European Commission Directorate-General for Translation

Proceedings of the conference

'Clear Writing throughout Europe'

organised by the European Commission

in Brussels, 26 November 2010

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Clear writing campaign

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Foreword by Commissioner Androulla Vassiliou

Clear communication is vital in today's multicultural and multilingual Europe. In particular, institutions such as the European Commission need to explain European Union policies to the general public in language people can easily understand.

All too often, alas, we fail. We who work in the European institutions are so familiar with EU affairs that when we write about them we don't even notice the jargon we are using. We are so much in the habit of drafting internal documents in bureaucratic language that we allow the same style of writing to infect our publications and our websites. No wonder many of our readers find the EU dull and obscure!

Poor drafting by the Commission also has other adverse effects. Internally, it wastes time: long and badly-written documents take much longer to read, understand and translate. Externally, a poorly-drafted law or set of instructions may be misunderstood and incorrectly applied. It may even be translated differently in different languages and thus applied differently in different countries. In short, unclear writing is a recipe for disaster.

That is why I fully support the Clear Writing Campaign, launched in March 2010. Its aim is to make Commission staff aware of the problem and to help them learn basic techniques for better drafting. Clear language experts have provided excellent advice both in print and online, and training activities of various kinds were organised throughout the year.

Clarity experts both inside and outside the Commission also need to learn from one another. That's why, on 26 November 2010, the Commission hosted a conference on *'Clear Writing throughout Europe'*. Experts from various Member States told a large audience in Brussels how clear writing is being promoted in their countries. The conference confirmed that the Commission's campaign is indeed necessary and on the right track.

I want the Commission to maintain the impetus generated by the 2010 campaign. We need to keep making clarity a priority, and I hope we will find ways of 'hard wiring' clarity objectives into our day-to-day work in the months and years ahead.

(*Androulla Vassiliou*)


What do linguistic advisors look out for?
time
time
text structure, order, coherence and cohesion
Better layout in sections and paragraphs, terms
Simplifying long, complicated sentences
Spelling, punctuation, grammar, incorrect references
time
time

Clear Writing Campaign breaks new ground

by Eva Kałużyńska, European Commission

The conference on 'Clear Writing Throughout Europe' broke new ground in the Commission's Campaign for Clear Writing. For the first time, it gave the floor to experts from Member States, all of them pioneers of plain language. The idea was to give participants the opportunity to share experience in tackling the issues from different angles.

The conference started with a contribution from **Sweden,** which started vetting its legislation 30 years ago to make it clearer. The final contribution was from **Portugal**, where a formal initiative to promote plain language had only recently been launched.

The morning session heard speakers from **Sweden, Germany and Poland,** presenting their experiences of working to clarify national legislation at source, building this in from early stages of the process.

The afternoon session turned to wider efforts to simplify bureaucratic language, with the citizen in mind. Speakers from the **United Kingdom, France, Italy and Portugal** presented initiatives designed to face the challenges on this front.

A panel discussion then heard comments and suggestions from both guest speakers and European Commission staff involved in clear writing initiatives on ways of making headway.

There was a strong common thread throughout the day: that keeping the needs of the reader in mind is essential, and may mean discarding time-honoured linguistic habits. Clear language is not a luxury, but essential if democracy is to function in any meaningful sense from the point of view of the citizen. Below is a taste of speakers' contributions.

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From **Sweden, Ann-Marie Hasselrot, a Deputy Director and Language Expert from the Swedish Ministry of Justice,** spoke on the country's long-standing record of work to modernise all kinds of government documents, starting with the language used 'at the top', in legal texts, so that the impact would flow down into related information. After 15 years of work on these lines, there was great concern that joining the European Union would undermine what had become a strong tradition. There were fears that difficult, long-winded texts would influence national Swedish legislation. Sweden decided to combat this as vigorously as possible, staying true to its democratic ideals. It mobilised experts with a network of contacts to address the issues at home in real-time, and it does what it can to influence the quality and style of the original EU texts too.

For Germany, **Stephanie Thieme and Elke Schade**, both lawyers and linguists at the **Federal Ministry of Justice**, told participants how legal language editing had finally been built into the legislative process since 2009 after a long history of efforts to ensure better laws. Linguistic advice was now becoming increasingly accepted as part of the legislative process. Some recipients of advice have remained sceptical, and linguistic advisers have to deploy subtle psychology to convince them of the benefits. Involving advisers as early as possible led to overall savings in time and effort, and better legislation, they found: a well-worded document carries more weight at working level. Texts should be worded to be as comprehensible as possible, depending on those to whom they are addressed. Advisers have to be pragmatic, working within the constraints of a task. The transposition of EU legislation

often presented insurmountable challenges, and the speakers suggested there could be linguistic work at EU level alongside that at national level.

For Poland, **Agnieszka Kotowicz, a leading legislator at the Government Legislation Centre**, gave participants some insight into the way in which the country's ambition to join the European Union prompted new thinking about legal drafting. Shortcomings and lack of uniformity became obvious in the process. This triggered profound changes that culminated in a radical overhaul of the Polish legal system, taking into account the application of international law and EU law. New legal drafting rules have for the first time been given the status of universally applicable law, setting high standards for the quality of drafting at all levels of the system. This is promoting more transparency, comprehensibility and coherence throughout better legislation.

From the United Kingdom, **Martin Cutts, research director of the *Plain Language Commission*,** focused on the other end of the bureaucratic process: the challenge that the public faces in trying to understand the law. He appealed to authors, at all stages in the process, to think of their readers. The average adult in the UK reads at the level of the average 13-year-old, he pointed out. Clarifying bureaucratic language to communicate clearly with citizens saves time and money, he argued. He welcomed the introduction of citizen's summaries to accompany EU initiatives, and said he had written to the UK's new prime minister, urging him to give guidance on plain language to public servants dealing with the public. His company works with both the public and private sectors to promote clear language, and runs a scheme that enables organisations to certify documents meeting clarity criteria with a logo.

From France, **Bénédicte Madinier, head of language development and enrichment at the Ministry of Culture and Communication**, told participants that the trend to e-government made it all the more important to ensure the public found information accessible — not just technically, through access to the internet, but linguistically. She spoke in favour of discarding obsolete, formal language, while avoiding 'globish' jargon. A national initiative to simplify documents such as the most widely-used forms issued by public service providers had recently proved that it was possible to develop clear, simple administrative French effectively, she said. Involving all stakeholders in the process was the key to achieving results. The quality of administrative French is the focus of another initiative she cited, in which a working group with members from France and Quebec compared their experiences in trying to modernise their drafting style. They found much in common, and jointly published a booklet on clear writing to encourage a fresh approach. Work on writing for the web is the next stage of this joint project.

From Italy, **Professor Michele Cortelazzo, Padua University**, chose a provocative angle for his presentation on administrative Italian: does simpler mean poorer? He started by describing hitherto chequered efforts to simplify Italian, saying they had been more meagre than hoped to date. The process of simplifying language is certainly a complex matter, he argued. Simpler language may indeed be less varied than conventional text, but from the point of view of the audience, it is not impoverished. It deliberately sheds layers fossilised in complex, traditional 'official' Italian of a kind that forces the audience to make a huge effort to interpret it. There is a high risk of misunderstanding in the process of such stressful decoding. This is ineffective communication, he argued. Simplifying administrative language is indeed worth it, he concluded, because the public can understand what is at stake more easily.

From Portugal, **Sandra Fisher-Martins spoke on behalf of *Português Claro*, a training and consultancy firm** that introduced a plain language movement in the country. She told participants that despite immense challenges — social, cultural and linguistic — the new

movement was taking off. The Clarity 2010 international conference in Lisbon was a landmark in the process, a point at which many professionals working in the country first grasped the importance of making plain language common sense. The need for clarity is particularly poignant in a country where the literacy skills of more than half the population are very low. *Claro* encourages people to understand they are entitled to clear public communication as a civil right. The organisation is working with the government, which in 2010 launched an initiative to publish plain language summaries of new legislation. This is part of a wider programme to simplify legislation and the language used in the public sector. In the private sector too, banks, insurance companies and telecoms are setting trends in better customer service communication.

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What do linguistic advisors look out for and try to achieve?
Logical text structure that is relevant to the specific field and target audience
Precision
Removal of ambiguity and contradictions; filling in gaps
Simple, clear, concise and coherent wordings that, where possible, are not removed from everyday language
Linguistic correctness

Panel Session: Ideas presented

All the speakers joined a panel at the end of the conference and answered to two simple questions:

What worked for you (in your national campaign)?

What advice do you have for the European Commission's Clear Writing campaign?

Here are their replies, as bullet points:

Anne-Marie Hasselrot	**Sweden**
What worked in Sweden?	
• Cooperation between clear language experts, lawyers and experts in other fields. • Support from the top. • Having a legal basis emphasising the need for clear language. • Creating templates.	
Advice for the Commission campaign:	
• Clear writing is not a 'quick fix' – you have to keep up the pressure. • Never stop trying to write more clearly. • Make it worthwhile and permissible for drafters to take the trouble to write clearly.	

Stephanie Thieme and Elke Schade	**Germany**
What worked in Germany?	
• Finally getting the chance to work on legal texts at source. • Accepting the challenge to succeed and show results. • Seeing some lawyers changing their perspective and being converted to the cause.	
Advice for the Commission campaign:	
• Hold more conferences like this one, to promote Europe-wide contacts.	

Agnieszka Kotowicz	**Poland**
What worked in Poland?	
• Building on Poland's tradition of cooperation between linguists and lawyers.	
Advice for the Commission campaign:	
• Keep pointing out the difficulties faced by translators of unclear texts. • Continue the current efforts.	

Martin Cutts	**United Kingdom**
What worked in the United Kingdom?	
• Holding competitions and presenting awards for clear writing. • Recognising clear writing champions in all departments and at all levels.	
Advice for the Commission campaign:	
• Have a public website and shout about your successes. • Start with small manageable projects where you are likely to see results. • Provide language training for authors who write in a foreign language. • Befriend lawyers.	

Bénédicte Madinier	**France**
What worked in France?	
• Creation of the simplification committee COSLA (even if it is now defunct). • Involvement of media personalities, making for good publicity.	
Advice for the Commission campaign:	
• Provide more publicity in France about the Commission's clear writing campaign.	

Michele Cortelazzo	**Italy**
What worked in Italy?	
• Specific training for the people concerned (centralised solutions only work for standard problems). • Cooperation between officials, lawyers and specialists.	
Advice for the Commission campaign:	
• Create cooperation networks like the Italian one, for other languages too.	

Sandra Fisher-Martins	**Portugal**
What worked in Portugal?	
• Being relentless. • Getting support from the international community. • High-profile and high-visibility projects. • Having sponsors who are high-level champions.	
Advice for the Commission campaign:	
• Create hard incentives. • Include clear writing in performance appraisals. • Use drafting skill as a recruitment criterion.	

In her concluding remarks **Lieve Fransen**, Director in the Commission's Directorate-General for Communication, stressed the importance of tailoring EU information to the target readers and gave her full endorsement to the Clear Writing campaign. As the person responsible for the Commission's Representations in the Member States, she said she would encourage them to promote it, in partnership with national campaigns.

Anne-Marie Hasselrot, Sweden

Anne-Marie Hasselrot is a Deputy Director and Language Expert from the Swedish Ministry of Justice. Since 1997, she has been working at the Division for Legal and Linguistic Draft Revision. Her work there involves taking an active part in revising and modernising the language of all kinds of government documents, primarily legislative acts. Other tasks at the Government Offices include writing guidelines, holding training sessions for Government officials and taking part in law commissions as a language expert. She is also involved in the EU Language Service, which provides support to the Swedish translators and terminologists in the EU institutions and to the Swedish ministries and public agencies in EU-related language matters.

Before taking up work at the Government Offices, Anne-Marie spent five years on the Committee on Translation of EC Law, revising the Swedish translations of European Union legislation. Engagements abroad the last few years have included training sessions for the Swedish translators at the European Commission and the Council of the European Union.

Academically, she is a Bachelor of Arts and a graduate of the academic programme for Swedish language consultants at the University of Stockholm.

Language reform for democracy in Sweden — the impact of EU membership

Clear legal language is not a luxury to be added if time allows. Clarity is an indispensable quality of all effective legal writing. First of all, it is indispensable from a democratic point of view. If the ordinary citizen cannot understand the laws he or she must abide by, one cannot say that democracy prevails in any true sense of the word.

It is, of course, a natural aim in a democracy to want to ensure openness and clarity within the public administration and to guarantee that documents are written in a way that meets the readers' needs. This is, of course, easier said than done. Even in an ideal world, it might seem unrealistic to imagine a situation where all legal texts can be understood by everybody. All the same, it is only fair to say that European Union texts in general probably seem less understandable to Swedish citizens than legal texts produced in Sweden.

How translation was carried out before the accession to the EU

In the early 90's, when already existing European Community legislation was being translated into Swedish prior to Sweden's accession to the EEA Agreement, many people who saw these texts were worried about the complicated language used in them. They seemed to be created in a different legal tradition, with long articles and long and complicated sentences. For the first time, we became familiar with the requirement not to split sentences up in the translation process, as one sentence in English or French must become one sentence in all other language versions. The quality of the translations really reflected the quality of the originals.

During this time, translation was organised as part of the Foreign Office administration in thematic groups, each with their own translators and experts. The work of translating and determining terminology in these thematic groups was thorough, but proceeded rather slowly. A few years later, the translation work leading up to the Swedish accession to the EU was organised differently to make it possible to deal with the much greater amount of text to translate.

Certain problem areas became apparent already in the early days

Already during this pre-accession period, certain problem areas became apparent. How can one quickly determine correct terminology for the purpose of a certain translation? How can one stop the overly complicated and unfamiliar structure and flowery style of the EU Directives from influencing the structure and language of Swedish national legislation?

In order to explain the concern about the second of these questions, it will be necessary to digress a little and say a few words about Swedish efforts to work towards clear, simple and understandable legislation.

The Swedish approach to clear legislation

It all started more than 30 years ago, when a Cabinet Minister began to vet prospective legislation. His actual task was to make the final draft revision from a legal and constitutional point of view of all bills before they were submitted to parliament, but he also began to cover

linguistic matters. The idea was that if legislation were to be written in clear language, it would have an impact on the language used in all administrative documents.

The reasons for this assumption were that the language used at the top — in the actual provisions of a certain law — always to a large extent influences the wording of government ordinances in the same area, as well as more detailed administrative provisions issued by the public authorities. In fact, it comes as no surprise to find the same turns of phrase right down the line to the brochure or web site information intended for use by the general public as information about the contents of a certain new law, for instance. Here, the contrast between beautiful layout and photographs on the one hand, and archaic and bureaucratic language on the other, will be particularly glaring. In fact, the more obscure the language of the law in question, the more likely this result will be. Nobody down the line will dare to rewrite in his or her own words something they just don't understand!

Linguists and legal advisers work together as a team

Since 1976, the task of ensuring the quality of Swedish legislation has been fulfilled by language experts and lawyers, working together as a team. Together we form the Division for Legal and Linguistic Draft Revision at the Ministry of Justice. The division has a key role in the legislative drafting in the ministries. No Government Bill (including Acts), Government Ordinance or Committee Terms of Reference can be sent to the printers without the division's approval. The main task of the division's legal advisers, who are all associate judges, is to review statutes and other proposals to be submitted to the Swedish Parliament, such as government bills, and ordinances and decisions by the Government. The purpose of the legal advisers' revision is to make sure that the laws and decisions are well-reasoned, lucid and uniform in legal technique and, obviously, that they do not violate the Constitution. The work of the language experts is aimed at improving the quality of the texts as such, so that they are as easy as possible to read and understand, that they are correct, clear and modern.

Strangely enough, the really old Swedish provincial laws from the Middle Ages (obviously no longer in force!) were in a language far simpler, clearer and easier to understand than was the case some six hundred years later, in the 19th century, when there was already a fully established bureaucratic and administrative culture all across Europe. Obviously, a lot had happened to society in the meantime. But even today, in the 21st century some of the archaic words and text structures that became popular in the 1800s need to be weeded out of our legal texts. On top of that, our rapidly developing society constantly creates new linguistic challenges, new jargon, new phenomena. Let's face it, society of today is so complicated that it might be just about impossible to write legislation today in such a way that it is *really* easy to understand. We will always need legal and technical terms that are both difficult and impossible to do without. The aim of our clear language work is to make away with those barriers to understanding that are unnecessary and simply stem from legal and bureaucratic tradition and habit.

Skilled plain language consultants

As for skilled language experts we are rather fortunate in Sweden, as there is a special three years Swedish language consultancy program at the University of Stockholm and the University of Umeå. This program started in the late 70's and it provides the market with consultants with a solid knowledge of all aspects of the Swedish language and of communication. The programme includes theoretical and practical aspects. Courses are given in, for example, text linguistics, discourse analysis, semantics, pragmatics, Swedish grammar, rhetoric, psycho- and sociolinguistics and language technology. From this programme,

students learn how to write clear, precise and straightforward Swedish, tailored to the readers' needs. Four out of the five language experts at the Ministry of Justice are graduates of this program.

Well, understandably, after about fifteen years of work in the Swedish government offices to make national legislation clear and comprehensible, there was a great deal of concern during the early 1990s that more difficult and long-winded writing would be re-introduced into Swedish legislation through the accession to the EU.

Before I started working at the Ministry of Justice, I spent five years revising the translations into Swedish of the European Community legislation needed for our special edition of the EC *acquis*. So, obviously I am aware of the fact that European Union legislation has changed for the better over the years. Having said this, it is still fairly obvious that a lot remains to be done to create more readable texts.

Sweden has been a member of the European Union for fifteen years now, and the effect of the particular drafting style of the Union legislation on the traditional Swedish legislative technique is quite obvious.

This is, of course, an effect of the way European Union Directives influence the texts through which they are implemented. Often, it takes no more than a quick look at the draft of a new Act to see that it's probably based on a Directive. The terminology and article structure will have a certain untypical feel and the Swedish may be slightly unidiomatic. It is sometimes fairly obvious that it is based on a translation from another language. Now and then there are real bloopers.

Unpleasant discoveries and proposed solutions

The problem areas we identified already in the early days are still making themselves felt. Certain terminology errors are plaguing the system years later, according to the nasty principle of 'once wrong, always right', where for reasons of consistency, an unsuitable term will be very difficult to get rid of in successive legal acts. There is, of course, always the risk of creating new problems of this kind, as well. And the somewhat complicated language and structure of the EU legal acts may lead to problems for the European Union translators, as well as have an unwanted influence on national Swedish legislation, in spite of our best efforts to combat this.

In order to do something about the situation, already around the year 2000 this issue was dealt with by committees on several occasions. The proposed solutions included creating a centrally placed coordination unit with the task of acting and training Swedish officials, EU translators and others. There was also the suggestion, as the result of a questionnaire sent to a large number of Swedish public agencies as well as to the ministries, that such a centrally placed coordination unit should act as liaison between a network of experts at ministries and public agencies, on the one hand, and EU translators and terminologists at the other. The purpose of this would, of course, be to make it possible to process terminology questions quickly and efficiently.

The Division for Legal and Linguistic Draft Revision was considered to be ideally placed to function as coordinators of the new EU language service which was set up in 2001 to create an 'interface' between EU legal texts and national legislation.

Two of our language experts constitute the focal point for a network with contacts at all the ministries, more than 40 public agencies and all the main EU institutions. The contacts are not

necessarily the right people to answer all questions themselves, but they can quickly relay any question to the right expert at their ministry or agency. There is a constant influx of these questions, and their answers, through a special e-mail box (ju.eu-sprak@justice.ministry.se). Some questions and answers are exchanged between translators and experts directly. Other questions are sent to us for further distribution. This enables us to keep a check on what is going on, as well as see to it that the system is operating the way it should.

We also do what we can to influence the quality and style of drafting of the original EU texts, as these in their turn in many ways determine the quality of the translations and of the provisions of national legislation by which they are implemented. Quite often, the translators are blamed if the text is less than satisfactory, although in actual fact there may be nothing more they can do to improve the quality of the end product.

Clear legal language is not a luxury. It is the natural aim of any democratic system to want to ensure openness and clarity within its administration. In Sweden, the principle of public access to documents was expressed the first time in 1766 in the Freedom of the Press Act, now a constitutional law. This principle

- facilitates the free democratic exchange of views, thereby contributing to the democratic legitimacy of decisions,

- strengthens the control of the administration by the public and the media,

and

- contributes to making the administration more efficient.

But the principle of accessibility to documents does not function well if documents are not easy to read and understand. So, you could say that plain language is one of the necessary conditions of openness. Finally, one should not underestimate the effects of clear language on the efficiency of the whole legal system. With more clarity, we get less confusion and misinterpretation. Who knows how many euros could be saved within the European Union, if more documents were clearly written.

Clear legal writing surely enhances democracy and rule of law, it makes administration more efficient and thus saves both time and money. It inspires civil servants to do a good job. And last but definitely not least, clear legal writing helps maintain citizens' faith in public institutions, a faith which these institutions cannot function properly without.

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Stephanie Thieme and Elke Schade, Germany

After obtaining a degree in German language and literature studies and history at Martin Luther University in Halle-Wittenberg, **Stephanie Thieme** worked as an editor for a publishing company in Berlin for several years. From 1992 to 1997 she studied law at Humboldt University in Berlin and is now an attorney specialising in criminal and family law with a Berlin law firm. Stephanie Thieme is in charge of the editorial team of the Gesellschaft für deutsche Sprache (Association of German Language) at the German Bundestag (Federal Parliament) and the legal language editors at the German Federal Ministry of Justice.

Elke Schade studied law at Humboldt University in Berlin. From 1986 to 1990 she worked as a legal adviser in the East German Council of Ministers. After the reunification of Germany she worked from 1990 to 2003 in several directorates of the Federal Ministry of Justice. Since 2003, she has been head of the division 'Fundamental Questions of Scrutiny of Legal Provisions, Better Regulation and Administrative Law', which was extended to include legal language in 2009.

Verständliche Gesetze

Sprachberatung im Gesetzgebungsverfahren

Erfahrungen aus Deutschland

Ein Bericht aus der Praxis

Einleitung

Wer bessere Gesetze fordert, kann sich allgemeiner Zustimmung sicher sein. Die deutsche Gesetzgebung ist jedenfalls einer heftigen Kritik ausgesetzt: steigende Normenflut auf der einen Seite, komplizierte Regelungsinhalte gepaart mit einer für Laien schwer verständlichen Fachsprache andererseits. Defizite bei der Formulierung von Gesetzen, die angesichts beschleunigter Rechtsetzungsaktivitäten immer öfter zutage treten, werden öffentlich diskutiert. Sind verständliche Rechtsbotschaften nicht ein demokratisches Gebot, ähnlich wie das Recht auf freie Wahlen oder auf freie Meinungsäußerung? Sollte das Parlament nicht regelmäßig auch über die Form und Qualität der von ihm zu beschließenden Gesetze diskutieren und auch darüber im Einzelfall abstimmen?

Hinter jedem Gesetz steht auch eine kommunikative Haltung. Die von den Parlamentariern verabschiedeten Gesetze haben Adressaten, auch Rechtsunkundige gehören dazu. Diese verstehen Gesetze oft schwer, manchmal gar nicht. Das ist ein nicht zu unterschätzendes Problem, denn anders als in der Alltagssprache entfaltet sich die Funktion von Gesetzestexten nicht in einfachen Verstehensakten und sprengt somit den allgemeinen Begriff der Textbedeutung im herkömmlichen linguistischen oder alltagssprachlichen Sinn. Recht will vielmehr befolgt werden.

Die immer wieder geforderte Akzeptanz des Rechts setzt voraus, dass sich der Gesetzgeber um Verständlichkeit bemüht – und der Bürger um Verständnis. Die Argumente von Skeptikern gegenüber den Klagen über unverständliche Gesetze sind vielfältig:

- Laien lesen keine Gesetze,
- sprachlich besser formulierte Gesetze geben dem Laien höchstens die Illusion, sie verstünden etwas, dabei verstehen sie nichts,
- Laien können Gesetze nicht verstehen, weil sie eine Form der Fachkommunikation sind, die nur Fachleute beherrschen,
- Laien müssen Gesetze nicht verstehen, denn sie sind nicht an sie gerichtet,
- Laien glauben, Rechtstexten eindeutige Antworten auf eindeutige Rechtsfragen entnehmen zu können. Das zeigt, dass sie das „Sprachspiel“ der juristischen Fachkommunikation nicht verstanden haben.

