Legal terminology: On intelligibility and strategies for dissemination

Jan Engberg

Aarhus University

Abstract
The aim of the chapter is to study the concept of paraphrase developed by Simonnæs for describing textual elements directed at non-experts in court decisions and intended to give insight into the legal argumentation of the court. Following a discussion of the concept of paraphrase I will study two texts disseminating legal concepts in different situations (Wikipedia article for general public, article from ministry aimed at children and adolescents) and especially investigate, to what extent the paraphrase concept is applicable also for describing dissemination strategies in such situations. In the conclusion, hypotheses for further investigation of knowledge dissemination in the field of law are formulated.

1. Introduction

This chapter, published in honour of Ingrid Simonnæs on the occasion of her birthday in March 2012, discusses the general theme of intelligibility of terms and dissemination of the underlying conceptual knowledge in legal communication. The main reason for choosing this topic is that it is one of the aspects of the field of linguistic studies of legal communication to which Ingrid Simonnæs has made a considerable contribution. Furthermore, it is one of the many fields where she and I have shared interests during the last 20 years of following each others work. Thus, it is an apt topic for putting up a milestone in the ongoing process of discussions between us so far, which we will certainly carry on in different contexts also in the future.

The field of intelligibility of legal texts is wide, as is natural from the point of view of the social importance of legal communication. Behind lies in general the tenet based upon constitutional rules at least in Western legal systems that the possibility of getting to know a legal rule is a necessary prerequisite for punishing citizens who do not comply with the rules (Simonnæs 2003: 2; cf. also Klein 2004 and Eichhoff-Cyrus /Antos 2008). This is especially relevant in the field of criminal law, based upon the ancient principle *nulla poena sine lege*. At least three types of work in the field of intelligibility of law may be singled out:

- Work studying the extent to which participants in legal processes actually understand the process they are involved in. The motivation for this type of research is to reveal the power relations behind the legal process. Studies are often carried out using types of discourse analysis and conversational analysis, focusing upon the interaction between, e.g., prosecutor, defence attorney, judge and the accused. Recent examples of this type of work are (Cotterill 2003; Heffer 2005; Stygall 2012).[1] The main assumption is that intelligibility problems are rooted in differences in the power positions between different participants.

[1] Cf. Also the other articles in section VI on courtroom discourse in Tiersma/Solan (2012).

- Work studying the intelligibility of legal texts from the point of view of the rhetorical form of the texts. Here we find the plain language movement and similar investigations and initiatives. The main assumption here is that intelligibility problems are rooted in the linguistic choices behind the text, and that different choices may help making the text more intelligible. Recent examples of work are (Hülper 2004; Adler 2012).
- Work studying the knowledge actually conveyed in and through legal texts. The motivation for this type of research is to look behind the surface of the text and the roles in the interaction and get to the actual content, which is seen as the main point in legal communication. Studies may be oriented towards investigating texts and the content expressed in them (e.g., Engberg 2008, Anesa 2009).[2] But they may also focus more upon empirically assessing the knowledge actually constructed by non-experts being subjected to legal texts and concepts (e.g., Hansen-Schirra/Neumann 2004; Becker /Klein 2008; Luttermann 2010).

The bulk of Simonnæs' work on intelligibility and understanding in connection with legal texts belongs to the third group of work.[3] Focus in this paper will therefore be upon this type of studies. My aim will be to demonstrate the wider applicability of some of the principles for disseminating legal knowledge developed by Simonnæs especially in her doctoral dissertation. Simonnæs here worked on the dissemination of legal knowledge in German court decisions. In order to demonstrate the wider applicability of the results, I will analyse two instances of dissemination of legal knowledge from the German legal system in two different venues: a Wikipedia article and a website targeting children and adolescents. I will investigate, firstly what strategies are followed in the process of dissemination, and secondly to what extent these strategies are in accordance with the Simonnæs' results. Consequently, I will in section 2 sketch out the principles and positions elaborated by Simonnæs and proceed in section 3 with the analysis of the two dissemination texts. Section 4 compares the different analyses and concludes the paper.

