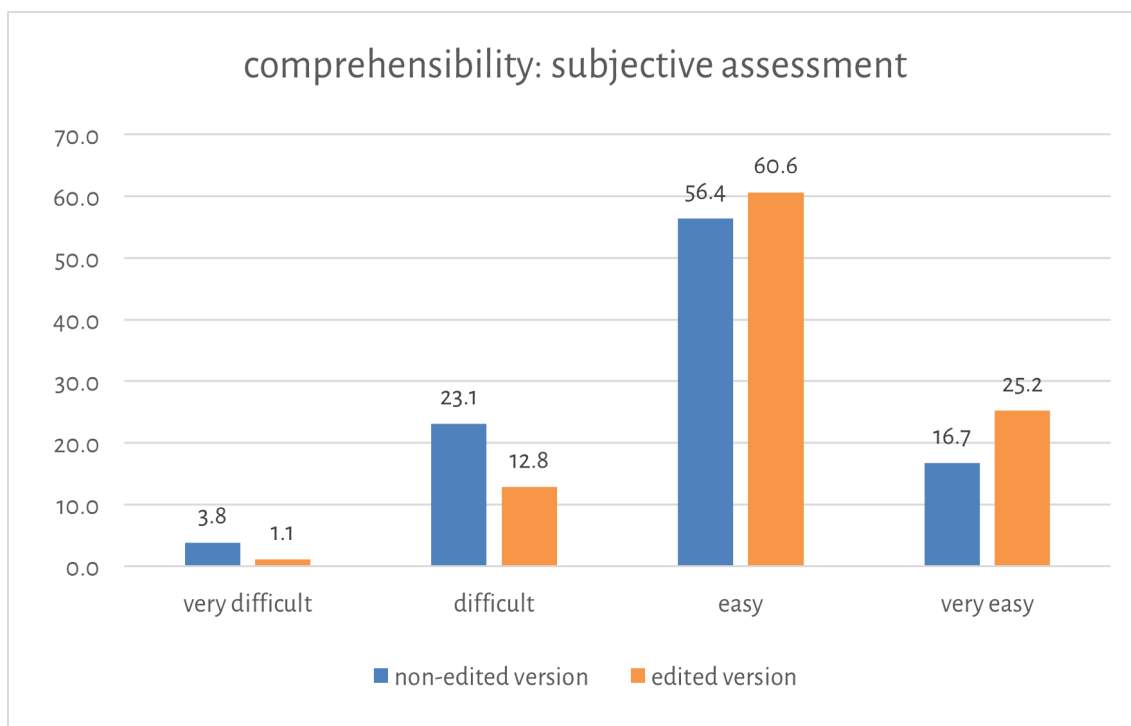
1. The effectiveness of legal-linguistic editing is confirmed from the point of view of legislative and legal practice. The editorial process is shaped by individual expertise and field-proven practices. At the same time, processes and practices are to some extent heterogeneous, e.g., in terms of the use of contextualisation resources or individual professional social networks. This heterogeneity can sometimes, but not always, be explained by specific circumstances, work areas or preconditions specific to the legislative case.
2. The scope of the considered criteria as well as the analytical depth of the revisions further depend on a variety of context variables, on which the editors have no or only limited influence (e.g., type of law, timing and duration of involvement).
3. Several points have been made to the importance of joint discussions between linguistic and law experts for the drafting of laws, which are carried out upon individual initiation, but are not firmly integrated in the legislative process. However, a shared level of information and low communicative hurdles are desirable, both between the editors of the legal sub-audits (legal, formal, and linguistic examination) and between the editorial team and the leading law experts.
4. The quality of legal-linguistic editing could further gain from cross-cutting criteria for addressee-oriented text optimisation. These would also give rise to a routinely, more consistent approach to the question of the addressees to be anticipated. From a scientific point of view, this is critical for a targeted improvement of the intelligibility of the draft standard texts (this point is also confirmed by the results of the questionnaire study, see section 4).
5. A central insight was that among law experts involved in the legislative process problematic ideas are widespread, which presuppose a conceptual separation of