Diese Argumente konnten bislang – glücklicherweise – nicht allgemein überzeugen. Sie verengen die Sicht auf eine vermeintliche Kluft zwischen Laien und Fachleuten. Die Frage ist aber, wer gilt bei einem bestimmten Gesetz als Laie und wer als Fachmann, für wen genau müssen Gesetze überhaupt verständlich sein?

Die Entstehung einer Sprachberatung für Gesetzestexte

Das Bemühen, bundesdeutsche Gesetzestexte verständlicher zu machen, reicht weit zurück. Seit über 40 Jahren gibt es bereits einen Redaktionsstab der Gesellschaft für deutsche Sprache (GfdS)[1] beim Deutschen Bundestag, dessen Aufgabe es war, Gesetzentwürfe sprachlich zu prüfen. Zu Recht kann man sich daher fragen, warum dennoch immer wieder Kritik an der „schlechten" Sprache deutscher Gesetze laut wurde.

Der Redaktionsstab im Parlament ist seit jeher nur eine sehr kleine Arbeitseinheit und seine geringe Größe stand in keinem Verhältnis zu seinem Auftrag, der (immer noch) in der Gemeinsamen Geschäftsordnung der Bundesministerien (GGO) formuliert ist:

> *Gesetzentwürfe müssen sprachlich richtig und möglichst für jedermann verständlich gefasst sein. […] Gesetzentwürfe sind grundsätzlich dem Redaktionsstab der Gesellschaft für deutsche Sprache beim Deutschen Bundestag zur Prüfung auf ihre sprachliche Richtigkeit und Verständlichkeit zuzuleiten.* (§ 42 Absatz 5 GGO).

Es gelangten selbst in den besten Zeiten seiner Tätigkeit nur ca. 15 Prozent aller Gesetzentwürfe auf den Tisch des Redaktionsstabs. Dahinter stand ein strukturelles wie organisatorisches Problem. So arbeitete der Redaktionsstab zwar unter dem Dach des Parlaments, war dort aber vorrangig für die Bundesministerien tätig, bei denen die Gesetze in aller Regel entstehen und ausgearbeitet werden. Darüber hinaus wurde der Redaktionsstab im Parlament viel zu spät beteiligt. Eine vertiefte Sprachprüfung ist nach abgeschlossenen Abstimmungsprozessen zwischen den Beteiligten kaum noch möglich, eventuell auch politisch nicht erwünscht.

Es stellte sich also die berechtigte Frage, wie dieser Zustand zu ändern ist. Die entsprechende Initiative kam im Jahr 2006 aus dem Parlament. Ihr Kerngedanke war, eine viel frühere sprachliche Beratung auf der Regierungsebene zu installieren.

Zwei Parlamentarier unterschiedlicher Fraktionen wandten sich an das Bundesjustizministerium mit der dringenden Bitte um einen Vorschlag, wie der Gedanke einer frühzeitigen Sprachberatung umgesetzt werden kann. Das Bundesjustizministerium hat sodann ein Projekt gestartet, in dem vier Gesetzgebungsvorhaben verschiedener Bundesministerien in unterschiedlichen Phasen der Entwurfsarbeit sprachwissenschaftlich begleitet wurden. Das zweijährige Projekt hat gezeigt, dass Spracharbeit beginnen muss, wenn der Gesetzentwurf im entsprechenden Bundesministerium noch „in Arbeit" ist. Nur in dieser früheren Phase können sprachliche Verbesserungsvorschläge und Anregungen von der Fachebene diskutiert und gegebenenfalls berücksichtigt werden. Der Erfolg des Projektes war Anlass, im Bundesjustizministerium eine Arbeitseinheit einzurichten, die die Bundesministerien bei ihrer Entwurfsarbeit sprachlich berät.

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[1] Die GfdS ist eine politisch unabhängige Vereinigung zur Pflege und Erforschung der deutschen Sprache. Seit ihrer Gründung im Jahre 1947 sieht sie es als ihre Aufgabe an, in der Öffentlichkeit das Bewusstsein für die deutsche Sprache zu vertiefen und ihre Funktion im globalen Rahmen sichtbar zu machen. Die GfdS hat sich zum Ziel gesetzt, die Sprachentwicklung kritisch zu beobachten und auf der Grundlage wissenschaftlicher Forschung Empfehlungen für den allgemeinen Sprachgebrauch zu geben. Gefördert wird die GfdS von der Bundesregierung (Beauftragter für Kultur und Medien) und von den Regierungen der Bundesländer (Kultusministerkonferenz). Die GfdS verleiht den Medienpreis für Sprachkultur und den Alexander-Rhomberg-Preis. Sie unterhält einen Sprachberatungsdienst und organisiert mit ihren Zweigvereinen im In- und Ausland ein vielfältiges Veranstaltungsprogramm (Einzelheiten unter www.gfds.de).

Seit April 2009 besteht die Sprachberatung beim Bundesministerium der Justiz (BMJ) aus dem *Redaktionsstab Rechtssprache* und dem *Sprachbüro*. Konkret heißt das: 3 Sprachwissenschaftlerinnen sind direkt im BMJ angestellt und bearbeiten als *Sprachbüro des BMJ* dessen hauseigene Entwürfe. 9 Sprachwissenschaftler und Sprachwissenschaftlerinnen von der GfdS bilden den *Redaktionsstab Rechtssprache*, der zuständig ist für die sprachliche Bearbeitung der Entwürfe aller anderen Bundesministerien. Das BMJ hat dazu mit der GfdS einen Sprachberatungsvertrag geschlossen, der zunächst bis Dezember 2012 läuft.

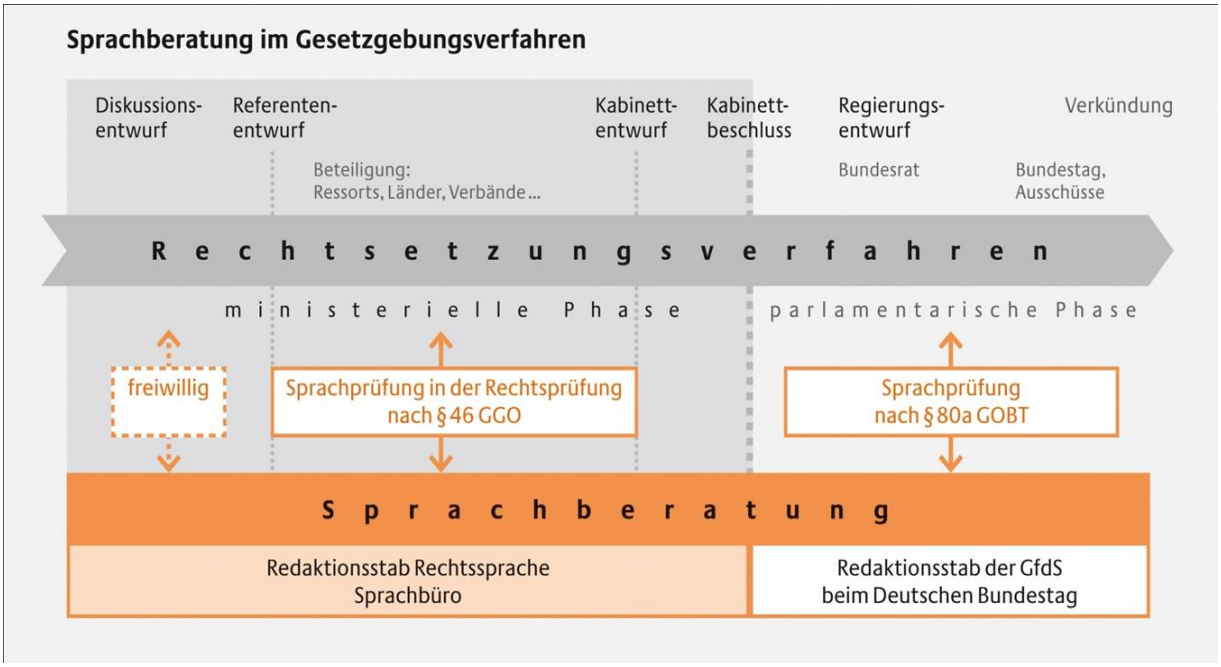
Die Sprachberatung setzt regelmäßig ein, wenn das BMJ die Entwürfe der anderen Bundesministerien zur sogenannten Rechtsprüfung erhält. Diese Prüfung des BMJ ist nach der GGO obligatorisch:

> *Bevor ein Gesetzentwurf der Bundesregierung zum Beschluss vorgelegt wird, ist er dem Bundesministerium der Justiz zur Prüfung in rechtssystematischer und rechtsförmlicher Hinsicht (Rechtsprüfung) zuzuleiten* (§ 46 Absatz 1 GGO).

Das BMJ unterstützt mit seiner Rechtsprüfung seit mehr als 60 Jahren die Rechtssetzungsaktivitäten der einzelnen Bundesministerien. Dabei wird nicht nur geprüft, ob sich die neuen Regelungen eines Entwurfs widerspruchslos in die bestehende Rechtsordnung einfügen, sondern u. a. auch deren Klarheit und Verständlichkeit. Diese Prüfung oblag bisher allein Juristen und Juristinnen des BMJ, die jedoch die Verständlichkeit der Regelungen unter einem anderen Blickwinkel sehen, als juristisch und fachlich unbefangene Leser. Die Aufgabe, neue Gesetzestexte fachlich neutral in sprachlicher Hinsicht zu überprüfen, hat seit April 2009 die Sprachberatung im BMJ übernommen. Die Juristen und Juristinnen des BMJ sind nun verpflichtet, Entwürfe, die sie aus den anderen Bundesministerien zur Rechtsprüfung erhalten, dem *Redaktionsstab Rechtssprache* zuzuleiten. Dessen sprachliche Hinweise muss die Rechtsprüfung in ihre Stellungnahme an das andere Bundesministerium einbeziehen.

Die regelmäßige sprachliche Überprüfung von Normtexten in der Rechtsprüfung ist zwar schon ein gewaltiger Fortschritt gegenüber der bisherigen Praxis, allerdings ist der Zeitpunkt der sprachlichen Verbesserungen innerhalb der Rechtsprüfung eigentlich zu spät. Deshalb wirbt das BMJ dafür, den *Redaktionsstab Rechtssprache* weit vor der Rechtsprüfung, und zwar bereits im ersten Entwurfsstadium eines Gesetzes einzubeziehen. Es ist von großem Vorteil für alle Beteiligten, wenn bereits ein sprachlich guter, klar und präzise formulierter erster Entwurf in die Abstimmungsrunden und schließlich in die Rechtsprüfung geht. In der frühen Phase eines Entwurfs können die Sprachwissenschaftler eng mit den Entwurfsverfassern zusammenarbeiten. So kann an Formulierungen gefeilt werden. Es gelingt schneller, die richtige sprachliche Form für die gewünschten Regelungsinhalte zu finden und Unklarheiten sowie Missverständnisse frühzeitig auszuräumen.

Die Spracharbeit soll ein Dienstleistungsangebot, eine Hilfe und ein fester Bestandteil im Gesetzgebungsverfahren sein. Mit dem *Redaktionsstab Rechtssprache* und dem *Sprachbüro* sowie der bereits existierenden parlamentarischen Sprachberatung wird seit April 2009 der gesamte Gesetzgebungsprozess sprachlich begleitet. Das soll das folgende Schaubild zeigen.



Leitgedanken der Sprachberatung für Gesetze

Gesetze regeln sehr komplexe Sachverhalte und werden oftmals aus der engen Verwaltungsperspektive hochqualifizierter Fachleute ohne Blick auf die Adressaten geschrieben. Teilweise verhindern auch politische Kompromisse und Rücksichtnahmen, dass Texte klar und bestimmt genug sind. Hinzu kommen dann noch Schwächen gesetzestechnischer und sprachlicher Art wie mangelnde Gliederung und Struktur, terminologische Unklarheiten, irreführende Satzperspektiven, sprachliche Umständlichkeit, monströse Sätze und viele Fachbegriffe. Es wurde bis zur Einrichtung der Sprachberatung beim BMJ nie ernsthaft in Erwägung gezogen, sprachlichen Sachverstand hinzuzuziehen. Woran lag das? Es war sicher ein Mangel an Erfahrung, aber es gab auch Vorbehalte gegen die Beteiligung „Fremder" im Gesetzgebungsverfahren. Tatsache ist: sprachliche Qualitätskontrollen können zu Verbesserungen bei Gesetzentwürfen beitragen, und zwar durch:

- Textanalysen und Textüberarbeitungen,
- interdisziplinäre Zusammenarbeit mit allen am Gesetzentwurf Beteiligten – also auch mit den Sprachwissenschaftlern,
- intensive Kommunikation zwischen der Sprach- und Fachebene während des Entstehungsprozesses eines Gesetzes.

Je früher ein Gesetz- oder Verordnungsentwurf einer sprachlichen Qualitätskontrolle unterzogen wird, umso eher lassen sich im Dialog mit der jeweiligen Fachebene sprachliche Verbesserungen finden, die helfen, eine inhaltliche Diskussion auch auf der Arbeitsebene zu erleichtern. Die Hinzuziehung sprachlicher Hilfestellung kann innerhalb des Gesetzgebungsprozesses an verschiedenen Stellen viele Bedürfnisse abdecken. Sie sollte in manchen Verfahrensabschnitten fakultativ, in bestimmten jedoch obligatorisch sein. Dieser Idee folgt das BMJ mit seiner Sprachberatung. Diese hatte dafür ein überzeugendes Vorbild: In Bern existiert seit gut 30 Jahren ein Sprachdienst in der Schweizerischen Bundeskanzlei, der zusammen mit dem Bundesamt für Justiz für die redaktionelle Qualität der Rechtssetzung sorgt. Mit den Mitarbeitern und Mitarbeiterinnen dieser Einrichtung arbeitet die

Sprachberatung im BMJ eng zusammen und lässt sich von deren jahrelangen Erfahrungen leiten.

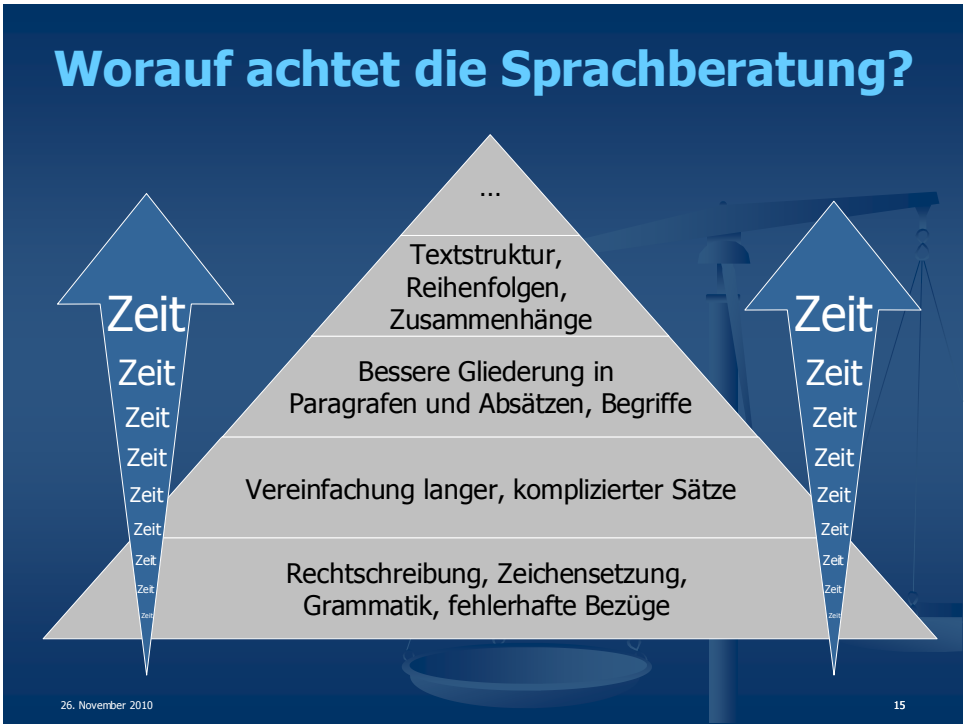
Worauf achtet die Sprachberatung?

Ein Rechtstext muss zum einen richtig, zum anderen verständlich und darüber hinaus rechtssicher sein. Es ist allerdings illusorisch zu glauben, es sei möglich, vollständige Verständlichkeit für jedermann zu erzielen. Ein Rechtstext – mag er an der Oberfläche noch so leicht „fassbar“ sein – kann dennoch viele Wörter und Begriffe enthalten, die eine lange Auslegungs- und Kommentartradition aufweisen, so dass das, was einfach erscheint, in Wirklichkeit höchst komplex und kompliziert ist. Trotz der erwähnten Einschränkungen hat die sprachliche Bearbeitung das Ziel, den Inhalt der Texte leichter zugänglich zu machen und einen möglichst hohen Grad an Allgemeinverständlichkeit zu erreichen. Grundregel dabei ist, dass die Annäherung an die Allgemeinsprache nicht zu Lasten der inhaltlichen und juristischen Genauigkeit gehen darf. Wie ein Gesetzestext formuliert sein muss, um möglichst verständlich zu sein, hängt von seinem Adressatenkreis ab. Es gibt Vorschriften, die quasi für alle Bürger und Bürgerinnen gelten wie das Strafgesetzbuch, und andere, die sich an bestimmte Gruppen mit einem bestimmten Vor- und Fachwissen richten, wie zum Beispiel Handwerkerverordnungen. Hier ist es dann durchaus zulässig und sinnvoll, dass Fachwörter verwendet werden, die dem angesprochenen Adressatenkreis geläufig sind, für den Laien jedoch eine Verständnishürde darstellen.

Der Vorrang der Allgemeinverständlichkeit vor der Präzision ist jedoch möglich in Begleittexten, die als Verstehenshilfen publiziert werden: in Informationsbroschüren mit Erläuterungen und Anwendungsbeispielen, in den erklärenden Hinweisen zum Normtext auf den Internetseiten der Bundesministerien oder auch in Presseartikeln zu Neuerungen in der Gesetzgebung.

Wie arbeitet die Sprachberatung?

Die Tiefe der sprachlichen Bearbeitung ist abhängig von der Zeit, die der Sprachberatung eingeräumt wird. Die oftmals sehr kurzen Fristen in der Rechtsprüfung werden also auch an die Sprachberatung weitergegeben. Das ist nicht zu ändern. Die Sprachberatung benutzt oft eine „Prüfpyramide“, um der Fachebene zu vermitteln, in welcher Zeit welche sprachliche Bearbeitung möglich und sinnvoll ist (siehe Schaubild).



Der sprachlichen Richtigkeit, d. h. Rechtschreibung, Zeichensetzung, Grammatik und Stilistik als sogenannter Basisbearbeitung gilt nicht das Hauptaugenmerk der Sprachberatung. Der Schwerpunkt liegt vielmehr auf einem logischen, sach- und adressatengerechten Textaufbau. Regelungsinhalte sollten so strukturiert sein, dass sie der Reihe nach „abgearbeitet“ werden können. Die Regelungen werden, wo es möglich ist, nahe an der Alltagssprache formuliert. Abwägungen zwischen aktuellen Sprachentwicklungen und althergebrachten juristischen Formulierungen und Fachbegriffen werden diskutiert und nach Rücksprache mit dem verantwortlichen Fachreferat ggf. zeitgemäßer formuliert. Der Entwurf wird von der Sprachgruppe und dem Fachreferat unter Gesichtspunkten sprachlicher Optimierung immer wieder kritisch gelesen. Verschiedene Formulierungsvarianten werden inhaltlich verglichen. Einzelne Bestimmungen werden „demontiert“, verändert und oftmals an anderer Stelle im Text zusammengefügt. In manchen Fällen entsteht eine andere, neue Gliederung. Widersprüche und Redundanzen werden aufgespürt, komplexe Sätze werden – wo möglich – aufgelöst und syntaktisch neu geordnet. Tabellen werden – wo es sich anbietet – entworfen, um umfängliche Sachverhalte übersichtlicher zu gestalten. Unrichtige Satzperspektiven, falsche Bezüge oder Verknüpfungen mit vorausgehenden Sätzen werden überprüft und ggf. korrigiert.

Dabei ist der „unverstellte“, nichtjuristische Blick auf den Entwurf des Gesetzes der erste Zugang zum Text. Aus der nichtjuristischen Perspektive kommen die Vorschläge für andere Formulierungen, wobei inhaltliche Fragen, die beim Formulieren entstehen, an das jeweilige Fachreferat zur Klärung weitergegeben werden müssen. Formulierungsvorschläge werden zunächst ohne Scheu vor etwaiger fehlerhafter Wiedergabe materieller Inhalte angeboten, weil sie für das Fachreferat immer auch ein wichtiges Indiz sein können, dass diese Regelungen möglicherweise inhaltlich unscharf oder aber widersprüchlich sind.

Akzeptanz und Probleme der Sprachberatung im Gesetzgebungsverfahren

Nach eineinhalb Jahren Sprachberatung kann man klar sagen: Die Akzeptanz der Sprachberatung im Gesetzgebungsverfahren ist gewachsen. Ein sprachlich gut formulierter Entwurf überzeugt auch auf der Arbeitsebene. Wer die Sprachberatung praktisch genutzt hat, versteht sie als eine sinnvolle Dienstleistung für bessere Rechtsetzung, ist davon überzeugt,

dass die Spracharbeit keine Inhaltskontrolle ist und – rechtzeitig begonnen – zwar anfänglich zusätzlichen Aufwand, insgesamt aber Arbeits- und Zeitersparnis bringt.

Trotz dieser Erfolge wird die Sprachberatung vonseiten der „zu Beratenden“, d. h. der Entwurfsverfasser, vielfach immer noch kritisch gesehen. Bei der Kritik geht es vor allem um die optimale Einbindung der Sprachberatung in das Gesetzgebungsverfahren und um Probleme der Zusammenarbeit der Beteiligten an einem Entwurf. Die Spannbreite reicht von Befürchtungen bis zu gewichtigen Argumenten – beides ist unbedingt ernst zu nehmen. Und so gehört zur Sprachberatung auch ein gehöriges Maß an psychologischer Überzeugung.

Die Sprachberatung ist sich bei ihren Korrekturen durchaus bewusst, dass Spracharbeit die Haltung der Verfasser verändert. Es ist unvermeidlich und geradezu erwünscht, dass die Verfasser der Entwürfe durch die Sprachberatung veranlasst werden, den Blick auf die Adressaten der Regelungen zu richten und dadurch angeregt werden, ihre gewohnte Verwaltungsperspektive zu verlassen, „Fachblindheit“ abzulegen und manchmal gewohnheitsmäßig benutzte „Politikersprache“ auszublenden. Den darin liegenden Vorteil für die Allgemeinverständlichkeit des Gesetzestextes sehen die Entwurfsbearbeiter im Grunde auch, aber im konkreten Fall sieht es meist anders aus. Vor allem bremsen zeitliche und politische Vorgaben der Vorgesetzten die Bearbeiter, sich mit den Empfehlungen und Hinweisen der Sprachberatung auseinanderzusetzen. Das führt oft zu einer sehr pragmatischen Haltung, d. h. sprachliche Veränderungen werden auf das zwingend gebotene Maß beschränkt.