2. Simonnæs on intelligibility (*Verständlichkeit*)

Ingrid Simonnæs' most important contribution to the study of intelligibility and dissemination of legal knowledge in and through legal texts is her doctoral dissertation (Simonnæs 2003) published in 2005 (Simonnæs 2005). In this section I will present some of the principal ideas in her work with relevance for the purposes of my argumentation in the remainder of the article.

The dissemination context in Simonnæs (2003) is a group of texts formulated by experts, but with experts as well as non-experts as receivers: She investigates court decisions of German courts of first and third instance. In this type of communicative situation, the text producing judge has to address the lay parties as well as possible lay judges, on the one hand, and judges (experts) in courts of higher instance that may have to assess and evaluate the decision in the course of a possible appeal process, on the other hand. They thus have to address receivers with different background knowledge (Simonnæs 2003: 7). In this connection, Simonnæs studies how selected legal concepts, defined in statutes, are presented in the

[2] The work by Anesa is especially interesting, as it investigates how lawyers use not their status, but their specialised *knowledge* as an instrument in the communication with juries in court. It thus shows a different perspective on the argumentative battle in court than in more sociologically oriented works. For arguments for the necessity of including studies of (individual) knowledge in the study of legal communication, cf. also Engberg (2007) and Simonnæs (2008).

[3] See Simonnæs (2008) for a paper including also studies of the receiver side of the interaction.

decisions: in the form of specialised terms or (additionally) in the form of paraphrases of the concepts. She is especially interested in two things: Firstly, the relations between terms and paraphrases of the concepts underlying such terms within the same court decisions; and secondly in the proportions of terms and paraphrases, respectively, across court decisions at the level of 1st and 3rd instance.

Behind this lies the assumption that the two ways of presenting legal concepts (terms and paraphrases) are more relevant for either of the groups of receivers: As experts of the same field as the deciding judge, the judges of higher instances may very well understand the legal concept merely through the term, whereas lay receivers will rather be able to understand the legal concept if a paraphrasing strategy is followed. Based on this assumption, Simonnæs hypothesizes that there will be more paraphrases in court decisions at the level of first instance, whereas court decisions at the level of third instance will contain a higher proportion of terms compared to paraphrases (Simonnæs 2003: 8).

Where the definition of terms in the work as the conventionalised unity of specialised concept and its standardised designation is straightforward and based upon the German DIN 2342 standard, there are potentially more ways of defining paraphrase. Importantly, paraphrases are seen as means to overcome problems of intelligibility (Simonnæs 2003: 18). She gives the following definition of a paraphrase in her context:

> Ich verwende 'Paraphrase' also als unidirektionale Wiederholung mit anderen sprachlichen Zeichen bei gleichzeitigem Wechsel von Begriffsebene auf ontische Ebene.[4] (Simonnæs 2003: 13)

This definition suits the purposes of the dissertation project and the object of study very nicely. In order to apply Simonnæs' concept of paraphrase in my subsequent analyses two parts of the definition must be discussed in more detail:

- Unidirectional repetition (*unidirektionale Wiederholung*)
- Shift ... to ontic level (*Wechsel ... auf ontische Ebene*)

Concerning the first bullet point, the idea of paraphrases as concrete *repetitions* is tied to the communicative situation in the centre of interest in the context of (Simonnæs 2003) as well as of the present paper, i.e., the situation where the receiver should not only understand the content of a specific legal concept, but also know the conventional and specialised name of it. In many communicative situations this is not a necessity. E.g., in a manual for a toaster it does not matter whether the user knows the specialised designation (= the specialised word) for the heating device in the toaster. It suffices that the user knows the function of the device and the dangers connected to its function. In such a case, the paraphrase is at most a 'repetition' of a concept as part of specialised knowledge, not something textually realised. In the court situation, on the other hand, the main idea is exactly to mediate between the specialised legal concept and the knowledge of the lay person, as the lay person is subject to the consequences of the specialised legal concept. And this is also the case in the communicative situations to be analysed in section 3 below.