the “(legal) content level”, “language level”, and “formality”, and which can have an effect on professional practices. These assumptions are comprehensible and also expectable with a view to the existing institutional requirements in the legislative process, which define a separation of legal-systemic, formal, and linguistic aspects performed in different parts of the audit and by different editorial teams. However, the evaluation has shown several times (especially in the second project phase) that the different dimensions are not only generally interdependent (as derived from linguistic and legal theory) but are also practically strongly intertwined and usually cannot be separated cleanly from each other.

#### 4. The reception of editorially revised norm texts

The third project phase was dedicated to the reception of norm texts by different empirically modelled recipient groups. By means of a detailed online questionnaire (n=172, average processing time: 22 minutes), which also contained text examples, a heterogeneous group of respondents were asked about their previous experiences with norm texts, their techniques and resources for accessing them, and their perception of different text versions. The main focus was on the question whether and to what extent the revised versions created in the context of the legal-linguistic editing are considered better than the unrevised versions.

The core of the questionnaire was formed by a comparison of revised and unrevised versions of several text extracts presented to a control group and an experimental group. These extracts were assessed by the respondents in terms of the comprehensibility criteria conciseness, simplicity, and structure. Single-choice questions and paraphrase tasks related to the text sections provided further hints for comprehensibility. After displaying a version comparison, the respondents were asked to evaluate both versions and to indicate individual legibility cues. In addition to these text-related tasks, there were questions regarding the use of other comprehension enhancing resources (e.g., internet research, commentary literature, dictionaries, personal social networks). Furthermore, socio-demographic information on formal education, professional practice, and prior knowledge was related to response behaviour. Figure 5 shows an example from the ‘blind’ evaluation of two different versions of the same text:



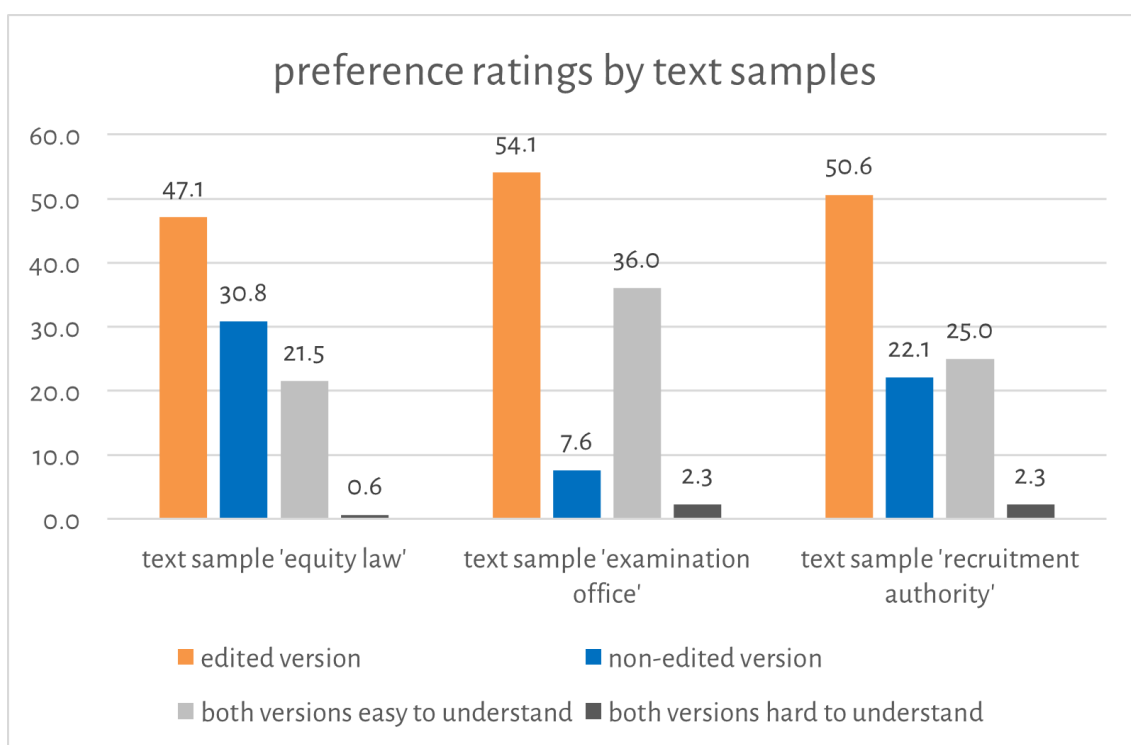
**Figure 5:** Subjective assessment of the degree of comprehensibility, comparison of edited and non-edited text versions from the area of equity law (relative frequencies, n=172); Item “How difficult do you find it to understand the text?”