Objektive Grenzen der Sprachberatung

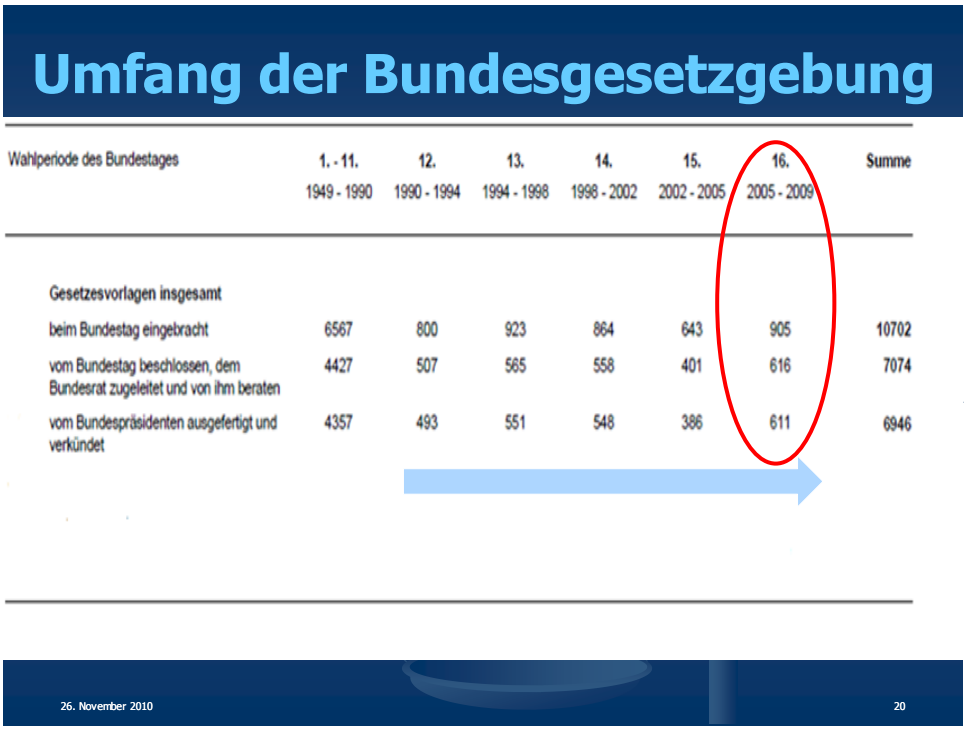
Die Sprachberatung stößt auch an objektive Grenzen. Da sind zunächst rechtliche Vorgaben zu nennen. So sind sich Sprachwissenschaftler, Juristen und andere Fachleute grundsätzlich darin einig, dass sprachliche Veränderungen zugunsten besserer Allgemeinverständlichkeit die bestehende Struktur und die gewachsene Systematik des Bundesrechts nicht beeinträchtigen dürfen. So sollen beispielsweise in eine Rechtsverordnung nicht Formulierungen aus dem Gesetz, dessen Ausführung sie dient, kopiert werden, selbst wenn die Rechtsverordnung dadurch vielleicht besser verständlich wäre. Denn es widerspricht der Normenhierarchie, höherrangiges Recht auf einer niederrangigen Stufe zu wiederholen. Die Systematik und der bisherige Sprachgebrauch in Gesetzen spielen vor allem bei der Änderung bestehender Gesetze eine Rolle.

Noch bedeutender für die Spracharbeit ist der wachsende Einfluss des EU-Rechts auf das bundesdeutsche Recht. Der Sprachgebrauch in EU-Richtlinien und anderen EU-Rechtsakten wird oft 1:1 übernommen und jeglichen sprachlichen Verbesserungen für deutsche Regelungen entgegengehalten. Die Sprachberatung muss hier nach und nach lernen, an welchen Stellen Rechtstexte tatsächlich unveränderbar sind, um ihren Bemühungen ein angemessenes Aufwand-Nutzen-Verhältnis zu verleihen. Manchmal nämlich stellt sich das Argument, es handele sich um eine zwingende EU-rechtliche Vorgabe, als von den Entwurfsverfassern nur vorgeschoben heraus, weil es zu aufwändig wäre, sich mit dem EU-Text so auseinanderzusetzen, dass sein Inhalt adäquat im deutschen Rechtssprachgebrauch ausgedrückt wird. Man beruft sich dann gern auf die Verbindlichkeit der Sprachfassungen der Richtlinien und auf die Gefahr von Vertragsverletzungsverfahren. Angesichts der knappen Umsetzungsfristen, der oft noch zu klärenden inhaltlichen Fragen und rechtssystematischer Differenzen scheitern sprachliche Bemühungen hier meistens. Es ist wohl davon auszugehen, dass es sich bei diesem Problem nicht um ein nur deutsches handelt. Es wäre daher sehr wichtig, dass dieser Aspekt bereits weit im Vorfeld, nämlich bei der Entstehung europäischer Rechtsakte, viel stärker als bisher bedacht wird. Eine Möglichkeit könnte sein, Spracharbeit

an Rechtstexten auf der europäischen Ebene mit Spracharbeit auf nationaler Ebene zu verbinden.

Auch vor dem Hintergrund rechtlicher Grenzen muss die Sprachberatung stets Veränderungen anregen dürfen, denn die Sprachwissenschaftler sind keine Juristen und sollen keine werden. Sie müssen allerdings bereit sein zu lernen, wann rechtliche Grenzen anzuerkennen sind, und dies auch für zukünftige Bearbeitungen berücksichtigen.

Eine weitere kaum zu beeinflussende Grenze für effektive Spracharbeit bilden bestimmte Rahmenbedingungen der Entwurfsarbeit, allen voran die oben schon erwähnten immer knapper werdenden Bearbeitungsfristen. Die Frist für die Rechtsprüfung eines Entwurfs beträgt nach der GGO regelmäßig 4 Wochen, bei rechtlich komplizierten oder umfangreichen Entwürfen sollen es 8 Wochen sein. Heutzutage ist diese Regel allerdings eher die Ausnahme, denn in der Praxis beträgt die Prüffrist oft nur wenige Tage. Eine andere sprachliche Bindung der Entwurfsverfasser ergibt sich aus politischen Kompromissen. Diese werden oft nach langem Ringen um Inhalte an bestimmten Formulierungen festgemacht. Ihr spezifischer Inhalt, die intendierte Lesart sind dabei oft für Außenstehende nicht erkennbar. Kommen Zeit- und Politikfaktor ins Spiel, wird sich die Sprachberatung oftmals pragmatisch auf das tatsächlich Machbare beschränken müssen. Das ist in den meisten Fällen schon genug Arbeit und eine solche Haltung kann zur Akzeptanz bei den Entwurfsverfassern beitragen, die dadurch nicht gezwungen werden, sich mit sprachlichen Empfehlungen auseinanderzusetzen, die ohnehin keine Aussicht auf Erfolg haben. Dieser pragmatische Ansatz, ist nicht zuletzt der hohen Zahl der Gesetzgebungsakte geschuldet. Eine Erhebung des Bundesamtes der Justiz für die letzten Legislaturperioden verdeutlicht die Anzahl der in den Deutschen Bundestag eingebrachten Gesetzentwürfe und der schließlich verkündeten Gesetze.



Wahlperiode des Bundestages	1. - 11. 1949 - 1990	12. 1990 - 1994	13. 1994 - 1998	14. 1998 - 2002	15. 2002 - 2005	16. 2005 - 2009	Summe
Gesetzesvorlagen insgesamt							
beim Bundestag eingebracht	6567	800	923	864	643	905	10702
vom Bundestag beschlossen, dem Bundesrat zugeleitet und von ihm beraten	4427	507	565	558	401	616	7074
vom Bundespräsidenten ausgefertigt und verkündet	4357	493	551	548	386	611	6946

Aktuell gelten 1.692 Gesetze und 2.664 Rechtsverordnungen des Bundes. Seit 1. April 2009 wurden 211 Gesetze (neue und Änderungen) und 386 Rechtsverordnungen (neue und Änderungen) erlassen. In der letzten Legislatur (2005-09) wurden 905 Gesetzentwürfe eingebracht und 611 verkündet.

Vor diesem Hintergrund wird eine Sprachprüfung, die nur innerhalb der Rechtsprüfung tätig ist, kaum Aussicht auf Erfolg haben. Sie würde als alleinige Sprachberatung zu spät einsetzen. Das halten insbesondere die Juristen und Juristinnen des BMJ, die Entwürfe aus anderen Ministerien rechtlich prüfen, der Sprachberatung immer wieder entgegen. Wie soll es aber gelingen, die Sprachberatung früher einzubinden? Sollte man die Bundesministerien zu einer früheren Sprachberatung verpflichten? Angesichts der praktischen Erfahrungen mit den in der GGO geregelten Fristen für die Prüfung der Entwürfe erscheint eine solche Verpflichtung als ein „zahnloser Tiger“, wenn sie nicht mit Sanktionen verbunden wird. Derzeit ist es jedoch praktisch aussichtslos, dass sich die Ministerien über Sanktionen einigen, denn sie würden sich darin beschränkt sehen, ihre jeweiligen politisch wichtigen Gesetzesvorhaben sehr schnell durch das Kabinett beschließen zu lassen.

Das BMJ strebt dennoch eine Regelung in der GGO an – selbst wenn sie sanktionslos ist. Eine Regelung würde zumindest ein Bekenntnis zu besserer Rechtssprache darstellen und den Willen zur Veränderung der derzeitigen Situation signalisieren. Unabhängig davon setzt das BMJ zusammen mit dem Redaktionsstab Rechtssprache alles daran, um Sprachberatung in den anderen Bundesministerien und in der Öffentlichkeit bekannter zu machen. Nicht nur im Internet und im Intranet der Bundesbehörden finden sich Informationen über Organisation und Arbeitsweise der Sprachberatung im BMJ. Wichtig ist es darüber hinaus, das bei jedem Kontakt mit Mitarbeitern anderer Bundesministerien und auf öffentlichen oder fachspezifischen Veranstaltungen für die frühzeitige direkte Einbindung der Sprachwissenschaftler geworben wird. Hier spielt eine ganz wesentliche Rolle, viele Gelegenheiten zu suchen und zu schaffen, wo Textverfasser, Juristen und Sprachberater miteinander sprechen und voneinander lernen. Nur so wird am Ende wirklich hilfreiche Sprachberatungsarbeit entstehen und überzeugen.


Clear
writing

How to include editing in national legislative procedures — experience in Germany

Introduction

Anyone who calls for better laws can be sure of public support. German legislation is at any rate the subject of serious criticism: an increasing 'flood' of regulations on the one hand and, on the other, complex legal provisions in a jargon barely comprehensible to non-specialists. Poorly worded laws, which are becoming more and more frequent because of accelerated legislative procedures, are a subject of public debate. Are clearly worded laws not a democratic imperative in the same way as the right to free elections and freedom of expression? Shouldn't Parliament also take a regular look at the form and quality of the laws it is to adopt and vote on this aspect separately?

Every law seeks to communicate a particular stance. Those to whom legislation adopted by Parliament is addressed include people with no knowledge of the law. Such people often have difficulty understanding these laws, and sometimes do not understand them at all. This problem should not be underestimated because, unlike everyday language, the wording of legal provisions is not geared primarily to ease of understanding and thus goes beyond what is generally perceived as the meaning of text in the normal linguistic sense or in terms of day-to-day language. Instead, law is there to be complied with.

The repeated calls for acceptance of the law can only be successful if legislators make an effort to be comprehensible and if ordinary citizens make the effort to understand. Those who are sceptical about complaints of incomprehensible laws use many arguments:

- non-specialists do not read laws;
- well-formulated laws give non-specialists the illusion of understanding something which they do not understand;
- non-specialists cannot understand laws because they are a form of specialised communication which only experts are able to master;
- non-specialists do not need to understand laws because these are not addressed to them;
- non-specialists believe that legal texts will give them clear answers to specific legal questions. This shows that they have not understood the 'linguistic game' embodied in communications between legal experts.

Up to now, these arguments have failed – fortunately – to find general acceptance. They focus, in a blinkered way, on an alleged chasm existing between specialists and non-specialists. The question, however, is who is the specialist and who the non-specialist in relation to a particular law. And for whose benefit precisely should laws be comprehensible at all?

Emergence of linguistic advice on legal texts

Efforts to make national laws more comprehensible go back a long way. For over 40 years now, the Society for the German Language (*Gesellschaft für deutsche Sprache - GfdS*)[1] has

[1] The *GfdS* is a politically independent association for the preservation of and research into the German language. Since its creation in 1947, it has seen its task as increasing public awareness of the German

had an editing group in the German Parliament (*Bundestag*) whose task was to check the use of language in draft legislation. It is therefore quite justifiable to ask why criticisms are being voiced again and again about the 'poor' language in German legislation.

The editing group in Parliament has always been very small, and its lack of size bears no relation to its task, which is (still) set out in Joint Rules of Procedure for the Federal Ministries (*Gemeinsame Geschäftsordnung der Bundesministerien - GGO*):

> *The language in draft legislation shall be correct and comprehensible to everyone as far as is possible […] All draft legislation shall be sent to the editing group of the Society for the German Language in order to be checked for linguistic accuracy and comprehensibility.* (§ 42 subpara. (5) *GGO*).

Even at the high points in the editing group's history, only about 15 % of all draft laws landed on its desk. This was due to a problem of both a structural and organisational nature: the editing group was attached to Parliament but worked mainly for the federal ministries, where most legislation originates and is elaborated on. In addition, the editing group in Parliament was brought into the process at far too late a stage. Once legislation has been agreed on, it is then barely possible to carry out a detailed linguistic revision, and political considerations may mean that the parties involved do not even want this.

It is justifiable to ask how this state of affairs can be altered. The initiative came from Parliament in 2006. The key point was to introduce linguistic advice at Government level at a much earlier stage.

Two MPs from different parties approached the Federal Ministry of Justice (BMJ) and urged that it draw up a proposal on how this key point could be made a reality. The Ministry then launched a project in which four pieces of planned legislation from different ministries were subjected to linguistic review at different stages of the drafting process. The two-year project showed that the language aspect must play a role while a draft law is still being 'worked out' in the ministry concerned. Only at this early stage can proposals for linguistic improvements and specialists' suggestions be discussed and, if appropriate, taken into account. The success of the project led to the Federal Ministry of Justice setting up a unit to provide it with linguistic advice during the drafting of legislation.

Since April 2009, the linguistic advice at the Federal Ministry of Justice has been provided by the Legal Language Editing Unit (*Redaktionsstab Rechtssprache*) and the Language Office (*Sprachbüro*). More specifically, this means that three linguists are employed directly by the Ministry and, in their capacity as its Language Office, examine its in-house drafts. Nine linguists from the *GfdS* form the Legal Language Editing Unit, which is responsible for linguistic revision of drafts coming from all the other ministries. In this connection, the Federal Ministry of Justice has concluded a linguistic advice agreement with the *GfdS* which will initially run until December 2012.

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language and giving a higher profile to its role in a global context. The *GfdS*'s declared aim is to closely monitor the German language's development and, on the basis of scientific research, to make recommendations about general linguistic usage. The *GfdS* is funded by the Federal Government (parliamentary commissioner for education, culture and the media) and the governments of the *Länder* (standing conference of the ministers for education and culture). It awards the *Medienpreis für Sprachkultur* [Media Prize for Language Culture] and the Alexander Rhomberg Prize. It offers a linguistic advice service and organises a wide range of activities and events together with its branches within Germany and broad (for details, go to www.gfds.de).

Linguistic advice normally begins when the Federal Ministry of Justice receives the drafts from the other federal ministries for the purpose of a 'legal assessment'. This assessment is mandatory under the provisions of the *GGO*:

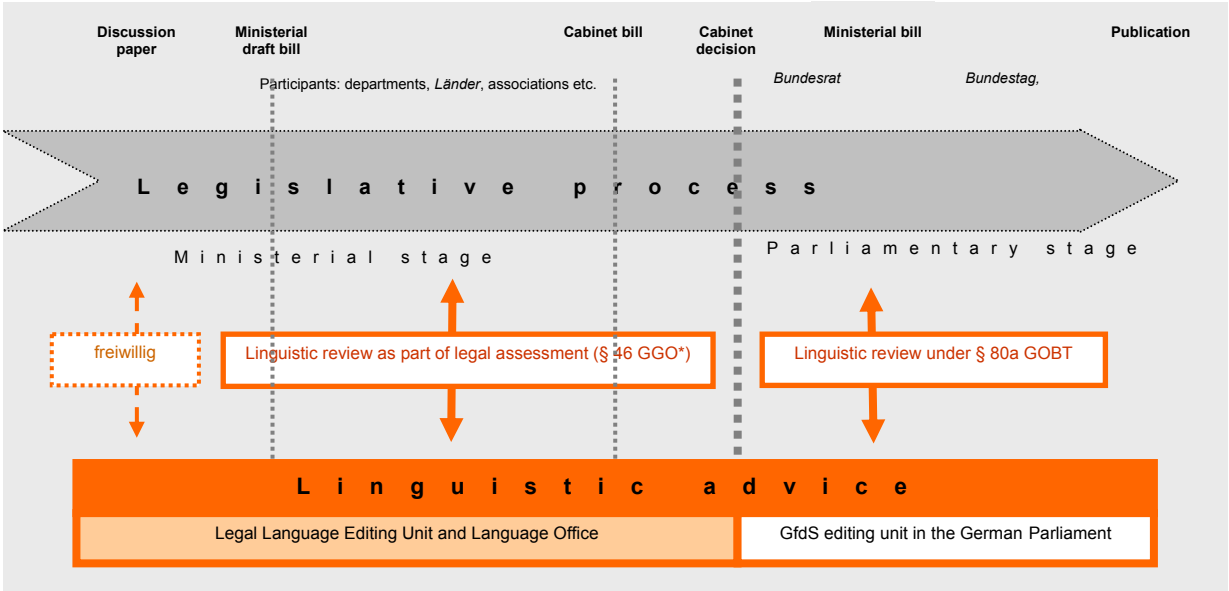
> *Before draft legislation is submitted to the Federal Government for adoption, it shall be sent to the Federal Ministry of Justice in order for a check on compliance with legal procedures and formal legal requirements (legal assessment) to be carried out (*§ 46 subpara. (1) *GGO*).

The Federal Ministry of Justice's legal assessment has been helping the various federal ministries in their legislative work for over 60 years now. This involves looking not only at whether new draft provisions fit smoothly into the existing legal system, but also at whether those provisions are clear and comprehensible. Previously, this check was carried out only by legal experts at the Federal Ministry of Justice, but their perception of what is a clearly worded provision is different from that of a reader with no legal or other special expertise. Since April 2009, the linguistic advice section at the Federal Ministry of Justice has assumed the task of reviewing the language of new legislation from the viewpoint of the non-specialist. The legal experts at the Federal Ministry of Justice are now required to send any drafts they receive from other ministries to the Legal Language Editing Unit. Any linguistic points raised by the Unit must be included in the Federal Ministry of Justice's legal assessment addressed to the other federal ministry concerned.

Regular linguistic review of legal texts is a huge advance on previous practice, but the timing of any linguistic improvements in the context of the legal assessment is in fact too late. This is why the Federal Ministry of Justice is in favour of the Legal Language Editing Unit becoming involved long before the legal assessment stage, namely when the initial draft of any legislation is prepared. It is of great benefit to all concerned if a linguistically polished, clear and precisely worded first draft is submitted for the various rounds of voting, and finally for the legal assessment. When a draft is at an early stage, the linguists can work closely with the drafters. In this way the wording can be fine-tuned and the correct language can be found for the desired content of the provisions, and unclear points and misunderstandings can be ironed out at an early stage.

Linguistic work should provide a service, offer assistance and form an established part of the legislative process. The creation of the Legal Language Editing Unit and the Language Office, alongside the already existing linguistic consultation within Parliament, means that the entire legislative process has been subject to linguistic monitoring since April 2009. This is illustrated in the following diagram.

Linguistic advice in the legislative process



*Joint Rules of Procedure for the Federal Ministries
**Rules of Procedure of the German Parliament

The thinking behind linguistic advice on legislation

Laws regulate very complex issues and are often written from the viewpoint of highly qualified experts without regard to those to whom the laws are addressed. Sometimes, political considerations and compromises prevent the wording from being sufficiently clear and definite, on top of which there are then shortcomings as regards layout and use of language, such as a lack of any logical breakdown or structure, unclear terminology, misleading sentence perspective, cumbersome use of language, hugely long sentences and numerous specialised terms. Before linguistic consultation was introduced at the Federal Ministry of Justice, no serious consideration was ever given to drawing on linguistic expertise. What was the reason for this? Certainly one reason was a lack of experience, but there were also reservations about 'outsiders' becoming involved in the legislative process. The fact is that linguistic quality control brings improvements to draft legislation in the form of

- analysis and revision of texts;
- interdisciplinary cooperation among all those involved with the draft legislation – including linguists;
- close communication between the linguistic and specialised/technical fields whilst a law is coming into being.

The sooner a draft act or ordinance undergoes a linguistic quality check, the sooner linguistic improvements can be arrived at in dialogue with the relevant experts, which in turn facilitates a discussion of the work in hand. Within the legislative process, drawing on linguistic assistance can satisfy many needs in various respects. This should be compulsory at some stages of the process and optional at others. This idea is taken up by the Federal Ministry of

Justice in its provision for linguistic advice. The Ministry had a very convincing role model: for a good 30 years now, the Swiss Federal Chancellery in Berne has had a Language Service which collaborates with Switzerland's Federal Office for Justice to ensure that the wording of legislation is of a high quality. The linguistic advice section of the German Federal Ministry of Justice works together closely with the members of this Language Service and draws on the latter's long years of experience.

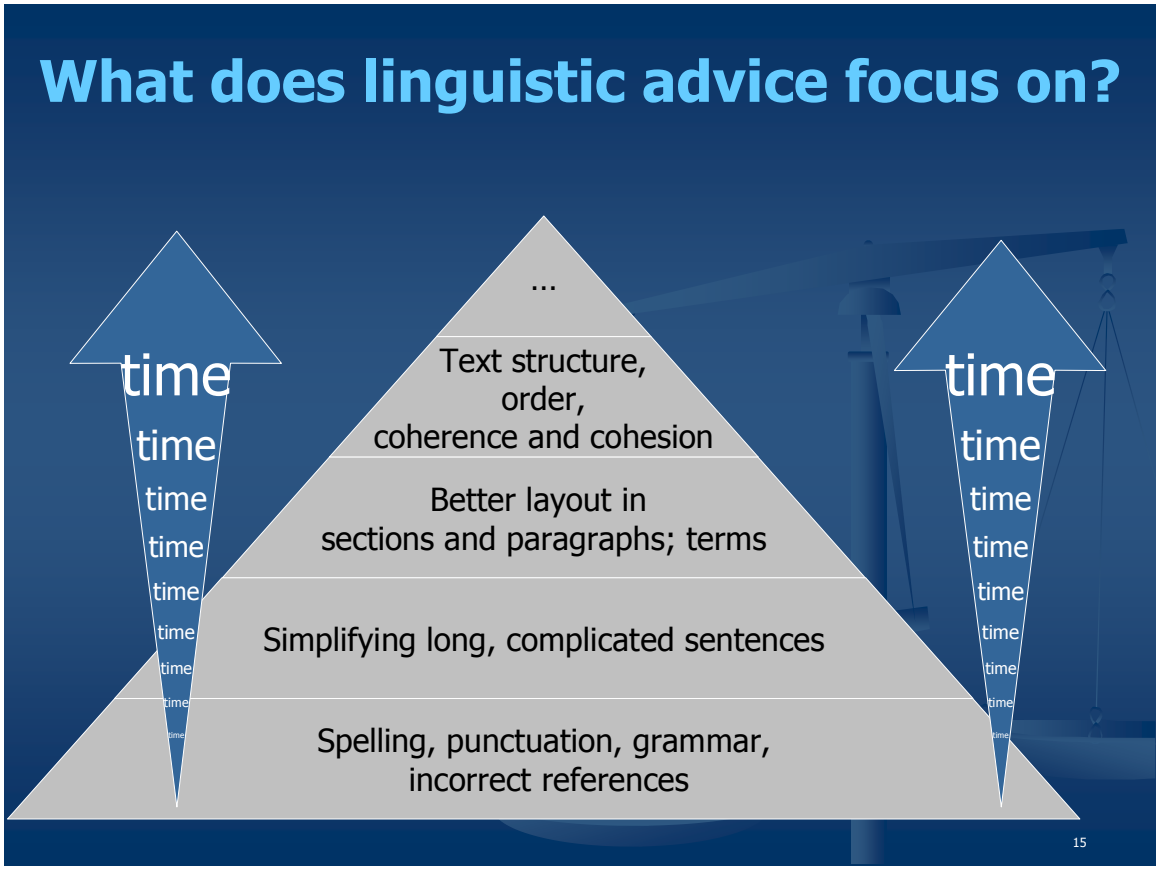
What does linguistic advice focus on?