Concerning the feature of *unidirectionality* of the paraphrase, Simonnæs states as a characteristic of her paraphrases that they imply a *shift to the ontic level* and that this makes them unidirectional (= have a narrower meaning potential than the full concept referred to by the term (Simonnæs 2003: 13). In her analysis, this means that she classifies all aspects of the

[4] I apply 'Paraphrase' consequently as unidirectional repetition by way of different linguistic means, shifting simultaneously from the conceptual to the ontic level (my translation).

treated cases that are presented as instantiations of legal concepts or of features of legal concepts as paraphrases. As an example, in one of her investigated court decisions the legal concept expressed through the term *versuchter (schwerer) Diebstahl* is paraphrased as *Einbruch in eine Gaststätte verüben*. But also the words *Geld, Beute* or *Rind* (referring to things that have been stolen in the case treated in the analysed decision) are seen as paraphrases of *bewegliche Sache* as a feature of the concept of *Diebstahl*. I.e., in her analysis a paraphrase is the communicative application of a legal concept in the context of deciding a legal case for characterising aspects of the case in the framework of the concept to be used (*Subsumierung*, Simonnæs 2003: 16; 18). Interestingly, Simonnæs does not seem to be interested in (or have found any?) explicit textual connections between terms and their paraphrases. Instead, the relations are established as interpretations on the basis of her own legal knowledge (Simonnæs 2003: 108). In many communicative situations such an implicit relation between legal concept and its paraphrase, which presupposes specialised knowledge for its recognition, would not be enough to fulfil the intended function of the paraphrase in connection with explaining and disseminating the legal concept. And from the point of view of engendering intelligibility and achieving dissemination goals the explicitation of the relation between term and paraphrase is probably central. But Simonnæs' approach is interesting, because it gives the analysor the possibility to classify a larger amount of textual units as paraphrases and thus achieve a broader empirical basis for assessing structural possibilities of paraphrasing and thus disseminating conceptual knowledge, be it in a more implicit way.

Behind the idea of the repetition as *unidirectional* lies probably also hidden the idea that the legal concept as represented by the term, introduced in relevant texts and held by legal experts is fuller than the paraphrase. Thus, what is said in the paraphrase covers less information and is more focused than the full concept. How does this influence the analytical procedure? Behind the idea of the concept being fuller than the paraphrase lies in my opinion as one less explicated factor the idea from legal doctrine about a hierarchy of sources for assessing legal meaning through interpretation. This hierarchy is reflected in the system of sources of law (*Rechtsquellen*), which is part of the core knowledge of any legal system. The German system, e.g., works with, among others, the following *Rechtsquellen* in this order:

1. Constitution
2. Formal statutes
3. Customary law
4. Judge-made law

(http://de.wikipedia.org/wiki/Rechtsquelle)

What this hierarchy means is that, e.g., the description of a concept like *Diebstahl* (Theft) in a formal statute is the primary guide for interpreters to learn what the concept contains. Customary law works within the confines of this description and fills out possible gaps, and in the same way judge-made law fills out gaps left by the other sources, but else is confined by the content of these sources. The hierarchy is thus a kind of guide to practical interpretive work by lawyers. The hierarchy is reflected in the fact that Simonnæs (2003) in her analyses in section 7.1 confronts the texts under scrutiny directly with the relevant statutory regulations. Interestingly, as shown already by Busse (1992) it is difficult to combine this idea with the fact that the short formulation of a legal concept in a statute actually does not convey all of the knowledge of which the concept consists, especially as other sources fill out gaps left by, e.g., the formal statutes. Instead the meaning and thus the conceptual legal knowledge to be conveyed is present in the totality of expert conversation about the concept,

including court decision and 'official' legal commentaries (representing, among other things, customary law). This, on the other hand, is reflected in the fact that Simonnæs (2003) includes other sources like legal commentaries in her construction of conceptual structures in section 7.2. The concept thus has a broader basis than just the statutory formulation (Simonnæs 2003: 88). And what makes it more central than the paraphrase (and thus the relation between the term and the paraphrase unidirectional, from term to paraphrase) is the fact that it is based in the legal knowledge as expressed in the relevant legal sources.