The analysis of the responses<sup>7</sup> revealed the following observations, presented here in a very condensed form and in relation to three relevant aspects:

1. the effectiveness of the editorial practice,
2. legibility cues from the perspective of recipients,
3. the influence of socio-demographic variables on the perceived comprehensibility.

The effectiveness of the legal-linguistic editing at the BMJV is confirmed by the comparison of an experimental group and a control group across several test questions, which are based on the subjective evaluation of comprehensibility on the one hand, and on performance tests (paraphrase tasks, multiple-choice test) on the other hand. The results of the intergroup comparisons shows that more people rate the revised version as ‘easily’ or ‘very easily’ understandable (see, for example, figure 5) while the unrevised version is more often rated as ‘difficult’ or ‘very difficult’ to understand. When offered a version comparison, the preference for the revised versions turns out even stronger. Figure 6 shows individual preference ratings (n=172) for three different version comparisons.

<sup>7</sup> Due to pandemic-related restrictions, the sample size (n=172) was smaller than originally planned. The further subdivision of this sample (according to different recipient groups) resulted in some cases in small cohorts. The information here needs therefore to be understood, with reservations, as trends for which no statistical significance is claimed.



**Figure 6:** Preference ratings for different text samples in a version comparison (n=172, relative frequencies); Item: “Which version of the text do you find easier to understand?”

Though preferences are differently pronounced for different text samples<sup>8</sup>, the majority of respondents preferred the edited over the non-edited text version (47.1–54.1%). Between one quarter and one third of the respondents reported no preference for one of the two versions. When these results are placed in relation to demographic factors and occupational fields of the respondents, a more differentiated picture emerges (see below and figure 7).

The results of the performance-based tasks<sup>9</sup> (paraphrase task, multiple choice task) are mixed. The presentation of the revised versions resulted in more correct, more detailed, and less incorrect paraphrases by the respondents in comparison with the presentation of the unrevised versions. Here, mainly people with no formal legal training and little experience with working with legal texts profited from the revised version while with formal legal training do not benefit discernibly (i.e., recognisable in the quality of the answers) from the edited text versions. In addition to the paraphrase task, the respondents were asked to answer two multiple choice questions, in which the text

<sup>8</sup> In addition to the preference tasks, the legibility cues identified by the respondents also speak to the fact that linguistic devices which are generally regarded as “promoting comprehensibility” (e.g., the transformation of passive into active sentences) must always be considered and evaluated in the context of the concrete text material.