A legislative document must on the one hand be correct, and on the other must be comprehensible and also be built upon legal certainty. However, it is illusory to think that it is possible to make something comprehensible to everyone. A legal document which may appear readily 'accessible' on the surface may nevertheless contain many words and terms whose use has a long tradition in the area of legal interpretation and commentary, with the result that something which seems straightforward is in fact highly complex. Despite the limitations already referred to, the purpose of linguistic advice is to make the content of documents more accessible and as widely comprehensible as possible. The cardinal rule here is that texts may not be brought into line with general language use at the expense of accuracy and legal precision. How a legal text should be worded in order to be as comprehensible as possible depends on those to whom it is addressed. There are some legislative provisions, such as the Penal Code, which apply to everyone and there are others, such as ordinances concerning crafts and trades, which are addressed to specific groups with certain prior knowledge and expertise. In the latter case it is reasonable and legitimate to use technical terms which are familiar to those being addressed but would not be readily comprehensible to the non-specialist.

General comprehensibility may, however, take precedence over precision in accompanying documentation published to aid comprehension, such as information booklets containing explanations and examples, explanatory memoranda concerning legislation published on federal ministry websites, or press articles on new legal requirements.

How does linguistic advice work?

The amount of detail which linguistic advice goes into depends on the time available. The often very tight schedules for legal assessments also apply to linguistic advice. Nothing can be done about this. Linguistic advice frequently makes use of a 'pyramid chart' in order to show specialists what linguistic revision is possible and worthwhile within a particular time frame (see diagram).



The main focus of linguistic advice is not on the 'basic procedure' of ensuring linguistic accuracy (i.e. spelling, punctuation, grammar and style). Instead, the key point is to check that a text is structured in a way which is logical, sound and geared to those to whom it is addressed. Regulatory provisions should be structured so that they can be 'processed' one after the other. Where possible, provisions should be set out in everyday language. Choices between modern linguistic usage and traditional legal wording and concepts are discussed and, where necessary, more up-to-date wording is found in consultation with the specialist department concerned. The draft is then carefully read and re-read by the linguists and specialists in order to arrive at the best possible use of language. Various wordings are compared, and individual provisions are 'taken apart', modified and often reintroduced in another part of the text. In many cases the text acquires a new structure. Contradictions and redundant words are identified, and complex sentences are (where possible) deconstructed and syntactically rearranged. Where appropriate, tables are drawn up in order to give a better overview of wide-ranging subjects. Erroneous sentence perspectives, incorrect references or tie-ins with previous sentences are checked and corrected where necessary.

In this context, a draft piece of legislation is first of all examined through the 'authentic' eyes of the non-lawyer. The perspective of those who are not legal specialists gives rise to suggestions for different wording, with any questions regarding the regulatory force of a provision being referred to the relevant specialists for clarification. Suggestions about wording are initially made without any regard to possible distortion of a text's substantive provisions because this could in addition always give a pointer to the specialists that the provisions concerned are imprecise or contradictory.

Acceptance and problems associated with linguistic advice in the legislative process

After one and a half years of providing linguistic advice, it can be said that it has become increasingly accepted as part of the legislative process. A well-worded draft also carries more force at the working level. Anyone who has made practical use of linguistic advice

understands that it is a useful service making for better legislation, and is convinced that linguistic revision is not a revision of a provision's regulatory effect and that, if it is started in good time, it leads to overall savings in time and effort despite the additional burden which is initially incurred.

In spite of these successes, many 'recipients' of linguistic advice (i.e. authors of draft legislation) are still sceptical. The main criticism is concerned with the best possible incorporation of linguistic advice into the legislative process, and with problems of collaboration between those involved with a draft. Concerns range from fears to strong arguments, both of which must certainly be taken seriously. This means that linguistic advice also involves a substantial amount of psychology in order to convince people of its usefulness.

Those providing linguistic advice are quite aware that their corrections alter an author's stance. It is unavoidable – and indeed positively desirable – that linguistic advice should lead the authors of draft laws to focus on those to whom those legal provisions are addressed, and that they should learn to shed their habitual 'administrator's' perspective and their specialist's 'tunnel vision' and suppress their sometimes habitual use of 'politicians' language'. The benefit in terms of general comprehensibility of a legal text is basically also recognised by those involved with a draft law, but in practice things are normally different. Above all, time pressure and the political requirements of those to whom drafters are answerable make it more difficult to consider any recommendations or points arising from linguistic advice. This often leads to a very pragmatic approach in which linguistic amendments are limited to only what is absolutely essential.

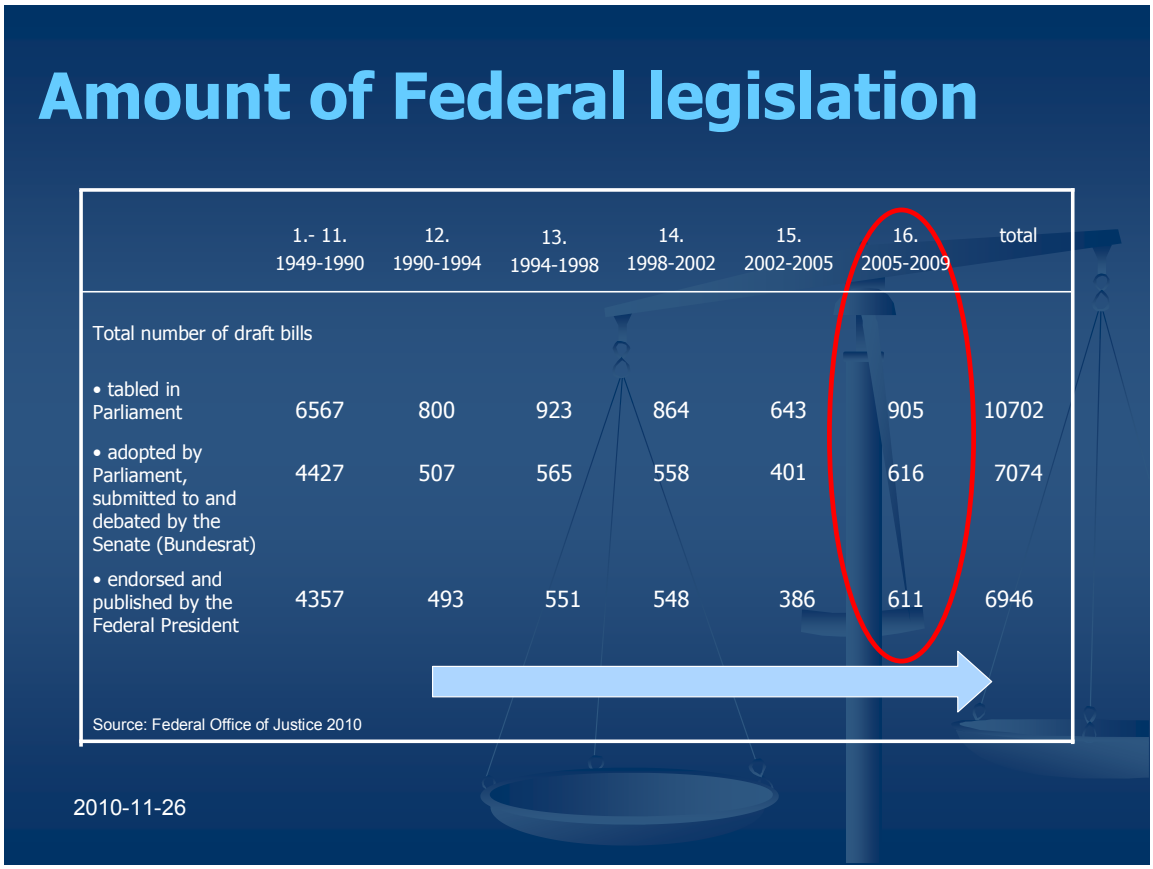
Objective limits of linguistic advice

There are objective limits to linguistic advice, however. To begin with, there are legal requirements. Linguists, legal practitioners and other experts are basically in agreement that linguistic amendments in the interests of general comprehensibility cannot be allowed to interfere with the existing structure and established conventions of federal law. For example, an ordinance may not use the wording from an act which it serves to implement even if this were to make the ordinance more readily understandable; this is because it is contrary to the hierarchy of legislation to reiterate overriding law in provisions of subordinate law. The conventions of and language used up to now in legislation play a particular role when amending already existing legislation.

An even more important factor from the linguistic viewpoint is the increasing influence of EU law on German federal law. The language of EU directives and other legislation is often invoked whenever any linguistic improvements to German legal provisions are proposed. In this connection, those providing linguistic advice must learn where these limits are so that the costs and benefits of their efforts are in reasonable proportion to each other. Sometimes, when the authors of drafts claim that they are dealing with a mandatory requirement of EU law, this turns out to be a mere excuse because it would take too much time and effort to grapple with the EU legislation so that its content is adequately expressed in German legal language. The popular option is to claim that the language versions of the directives are legally binding and that there is a risk of infringement proceedings if they are not adhered to. Given the deadlines for transposition, the often insoluble questions of substantive content and differences in legal systems, efforts at linguistic advice normally fall at this hurdle. It is to be assumed that this problem is not one which confronts Germany alone. Much more than before, it is therefore very important that it be kept better in mind well in advance, i.e. when European legal instruments are being drawn up. One possibility would be to combine linguistic work on legal texts at European level with linguistic work at national level.

Despite these legal constraints, language advisors may still suggest changes given that linguists are not legal experts, and are not supposed to be. However, advisors must be willing to learn and recognise legal limits and bear these in mind in their future work.

Another virtually unalterable limit on effective linguistic advice is the framework conditions when drafting legislation, especially the ever tighter time constraints as mentioned above. According to the Joint Rules of Procedure for the Federal Ministries (*GGO*), the time available for a legal assessment of a draft is usually four weeks, and should be eight weeks in the case of drafts of high legal complexity or of great length. Nowadays, however, this rule is more the exception, and in practice legislation has often to be examined within only a few days. Another linguistic constraint on the drafters of legislation arises from political compromises. These are often the result of agonising debate and must adhere to particular wordings. Their actual content and the way in which they are intended to be read is often not apparent to outsiders. If time constraints and political considerations also play a part, linguistic advice must frequently take a pragmatic approach and restrict itself to what is actually feasible. In most cases, this is sufficient work in itself and may help to achieve a degree of acceptance among the drafters, who are nevertheless not compelled to deal with linguistic recommendations which have no prospect of being incorporated. This pragmatic approach is not least the result of the large number of legislative texts. A survey by the Federal Office for Justice (*Bundesamt der Justiz*) covering the last legislative period shows the number of draft bills tabled in the German Parliament and the number of legislative acts ultimately adopted.



At present, there are 1 692 federal acts in force, as well as 2 664 ordinances pursuant to these. Since 1 April 2009, 211 acts (new and amended) and 386 ordinances (new and amended) have been adopted. In the last legislative period (2005-09), 905 draft bills were tabled and 611 adopted and published.

Against this background, a linguistic check carried out merely as part of the legal assessment has hardly any chance of success, and would occur at too late a stage. In particular, this argument is voiced repeatedly by the legal specialists at the Federal Ministry of Justice who carry out legal assessments of drafts from other ministries. But how can linguistic advice be tied into the process earlier? Should the federal ministries be placed under an obligation to take linguistic advice at an early stage? Given the practical experience with the deadlines for checking drafts as laid down in the *GGO*, compulsion of this kind would be 'toothless' unless it were backed up by sanctions. Unfortunately, however, there is at present virtually no prospect of ministries agreeing to sanctions because they would see this as a limitation on their ability get draft laws adopted quickly in cabinet.

The Federal Ministry of Justice is nevertheless making efforts to include a provision in the *GGO*, even without any penalties for non-compliance. Such a provision would at least signal a commitment to better use of legal language, and an intention to change the current situation. Irrespective of this, the Federal Ministry of Justice together with the Legal Language Editing Unit are making every effort to raise awareness of language issues among the general public and in the other federal ministries. Information on the organisation and provision of linguistic advice in the Federal Ministry of Justice is not only available on the Internet and the federal authorities' Intranet. It is also important to use every contact with officials from other ministries, as well as events for the general public or specialists, in order to canvass for the early and direct involvement of linguists. Here it is crucial to seek and create opportunities for the drafters of texts, legal experts and linguistic advisors to consult each other and to learn from each other. Only in this way will it ultimately be possible for really useful – and convincing – linguistic advice to be provided.

Agnieszka Kotowicz, Poland

Agnieszka Kotowicz is a leading legislator at the Government Legislation Centre, where she drafts legal and legislative positions on proposed legal acts, treaties and other international agreements. The Centre operates together with the Polish Government on harmonising Polish law with the requirements of the law of the European Union. It also drafts legal acts and provides opinions on the conformity of government drafts of legal acts, international treaties with the Constitution of the Republic of Poland, binding international obligations and the Polish law system.

Before joining the Government Legislation Centre, Ms Kotowicz gained experience in the private sector as an in-house lawyer or legal counsel in a number of Polish and international commercial entities, including banks and law firms.

Pisać zrozumiale – legislacyjne techniki redagowania – doświadczenia Polski

polskie doświadczenia, dobre praktyki i problemy zapewnienia komunikatywności tekstu prawnego w organach polskiej administracji publicznej

Technika pisania projektów aktów prawnych ma w praktyce prawniczej dwa podstawowe znaczenia:

1) oznacza umiejętność sporządzania poprawnych aktów prawnych i kształtowania poprawnego systemu takich aktów oraz
2) oznacza zespół reguł (dyrektyw) poprawnego konstruowania aktów prawnych i włączania ich do systemu prawnego. Są to reguły techniki prawodawczej.

Reguły techniki prawodawczej formułują standardy poprawnych aktów prawnych i wskazują typowe środki wyrażania typowych, powtarzających się rozstrzygnięć prawodawcy.

Reguły techniki prawodawczej przyjmują postać:

1) zbioru wzorów aktów normatywnych z wyjaśnieniami i przykładami poprawnie albo niepoprawnie zredagowanych przepisów albo
2) niskiego rangą aktu normatywnego.

W Polsce zbiory reguł techniki prawodawczej noszą nazwę „Zasady Techniki Prawodawczej" (ZTP). Były one tradycyjnie adresowane do rządowych służb legislacyjnych do stosowania przy opracowywaniu rządowych projektów aktów ustawodawczych oraz aktów wykonawczych.

I

Pierwszy zbiór reguł został w Polsce wprowadzony okólnikiem Ministra Spraw Wewnętrznych dnia 2 maja 1929 r. na potrzeby tego ministerstwa.

Drugi zbiór wprowadzono dnia 13 maja 1939 r., w formie zarządzenia Prezesa Rady Ministrów. Zbiory te miały m.in. dopomóc w ujednoliceniu wyrażeń, jakie wykorzystywano przy redagowaniu tekstów prawnych. Był to bowiem okres odbudowywania polskiego systemu prawnego, który wymagał, między innymi, uporania się z pozostałościami wpływów trzech odrębnych, różnych językowo i kulturowo, systemów politycznych i prawnych – niemieckiego, austriackiego i rosyjskiego. W owym okresie ogromnie ważna była kwestia ujednolicania samego języka stosowanego do redagowania tekstów prawnych, ponieważ sposób redagowania, znaczenie i rozumienie poszczególnych wyrażeń prawnych mogły być różne w zależności od obszarów, z których pochodził dany redaktor albo adresat normy.

Trzeci zbiór reguł wprowadzono w 1961 r. Miał on również formę zarządzenia Prezesa Rady Ministrów.

II

Koniec lat 80 i początek lat 90 XX w. były w Polsce okresem przełomowym. Okres ten charakteryzował się dynamicznymi i głębokimi przemianami politycznymi, społecznymi i gospodarczymi, związanymi z prowadzonymi przez Polskę negocjacjami w sprawie zawarcia Układu ustanawiającego stowarzyszenie między Rzecząpospolitą Polską a Wspólnotami Europejskimi i ich państwami członkowskimi, podpisanego ostatecznie dnia16 grudnia 1991 r.

Wykonanie zobowiązań określonych w Układzie miało na celu uzyskanie członkostwa w Unii Europejskiej. Starania Polski w tym zakresie wymagały zatem głębokich reform politycznych i gospodarczych, a przede wszystkim licznych, nierzadko systemowych, zmian prawnych. Okazało się jednak, że szczególnie dotkliwą wadą polskiej techniki prawodawczej była jej niejednolitość, szczególnie w dokonywaniu zmian obowiązującego prawa. Coraz trudniej było bowiem ustalić, jaki akt normatywny i w jakim zakresie obowiązuje, oraz odnaleźć w systemie te przepisy, które były niezbędne do jednoznacznego określenia wieloznacznych sytuacji.

Powstała zatem konieczność opracowania takich reguł techniki prawodawczej, które lepiej odpowiadałby wyzwaniom stawianym polskiemu systemowi prawnemu. Przyjęto założenie, że reguły te powinny:

1) proponować umiarkowaną reformę techniki prawodawczej,
2) opierać się na możliwie spójnej koncepcji teoretycznoprawnej,
3) zawierać obszerny katalog środków wskazujących, jak kształtować klarowny system prawny w warunkach nader częstych i głębokich zmian prawa.

W efekcie, dnia 5 listopada 1991 r. wprowadzono kolejny, czwarty zbiór reguł. Zbiór ten otrzymał formę uchwały Rady Ministrów. Do stosowania tych reguł zobowiązane zostały organy administracji państwowej. Forma uchwały stwarzała również możliwość stosowania owych Zasad przez służby prawne parlamentu przy dokonywaniu poprawek w rządowych projektach ustaw.

Zasady Techniki Prawodawczej z 1991 r. określały reguły ujednolicania aktów normatywnych i prostowania błędów w tych aktach, wprowadziły reguły, których stosowanie miało umożliwić adresatom norm prześledzenie wszystkich dokonanych zmian aktu normatywnego oraz dostarczyć informacji o okresie obowiązywania tych zmian. Ponadto Zasady te zawierały:

1) postanowienia dotyczące konstrukcji aktu prawnego – jego budowy, kolejności poszczególnych rodzajów przepisów, formułowania tytułu, podziału na jednostki redakcyjne i ich oznakowania oraz układu przepisów końcowych,
2) postanowienia dotyczące przepisów zawierających typowe rozstrzygnięcia merytoryczne, tj. przepisów o wejściu w życie aktu prawnego, wyznaczających sankcje karne czy sposobów opracowywania tekstów jednolitych tych aktów oraz
3) postanowienia dotyczące ujednolicania języka aktów prawnych, w szczególności kształtowania słownictwa, unikania powtórzeń, formułowania definicji legalnych, objaśnień i skrótów.

W celu uzyskania jasności reformowanego systemu prawnego w Zasadach ustalono, że akty prawne należy formułować tak, aby w największym możliwym stopniu ograniczyć dolegliwości wynikające z częstych zmian prawa, a w szczególności, aby umożliwić adresatom norm przystosowanie się do nowego prawa. Dokonywano tego poprzez:

1) wprowadzanie minimalnego okresu *vacatio legis*,
2) ograniczanie możliwości nadawania aktom prawnym mocy wstecznej,
3) enumeratywne wyliczanie przepisów uchylanych oraz
4) wprowadzanie jawności wszelkich zmian.

Zasady uporządkowały wiele spraw dotyczących opracowywania aktów wykonawczych i ich związku z ustawami (przepisami) upoważniającymi. W szczególności wskazywały one na konieczność określenia w ustawach:

1) organów upoważnionych do wydawania lub do współuczestniczenia w wydawaniu aktu wykonawczego,
2) zakresu spraw objętych aktem wykonawczym oraz

3) zasad wejścia w życie i uchylania aktu wykonawczego.

III

Dnia 2 kwietnia 1997 r. uchwalono obecnie obowiązującą Konstytucję Rzeczypospolitej Polskiej. Wraz z jej uchwaleniem została niejako wymuszona kolejna zmiana Zasad Techniki Prawodawczej. Konstytucja wprowadziła bowiem radykalne zmiany w polskim systemie prawnym, między innymi, jednoznacznie rozstrzygnęła:

1) o zamkniętym systemie źródeł polskiego prawa powszechnie obowiązującego,
2) o zasadach obowiązywania prawa międzynarodowego i unijnego w polskim porządku prawnym,
3) o zakresie i celu wydawania aktów wykonawczych,
4) o zakazie delegowania upoważnień do wydawania aktów wykonawczych,
5) o zakresie obowiązywania, podstawie i podmiotach uprawnionych do wydawania aktów prawa miejscowego.

Obecnie obowiązujący zbiór reguł – Zasad Techniki Prawodawczej, został wydany dnia 20 czerwca 2002 r., w drodze rozporządzenia Prezesa Rady Ministrów. Zbiór ten, po raz pierwszy w polskiej tradycji tworzenia reguł technik prawodawczych, otrzymał moc prawa powszechnie obowiązującego. Jest on również znacznie obszerniejszy od poprzednich i zawiera reguły opracowywania projektów ustaw, aktów wykonawczych (rozporządzeń), aktów normatywnych o charakterze wewnętrznym (uchwał i zarządzeń) oraz aktów prawa miejscowego, a także reguły prostowania błędów oraz opracowywania tekstów jednolitych tych aktów, a ponadto wskazówki dotyczące metodyki przygotowywania projektów tych aktów.

Obecny zbiór reguł zawiera nowe rozwiązania będące konsekwencją konstytucyjnej koncepcji źródeł prawa. Zmodyfikowano zatem zasady odsyłania do aktów normatywnych, zakazano powtarzania postanowień umów międzynarodowych czy rozporządzeń unijnych, określono, jak formułować przepisy upoważniające do wydawania aktów wykonawczych, by spełniały wszystkie konstytucyjne wymagania, w tym, jak formułować wytyczne dotyczące treści aktu wykonawczego. Wskazano, jak konstruować rozporządzenia oraz sformułowano ogólne wskazówki dotyczące konstruowania aktów normatywnych o charakterze wewnętrznym. Inna grupa zmodyfikowanych dyrektyw dotyczy rozwiązywania zagadnień intertemporalnych oraz dokonywania zmian w obowiązującym systemie prawa. Wzbogacono przykładowy katalog problemów, które wymagają rozstrzygnięcia w przepisach przejściowych oraz dostosowujących. Określono, na jakich warunkach można utrzymać w mocy akt wykonawczy, wydany na podstawie uchylanej ustawy. Z myślą o adresacie normy wprowadzono udogodnienie polegające na tym, że ustalenie istnienia zgodności lub niezgodności takiego aktu wykonawczego z aktualnie obowiązującą ustawą należy do ustawodawcy, a nie do adresata normy prawnej. Doprecyzowano bowiem reguły utraty mocy obowiązującej przez akty wykonawcze. Określono skutki, jakie dla aktu wykonawczego pociąga za sobą zmiana przepisu upoważniającego i zachowano zasadę, że nie nowelizuje się przepisów czasowo tylko utrzymanych w mocy. W zbiorze zamieszczono również szereg reguł, które stanowią reakcję na powszechne błędy legislacyjne: wskazano, że ustawa powinna wchodzić w życie w jednym terminie, przewidziano możliwość posługiwania się, w tytule aktu, w tekstach jednolitych czy w przepisach upoważniających, odnośnikami zawierającymi istotne przecież informacje.

IV

Swoiste skodyfikowanie i upowszechnienie Zasad Techniki Prawodawczej spowodowało, że reguły redagowania tekstów prawnych zaczęły w coraz szerszym stopniu wpływać na reguły

wykładni. W praktyce przyczynia się to i wymusza bardziej zrozumiałe i czytelne redagowanie tekstów prawnych.