I adopt this procedure in my analyses in section 3 of this paper in the way that I also take the concept as expressed in texts belonging to the central field of specialised legal knowledge as point of departure for my analyses.[5] However, I find it important to state that studies of the development of legal concepts have shown that also influences from outside the legal system may play a decisive role in such developments. In Engberg (2010), e.g., I have shown the impact of a shift in psychology and in the position of the general public towards punishment on a change in the concept of *Mord* in the Swiss criminal code. In this way, actually the degree to which a specific paraphrase is used and accepted by the receivers may play a role for the content of the concept. The content of the specialised term is not immune to the way people talk about it as the system of legal terms is not a closed and isolated system. In dissemination situations like the ones treated in Simonnæs (2003) as well as in section 3 of this paper, however, this aspect may be neglected, as the communicative task is definitely one where non-experts are supposed to get insight into expert concepts.

The last concept from Simonnæs' work with central relevance for my subsequent analyses is the concept of intelligibility (*Verständlichkeit*). She gives the following definition of the concept:

> Für diese Untersuchung wird ‘Verständlichkeit‘ als Bezeichnung für den Sachverhalt benutzt, dass der Rezipient eines Gerichtsurteils den Darlegungen des Gerichts soll folgen können. Die Darlegung erfolgt, indem das im Urteil beschriebene Verhalten durch Subsumierung der betreffenden juristischen Norm zugeordnet wird […] ‘Verständlichkeit‘ wird daher hier wie folgt verwendet: „kommunikative Qualität einer in einem Terminus verdichteten Textstelle bei Berücksichtigung des situativen Kontexts.[6] (Simonnæs 2003: 16)

Intelligibility is thus connected to being able to follow what the expert writer wants to say and especially how the expert writer subsumes the facts of the case under the legal rules to be applied for the decision. Importantly, Simonnæs states that this implies that intelligibility has to be evaluated in the light of the situational context, here the context of being able to follow the subsumption. And this means being able to understand the parts of the complex specialised concept with relevance for the subsumption.

So the challenge we have to cope with in communicative situations like the one investigated by Simonnæs is the gap between the complex specialised knowledge of legal experts on which they draw by way of using terms in their specialised texts, on the one hand, and the lack of this specialised knowledge among non-lawyers, on the other hand (Simonnæs 2003: 17). Simonnæs suggests to see paraphrases as the way in which judges intend to overcome the problem via communication. From the definition of a paraphrase cited above, it is visible

[5] Along the same lines, consider also the similar procedures adopted by Wichter (1994); Gerzymisch-Arbogast (1996) and Luttermann (2010), to mention only a few examples.

[6] For this study 'Verständlichkeit' is used as designating the state of affairs that the receiver of a court decision shall be able to the deliberations of the court. These deliberations result from the subsumption of the described behaviour under the relevant legal norm [...]. 'Verständlichkeit' is thus used as follows: "communicative quality of a text chunk condensed into a term considering the situational context". (my translation).

that the paraphrase differs from the term it reformulates on two levels: it is different in choice of linguistic formulation, and it is different in the way that it constitutes a shift from the abstract to the ontic level. In Simonnæs' case a paraphrase is always characterised by having both characteristics, and this fits all her examples. However, I would at least consider it possible to find paraphrases for dissemination purposes that do not show both characteristics. In my subsequent analysis I will investigate this aspect considering the differences in situational context.

In this section I have outlined some central ideas from Simonnæs (2003) concerning the importance of terms, paraphrases and knowledge for achieving intelligibility in German court decisions. Her approach has been developed for a special kind of communicative situation with a special situational context. The speciality lies in the fact that the main dissemination task consists in making the linking of the facts of the case to the chosen legal concepts by way of subsumption accessible to the non-expert participants in the court case. Simonnæs does not seem to see it as a major task of the judge to teach the non-expert participants about the general and systematic characteristics of the treated concepts. If the non-expert participant has understood the relation between facts and law suggested by the court, the communication has been successful. In the subsequent section I will apply the ideas and the results of Simonnæs' work to a type of texts which actually has a more traditional dissemination purpose, viz., texts intending to teach the non-expert receiver about a selected legal concept.