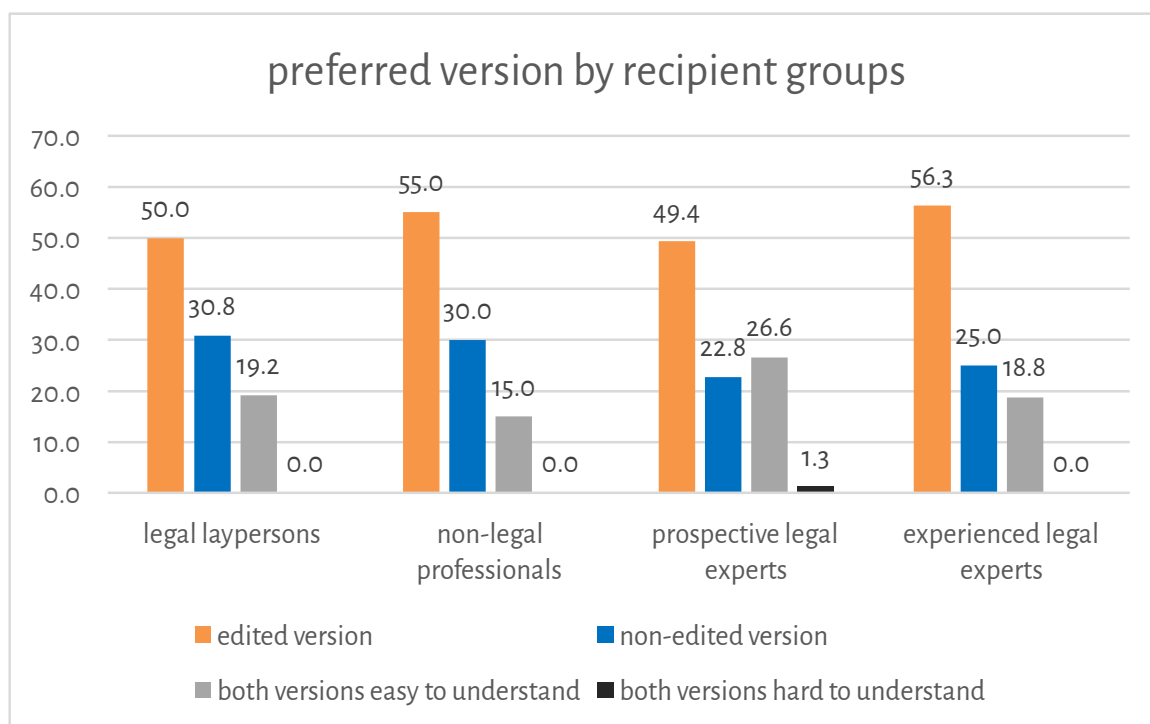
<sup>9</sup> The reported findings for the performance-based tasks are to be interpreted cautiously, as cohorts were very small in this case (between n=8 for experienced law experts, per text version, and n=40 for law students, also per text version).

should be applied to a simple, fictional situation. However, for these two items the data collected showed no difference between control and experimental groups.

Furthermore, respondents were asked for effective legibility cues, i.e. linguistic means that make their preferred version more understandable. Being presented the same version comparisons as in figure 6, the majority of respondents reported for the revised versions a more appropriate structure with regard to the logical-thematic text progression, the shortness and syntactic simplicity of the edited sentences, and the adaptation of the information structure to the reader's perspective. Also, the reduction of passive structures and the more precise use of modal verb constructions was noted positively in the presented text samples. The comprehensibility of legislative texts depends crucially on the prior knowledge of the recipients. Based on our model (presented in section 2), four prototypical recipient groups were modelled from the data, depending on socio-demographic variables and information on prior knowledge.

- Legal laypersons,
- persons who do not have legal training but who, on a professional or private basis, regularly receive legal texts,
- prospective legal experts (especially law students), and
- experienced legal experts/practitioners who, in addition to completed legal training, have work experience in legal professions.

The results of the pilot study show the expected tendency that – with increasing degree of legal expertise – legislative texts are considered easier to understand. The lower the degree of legal expertise, the more recipients tend to benefit from the editorial revision in performance-based items. Interestingly, the results of the preference selection in the direct version comparison of the text extracts also show that in our data persons with higher legal expertise even prefer the revised versions to a greater extent than persons with less legal expertise:



**Figure 7:** Version comparison by recipient groups, text sample 'equity law' (n=172, relative frequencies); Item: "Which version of the text do you find easier to understand?"