Obecnie Zasady Techniki Prawodawczej spełniają trzy zadania:

1) są pomocą przy redagowaniu tekstu prawnego,
2) stanowią standardy oceny poprawności aktów normatywnych i całego systemu prawa oraz
3) współkształtują reguły wykładni prawa.

Zatem, respektowanie reguł techniki prawodawczej nie jest już tylko sprawą dobrej woli prawodawcy, lecz staje się koniecznością. Akt normatywny, nawet taki, który został sporządzony z naruszeniem Zasad Techniki Prawodawczej, jest obecnie odczytywany z uwzględnieniem reguł interpretacyjnych, które się z tymi Zasadami liczą.

V

W 2009 r., dla usprawnienia transparentności i zrozumiałości rządowych projektów ustaw, oddzielono procedurę opracowywania merytorycznej koncepcji polityki rządu od procedury redagowania tekstu ustawy. Dotychczas bowiem te odmienne procedury były wykonywane łącznie i jednocześnie, co w praktyce polegało na każdorazowym opracowywaniu wielu wersji projektu ustawy, z których każda kolejna stanowiła merytoryczną modyfikację wersji poprzedniej. Oczywistym jest zatem, że w takiej procedurze zrozumiałość redagowanego tekstu nie była priorytetem.

Obecnie zasadą jest, że rządowy projekt ustawy jest redagowany przez Rządowe Centrum Legislacji na podstawie założeń, które uprzednio opracował minister i które Rada Ministrów przyjęła jako dokument rządowy. Opracowanie tekstu ustawy polega zatem na przełożeniu ustalonej już merytorycznej i politycznej koncepcji rządu na język prawny i dokonywane jest przy zastosowaniu reguł poprawnej legislacji, zawartych, między innymi, w omawianych wcześniej Zasadach Techniki Prawodawczej. Wdrożenie reformy daje już pozytywne rezultaty w postaci przeciwdziałania „inflacji prawa". Celowość i przydatność każdorazowo projektowanej ustawy analizowana jest obecnie już na etapie pisania jej założeń, a nie dopiero po jej wejściu w życie. Taki filtr ma ogromne i praktyczne znaczenie dla stosowania prawa przez adresatów norm, dla których poruszanie się po morzu przepisów jest zazwyczaj kłopotliwe.

W ramach wskazanej reformy Rządowe Centrum Legislacji otrzymało jeszcze jedno, dodatkowe zadanie: analizuje orzecznictwo Trybunału Konstytucyjnego, Sądu Najwyższego, Naczelnego Sądu Administracyjnego, a także Trybunału Sprawiedliwości Unii Europejskiej oraz wpływ tych orzeczeń na polski system prawny, a następnie opracowuje projekty aktów normatywnych wykonujących te orzeczenia – oczywiście z pełnym uwzględnieniem obowiązujących Zasad Techniki Prawodawczej.

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***

Clear writing — legal drafting — Poland's experience

Polish experience, best practices and problems with plain legal texts in public administrative bodies in Poland

Among legal practitioners in Poland, the term 'legal drafting' has two basic meanings:

1) it means the ability to draft legal instruments that are correct and to create a suitable system for such instruments, and
2) it means a set of rules (directives) for the correct formulation of legal instruments and their inclusion in the legal system. These are known as the rules of legal drafting.

The rules of legal drafting define standards for correct legal instruments and show typical ways of expressing typical phrases that occur repeatedly in decisions of the legislature.

The rules of legal drafting take the following forms:

1) a set of templates for legal instruments with explanations and examples of correctly and incorrectly drafted provisions, or
2) a low-ranking legal instrument.

In Poland, the set of legal drafting rules is called 'Zasady Techniki Prawodawczej' (ZTP). Traditionally, they have been aimed at governmental legal services for use when they draft government bills and implementing legislation.

I

The first set of rules was introduced in Poland on 2 May 1929 by a Circular of the Minister for Home Affairs for the purposes of that ministry.

The second set of rules was introduced on 13 May 1939 as an Order of the Prime Minister. These sets of rules were designed to help standardise the phrases used in drafting legal texts. This came at a time when the Polish legal system was being reconstructed and involved, among other things, tackling the residual effects of three political and legal systems, the German, Austrian and Russian, each with its own linguistic and cultural particularities. At that time, an extremely important issue was the standardisation of the language used to draft legal texts because the way in which particular legal phrases were drafted, intended or understood could differ depending on where the author or addressee came from.

The third set of rules was introduced in 1961, also in the form of an Order of the Prime Minister.

II

In Poland, the late 1980s and early 1990s were a watershed. The period was characterised by the dynamic and far-reaching political, social and economic change linked to Poland's negotiations to conclude an association agreement with the European Community and its Member States, which was eventually signed on 16 December 1991.

The aim of discharging the obligations laid down in the agreement was to become a member of the European Union. Poland's efforts in this area therefore required far-reaching political and economic reforms and, above all, numerous legal changes, many of them systemic. It turned out, however, that a particularly serious shortcoming in Poland's legal drafting was its lack of uniformity, especially when it came to changing the existing law. This made it all the more difficult to establish which legal instrument applied in which area, and to detect in the legal system the provisions crucial to providing clarity in ambiguous situations.

New legal drafting rules were therefore needed which would better meet the challenges facing the Polish legal system. It was assumed that the rules should:

1) propose a moderate reform of legal drafting,
2) have as coherent a theoretical and legal basis as possible,
3) contain a broad catalogue of measures showing how to create a clear-cut legal system in conditions where there are extremely frequent, far-reaching changes to the law.

The result was a fourth set of rules, which was introduced on 5 November 1991. The new set of rules took the form of a Government Resolution. Public administrative bodies in Poland were obliged to use the new rules. The fact that they were a Government Resolution also meant that they could be used by the parliamentary legal services when amending government bills.

The 1991 ZTP provided rules for standardising legal instruments and correcting errors in them and introduced rules to enable those to whom a legal instrument was addressed to trace all amendments made to that instrument and to obtain information on the period of validity of the amendments. The 1991 rules also contained the following:

1) provisions on how a legal instrument should be constructed — its structure, the order in which certain types of provision should appear, how the title should be formulated, separation into and labelling of text units, layout of final provisions;
2) provisions on typical decisions of substance, i.e. clauses relating to the entry into force of a legal instrument or laying down criminal penalties, and provisions on ways of drafting standard texts for such instruments;
3) provisions on standardising the language of legal instruments, in particular to establish terminology, avoid repetition, provide legal definitions, explanatory notes and abbreviations.

To provide clarity in the reformed legal system, the rules stated that legal instruments should be formulated so as to minimise problems arising from frequent changes to the law, and particularly to enable those to whom the instruments are addressed to adjust to the new law. This was achieved by:

1) minimising the *vacatio legis* period,
2) limiting the scope for applying legal instruments with retroactive effect,
3) providing an exhaustive list of repealed provisions, and
4) ensuring the transparency of all amendments.

The rules tidied up many issues concerning the drafting of implementing provisions and the associated enabling acts (or provisions). In particular, they stressed the need for specifying the following in such acts:

1) the bodies authorised to issue or to participate in the issuance of the implementing act,
2) the scope covered by the implementing act, and
3) the arrangements concerning the entry into force and repeal of the implementing act.

III

On 2 April 1997, the current Constitution of Poland was adopted. This meant that a series of changes had to be made to the legal drafting rules. The Constitution introduced radical changes to the Polish legal system, unambiguously resolving the following issues, among other things:

1) a closed system of sources of universally binding Polish law,
2) rules for the application of international law and Union law in the Polish legal system,
3) the scope and purpose of issuing implementing acts,
4) a prohibition on delegating authorisation to issue implementing acts,

5) the scope of application, the basis and the entities authorised to issue instruments of local law.

The set of legal drafting rules currently in force was issued on 20 June 2002 in the form of a Regulation of the Prime Minister. For the first time in the history of Polish legal drafting rules, this set of rules was given the status of universally applicable law. It is also significantly more extensive than its predecessors and contains rules for drafting bills, implementing acts (regulations [*rozporządzenia*]), legal instruments of an internal nature (resolutions [*uchwały*] and orders [*zarządzenia*]) and instruments of local law. It also contains rules for correcting errors and for drafting standard texts for the legal instruments in question, as well as guidance on the procedure for preparing drafts of them.

The current set of rules contains new arrangements arising from the 'sources of law' concept laid down in the Constitution. Consequently, the rules for referencing legal instruments have been modified, with drafters no longer permitted to repeat the provisions of international agreements or EU regulations. Drafters are shown how to formulate enabling provisions for the issuance of implementing acts so that they satisfy all Constitutional requirements, including how to formulate guidance relating to the contents of an implementing act. As well as showing how to structure regulations, the new rules also provide general guidelines on how to structure legal instruments of an internal nature. Another group of directives that have been changed concerns how intertemporal problems are dealt with and how changes are made in the existing legal system. The catalogue giving examples of problems to be resolved in transitional or 'alignment' provisions has been expanded. It also explains the conditions under which an implementing act issued on the basis of a repealed law can be maintained in force. In the interests of those to whom the legal instrument is addressed, the new rules introduce an improvement whereby the responsibility for establishing whether or not the instrument in question complies with the law currently in force lies with the legislature, and not with those to whom the instrument is addressed. The rules regarding the expiry of implementing acts have been made more precise. The effects an amendment to an enabling provision has on the implementing act is also specified and the principle is retained whereby provisions maintained only temporarily in force cannot be amended. The new ZTP also contain a series of rules on how to react to common legislative errors. These include the rule that a law should enter into force on one single date, and that, in the title of the legal instrument, in standard texts, and in enabling provisions, it should be possible to use references that contain important information.

IV

The particular way in which the ZTP has been codified and disseminated has meant that the rules for drafting legal texts have begun increasingly to influence the rules of interpretation. In practice, this brings about and requires clearer and more legible legal drafting.

The current rules perform three functions:

1) they provide assistance in drafting legal texts,
2) they establish standards for assessing the correctness of legal instruments and of the entire legal system, and
3) they help form rules of legal interpretation.

Observance of the legal drafting rules is, therefore, not only a matter of goodwill on the part of the legislature but is also a matter of necessity. As things stand, a legal instrument, even one which has been drawn up in breach of the ZTP drafting rules, is read in the light of the rules of interpretation, which include those ZTP drafting rules.

V

In 2009, in a move to promote the transparency and comprehensibility of government bills, a procedure for drafting the substance of government policy was created as separate from the legal drafting procedure. Previously, the different procedures were implemented conjointly and simultaneously, which in practice meant that many versions of a bill were drafted at a time, where each subsequent version represented a change to the substance of the previous version. It is obvious that, under such a procedure, the comprehensibility of the drafted texts was not a priority.

At present, the rule is that a government bill is edited by the Government Legislation Centre on the basis of guidelines drawn up previously by the government minister and adopted by the government as a government document. Drafting of the legal text involves translating the government's existing substantive and political concept into legislative language. This is achieved by applying the principles of better legislation, which include the above-mentioned ZTP legal drafting rules. The introduction of the reform has already had the positive effect of preventing 'an inflation of the law'. At present, the desirability and relevance of a draft bill is always analysed at the stage at which the concepts behind it are being put into writing, and not after it has entered into force. Such a filter has a huge practical significance for the application of the law by those to whom it is addressed and who normally find the legislative ocean too troublesome to navigate.

Under the reform in question, the Government Legislation Centre has been given one additional task: to analyze judgments of the Constitutional Court, the Supreme Court, the Supreme Administrative Court and the Court of Justice of the European Union as well as the impact of those judgments on the Polish legal system, and then to create draft legislation to enact those judgments while, of course, fully respecting the ZTP legal drafting rules.

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Martin Cutts, United Kingdom

Martin Cutts, research director of Plain Language Commission (a commercial firm, www.clearest.co.uk), has been at the heart of the plain-language movement since the mid-1970s when he graduated from Liverpool University.

Martin is one of the most experienced plain-English editors in the UK, with over 25 years' work in the field. He has led more than 1 500 writing-skills courses for government departments, companies, local authorities and law firms.

Martin is the author of 'The Oxford Guide to Plain English' (OUP, 2009, third edition), and several books on plain language in the law. Three of these, including 'Clarifying EC Regulations' (co-written with Emma Wagner) and 'Lucid Law', are on free download from www.clearest.co.uk.

'Lucid Law' first suggested the use of citizens' summaries in legislation, an idea since adopted for EC policy documents.

Plain Language Commission's Clear English Standard appears on more than 14 000 documents, showing they have met rigorous criteria for clarity of language, structure and typography.

Martin is a member of Clarity and Plain Language Association InterNational (PLAIN), and has presented papers at several of their conferences, most recently at PLAIN 2009 (Sydney, Australia) and Clarity 2010 (Lisbon, Portugal).

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Reaching out to citizens — clarifying bureaucratic language to help the UK public

It's my job to read and edit several million words every year. Plain Language Commission, which is a private-sector business, runs a scheme in which we allow documents and websites that meet our clarity criteria to display the Clear English Standard logo. The logo appears on more than 14 000 documents from government departments, banks, housing companies and law firms. Among them is the Halifax Bank's new terms and conditions for the Clarity credit card, and most of the leaflets issued by the Consumer Financial Education Body (renamed the Money Advice Service in 2011). Using a logo is important because it constantly puts the idea of plain language in front of the public. This is just a small part of the activity going on in the UK — and not just by Plain Language Commission — to clarify bureaucratic language.

If you'd like to see more of what we do, there are plenty of free materials on our website. These include booklets ('Clarifying Eurolaw' and ('Clarifying EC Regulations') on writing EC documents, and the Plain English Lexicon, which enables you to check how understandable certain words are likely to be. You can also sign up for our free newsletter, Pikestaff. And for a detailed guide on writing plain English, there's the 'Oxford Guide to Plain English', available on the internet for about 15 euros.

As I labour in my office in the Derbyshire countryside, I often reflect on seven people who have said or done something inspiring to improve written communications.

The first of these heroes of mine is **Alfred the Great**, Saxon king of Wessex in the ninth century, generally seen as the saviour of the English language. Had it not been for him, I'd probably have been speaking here today in Norse or Danish — and probably doing it very badly. To help unify England, Alfred used not Latin but English, and he started a campaign for the clear understanding of certain important books. He writes:

'Therefore it seems better to me…that we should also translate certain books which are most necessary for all men to know, into the language that we can all understand, and also arrange it…so that all the youth of free men now among the English people…are able to read English writing as well.' ('The Story of English' by McCrum R, Cran W and MacNeil R, Faber & Faber 1986) We're still a long way from Alfred's goal of universal literacy in the UK, but give us time, Alfred, give us time. The average adult in the UK reads at the level of an average 13-year-old, so we have a lot of work to do.

My second hero is **Alcuin of York**, an eighth-century teacher and adviser to the emperor Charlemagne, after whom this building seems to be named. His lucid writings helped to popularise every reader's favourite punctuation mark: the full stop.

My third heroes are the **Irish monks** who, around the same time as Alcuin, decided that life would be better for everyone if they put spaces between the words they were copying. The fashion caught on and is still with us. Just think: if only the Irish government could find a way of getting a royalty payment for this invention, there'd be no need for any emergency bail-out package.

My fourth hero is the 14th-century author of the 'Canterbury Tales', **Geoffrey Chaucer**. In the Clerkes Tale, the poem's narrator orders the clerk to speak plainly so that everyone can understand and not to use a high style, such as people adopt, he says, when writing to kings. But Chaucer was also the author of instruction booklets. In 1391 he wrote a best-selling

manual about the iPad of his day, the astrolabe, by which people could tell the time and predict the position of the stars. The book was so popular because he wrote it in very simple language with plenty of active-voice verbs and imperatives, and he split it into sections with headings. (He also wrote it in English not Latin, which helped.) His immediate audience was the ten-year-old son of a close friend, Sir Lewis Clifford, so Chaucer tells the boy that he'll be using simplified grammar and vocabulary — what he calls 'lighte reules and naked wordes'. In other words, he was writing in a way that was appropriate to his readers — a modern plain-language principle.

My fifth hero is **Jeremy Bentham**, the 19th-century philosopher and writer on law who argued not just for a European parliament, but for legislation to be split up into sections, an idea he had borrowed from the French. He was particularly upset about an English law that included a sentence of 13 pages long. You can still meet Jeremy Bentham in the flesh, as it were, because his stuffed body and waxen head are displayed in University College London. In the Anglo-Saxon world we do on the whole prefer our lawyers to be stuffed after death — it's just a little quirk of ours, so please bear with us — but usually during their lifetime they've found numerous ways of stuffing the rest of us.

My sixth hero is the wartime prime minister **Winston Churchill**, who, in the crisis of 1940, found time to write a memo called 'Brevity' telling his civil servants he wanted shorter, clearer jargon-free reports. Churchill wrote: 'Let us not shrink from the short expressive phrase, even if it is conversational…The saving in time will be great, while the discipline of setting out the real points concisely will prove an aid to clearer thinking.'

My seventh and final hero is **Judge Peter Openshaw** who, during a trial about cyber terrorism in 2007, admitted he couldn't follow what was being said. He confessed: 'The trouble is I don't understand the language. I don't really understand what a website is…I haven't quite grasped the concepts.' In meetings across EU countries at this very moment, there will be thousands of people who don't understand what they're hearing, because team leaders and heads of department can't be bothered to explain things clearly. Yet how many people are brave enough to say, like the judge, 'I'm sorry, I don't understand — can you explain it more clearly?'. On a radio programme the other day, a business leader used the term 'remuneration incentivisation model'. And what did he mean? 'Bonus scheme'!

Readers prefer clarity. I've never heard people say: 'This EC regulation is really too easy for me. Please make it much more complex. Lengthen the sentences. Join up the paragraphs. Take out the headings. Add lots more recitals because that's my favourite bit.' They just don't say this. Everybody prefers writing to be clear and easy to digest, especially when it bosses them around and costs them money to comply with.

Role of translators

In the world of the cinema, it's almost a rule that the sequel is far worse than the original — think of Jaws 4 compared to Jaws 1.

But I have every hope that the new Clear Writing Campaign will be a worthy sequel to the efforts of Emma Wagner, Tim Martin, Edward Seymour, Diana Wallis MEP, Margot Wallström and the many others who were involved in Fight the Fog.

It's good that the language experts, the translators, are in the vanguard again, because in one way they have the most to lose from clear writing: there will be less translation work and more people will be able to understand the original text without help. Yet the translators have much to gain from the campaign's success too: they will no longer have to waste their talents converting bad text in one language into almost-as-bad text in another. Instead they'll start

with a reasonably clear translatable original and be able to convert it into a reasonably clear — perhaps very clear — version. If it's true that an army marches on its stomach, surely it's also true that a multilingual body marches on its translators. And please don't translate that as 'tramples all over its translators'.

Need for plain-language institutions

If the components of the EU machine want to be better valued, they need to become truly plain-language or clear-writing institutions. In other words, every aspect of their work needs to be infused with the thinking we've heard about today. So this applies to everything, from the way staff speak on the phone to outsiders, to the leaflet about passengers' rights that people can pick up at any airport (and it's excellent, by the way), to the text on your websites.

It's good that many submissions in the EC work programme are now being accompanied by a citizens' summary that must be, in the Secretary General's words, 'extremely simple and clear'. (Pikestaff 16, Plain Language Commission) Another good step would be to put a citizen's digest on the website so that newcomers to the world of the EU could grasp some basic information and then delve deeper if they wanted to know more. I would call it 'New to the EU?' The digest would be in easy language and the structure would also be really clear. People shouldn't feel they have to join a special linguistics club to be able to understand what's happening here. Plain language needs help from simpler, better policy.

Necessary though plain language is, it's not a panacea. People say that efficiency is doing things right but effectiveness is doing the right things. If we can do the right things and do them right, we'll be both efficient and effective. That means making good policies and expressing them in language most people of average reading skill can understand.

The new UK government is facing this problem now as it tries to reform our welfare benefits system. Thousands of pages of regulation and law have meant deep complexity for officials and citizens. Even well-written leaflets about benefits and pensions can be daunting because of excessive detail, exceptions and qualifications. So we need to get the underlying policy simplified. Excessive complexity has spread like cholera throughout legislation. In the 14 years since 1992, the UK parliament enacted 172 000 pages of primary and secondary law, an average of 12 200 pages a year. [Letter to the author from Tom Levitt MP, 2 May 2008] Inevitably, everyone has suffered indigestion as they have tried to swallow this monstrous gobbet. Law-making has become a virility symbol and law-makers rarely think about how new law is to be communicated to the public. There has been a government-funded Tax Law Rewrite project since 1995 but I fear it has been overwhelmed by the tide of new law.

In the 1980s, prime minister Margaret Thatcher issued a booklet to her civil servants requiring them to use plain language in their dealings with the public. Yesterday I wrote to the new prime minister David Cameron asking him to issue similar updated guidance to his officials.

Examples of bureaucratic English

I want now to show a few examples of interesting public language from the UK.

When I walk into a public building such as a school or hospital I like to see clear notices. It gives me confidence that the people in charge are careful and can think clearly, perhaps while they are educating my children or amputating my leg. In other words, I think there's a close relationship between clear language and good services.

So if I saw this notice in the local school's reception area, I would be happy:

‘Visitors: would you need help if the school building had to be evacuated? If so, please tell the receptionist or your host now.’

A very good notice. But that’s not what it says. In fact it says this:

‘VISITOR NOTICE
In the event of an emergency evacuation of these premises should you require assistance to facilitate your evacuation would you please advise your host or reception on arrival.’

That’s how many people think they should write: pompous, high-level language. I assume that all the children and the teachers are reading that notice every day as they walk through the reception area and thinking ‘that’s good official writing’. No wonder it continues.

Which is why you can see this notice in the back of a minibus carrying disabled children to and from school in London. It’s meant to be read by drivers who might park behind the bus:

‘PLEASE LEAVE SUFFICIENT SPACE BEHIND THIS VEHICLE, TO ALLOW SAFE INGRESS AND EGRESS OF MECHANICALLY PROPELLED, SEATED POSITION, AMBULATORY DEVICE, BY MEANS OF AUTHORISED LIFTING EQUIPMENT THANK YOU.’

Instead of that, why not keep it simple? Maybe we could just say:

‘Mind the gap!
Please leave at least 2 metres clear behind this vehicle when you park. We need to lift wheelchairs in and out. Thanks.’

Last year, one of our publicly funded research councils decided to send a consultation paper to farmers. I live in a farming area and farmers are not stupid people but they were very puzzled when they read the first paragraph:

‘*Open consultation on the North Wyke Farm Platform: a national infrastructure for agri-food research*
As part of its Strategic planning with its Institutes BBSRC is intending a significant investment in a farm-based platform for collaborative research at North Wyke underpinning key strategic areas both in food security, especially in sustainable agricultural systems, and in agri-ecosystems services and the effects of the environmental change on agriculture which intersect both the Food security and Living with environmental change programmes.’

It makes you wonder if the consultation is genuine or just a tick-box exercise.

And then there are product instructions, which by law are supposed to be clear to the intended users. When I bought a bed from my local department store, I had to follow instructions like this:

‘Please Note: This Bunk Bed is designed so that the routes of all four panels are visable when viewed from the Foot End of the assemblied bed, i.e. The Head End panels face into the bed & the Foot End panels face away from the bed.’

I complained to the store, trying not to be pedantic about the bad grammar, crazy capitalisation and weird spelling, but focusing instead on the mysterious word ‘routes’.

Well, I received a reply from the ‘head of hard furnishings’, saying this:

‘The word routes is a manufacturing term coming from router, the machine that creates grooves. I am not aware that our customers find this difficult to understand. To date we have not had any other comments with [sic] this sentence.’

So there you are. ‘Routes’ is a term everyone should know, even though it’s not in the dictionary and doesn’t, in fact, derive from ‘router’ at all — it’s a made-up word. And because nobody else has complained, there is, of course, no problem.

And this is how many authors think of their readers. If the readers can’t understand, they must be idiots who haven’t been to the right school, in this case the School of Woodworking Neologisms.