3. Adjusting to knowledge of the receiver: The case of disseminating concept knowledge

Following the approach suggested by Simonnæs above, I will begin my empirical investigation by assessing the expert version of the concept under scrutiny and then study, how the concept is paraphrased in two texts intended to inform two different kinds of non-expert receivers about the concept.

The concept under scrutiny here is the German concept *Ermittlungsverfahren* from the field of criminal procedure, i.e., the preliminary part of a criminal procedure leading to a decision on whether to open court proceedings or not. I have chosen two sources as central in order to assess the expert version of the concept: The relevant statute (*Strafprozessordnung*) and a recognized encyclopedia (Creifelds 2002). The reasons for this choice, which is in accordance with the methodology used by Simonnæs, were given above. For practical reasons, however, I will not start out by citing all the relevant statutory regulations (§§ 160 - 177 StPO, i.e. of the German code on criminal procedure) or of the article in the chosen encyclopedia. Instead, I will start out by investigating the texts to be analysed and then compare the chosen renderings with relevant parts of the statute and the encyclopedia text.

3.1 Example 1:Wikipedia article

In the German version of Wikipedia, we find an article on *Ermittlungsverfahren* (http://de.wikipedia.org/wiki/Ermittlungsverfahren). Below you will find an extract of the article, on which the analysis will be focused. For reasons of space, I will concentrate my analysis on the introductory statement on the concept, i.e., upon the information given about the process of starting an *Ermittlungsverfahren*, but I will also touch upon macrotextual aspects of the full article. Focus will be on the extent to which the two central aspects of paraphrases treated above (the unidirectional repetition in the form of a reformulation of the original concept, on the one hand, and the shift to the ontic level, on the other) are found to be relevant in the analysis of my material. As a consequence of this focus, in the extract from

the Wikipedia page below I have focused upon the actual formulation of the text. Thus elements of the multimodal setup of the text enabled by its publication on a web platform like colour, links, etc., will not be treated here, as they are not relevant for investigating the paraphrase aspect of dissemination. However, I have chosen to conserve the signalling of the external links in the rendering of the text in order to show where this element has been applied. So every underlining means that there is a link either to a different article at the Wikipedia platform or to the relevant section of the statute.[7]

> [1]Das **Ermittlungsverfahren** (EV) oder Vorverfahren ist Ausgangspunkt jedes Bußgeld- und Strafverfahrens.
> [2]Gesetzlich geregelt ist das Ermittlungsverfahren im Zweiten Abschnitt des Zweiten Buches der Strafprozessordnung (§ 160 bis § 177 StPO)
>
> [...]
>
> Einleitung des Ermittlungsverfahrens
>
> [3]Die Ermittlungen müssen nach dem Legalitätsprinzip aufgrund von Anzeigen oder zureichender Hinweise auf eine Straftat stets aufgenommen werden ([...]; sog. Anfangsverdacht gemäß § 152 Abs. 2 StPO in Verbindung mit § 160 Abs. 1 StPO). [4]Die Staatsanwaltschaft (StA) hat in diesem Zusammenhang das Recht und die Pflicht zur Einleitung von Ermittlungen. [5]Die Ausnahme bilden sogenannte Antragsdelikte, bei denen die Staatsanwaltschaft in Deutschland in einem *besonderen öffentlichen Interesses an der Strafverfolgung* ebenfalls ermitteln darf. [6]Reine Antragsdelikte erfordern jedoch den Antrag des Verletzten. [7]Gemäß § 153 StPO kann die StA das Verfahren aber auch einstellen; [8]geht es darum, dass das öffentliche Interesse an der Strafverfolgung verneint werden soll, kann die StA Auflagen und Weisungen erteilen (§ 153a StPO).
>
> [9]Bestätigt sich der Anfangsverdacht hingegen nicht oder werden Beweisverbote ersichtlich, kann die StA das Verfahren nach § 170 der Strafprozessordnung auch einstellen.
>
> (http://de.wikipedia.org/wiki/Ermittlungsverfahren)