This observation contrasts with the stereotypical assumption that, above all, legal laypersons prefer simpler texts, while jurists' assessments prioritise 'preciseness' and 'complexity' over comprehensibility. In principle, all recipient groups (in different stages of professionalisation) benefit from the editorially revised texts: The higher the expertise, the more this preference is reflected in attitude and assessment-related responses; the less the expertise, the more it is shown in the concrete performance in accessing and working with the text.

## 5. Conclusion

After triangulating analyses, a detailed and multi-layered picture of legal editorial work in the BMJV emerges at both the macro and micro levels. The evaluation of concrete practices of editorial text work reveals a depth of intervention that is decidedly opposed to the idea of purely formal proofreading (or "surface cosmetics") and that can also be measured quantitatively using algorithmic methods of comprehensibility measurement and statistical corpus analysis. The editorial revisions pertain to all levels of the language system and are, beyond that, related to aspects of the reception situation, such as contextual knowledge and intertextual embedding, as conceptualized in the criteria model.



Furthermore, proposed changes often coincide with potential changes in the regulatory content as well as with formal aspects of legal technicality.

Interviews and group discussions with involved experts and the results of an online-based survey give additional evidence that the intensive cooperation of linguistic and legal expertise is suitable for making laws more understandable and, ultimately, both law-making and legal practice more efficient. For this task to succeed, however, it requires not only sufficient time and human resources, but above all appropriate institutionalised communication spaces – for example, in the form of regular, joint meetings with the involved law experts. This need for face-to-face encounters (i.e., exceeding mere written distance communication) has been repeatedly emphasised on both sides: not only by members of the drafting support, but also by the legal experts. This is the only way to coordinate regulatory intentions, relevant legal frameworks, and linguistic and formal expectations – efficiently and on a case-by-case basis.

However, it has also become clear from the previous analyses that the addressee question should be more consistently reflected by all stakeholders in the legislation and integrated into the work on the norm text: Which recipients are among the prototypical primary addressees of a regulation, which recipients practically never come into contact with the norm text, and if they do, then only mediated by professionals? Answers to these questions, in turn, require further empirical research on the actual reception and interpretation practices: in the law firm, in the court, but also in the town hall administration, in the engineering office or at the home computer. In the long term, procedural efforts should be made to ensure that legal-linguistic editorial expertise is involved in a cooperative manner throughout the legislative process. Practical guides for the improvement of norms, as they exist in many cases and as they are also consulted by law experts, are an important help; but – as the Swiss colleague Markus Nussbaumer has rightly put it:

The very best guide is of little use if it [...] is not implemented into a practice embedded in appropriate institutional frameworks and in a general culture of understandable legal language; only in such a framework can the practice take up and implement the good advice from whatever side. [our translation] (Nussbaumer, 2002: 112)

## 6. References

- Adler, Mark (2012). The Plain Language Movement. In Tiersma & Solan (Eds.), *The Oxford Handbook of Language and Law* (pp. 67–83). Oxford: University Press. DOI: [10.1093/oxfordhb/9780199572120.013.0006](https://doi.org/10.1093/oxfordhb/9780199572120.013.0006).
- Bertlin, Alison (2014). What Works Best for the Reader? A Study on Drafting and Presenting Legislation. Available at: [assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/326937/Loophole\\_-\\_2014-2\\_\\_2014-05-09\\_-What\\_works\\_best\\_for\\_the\\_reader.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/326937/Loophole_-_2014-2__2014-05-09_-What_works_best_for_the_reader.pdf) (accessed 4 March 2020).