Clear documents matter

Ladies and gentlemen, clear documents do matter. It was an unclear document, the so-called butterfly ballot paper, that in the year 2000 led to George W Bush becoming US president after 19 000 voters in Palm Beach County mistakenly voted for the wrong candidate or invalidated their papers by double-punching them.

In 2007, there was a similar fiasco in Scotland where the government changed hands by a single-seat majority — to a party that favours Scotland’s complete independence from the UK. And all because a pair of baffling ballot papers meant at least 140 000 voters — that’s 4% — messed up their vote. In this case, the officials and politicians had been strongly warned that the papers would confuse the voters, but they pressed on regardless.

On the radio yesterday, the American satirist PJ O’Rourke said: ‘Complexity, beyond a certain point, is fraud.’ In Palm Beach County and in Scotland, voters were defrauded by complexity.

So the language and design of documents is not some rose garden in which pedants and prodnoses may wander, sniffing disapprovingly of the scents they dislike. It’s down to earth and practical, and it can make a big difference to the lives of everyone, whether they are filling in a form or, like Chaucer’s ten-year-old boy, trying to master their astrolabe.

Good luck with your new campaign!

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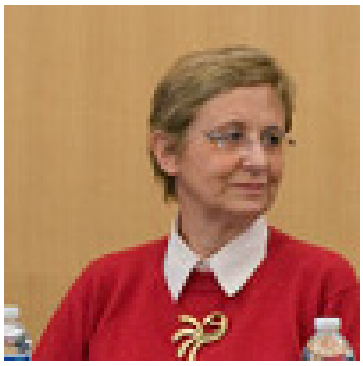
Bénédicte Madinier, France



Bénédicte Madinier is head of the department of 'language development and enrichment' at the *Délégation générale à la langue française et aux langues de France* (DGLFLF, Ministry of Culture and Communication) which is the government body in charge of coordinating language policy. Following her university qualification as an *agrégée de lettres*, she has mostly held administrative posts dealing with the promotion of French language and culture in an international context, both in France and abroad. Since joining the DGLFLF in 1999, her responsibilities have included mainly terminology and other topics related to the evolution of the French language. In particular she is involved in various initiatives regarding the language of administration and government.

Du bon usage de la langue dans l'administration :

qualité de l'expression et efficacité de la communication

Si toute langue se modifie au cours du temps, c'est pour s'adapter de la façon la plus économique à la satisfaction des besoins de communication de la communauté qui la parle.

André Martinet *Éléments de linguistique générale*

Dans un raccourci provocateur, l'académicien Marc Fumaroli déplorait il y a déjà une vingtaine d'années l'appauvrissement, l'« aplatissement » stylistique de la langue française : « il ne reste que deux degrés de style : le style administratif et le style voyou : deux langues de bois » [1].

Il est vrai que le langage administratif, essentiellement écrit, n'est pas sans lien, du fait de sa perméabilité aux registres politique et juridique, avec la langue de bois à laquelle il fournit et dont il peut à son tour tirer certaines formules, mais on ne peut les assimiler totalement. La langue de bois relève plus du discours, le plus souvent du discours politique, un discours préformaté conceptuellement, verbeux, tissé de formules convenues, récurrentes, dans l'air du temps (actuellement, quel que soit le sujet, on n'entend plus que *posture, dédié, durable, solution, collaboratif, périmètre…* Au contraire, *synergie, interpeller* sont en déclin!).

Cependant, la langue de bois, à laquelle certains opposent le « parler vrai », qui est trop souvent une autre langue de bois, est affaire de choix personnel, et relève de l'effet de mode plus que du jargon professionnel.
Pour ma part, je m'en tiendrai au langage administratif proprement dit. Qu'on le définisse comme un style, un registre, une langue ou un jargon, c'est un langage spécialisé, marqué comme tel par une légitime et indispensable technicité, au même titre que la langue des garagistes, des architectes ou des dentistes.

Stendhal lui-même vantait le Code Civil, quintessence de la langue administrative et juridique, comme un modèle de clarté. En 1840, il écrivait à Balzac : « En écrivant la Chartreuse (de Parme) je lisais chaque matin, pour me donner le ton, deux ou trois pages du Code Civil. »
Pourtant, à cette célèbre exception près, très rares sont les jugements positifs. C'est presque un poncif en littérature, le langage administratif est depuis toujours en France un objet de dérision. Mais la raillerie recouvre le plus souvent, à travers la langue, une critique de fond sur le fonctionnement de l'administration et sur ses représentants, depuis les tabellions et notaires de l'Ancien Régime jusqu'aux technocrates actuels. Plus près de nous, les lecteurs d'Astérix connaissent les tablettes de marbre à graver en triple exemplaire, symbole parfait de la lourdeur bureaucratique.

Deux facteurs opposés contribuent aujourd'hui à faire de cette langue spécialisée un jargon qui peut même tendre au sabir :

le poids de la tradition, tout d'abord : la langue administrative souffre d'un syndrome qu'on pourrait dire « du millefeuille »; les années, pour ne pas dire les siècles, se succèdent, les textes s'accumulent, se reproduisent à l'infini et s'enflent de ce qui a précédé. Cette « jurisprudence langagière » tend à figer le style administratif dans un formalisme excessif. Stratification, fossilisation, inflation, tels sont les symptômes de ce vieillissement.

le contexte actuel, ensuite, dont je ne retiendrai que trois éléments, d'une évidente banalité :

- les envahissantes **technologies de l'information et de la communication** (TIC)

« Ces technologies ne sont pas seulement des outils, elles informent (façonnent) et modèlent nos modes de communication » disait Abdul Waheed Khan, sous-directeur général de l'Unesco. La frontière entre écrit et oral se fait moins nette et de nouveaux modes, ou codes, d'écriture apparaissent, l'écriture en ligne ayant une indéniable spécificité.

- par ailleurs la langue administrative s'imprègne de plus en plus de termes et tournures **empruntés à l'anglo-américain**, souvent mal comprises de ceux même qui les emploient.

- enfin **l'administration européenne** introduit de nouveaux concepts, de nouvelles procédures et donc un vocabulaire nouveau, qui s'impose progressivement (*subsidiarité, éligibilité, deliverable*). Langage administratif français et langue administrative de l'Europe s'interpénètrent, sans se superposer exactement. Une thèse [2] a même été consacrée au français administratif, fondée sur une comparaison entre la langue des instances européennes et celle de l'État français. Récemment, nous avons adopté en France *flexisécurité*, la Commission n'admettant que *flexicurité.*

Cette évolution complexe n'est pas spécifique au français, mais elle ne fait qu'accentuer et mettre en relief notre talent particulier pour le jargon.

Au sein même de l'administration, les critiques ne manquent pas. Dès 2001, le Secrétaire général du ministère des Affaires étrangères publiait un texte d'une ironie cinglante intitulé « Cadre stratégique pour l'obscurcissement programmé du français » où il raillait « la procréation incontrôlée de termes abscons », tels *référence graphique stabilisée, choix de la transitique,* ou encore *une approche de type exigenciel et performanciel…* Sa conclusion était limpide : « Écrivons à bon escient, écrivons brièvement, mais écrivons simple et clair ».

L'administration est consciente qu'il lui faut adapter son langage à l'époque et aux besoins des usagers. L'efficacité de la communication publique est en jeu, mais, au-delà, la fonctionnalité et la pérennité de notre langue. En 1994, une circulaire du Premier ministre affirmait déjà : « Si tous les citoyens ont reçu en legs notre langue, les agents publics ont, plus que les autres, des obligations particulières pour assurer son usage correct et son rayonnement ».

Cette volonté de s'assurer de la qualité de la langue administrative remonte bien plus loin, mais je me limiterai à la période récente, et aux actions liées à la réforme de l'État et au grand « bond en avant » de l'administration numérique. Un des mots d'ordre de la modernisation de l'État est qu'il faut « renforcer de façon décisive le sentiment de proximité qu'éprouvent les citoyens dans leurs échanges avec les services publics ». Il me semble d'autant plus important de réinventer les modalités du dialogue avec l'usager que le contact, l'échange, n'est plus que virtuel.

Comment, dans ce contexte, établir une relation dite « personnalisée » et s'adresser à tous, en respectant cette exigence républicaine fondamentale, le principe d'**égalité**? C'est justement le caractère traditionnellement neutre, impersonnel, anonyme, de la langue administrative qui garantit cette égalité. Au-delà de l'égalité, on est donc amené à invoquer désormais l'**équité**, le service public ayant pour mission de réduire les différences entre les citoyens. Et pour accroître encore la difficulté, s'ajoute enfin une nouvelle obligation pour les sites informatiques de l'État, l'**accessibilité**, d'ailleurs trop souvent envisagée seulement dans ses aspects techniques, la dimension linguistique passant souvent au second plan.

Or qu'est-ce que l'administration en ligne? des informations, des démarches, des formulaires, c'est-à-dire des mots, des phrases, du texte! Comment adapter la langue au contexte actuel, en tenant compte de ces nouvelles contraintes techniques, ergonomiques, mais aussi sociales qu'impose le passage au numérique ? En conséquence le travail sur la langue doit s'effectuer en liaison étroite avec la mise en place des services en ligne. La simplification se révèle un processus… très complexe et très compliqué!

Pour s'en tenir à la langue, rendre le langage administratif plus compréhensible, se mettre à la portée de tous, ne va pas de soi. Simplifier certes, mais selon quels critères et dans quelles limites ? Sans entrer dans un débat sur ce sujet, je crois plus juste de réserver la « simplification » pour les procédures et de parler de « simplicité » concernant la langue. C'est pourquoi il me paraît préférable de plaider pour le « bon usage » du français administratif.

L'objectif est double : il faut non seulement se débarrasser du langage obsolète et sclérosé, de moins en moins compris, de moins en moins accepté, mais aussi éviter le piège d'un nouveau jargon lié particulièrement à l'informatique, et à l'invasion insidieuse du « globish », qui n'est pas une menace, mais déjà une réalité. À titre d'exemple, voici un message reçu hier : « *Nous allons supprimer les comptes e-mail qui ne sont plus* ***d'âge actif****, pour créer plus d'espace pour* ***users*** »…
L'exigence de clarté et de lisibilité se fait urgente !

C'est sur ce constat que reposent deux actions entièrement axées sur la langue dont la délégation générale est partie prenante, l'une spécifiquement hexagonale, l'autre franco-québécoise.

Le COSLA (2001-2007)

En juin 2001, dans le prolongement de plusieurs initiatives antérieures, a été créé le Comité d'orientation pour la simplification du langage administratif (Cosla), placé sous la double tutelle du ministre chargé de la culture et du ministre de la fonction publique, chargé de la réforme de l'État.

Composé de personnalités médiatiques, de linguistes, de représentants de l'administration, du secteur associatif et des usagers, le Cosla s'est vu confier la mission de veiller « à l'intelligibilité et à la clarté du langage employé dans tous les documents administratifs à destination des usagers, particulièrement les formulaires, afin d'en améliorer l'efficacité ». Fort d'une devise percutante : *Un langage clair, ça simplifie la vie,* le Cosla s'est assigné pour tâche la réécriture des formulaires, en commençant par les plus utilisés. En parallèle, il s'est penché sur le langage des courriers administratifs , en se fondant sur l'analyse de plusieurs milliers de lettres émanant des services publics. Le travail a été conduit selon ce qu'on appellerait en langue de bois une approche « participative » et « collaborative », associant les services administratifs et les organismes et associations concernés, dont il a fallu concilier les sensibilités et les points de vue respectifs.
Ces travaux ont donné lieu à la publication entre 2002 et 2004 d'un lexique de 4 000 mots et expressions, d'un *Guide de la rédaction administrative* et d'un logiciel d'aide à la rédaction administrative (*LARA*).
Une version du lexique destinée au grand public a été publiée sous le titre *Le Petit décodeur*, qui a été suivi d'un *Petit décodeur du vocabulaire de la médecine*. En fait, ces termes réputés difficiles sont moins nombreux qu'on croit : initialement, on avait prévu que le lexique comprendrait 6 000 mots. Bien qu'il ne soit pas, loin s'en faut, le seul responsable de l'opacité du langage administratif, c'est surtout sur le vocabulaire que se porte l'attention, et la nécessité de remplacer les mots trop techniques ou trop vieux est bien comprise; la syntaxe, au contraire, est souvent négligée, alors qu'elle est tout autant source de confusion et d'obscurité:

phrases trop longues, constructions peu logiques, inutilement lourdes et complexes, multiplication des adverbes…

Il est pourtant un domaine où les mots en eux-mêmes posent souvent de réelles difficultés pour l'usager, c'est la langue du droit. Là non plus, les critiques ne datent pas d'hier. Montaigne se demandait déjà, « pourquoi est-ce que notre langage commun, si aisé à tout autre usage, devient obscur et non intelligible en contrat et testament ? » Mais rien ne s'est arrangé. Nous ne sommes plus au temps de Stendhal et la langue du Code civil a vieilli. C'est pourquoi, sans attendre le Cosla, le ministère de la justice s'est attelé depuis des années à la relecture systématique des codes, afin d'en éliminer le vocabulaire obsolète ou inutilement difficile. Le sujet est aussi délicat que complexe: autant le langage juridique recèle de difficultés, autant sa simplification recèle de risques et la tâche demande patience et longueur de temps!

Le Cosla a été dissous en juin 2009, dans la grande vague de la réforme administrative. L'entreprise était très ambitieuse, ne serait-ce que par le nombre extrêmement élevé de documents concernés, et d'autant plus difficile que ce travail sur la langue s'est fait en parallèle, mais pas en synchronie, avec la mise en place accélérée de l'administration en ligne. Le principal mérite du Cosla a été de mettre en lumière, par sa seule existence, la nécessité de rendre les écrits de l'administration compréhensibles pour un large public. Il a donné une nouvelle impulsion. Les administrations peuvent utiliser les formulaires réécrits comme base de travail pour leurs propres formulaires. Certains organismes comme la Caisse nationale d'allocations familiales, ont accompli un très gros effort dans ce sens.
C'est désormais la Direction générale de la modernisation de l'État (DGME) qui assure le pilotage de la simplification administrative, l'attention aux aspects linguistiques n'étant plus visiblement affichée.

Le deuxième exemple, proche du précédent par ses acteurs, ses enjeux, et aussi par les difficultés à surmonter, s'inscrit dans le cadre de la coopération entre la France et le Québec.

Le groupe franco-québécois (2004-2010)

En 2004 un groupe de travail bilatéral sur la modernisation de l'administration a été créé dans le but de procéder à des échanges d'information et d'expérience sur les « bonnes pratiques » de gestion administrative liées à la modernisation de l'État en France comme au Québec.
Le groupe se divise en sous-comités dont l'un, qui associe le Secrétariat à la politique linguistique du Québec et la délégation générale à la langue française, se consacre à *la qualité du français dans l'administration.* En effet, à la différence du Cosla, le sous-comité a choisi de mettre l'accent non sur la simplification mais sur la qualité du langage administratif, afin d'éviter toute ambiguïté.

Le sous-comité a choisi de procéder à un examen comparatif des recommandations en matière de rédaction administrative émanant de l'État. Ce n'est pas une surprise, l'approche des administrations publiques française et québécoise est à peu près identique, les préconisations très semblables, à l'exception de rares différences d'ordre culturel, notamment l'écriture « non sexiste » systématique au Québec, dont la nécessité n'est guère ressentie en France.
Cet échange s'est concrétisé par la publication, en 2006, d'une brochure destinée aux rédacteurs de l'administration publique. Intitulée *Rédiger… simplement, Principes et recommandations pour une langue administrative de qualité* [3]*,* cette petite publication synthétique n'est pas un guide détaillé de plus ; elle a pour but de contribuer à développer chez les rédacteurs une réflexion sur la langue.

La deuxième étape du projet est en cours. C'est un approfondissement de la précédente, une application particulière des principes retenus à l'écriture en ligne, à travers la comparaison de deux démarches similaires au Québec et en France.
Outre l'intérêt en soi de ce travail, un avantage de cette coopération franco-québécoise est à nos yeux de mieux ancrer ces recommandations, et de leur donner une meilleure visibilité surtout auprès des instances responsables qu'il convient de sensibiliser sans relâche à ce sujet, ou trop souvent « non sujet » qu'est la langue.

Pour finir, je voudrais jeter un regard sur la situation telle que nous la percevons aujourd'hui. Les avancées existent indéniablement, et elles sont visibles. De nombreux formulaires ont été réécrits ou sont en voie de l'être. L'information administrative est largement accessible. Les sites publics comportent souvent des glossaires, des hyperliens et « infobulles »… explicitant les termes difficiles. Les référentiels de l'administration signalent la nécessité de suivre les recommandations officielles en matière de langue, très brièvement et en termes très généraux, il est vrai, comme, par exemple : « *Nous sommes attentifs à la lisibilité et à la clarté de nos courriers et courriels ; ils sont rédigés dans un langage adapté à la compréhension du destinataire*», ou *« rédiger les contenus de façon simple, logique et ordonnée »,* ou encore « *utilisation d'un style de rédaction simple et compréhensible de tous* ».
Il faut enfin souligner que, dans le domaine juridique et réglementaire, la réécriture des codes se poursuit et accompagne les lois de simplification du droit, dont quatre ont été publiées dans les dernières années.

Et pourtant… si l'administration en ligne corrige les défauts du système antérieur, elle secrète à son tour ses propres lourdeurs, son propre jargon, dont on peut relever des exemples trop nombreux, mais savoureux :
« Nous sommes heureux de vous informer que votre incident a été résolu. ***#Status_fr# High Resolved.*** *L'incident que vous avez signalé a été résolu avec la résolution suivante :* ***échec. »***

Récemment, un responsable de la direction générale de la modernisation de l'État a reconnu que « la dématérialisation a beaucoup progressé mais pour la simplification il reste beaucoup à faire », ajoutant que « de toute façon c'est sans fin ». Est-ce une fatalité? Je pense à l'apparition récente du mot *interministérialisation* qui, pour moi, fait regrettablement écho au mot *administrationaliser* que Balzac avait inventé pour se moquer des bureaucrates.

Mais on n'est pas en reste d'initiatives. Octobre 2009 a vu la création d'un groupe d'« experts de la relation numérique à l'usager ». En bonne logique, le groupe a publié un rapport en avril dernier. Un des premiers points relevés dans ce rapport est l'insuffisante clarté du langage administratif en ligne : « *un langage trop technocratique et non compréhensible par le citoyen est utilisé sur certains sites internet des administrations* ». Et pourtant, des nombreuses préconisations faites par le groupe, aucune n'est consacrée aux aspects linguistiques!

C'est donc à nous de rappeler inlassablement l'importance à accorder à la langue pour assurer l'efficacité et la transparence de la communication publique, et à nous d' « aider les fonctionnaires à utiliser le français comme un outil de leur fonction », pour paraphraser Sir Ernest Gowers *(The complete plain words*, 1954), de les inciter à l'utiliser comme ce qu'elle ne devrait jamais cesser d'être, une passerelle efficace entre l'administration et les citoyens.
Des tablettes de marbre d'Astérix au rocher de Sisyphe…

Références

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Good administrative language: quality and effective communication

'All languages change over time in order to adapt, as efficiently as possible, to the task of satisfying the communication needs of the communities that speak them.'

André Martinet *Éléments de linguistique générale* ('Elements of General Linguistics')

Some twenty years ago, the Academician Marc Fumaroli summed up the impoverishment and the stylistic dumbing down of the French language in a provocative soundbite: 'The only two styles we have left are officialese and slang — two forms of linguistic hot air.' [1].

It is true that officialese (usually in written form) is not unrelated to hot air, given that it draws on the language of politics and the law, and it is a two-way relationship. Yet the two are not one and the same. Hot air is more frequent in speech (often political speeches) with a wordy template of recurring, convention-bound, flavour-of-the-month jargon. Regardless of the subject matter, you will hear words like *posture* (stance)*, dédié* (dedicated)*, durable* (sustainable)*, solution* (solution)*, collaboratif* (collaborative) and *périmètre* (boundary). Lately, though, *synergie* (synergy) and *interpeller* (challenge) seem to be losing favour.

However, hot air — which some people place at the other end of the scale from straight talking, itself all too often another form of linguistic hot air — is a matter of personal choice and has more to do with fashion than with professional jargon.

Here I shall concentrate solely on administrative language. Whether one defines it as a style, a register, a language or a form of jargon, administrative language is a language for special purposes, often technical ones, just as mechanics, architects and dentists have their own specialised languages.

Even Stendhal held up the French Civil Code — the very embodiment of administrative and legal language — as a paragon of clarity. In 1840 he wrote to Balzac: 'When I was writing *The Charterhouse Of Parma* I would read two or three pages of the Civil Code every morning to gain a feel for the tone'.
However, with that famous exception, praise for administrative language is hard to come by. It is almost a literary cliché that France administrative language has always been the butt of ridicule. Beneath such ridicule there lies serious criticism, with language used as a stick to beat public administration, its functioning and its representatives; from the lawyers and clerks of the *Ancien Régime* to today's technocrats. Readers of Astérix are familiar with the tablets of marble to be carved in triplicate, perfectly symbolising burdensome bureaucracy.

Nowadays, two contrasting factors are conspiring to turn this specialised language into a jargon that verges on a pidgin:

- the first is **the weight of tradition**: Administrative language suffers from what might be termed the 'add another layer' syndrome. Years, centuries even, go by: texts pile up, are reproduced *ad infinitum* and are bloated by what has gone before. A kind of 'linguistic case-law' tends to trap administrative style in excessive formalism. This ageing process is characterised by stratification, fossilisation and inflation.

- and the second is the **current context**. Here are three everyday examples:

– firstly, the pervasive influence of **information and communication technologies** (ICT).
According to Abdul Waheed Khan, assistant director-general of UNESCO, 'these technologies are not merely tools, they inform and shape our modes of communication'. The

boundary between written and spoken language is becoming more blurred and new writing trends, or codes, emerge, and online writing clearly has its own characteristics.

– secondly, terms and expressions **borrowed from British and American English** are increasingly seeping into administrative language, though often misunderstood by those who use them.

– and lastly, **the EU** has introduced new concepts, new procedures and thus a new vocabulary that is gradually taking root (words like subsidiarity, eligibility and deliverables). The languages of French and European administration borrow from each other, though neither is a complete reflection of the other. A thesis has been written on administrative French [2], which draws a comparison between the language of the European institutions and that of the French State. We in France recently adopted the term *flexisecurité*, whereas the Commission prefers *flexicurité*.

This complex set of changes is not an exclusively French phenomenon, but it does highlight our particular talent for jargon.

Within the administration itself, there is no shortage of criticism. Back in 2001 the Secretary-General of the French Ministry for Foreign Affairs published a paper full of biting irony entitled 'Strategy framework for the organised obfuscation of the French language' in which he poured scorn on 'the unbridled procreation of abstruse terms' such as *référence graphique stabilisée* (stabilised graphical reference)*, choix de la transitique* (workflow choice)*,* and *une approche de type exigenciel et performanciel* (demand- or performance-related approach). His conclusion was clear: 'Let us write judiciously, concisely but above all simply and clearly'.

The civil service is conscious of the fact that its language has to adapt to the times and to the public's needs. What is at stake is the effectiveness of public communication and the usability and durability of our language. Back in 1994, a memo from the Prime Minister read: 'All the citizens have inherited our language, and public officials more than anyone else have a particular duty to ensure its correct use and to preserve its influence.'

This desire to ensure the quality of administrative language dates back much further but I shall focus on recent times and on measures relating to State reform and to the great leap forward of e-government. One of the key aspects of State modernisation is the need to 'drastically reduce the sense of alienation felt by the citizens when dealing with public authorities'. It strikes me as all the more important to reinvent ways of communicating with the public now that such contact these days is only virtual.

Against this backdrop, how can we establish a 'personalised' relationship and address all citizens, while upholding the principle of **equality,** one of the very cornerstones of the French Republic? It is precisely that traditionally neutral, impersonal and anonymous administrative language that has underpinned that equality. As well as equality, one is also mindful of the need for **equity**, as the mission of public services is to minimise differences between citizens. To make matters even more difficult, State websites also now have an **accessibility** obligation, which is all too often seen from a technical point of view, with the language aspect often playing second fiddle.

So what is e-government? It means information, procedures and forms to fill in, which means words, sentences and text! How can language be adapted to today's world while taking account of the new technical, ergonomic and social constraints imposed by the digital environment? Consequently language-related work must go hand in hand with the implementation of online services. Simplification turns out to be… a highly complex and tortuous process.

But to return to language matters: making administrative language easier to understand and making it accessible to all is no easy task. Simplification by all means, but by which criteria, and to what extent? Without entering into a debate on the subject, I think it is better to use the term 'simplification' to refer to procedures and 'simplicity' to refer to language. That is why my topic today is 'good administrative language'.

The objective is twofold: as well as ridding ourselves of obsolete and ossified language that is increasingly difficult to understand, we also have to avoid falling into the trap of creating new jargon relating in particular to IT, and to resist the insidious invasion of 'Globalese', which is no mere threat but already a reality. By way of an example, this is a message I received yesterday: '**Nous allons supprimer les comptes e-mail qui ne sont plus **d'âge actif**, pour créer plus d'espace pour **users'** (We will remove email accounts that are no longer of active age to create more space for users). [**Translator's note: the speaker mocks the cumbersome nature of the expression 'âge actif' and the use of the English word 'users'*]. Clarity and readability are urgently required.

That observation has given rise to two projects relating solely to language, both involving my department: one relates specifically to France, while the other also focuses on the French spoken in Quebec.

COSLA (2001-2007)

In June 2001, the *Comité d'orientation pour la simplification du langage administratif* — COSLA (Steering committee for the simplification of administrative language) was set up under the auspices of both the Minister of Culture and the Minister for the Civil Service, expanding on a number of previous initiatives.

The COSLA was made up of media figures, linguists, civil servants, the voluntary sector and end users. Its mission was to ensure that 'language in all administrative documents intended for the general public, especially forms, is clear and easy to understand, with a view to improving their effectiveness.' Armed with the snappy slogan *Un langage clair, ça simplifie la vie* (Clear language simplifies life), the COSLA set about rewriting forms, starting with those most commonly used. At the same time, it examined the language of administrative correspondence, focusing on several thousand letters sent by public authorities. The COSLA's work was carried out according to what, in officialese, would be called a 'participative' and 'collaborative' approach, bringing together the administrative services and the bodies and associations concerned, with a view to addressing sensitive issues and reconciling different points of view.
That work gave rise to the publication between 2002 and 2004 of a glossary of 4 000 words and expressions, a *Guide de la rédaction administrative* (Guide to administrative writing) and *logiciel d'aide à la rédaction administrative — LARA* (software providing assistance with administrative writing).

A version of the glossary intended for the general public was published under the title *Le Petit décodeur* (Little Decoder) followed by a *Petit décodeur du vocabulaire de la médecine* (Little Decoder of Medical Terms). The glossary had been expected to contain 6 000 words, but there are fewer terms deemed to be tricky than previously thought. Although vocabulary is far from being the only aspect of language responsible for the opacity of administrative language it is the one that attracts most attention and it is clearly recognised that overly technical or obsolete words need to be replaced. Syntax, on the other hand, is often neglected, even though it is a major source of confusion and obfuscation: for example, overly long sentences, illogical, needlessly heavy and complex structures, and the over-use of adverbs.

Yet if there is one area in which the words themselves often pose genuine difficulties for the general public it is legal language, another field in which criticism is nothing new. Montaigne, for example, asked: 'why does our common language, so compatible with all other uses, become opaque and unintelligible in contracts and wills?', yet nothing has changed. We no longer live in Stendhal's time and the language of the Civil Code is showing its age. This is why, without waiting for the COSLA, the Ministry of Justice has, for a number of years, gone about systematically reviewing legislation in order to remove obsolete or needlessly difficult vocabulary. This task is as tricky as it is complex: there are difficulties that lurk beneath the surface of legal language and so the task of simplifying it is fraught with risk and requires time and patience.

The COSLA was disbanded in June 2009 as part of the drive to reform administration. The undertaking was highly ambitious if only because of the large number of documents involved, and made all the more difficult by the fact that this language-related work was carried out at the same time as, but separately from, the rapid implementation of e-government.
The main positive thing about the COSLA was that its very existence highlighted the need to make administrative writing understandable to a broad readership. It gave fresh impetus. Public authorities can now use the rewritten forms as a basis for their own forms. Some bodies like the *Caisse nationale d'allocations familiales* (National Family Allowances Fund) have made great efforts in this regard.

It is the *Direction générale de la modernisation de l'État* (Directorate-General for State Modernisation) that is now in charge of administrative simplification, and attention to language-related aspects is no longer a clear priority.

The second of the projects — similar to the COSLA in terms of the parties involved, the issues at stake and the difficulties to overcome — relates to cooperation between France and Quebec.

Le groupe franco-québécois (France-Quebec Group) (2004-2010)

In 2004, a bilateral working party on modernising administration was set up to share information and 'good practices' in administrative management for State modernisation in France and Quebec.
The working party was divided into sub-committees including one that brings together Quebec's *Secrétariat à la politique linguistique* and France's *Délégation générale à la langue française*. Unlike the COSLA, the sub-committee opted to place the emphasis not on simplification but on the quality of administrative language, in order to avoid ambiguity.

The sub-committee chose to carry out a comparative analysis of recommendations on administrative writing by public bodies. It comes as no surprise that the respective approaches in France and Quebec are almost identical, and that their recommendations are very similar, apart from occasional cultural differences such as the systematic 'non-sexist' writing in Quebec, for which the French do not feel such a strong need.

This exchange culminated in the publication in 2006 of a booklet [3] aimed at those involved in writing in public administration. Entitled *Rédiger... simplement, Principes et recommandations pour une langue administrative de qualité* (Writing… simply, principles and recommendations for high-quality administrative language), rather than being just another detailed handbook it was aimed at encouraging those involved in administrative writing to think more about language.

The second phase of the project is under way. It involves further developing the first phase by comparing two similar measures in Quebec and France, with particular focus on the principles governing online writing.

As well as being a positive thing in itself, we feel that this cooperation between France and Quebec also had the merit of ensuring that the policies gained a proper foothold and that their profile was raised, most importantly, among bodies that need to be constantly reminded of the issue (all too often the 'non-issue') of language.

Lastly I should like to take a look at the situation as we see it today. Progress has undeniably been made, and it is there for all to see. Many forms have been rewritten or are in the process of being rewritten. Administrative information is widely accessible. Public websites often include glossaries, hyperlinks and tooltips explaining difficult terms. Administrative reference material stresses, albeit very briefly and generally, the need to follow official recommendations on language: for example, 'we are mindful of [the need for] readability and clarity in our letters and emails, which are to be written in a language designed to help the reader understand,' 'write the content in a simple, logical and tidy manner' and 'using a writing style that is simple and comprehensible to all'.
It should also be emphasised that, in the legal and regulatory field, the recasting of laws is an ongoing process and includes laws to simplify legislation, four of which have been published in recent years.

And yet… although online administration is rectifying problems with earlier systems, it also has its own red tape and examples of jargon; there are too many to mention, but here is one I like:
'We are happy to inform you that your incident has been resolved. ***#Status_fr# High Resolved.*** The incident you flagged up has been resolved with the following resolution: ***failure***'.

Recently, a manager in our Directorate-General for State Modernisation acknowledged that 'good progress has been made on computerisation but there is a lot to do on simplification' adding that 'in any event, it is a never-ending process'. Is it inevitable? One example is the recent appearance of the word *interministérialisation,* which is a sad throwback to the word *administrationaliser*, which was invented by Balzac to mock bureaucrats.

There is no shortage of initiatives, however. October 2009 saw the creation of an 'expert group on relations with users in the digital era'. The group duly published its report in April 2010. One of the main points raised in the report was the lack of clarity in online administrative language: 'some authorities' websites use language that is too technocratic and incomprehensible to citizens' Yet none of the expert group's numerous recommendations relates to language.

We must therefore keep driving home the point that language is important if we are to make public communication effective and transparent. We must keep up the effort to 'help public officials to use French as a tool of their profession' to paraphrase Sir Ernest Gowers *(The complete plain words* 1954), to encourage them to use language as what it should always be: an effective bridge between the administration and the public.
From Asterix's marble tablets to Sisyphus' rock…

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He is also Chairman of the Coordinating Committee for the Network for Excellence in Institutional Italian (REI). His interests extend to institutional and political language. Together with A. Tuzzi, he has mentored research into the end-of-year addresses of Presidents of the Italian Republic (*Messaggi dal Colle. I discorsi di fine anno dei presidenti della Repubblica*; Venice, Marsilio, 2007) and, together with F. Gambarotto, is currently coordinating a multidisciplinary study of the annual reports of the Presidents of the Confederation of Italian Industry (Confindustria).

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Il nuovo italiano amministrativo: una lingua più semplice o una lingua più povera?

1. Introduzione

Il fatto che sia un professore universitario a trattare dei problemi della scrittura chiara in Italia, non è un caso. Negli altri Paesi europei, le azioni per il miglioramento della scrittura amministrativa o di quella normativa sono state avviate da settori della stessa amministrazione pubblica. In Italia, invece, un ruolo fondamentale di orientamento dei processi per la riforma della scrittura amministrativa e normativa è stato sostenuto da professori e ricercatori universitari, principalmente di discipline linguistiche, ma anche di discipline giuridiche.

Anche a livello governativo, si deve a un professore l'inizio delle iniziative per il cambiamento della scrittura amministrativa. Professore, infatti, era il Ministro della funzione pubblica (cioè il ministro che sovrintende all'amministrazione pubblica) del governo presieduto da Carlo Azeglio Ciampi (1993-94): mi riferisco a Sabino Cassese, ora giudice costituzionale, allora professore di diritto amministrativo. Da professore di diritto si era occupato dell'oscurità, e quindi della scarsa comprensibilità, delle leggi (Cassese 1983; poi anche Cassese 1995); da Ministro ha iniziato a promuovere azioni per ridurre la difficoltà di lettura dei testi amministrativi, in particolare le comunicazioni ai cittadini: ha costituito un gruppo di lavoro che nel 1993 ha pubblicato un primo *Codice di stile delle comunicazioni scritte ad uso delle amministrazioni pubbliche*.

Successivamente, professori universitari, di linguistica o di diritto (Maria Emanuela Piemontese, Alfredo Fioritto, Daniela Zorzi Calò, Francesco Franceschini, Michele A. Cortelazzo, Tommaso Raso) si sono impegnati in corsi di formazione del personale amministrativo e hanno prodotto anche dei manuali, di taglio diverso, di scrittura istituzionale (Cortelazzo/Pellegrino 2003; Franceschini/Gigli 2003; Raso 2005).

2. Le tappe della semplificazione linguistica in Italia

Le iniziative per promuovere una scrittura chiara e semplice sono state etichettate, in Italia, come processi di *semplificazione* del linguaggio amministrativo. Giudico infelice questa denominazione, anche se significativa: infelice perché mette l'accento sulla semplicità, che a mio parere è un mezzo, invece che sulla chiarezza, che è il fine. Significativa perché questo sostantivo ci fa intendere che il primo problema che si trovava di fronte chi voleva modernizzare la scrittura amministrativa italiana era la sua evitabile complessità. In ogni caso, occorre prendere atto che questo è il nome corrente delle iniziative per il miglioramento della comunicazione amministrativa scritta.

La data di partenza delle iniziative per la semplificazione del linguaggio amministrativo, si è detto, è il 1993, con la pubblicazione del *Codice di stile delle comunicazioni scritte ad uso delle amministrazioni pubbliche*, cui ha fatto seguito, nel 1997, la pubblicazione del *Manuale di stile. Strumenti per semplificare il linguaggio delle amministrazioni pubbliche*, Bologna, Il Mulino.

Le iniziative italiane non si sono, però, mai trasformate in una vera e propria campagna, caratterizzata da sistematicità e continuità. Un progetto di ampia portata è stato avviato, a dire il vero, nel 2002 dal ministro Franco Frattini (Progetto "Chiaro!"): la veloce carriera del

Ministro, diventato nello stesso 2002 Ministro degli esteri, e poi Commissario europeo, ha portato a un'altrettanto veloce chiusura del progetto e all'abbandono di ogni impegno governativo nel campo della cosiddetta semplificazione del linguaggio amministrativo, con l'eccezione di una sporadica iniziativa del Ministro Mario Baccini nel 2005.

Da due altre fonti si sono sviluppate, per così dire dal basso, azioni per il superamento delle barriere linguistiche create dalla scrittura amministrativa: da una parte gli enti locali (comuni, province, regioni), dall'altra, come si è detto, i professori universitari. Una prima serie di iniziative è stata attivata da enti locali, che hanno organizzato attività formative con due scopi: da una parte sensibilizzare i propri dipendenti sui danni causati dalla tradizionale scrittura amministrativa, dall'altra addestrarli a una scrittura chiara. Spiccano, in questo processo, i Comuni di Trento, Padova, Lucca e poi Schio. Una buona parte di queste iniziative di formazione è stata tenuta proprio dai docenti universitari citati nel paragrafo precedente, autori anche di studi e manuali sull'argomento.

Gran parte dei miglioramenti della scrittura istituzionale in Italia nasce proprio dalla collaborazione tra giuristi, linguisti e dipendenti della pubblica amministrazione. Il risultato più recente è la pubblicazione di una *Guida alla redazione degli atti amministrativi. Regole e suggerimenti* (Firenze 2011), patrocinata dall' Istituto di teoria e tecniche dell'informazione giuridica del Cnr (ITTIG) e dall'Accademia della Crusca.

La duplice spinta proveniente dal mondo della ricerca e da chi concretamente, nelle istituzioni pubbliche, redige testi, ha trovato inoltre espressione, nel 2005, nella costituzione, per impulso del Dipartimento italiano della Divisione Generale della Traduzione, di una *Rete per l'eccellenza dell'italiano istituzionale* (REI), che raccoglie, su base volontaria, traduttori e redattori di testi istituzionali e studiosi, soprattutto linguisti e giuristi, che hanno come oggetto delle loro ricerche la lingua giuridica e amministrativa (http://ec.europa.eu/dgs/translation/rei/).

Al termine di questo processo, però, Tullio De Mauro, altro professore che è stato anche ministro, ha osservato che "molto lavoro di analisi, elaborazione e proposta è stato fatto a partire da quando Cassese era Ministro della Funzione Pubblica, all'inizio degli anni Novanta. Molto è stato fatto perché le Amministrazioni imparino a comunicare in modo comprensibile. (…) Ma il bilancio è più modesto di come le nostre speranze di anni fa ci facevano pensare" (Tullio De Mauro, in *Dalla legge alla legalità* 2008).

In realtà, è il piano della redazione delle leggi che pare aver assorbito poco le raccomandazioni per l'uso di una lingua più comprensibile, nonostante i documenti con suggerimenti per la redazione dei testi normativi che si sono succeduti negli anni (*Suggerimenti per la redazione di testi normativi* del Consiglio Regionale della Toscana, nel 1984; Circolari di Camera, Senato e Presidenza del Consiglio dei Ministri con *regole per la formulazione tecnica dei testi legislativi* 1986: *Regole e suggerimenti per la redazione tecnica dei testi normativi della* Conferenza dei presidenti delle assemblee regionali, del 1992, con successive edizioni nel 2002 e nel 2007; Circolare della Presidenza del Consiglio dei Ministri, *Regole e raccomandazioni per la formulazione tecnica dei testi legislativi*, del 2001).

Qualche miglioramento, a volte anche cospicuo, si può notare invece nelle comunicazioni ai cittadini.

Tuttavia, il fatto che il bilancio sia più modesto di quanto sperassimo, ci pone la domanda se alcune delle componenti delle campagne per la riforma della lingua amministrativa non avessero dei limiti in sé, o quanto meno dei limiti se applicati a una lingua come quella italiana, con la sua storia e la sua struttura interna.

3. Cosa significa semplificare la lingua (amministrativa)?

Nelle iniziative per la riforma del linguaggio amministrativo sono stati adottati, in genere, suggerimenti che coincidono con le linee-guida relative alle altre lingue, in primo luogo l'inglese.

Di fronte alle linee-guida e ai testi riscritti in forma semplificata è stata opposta una critica radicale, quella di provocare un impoverimento della lingua italiana e della sua ricchezza e di suggerire delle scelte stilistiche che vanno in direzione contraria a caratteristiche strutturali della lingua italiana.

In effetti, alcune regole della semplificazione coincidono con alcune caratteristiche di quello che è stato chiamato italiano popolare: eliminazione delle ridondanze con riduzione al nucleo essenziale sintattico-semantico; prevalenza della paratassi; riduzione del vocabolario (Berruto 1987: 66). Dell'italiano popolare è stata notata la «spontanea tendenza alla semplicità», che «comporta il ripudio o la trascuratezza delle sovrabbondanti ricchezze della lingua comune» (Cortelazzo 1972 : 13).

Dobbiamo perciò porci un problema concettuale: è inevitabile far coincidere semplificazione con impoverimento? Davvero una lingua amministrativa semplificata corre il rischio di apparire come una lingua che ripudia la ricchezza della lingua comune?

In realtà, alcun riflessioni di chi si è occupato in generale di semplificazione della lingua ci possono aiutare a capire cosa sia la semplificazione in campo linguistico. Berruto (1990:20) dà la seguente definizione di "semplificazione linguistica":

> Per semplificazione linguistica, proponiamo di intendere il processo secondo cui a un elemento, forma o struttura X di una certa lingua o varietà di lingua si sostituisce/contrappone/paragona un corrisponde elemento, forma o struttura Y della stessa lingua o varietà di lingua o di un'altra lingua o varietà di lingua tale che Y sia di più immediata processabilità, cioè più facile, più agevole, meno complesso, meno faticoso, meno impegnativo cognitivamente ecc. a qualche livello per l'utente.

Per la nostra prospettiva, è fondamentale la parte finale, nella quale si sottolinea che semplificare vuol dire usare un modello di lingua che renda più facile, meno impegnativo cognitivamente, meno faticoso per l'utente comprendere un testo. In questa definizione è nodale il riferimento all'utente, cioè al soggetto che deve interpretare i messaggi: tra di essi ci sono alcuni, anzi molti cittadini che padroneggiano in maniera ridotta la loro lingua materna. Per rivolgersi ad essi è davvero necessario sviluppare una strategia di comunicazione verbale che riesca a trasmettere i significati anche a chi non ha un pieno dominio della lingua; questa strategia implica che si sappia riconoscere cosa è noto e dominato da quel tipo di parlante e agisca su questo per trasmettere anche significati di una certa complessità. Insomma, la lingua amministrativa semplice si propone di rendere chiara e comprensibile i testi anche a quei cittadini che non hanno un dominio della lingua così ricco come a volte noi, professori, avvocati, politici, funzionari, che abbiamo esperienza di testi complessi, riteniamo sia naturale.

Ma la complessità linguistica non è naturale. Anzi, naturale secondo alcune teorie linguistiche degli anni Settanta, è proprio un tipo di lingua meno complessa di quella che è stata codificata e fossilizzata nel processo di creazione delle varietà standard delle lingue di cultura.

Quindi, la semplificazione del linguaggio amministrativo non porta ineluttabilmente a un impoverimento, o appiattimento, della lingua, ma piuttosto a un recupero di quella naturalezza che decenni, e secoli, di attività della pubblica amministrazione hanno fatto perdere, un po'

alla volta, forse anche inconsapevolmente. A questo recupero di naturalezza mirano i tanti "no" che caratterizzano i precetti della semplificazione linguistica: meglio *non* usare il passivo, meglio *non* usare il congiuntivo, meglio *non* usare il gerundio, meglio *non* usare l'ipotassi.

Ma attenzione: la semplificazione ad un livello può portare complessità ad altri livelli. In un campo diverso dal nostro, Voghera (2001: 68), citando a sua volta Gaetano Berruto, porta un esempio che può essere di interesse anche per chi si occupa di semplificazione dl linguaggio amministrativo: «un ridotto paradigma flessionale verbale può essere considerato un fenomeno di semplificazione; però può portare a una polisemia delle singole forme, che rappresenta un indice di complessità semantica». Questo fenomeno può riguardare anche la nuova scrittura amministrativa: la rinuncia ad alcuni modi dl verbo (il congiuntivo, quando possibile; il gerundio), consigliata in molte linee-guida, carica l'indicativo di valori semantici che si aggiungono a quelli primari, rendendolo un modo semanticamente più complesso di quanto sia nella lingua comune e rendendo necessario l'utilizzo di altri segni (per es. avverbi, oppure fattori intonativi) per recuperare le distinzioni semantiche prima date dai modi. In particolare, c'è un uso dell'indicativo presente che non corrisponde all'uso "naturale" dell'italiano: quello con valore prescrittivo nei testi normativi («nelle formulazioni prescrittive usare solo l'indicativo presente»: *Guida* 2011: 23), al posto della modalità più consueta per indicare una prescrizione, quella data dalla perifrasi *dovere* + infinito (quindi, nelle linee-guida per la semplificazione del linguaggio normativo si raccomanda di scrivere precetti come «Il sindaco provvede alle nomine e alle designazioni di propria competenza» invece del più comune «Il sindaco deve provvedere alle nomine e alle designazioni di propria competenza»). L'indicazione delle linee-guida è certamente più semplice, e ha dalla sua delle importanti motivazioni giuridiche, ma altrettanto certamente si allontana dall'uso comune.

4. I precetti della semplificazione e la natura dell'italiano

L'esempio appena portato mostra bene quali conflitti si possono istituire tra l'applicazione di regole generalmente valide per la scrittura di testi semplici e chiari e le caratteristiche storiche o strutturali dell'italiano.

I conflitti di questo genere possono essere numerosi e gli studiosi non hanno ancora affrontato con sufficiente ponderazione il problema, per decidere se è più produttivo osservare i suggerimenti universalmente seguiti per scrivere testi chiari o attuare soluzioni diverse, più coerenti con la natura della lingua italiana.

Un primo caso riguarda il suggerimento di preferire la coordinazione alla subordinazione. Al capitolo *Scrivere frasi semplici e lineari*, Fioritto (1977: 41) specifica: «sono semplici e lineari le frasi uni proposizionali, costituite cioè da una sola proposizione con un soggetto, verbo e qualche complemento». Un titoletto rende più esplicita la raccomandazione suggerendo di «preferire le frasi di forma coordinata a quelle di forma subordinata». Per quanto il suggerimento sia opportunamente mitigato da una proposizione concessiva («Anche se non è sempre possibile scrivere frasi uniproposizionali, occorre contenere al massimo la loro lunghezza e complessità»), si tratta di un'indicazione che va in netta controtendenza rispetto alla tradizione stilistica della prosa italiana. La raccomandazione può essere vista come esempio di riacquisizione di naturalezza, rispetto alla complessità sintattica codificata dalla storia della scrittura in Italia. Ma in una lingua nella quale le relazioni logiche tra le frasi sono in buona misura esplicitate dai nessi subordinanti, il rischio che può nascere da un eccesso di coordinazione è quello di demandare alle inferenze del lettore la ricostruzione dei legami logici tra le frasi (un caso tipico, quindi, di semplificazione che si traduce, alla fine, in una complicazione del processo di decodificazione del testo).

Un secondo caso di conflitto riguarda il suggerimento di esprimere sempre il soggetto. Fioritto (1997: 44) formula così il suggerimento: «Per evitare ambiguità e difficoltà di comprensione da parte di chi legge è opportuno specificare sempre il soggetto della frase»; più sfumata, e corretta, la raccomandazione contenuta nell'opuscolo *Scrivere chiaro* della Direzione Generale per la Traduzione della Commissione europea: «Nominate il soggetto delle singole azioni, se non è chiaramente identificabile». Un'interpretazione stretta del primo suggerimento, infatti, comporta la costruzione di frasi caratterizzate da marcatezza, dal momento che in italiano l'espressione del soggetto non è obbligatoria: nelle frasi nelle quali è presente il soggetto, questo viene ad assumere una particolare enfasi, che naturalmente aumenta se l'espressione del medesimo soggetto viene ripetuta in frasi successive (realizzando, quindi, la figura retorica dell'anafora).