- Busse, Dietrich (1992). *Recht als Text. Linguistische Untersuchungen zur Arbeit mit Sprache in einer gesellschaftlichen Institution*. Tübingen: Niemeyer.
- Busse, Dietrich (2008). Interpreting Law: Text Understanding – Text Application – Working with Texts. In Olsen & Stein (Eds.), *Law and Language: Theory and Society* (pp. 239–266). Düsseldorf: University Press.
- Christmann, Ursula (2004). Verstehens- und Verständlichkeitsmessung: Methodische Ansätze in der Anwendungsforschung. In Lerch (Ed.), *Recht verstehen. Verständlichkeit, Missverständlichkeit und Unverständlichkeit von Recht* (pp. 33–62). Berlin: De Gruyter.
- Die Bundesregierung; Referat wirksam regieren im Bundeskanzleramt im Auftrag des Bundesministeriums der Justiz und für Verbraucherschutz (BMJV) (2019). *Recht verständlich machen. Teil I: Befragungen von Bürgerinnen und Bürgern zur Verständlichkeit von Gesetzestexten*. Available at: [www.bundesregierung.de/breg-de/themen/wirksam-regieren/recht-verstaendlich-machen-1755832](http://www.bundesregierung.de/breg-de/themen/wirksam-regieren/recht-verstaendlich-machen-1755832) (accessed 6 November 2021)
- Heringer, Hans Jürgen (1984). Textverständlichkeit: Leitsätze und Leitfragen. *Zeitschrift für Literaturwissenschaft und Linguistik (LiLi)*, 55, 57–70.
- Hörmann, Hans (1980). Der Vorgang des Verstehens. In Kühlwein (Ed.), *Sprache und Verstehen* (pp. 17–29). Tübingen: Narr.
- Lutz, Benedikt (2015). *Verständlichkeitsforschung transdisziplinär. Plädoyer für eine anwenderfreundliche Wissensgesellschaft*. Göttingen, Vienna: University Press.
- Nussbaumer, Markus (2002). ‘Es gibt nichts Gutes außer man tut es’. Arbeit an der Verständlichkeit von Gesetzestexten in der Schweizerischen Bundeskanzlei. *HERMES - Journal of Language and Communication in Business*, 29(2002), 111–123.
- Nussbaumer, Markus (2004). Von Schwärmern und Skeptikern und ein Versuch, Realist zu sein. Bilanz und Entwurf des Sprachspiels vom unverständlichen Gesetz. In Lerch (Ed.), *Die Sprache des Rechts, 1: Recht verstehen. Verständlichkeit, Missverständlichkeit und Unverständlichkeit von Recht* (pp. 285–295). Berlin: De Gruyter.
- Schendera, Christian F. G. (2004). “Die Verständlichkeit von Rechtstexten: eine kritische Darstellung der Forschungslage“. In Lerch (Ed.), *Die Sprache des Rechts, 1: Recht verstehen. Verständlichkeit, Missverständlichkeit und Unverständlichkeit von Recht* (pp. 321–374). Berlin: De Gruyter.
- Schmid, Helmut (1994). *Probabilistic Part-of-Speech Tagging Using Decision Trees*. Manchester, UK.
- Vogel, Friedemann; Deus, Fabian; Luth, Janine; Schmallenbach, Joline & Felder, Ekkehard (2022/forthcoming): *Gesetzesverständlichkeit aus rechtslinguistischer Perspektive. Evaluation der gesetzredaktorischen Arbeit zur Optimierung von Rechtsvorschriften im Bundesministerium der Justiz und für Verbraucherschutz*. Berlin: Duncker & Humblot.
- Zódi, Zsolt & Scerne, Péter (2019). The Limits of Plain Legal Language: Understanding the Comprehensible Style in Law. *International Journal of Law in Context*, 15 (3), 246–262. DOI: [10.1017/S1744552319000260](https://doi.org/10.1017/S1744552319000260).

Note: JLL and its contents are Open Access publications under the [Creative Commons Attribution 4.0 License](https://creativecommons.org/licenses/by/4.0/).



Copyright remains with the authors. You are free to share and adapt for any purpose if you give appropriate credit, include a link to the license, and indicate if changes were made. Publishing Open Access is free, supports a greater global exchange of knowledge and improves your visibility.