L'ultimo caso riguarda la raccomandazione di salvaguardare l'ordine basico delle parole nella frase (soggetto, verbo, altri argomenti) e l'ordine lineare delle frasi, addirittura con la raccomandazione di curare che la frase principale preceda le proposizioni subordinate. Ma questi suggerimenti contrastano in parte con uno dei tratti caratterizzanti la lingua italiana in confronto a molte altre lingue, il grado di libertà distribuzionale dei costituenti maggiori della frase, in parte con la grammatica stessa dell'italiano (che per alcune proposizioni, come le cosiddette causali tematiche o le gerundive temporali, prevede come basica l'anteposizione della proposizione secondaria: cfr. Salvi-Vanelli 2004).

5. Una lingua amministrativa chiara o povera?

Il processo di semplificazione del linguaggio amministrativo, con l'obiettivo di giungere a una scrittura chiara dei testi ufficiali, è dunque un processo più complesso di come, almeno in Italia, lo abbiamo affrontato fino ad ora. Ci si può chiedere se valga comunque la pena di darsi da fare per un ammodernamento del linguaggio amministrativo, in direzione della chiarezza e della semplicità.

Per dare una risposta, ci conviene riprendere la definizione di "semplificazione linguistica" fornita da Berruto (1990) e le considerazioni che abbiamo sviluppato a partire da essa.

Certamente può esistere una lingua amministrativa più semplice, come mezzo per produrre testi amministrativi più chiari. Questa lingua semplice può essere anche più povera, o più piatta di quella tradizionale, ma lo è perché è meno culturalmente costruita della lingua amministrativa codificata negli anni.

Tuttavia, paradossalmente, non è la lingua l'obiettivo vero della semplificazione linguistica. L'obiettivo è il destinatario. Per questo, la semplificazione del linguaggio amministrativo non impoverisce la lingua, ma prende atto che molte delle consuetudini che si sono costruite e fossilizzate nella lingua italiana degli uffici comportano complessi processi di interpretazione da parte del destinatario. Questi processi possono causare un eccessivo impegno nel cittadino-decodificatore e possono comportare rischi di cattiva comprensione del testo. In una parola possono portare a una forte inefficienza della comunicazione. La semplificazione del linguaggio amministrativo permetterà, quindi, al cittadino di comprendere i testi amministrativi più facilmente, con minor fatica e minor impegno cognitivo.

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Simplifying Italian administrative language: does simpler mean poorer?

1. Introduction

It is no coincidence that the topic of clear writing issues in Italy is being addressed by a university professor. In other European countries, action to improve administrative or legislative language was instigated by sectors of the public administration itself. In contrast, in Italy, it was university professors and researchers, mainly from linguistic fields, but also with a few from legal disciplines, who played a fundamental role in steering the processes for reforming administrative and legislative language.

Even at government level, it was a professor who brought about the initiatives to change administrative writing: the Minister for Public Administration (that is, the Minister in charge of the civil service) in Carlo Azeglio Ciampi's government (1993-94), was actually a professor. I am referring to Sabino Cassese, now a constitutional judge, but who, at the time, was a professor of administrative law. In that capacity, he had investigated the opacity of, and the resulting difficulty in understanding, laws (Cassese 1983; followed by Cassese 1995). As a Minister, he began to promote action to make administrative texts, and in particular information for the general public, less difficult to read. He set up a working group that, in 1993, published the first civil service style guide for written information (*Codice di stile delle comunicazioni scritte ad uso delle amministrazioni pubbliche*).

University professors in the fields of linguistics or of law followed in his footsteps (Maria Emanuela Piemontese, Alfredo Fioritto, Daniela Zorzi Calò, Francesco Franceschini, Michele A. Cortelazzo, Tommaso Raso) by providing training courses for civil servants and producing style guides for institutional writing, with various approaches (Cortelazzo/Pellegrino 2003, Franceschini/Gigli 2003, Raso 2005).

2. The stages of linguistic simplification in Italy

In Italy, the initiatives promoting clear and simple writing were referred to as processes of *simplification* of administrative language. In my opinion, this is an unfortunate name, despite the fact that it is meaningful: it is unfortunate because it focuses on simplicity, which I consider to be a means, rather than on clarity, which is the end. It is meaningful, because it does point out that the primary issue that modernisers of Italian administrative writing had to deal with was its avoidable complexity. But in any case, we must accept that this is the name commonly used to describe efforts to improve written administrative information.

We have already seen that initiatives to simplify administrative language date back to 1993 with the publication of the civil service style guide, which was followed in 1997 by the publication of another style guide entitled 'Instruments for Simplifying the Civil Service's Language' (*Manuale di stile. Strumenti per semplificare il linguaggio delle amministrazioni pubbliche*, Bologna, Il Mulino).

But the Italian initiatives never evolved into a fully-fledged, systematic and ongoing campaign. To tell the truth, a wide-ranging project was launched in 2002 by Minister Franco Frattini (the '*Chiaro!*' ('Make it clear!') project), but the Minister's rapid career, which saw him become Minister for Foreign Affairs that same year and a European Commissioner soon thereafter, led to an equally rapid closure of the project and the abandonment of any

government commitment to the so-called simplification of administrative language, with the exception of a sporadic initiative under Minister Mario Baccini in 2005.

A sort of grassroots action to overcome the linguistic obstacles posed by administrative writing was engendered by two groups: local bodies (municipalities, provinces, regions) on the one hand and, on the other, as we mentioned above, university professors. An initial series of initiatives was launched by local bodies who set up training with dual aims: firstly, to make their employees more aware of the harm caused by conventional administrative writing, and secondly, to train them to write clearly. The municipalities of Trento, Padua, Lucca and Schio stand out in this regard. A large proportion of these training initiatives were run by the same university professors referred to in the previous paragraph, who have also written studies and guides on the topic.

Many of the improvements in institutional writing in Italy were brought about precisely by this cooperation between lawyers, linguists and civil servants. The most recent result is the publication of a Guide to Drafting Administrative Acts: Rules and Suggestions (*Guida alla redazione degli atti amministrativi. Regole e suggerimenti* (Florence 2011)), sponsored by the National Research Council's Institute of Legal Information Theory and Techniques (ITTIG) and by the *Accademia della Crusca* (the Italian Language Institute).

The double impetus originating from the world of research and from those who actually draft texts in the public institutions was also expressed through the establishment in 2005 of a Network for Excellence in Institutional Italian (REI) at the behest of the Italian department of the Directorate General for Translation. This is a voluntary group of translators and drafters of institutional and academic texts, and particularly of linguists and lawyers, who are studying legal and administrative language (http://ec.europa.eu/dgs/translation/rei/).

Once this process had run its course, however, Tullio De Mauro, another professor who had also been a minister, pointed out that 'much of the analysis, preparatory work and proposals was started at the time that Cassese was the Minister for Public Administration, in the early nineties. A lot of work was put into teaching the administrations to communicate in a comprehensible way (...) but the results are more modest than we had hoped those many years ago (Tullio De Mauro in *Dalla legge alla legalità* [From Law to Legality], 2008).

In fact, it is apparent in the way that laws are drafted that the recommendations for using more understandable language have barely been absorbed, despite the series of documents with suggestions on drafting legal texts published over the years (*Suggerimenti per la redazione di testi normativi* [Suggestions for Drafting Regulatory Texts], Tuscany Regional Council, 1984; Parliament, Senate and Prime Minister's Circulars stating the rules for technical drafting of legislative texts, 1986; *Regole e suggerimenti per la redazione tecnica dei testi normativi* [Rules and Suggestions for Technical Drafting of Regulatory Texts] of the Conference of the Presidents of the Regional Assemblies, 1992, reissued in 2002 and 2007; Prime Minister's Circular, *Regole e raccomandazioni per la formulazione tecnica dei testi legislativi* [Rules and Recommendations for Technical Drafting of Legislative Texts], 2001).

Some improvement, on occasion even conspicuous, is however apparent in information for the general public.

However, given that the results are more meagre than we hoped, we must ask ourselves whether any of the constituent parts of the campaigns to reform administrative language had inherent limits or, at least, limits when applied to a language such as Italian, which has its own history and internal structure.

3. What does simplifying administrative language actually mean?

The initiatives to reform administrative language generally took over suggestions from guidelines for other languages, primarily English.

The guidelines and texts rewritten in a simplified form met with radical criticism that they were impoverishing the Italian language and its wealth, and were suggesting stylistic choices that were contrary to the structural characteristics of Italian.

It is a fact that some of the simplification rules coincide with some characteristics of what has been called 'popular' Italian: eliminating redundancy through reduction in the essential syntactic-semantic nucleus; prevalence of parataxis; reduced vocabulary (Berruto 1987: 66). This 'spontaneous tendency towards simplicity' of popular Italian has been remarked upon as 'involving the rejection of or negligence towards the copious riches of the common tongue' (Cortelazzo 1972: 13).

We must therefore address a conceptual difficulty: does simplification inevitably go hand-in-hand with impoverishment? Does simplified administrative language truly run the risk of appearing to reject the riches of common language?

Some of those who have thought about the simplification of language in general may help us to understand what simplification is in the field of language. Berruto (1990:20) defines 'linguistic simplification' as follows:

> We propose that linguistic simplification should be understood as the process according to which an element, form or structure (X) in a certain language or language variety substitutes for/counterpoints/compares to a corresponding element, form or structure (Y) of the same language or language variety, or of another language or language variety which is more immediately processable, i.e. easier, more comfortable, less complex, less tiring, less cognitively demanding, etc. at some level for the user.

From our perspective, the crucial part is the end, which emphasises that simplifying means using a language model that makes it easier, less cognitively demanding and less tiring for a user to understand a text. The reference to the user, i.e. the audience who must interpret the message, is the crux of this definition: this includes some — even many — members of the public who have limited mastery of their mother tongue. Addressing them truly requires the development of a verbal communication strategy which makes it possible to transmit meaning even to those who do not fully master the language. Such a strategy implies that one must be able to recognise what such a speaker knows and masters and use that to transmit meaning which may be of a certain complexity. In sum, simple administrative language is intended to make texts clear and understandable to members of the public whose mastery of the language may not be as highly-developed as we — professors, lawyers, politicians and civil servants who have experience of complex texts — may consider to be natural.

But linguistic complexity is far from natural. Indeed, several linguistic theories from the seventies hold that 'natural' language is precisely a less complex language than that which has been codified and fossilised in the standard varieties of cultured languages.

Consequently, simplification of administrative language does not inevitably lead to impoverishment or flattening of the language, but rather to a recovery of the naturalness that decades and centuries of activity by the public administration have lost, a little at a time, possibly even unconsciously. It is this naturalness that the many 'nots' which characterise the precepts of linguistic simplification aim to recover: it is better ***not*** to use the passive, better

not to use the subjunctive, better ***not*** to use gerunds, better ***not*** to use subordinate constructions.

But we must be careful: simplification at one level may bring complexity at others. In a field other than the one we are addressing here, Voghera (2001: 68), quotes Gaetano Berruto in an example that may also be relevant to anyone dealing with the simplification of administrative language: 'a reduced inflectional paradigm for verbs can be considered to be a phenomenon of simplification, but it may result in single forms having multiple meanings, which is a sign of semantic complexity'. This may also apply to the new style of administrative writing: avoiding certain verbal modes (the subjunctive, where possible, and gerunds), which many guidelines advise, loads the indicative with semantic values in addition to its primary values, thus rendering it more semantically complex than it is in the common language and making it necessary to use additional signs (e.g. adverbs, or elements of intonation) to recover semantic distinctions initially transmitted in the mode. In particular, there is a use of the present indicative which does not correspond to 'natural' use of Italian: the prescriptive value in regulatory texts ('use only the present indicative in prescriptive drafting': *Guide* 2011: 23), instead of the more usual method of using the verb *dovere* (roughly equivalent to 'shall') + the infinitive (thus, the guidelines for simplifying regulatory language recommend writing a rule in the form 'The Mayor effects the nominations and designations under the purview of his office' rather than the more common 'The Mayor shall effect the nominations and designations under the purview of his office'. The guidelines are certainly simpler, and are supported by important legal considerations, but they also undoubtedly diverge from regular use.

4. Rules for simplification and the nature of Italian

The above example clearly illustrates the conflicts which may arise between the application of rules which are generally valid for writing simple and clear texts and the historic or structural characteristics of Italian.

Conflicts of this nature may be numerous, and academics have not yet addressed this issue in sufficient depth to determine whether it is more productive to comply with suggestions which are universally followed in order to write clear texts or to come up with different solutions which are more consistent with the nature of the Italian language.

Let us begin with the example of the suggestion to prefer coordinate structures to subordinate structures. In the chapter entitled 'Writing Simple and Linear Sentences', Fioritto (1977: 41) states: 'Simple and linear sentences are monoclausal, i.e. they consist of a single clause with a subject, verb and some complements'. A heading makes the recommendation more explicit, suggesting 'Prefer coordinate sentences to subordinate sentences'. Although a concession is made to soften this suggestion where appropriate ('Even if it is not always possible to write monoclausal sentences, they should be kept as short and simple as possible'), it is nonetheless contrary to the stylistic tradition of Italian prose. This recommendation may be viewed as an example of recovering naturalness in comparison to the codified syntactic complexity of writing in Italy as seen historically. But in a language which expresses the logical relationship between sentences largely through subordinate nexuses, there is a risk that excessive coordination will require the reader to infer and reconstruct the logical links between the sentences (this is therefore a typical example of simplification which, in the end, results in a more complex decoding process for the text).

A second example concerns the suggestion to always state the subject. Fioritto (1997: 44) makes the following suggestion: 'To avoid ambiguity and difficult comprehension on the part of the reader, the subject of the sentence should always be specified'. The recommendation in

the Italian version of the *How to Write Clearly* pamphlet prepared by the Directorate General for Translation of the European Commission is more nuanced and more correct: 'Name the agents of each action if they cannot be clearly identified'. A strict interpretation of the first suggestion would, in fact, result in the construction of emphatic sentences, given that Italian does not require the subject to be stated. Stating the subject in a sentence places emphasis on it, which naturally increases if the same subject is repeated in subsequent sentences (that is, using the rhetorical device of anaphora).

The last example concerns the recommendation to maintain the basic order of words in a sentence (subject, verb, additional arguments) and the linear order of sentences, going so far as to recommend that care be taken to ensure that the main clause precedes the subordinate clauses. These suggestions run counter to both a characteristic trait of Italian in comparison to many other languages, i.e. the degree of freedom in arranging the main components of sentences, and to Italian grammar itself (which, for certain clauses, such as thematic causal clauses or temporal gerunds, requires that the secondary clause be placed before the primary one (Salvi-Vanelli 2004)).

5. Is administrative language clear or impoverished?

The process of simplifying administrative language, with the goal of achieving clear drafting of official texts, is therefore of greater complexity than the way it has been addressed up to this point, at least in Italy. One might wonder whether it is actually worth making the effort to modernise administrative language by moving towards clarity and simplicity.

The definition of 'linguistic simplification' provided by Berruto (1990), together with the reflections we developed from it, can help us to arrive at a conclusion.

Simpler administrative language can certainly exist as a means of providing clearer administrative texts. This simpler language may also be poorer or less varied than conventional language, but this is because it is less culturally structured than the administrative language which has been codified over the years.

However, language, paradoxically, is not the actual target of linguistic simplification. The target is the audience. For the audience, simplification of administrative language does not impoverish the language. Rather, it takes account of the fact that many of the habits that have been built up and fossilised in the Italian of official circles require complex interpretation on the part of the audience. These interpretation processes may require excessive effort on the part of the public/decoder and may involve a risk of misunderstanding the text. In a word, they may result in highly ineffective communication. Simplification of administrative language will therefore enable the public to understand administrative texts more easily and with less mental effort.

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Sandra Fisher-Martins, Portugal

Sandra Fisher-Martins runs Português Claro, a training and consultancy firm that introduced plain language in Portugal and has been helping Portuguese companies and government agencies communicate clearly since 2007.

Sandra is particularly interested in the use of plain language and information design in public documents as a way of helping citizens make informed choices about their health, education, welfare, and civil rights. Her clients include the Government, Inland Revenue, Social Security, Caixa (Portugal's largest bank) and ZON (telecommunications).

Sandra is the Portuguese representative for Clarity, the international association promoting plain legal language. She is a member of the board of PLAIN and part of the International Plain Language Working Group.

Breaking down barriers to plain language in Portugal

I'd like to thank Mr Verleysen, Emma Wagner, Paul Strickland and everyone at DGT who organized the conference for their invitation and the opportunity to tell you about plain-language initiatives in Portugal.
There is good and bad news to report and staying true to plain language principles I will tell you the bad news first and not hide it in a thicket of verbiage.

Low literacy in Portugal

Portugal has a serious literacy problem. In general, the Portuguese population struggles to read even the simplest documents and more than 10% can't read at all.
According to the International Adult Literacy Survey from 1996, 50% of the Portuguese are at level 1 on the literacy scale — which means their literacy skills are very low. They can put letters together to read words, but they might be unable to determine the correct amount of medicine to give to a child based on the information printed on the leaflet.
30% get by if the documents they're dealing with are not too complex but they'll struggle if faced with a new task, like learning a new skill at work.
15% have the minimum level of skill needed to deal with the demands of everyday life in our advanced societies.
Only 5% of the nation's readers have a level of literacy that enables them to deal with complex documents. In contrast, in Sweden 5% of readers have low literacy and 75% have the literacy needed for everyday life.
In Portugal, the gap between the skill needed to understand public communications and the skills of the majority of the population is huge.

So, what can we do?

We can improve our school system, but the results will only be visible in a generation or two and are very difficult to implement. Recently, the government tried to introduce measures to give teachers regular assessments — they backed down after large demonstrations and strikes.
A more immediate and less controversial route is to make our communications easier to understand.
To be honest, clearer language isn't going to help the 50% at level 1. We need to be even more creative if we want to help these people access their rights and participate in democratic life as citizens. But the others, particularly the 3 million at level 2, would benefit greatly from public documents written in plain language. They would not have to skip work the whole morning to go to the Inland Revenue office because they received a letter they couldn't figure out. They would be able to understand how a new social benefit applied to them and take action to start receiving it.

Clear public communications is something to which we're entitled to as citizens.

However, there are many obstacles to overcome. As those of you who are Portuguese translators know, this is a language that invites complications. It's noun-driven, full of complex verb forms and sentence structures.
Add to that a culture of formality, an inclination for the bureaucratic and one of the highest concentrations of lawyers in Europe, and plain language could easily have never taken off. But it did. And that brings me to the good news.

Clarity2010 — the first international plain-language conference in Portugal

In October last year, plain-language experts and advocates from 22 countries gathered in Lisbon to share experiences, discuss their latest projects and, by and large, have a great time.

It was Clarity's fourth international conference and, for many Portuguese professionals and public servants, it was their first contact with this subject.
Clarity is an international association that, for more than 20 years, has promoted plain legal and administrative language.
More than 300 people attended the conference, many of them lawyers employed by government agencies who had a faint curiosity about plain language but had never understood the dimension of the movement, the work being done all over the world and the variety and the calibre of the people involved. Throughout the 3 days of the conference I kept hearing the sound of pennies dropping.

Government plain-language initiatives

One of the highlights of Clarity2010 was the announcement of a government initiative – the publication of plain-language summaries, in Portuguese and English, of the new legislation produced by government (a sort of citizens' summary, like the ones published by the Commission).
Since October, more than 70 summaries were published in the online version of the Portuguese Official Gazette.
The summaries are part of a larger programme called Simplegis, which aims to simplify the legislation. Clear language plays an important part in Simplegis. Along with the summaries there are also plans for plain-language guides for complex laws and a new drafting handbook.

Another government initiative that was presented at Clarity2010 by the secretary of state for administrative modernization was 'Simples em Português', an ambitious program for modernizing and simplifying the language used by the public sector.

A programme to simplify administrative language

'Simples em Português' was developed by Português Claro and the National Institute for Modernization, and later integrated into Simplex, the government's programme for administrative modernization.

The programme includes:

- Training on how to write in plain language or start a plain-language initiative in your agency
- Website available to staff and the public
- Handbook with plain-language guidelines
- Glossary of public administration and legal terms
- Templates of the most used documents

- Forum for discussing ideas and for support

However, it has not been implemented yet and, given the recent budget cuts, the agency in charge is reluctant to discuss any plans for its implementation.

Public and private organizations are switching to plain language

Back to the good news:
In the public sector there is a growing interest in plain language. The grapevine is talking about a project to rewrite court notices, another to clarify social security forms and another to build a new justice portal with clearer contents and interface.
More and more public agencies are seeking training for their staff. At a time when training budgets are being slashed, this investment in plain language shows that clear communication is becoming a priority.
In the private sector, banks, insurance companies and telecoms are the early adopters of plain language in Portugal. Both PT and ZON, the two largest telecoms, had their letters and emails rewritten in the last two years. Recently, ZON became the first Portuguese company to carry Português Claro's clarity mark — Claro! — on some of its customer service letters.

Experience tells us that the most successful plain-language initiatives are the ones that combine policy change and a bottom-up approach.
We lobby politicians and decision-makers (and, slowly, that has lead to significant change), but we also want to raise people's awareness of plain language as something they're entitled to. So, we launch *Claro!*
How does *Claro!* work?
The certification mark helps companies show off their simplification efforts. At the same time, it raises awareness of plain language and helps us raise money to produce booklets (the *Claro!* guides) for non-profits and NGOs.
Our first booklet will be a guide about volunteering, a partnership with AMI – Assistência Médica Internacional (a Portuguese NGO that provides humanitarian help throughout the world), ZON and the Youth Institute.
This spring we will have the first *Claro!* awards for the best and the worst public documents. Awards are a tried-and-tested marketing strategy used by plain-language advocates all over the world with great results, so we decided to give it a go. An independent jury will assess all entries and pick the finest and the scariest examples, which will collect their awards at a gala dinner.

Rewriting the EU Charter for Fundamental Rights

One of the contenders for best document — if I can be a bit partial here — will surely be the plain-language version of the Charter for Fundamental Rights of the European Union.
If you're familiar with the Charter, and I'm sure most of you will be, you'll know that it is a deceptively simple document. Concepts like dignity, security, eugenics and many others have complex meanings that many readers would ignore.
To help Portuguese citizens find out more about the Charter and its implications for their daily life, Português Claro worked with two DGT translators at the Commission's representation in Lisbon to create a booklet offering a plain-language explanation of each article. These explanations are based on the commentary issued by the EU network of independent experts on fundamental rights.

The booklet, which shows the original text side-by-side with the simplified version, was a hit: 10 000 copies were published and they are all gone. We're hoping the Representation will release another edition and, who knows, the DGT will accept our challenge of translating the plain-language Charter into the other EU languages.

Our plans for the future

As plain language becomes more popular, the need for skilled practitioners grows. We, at Português Claro, can only do so much. So, we're applying for EU funding (together with partners from Belgium, Austria and Estonia) to develop a European Diploma in Clear Communication.

This will provide post-graduate training for people working in the public sector (at national or European agencies) and people wishing to work as consultants. If our application is accepted, in a couple of years the Diploma will be available in three or four higher education institutions across the EU.

I'm optimistic about the future of plain language in Portugal. But three things need to happen:

1. We need to continue raising people's awareness of plain language as a civil right
2. We need to make sure it stays on the political agenda
3. We need to train more plain-language writers and consultants to do the work and meet the increase in demand.

Each of these goals faces its own obstacles, but I'm confident that, as citizens and consumers across Europe are forced out of their apathy by the troubled times ahead, clarity and transparency will be on their demand list and governments and businesses will not only respond to those demands but embrace plain language as a tool for innovation and evolution.

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‘Clear language is not a luxury to be added if time allows… If the ordinary citizen cannot understand the law […], one cannot say that democracy prevails in any true sense of the word’

Anne-Marie Hasselrot (Sweden)

Publications Office

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