The article extract starts out with an introductory section presenting the immediate context of the *Ermittlungsverfahren* (sentence 1-2). It is stated that the preliminary investigations stand at the beginning of every type of criminal procedure (*Bußgeld- und Strafverfahren*), and what part of the statute describes the procedure. The statute has no definition of the preliminary investigations and thus no textual element similar to the introduction. The first section on *Ermittlungsverfahren* has the following formulation:

> Sobald die Staatsanwaltschaft durch eine Anzeige oder auf anderem Wege von dem Verdacht einer Straftat Kenntnis erhält, hat sie zu ihrer Entschließung darüber, ob die öffentliche Klage zu erheben ist, den Sachverhalt zu erforschen. (§ 160 I StPO).

What is stated here is the fact that the public prosecutor (*Staatsanwaltschaft*) has to begin investigations, once he becomes aware of a possible crime. No focus is placed upon the role of *Ermittlungsverfahren* for the subsequent parts of the criminal process. The beginning of the article on *Ermittlungsverfahren* in *Creifelds* does not contain any information similar to the one in the Wikipedia article, either. Instead, it starts out with an introductory part stating what institutional parties may begin the investigation of crimes and thus be active in starting the *Ermittlungsverfahren* (*Staatsanwaltschaft, Polizei, Finanzamt, Zollfahndungsstelle* (Creifelds 2002: 435). This information is given at the end of the article on *Ermittlungsverfahren* in Wikipedia.

[7] For reasons of space I have chosen not to translate the texts under scrutiny to any greater degree. Instead, in the analysis I will paraphrase (!) the content of relevant parts. The sentence numbers have been inserted into the extract (and in the text analysed in 3.2) for ease of reference in the following rendering of the analysis. They are not part of the original text.

On this basis I do not find it obvious to see the introductory part of the Wikipedia article as even a pragmatic paraphrase (repetition not of linguistic material, but of the meaning or sense of a different utterance, Simonnæs 2003: 12), as it does not repeat any information given in the statute, and as at least the investigated encyclopedia article does not contain this information in any direct form, either. The text in *Creifelds* contains the information indirectly in the way that it constantly refers to the relevant sections in the statute when explaining the details of the *Ermittlungsverfahren*. I consider the text part in the Wikipedia article as rather an example of giving contextual background in order for the reader to know what part of the legal universe the disseminated concept belongs to. This information obviously is *presupposed* in the statute and the expert text from the encyclopedia, but I would not consider it part of the meaning or sense conveyed by the expert texts. Secondly, this type of contextual background does not comply with Simonnæs' second aspect of relevance for paraphrases, either, i.e., the aspect of shifting onto the ontic level. The introduction makes implicit background knowledge explicit, but we do not leave the general level of the legal world (*jedes Bußgeld- und Strafverfahrens*). For there is no allusion to concrete experiences or to parts of the more concrete world of the receiver. Thus, in my view we here have an example of a type of dissemination strategy different from a paraphrase, viz. mere explicitation of presupposed knowledge not alluded to in the paraphrased text.

The second section in the extract from the Wikipedia article cited above, on the other hand, has clear examples of paraphrases in the sense of a pragmatic reformulation. It states in the first four sentences (sentences 3 – 6) that investigations have to be taken up by the *Staatsanwaltschaft*, once it becomes aware of a possible crime, and in what ways it may achieve such awareness. It is thus a paraphrase of what is said in § 160 I StPO (cf. above), among others. The Wikipedia article introduces the concept of *Legalitätsprinzip*, which is used in legal text books to refer to the duty of investigating possible crimes once a relevant state authority becomes aware of them. This concept and its term do not occur in the statute, as it has been developed in legal doctrine. But it is an integral part of the article in *Creifelds*. The same is the case with the concept of *Anfangsverdacht* (initial suspicion justifying the inception of investigations). The last part of the section (sentences 7 – 9) refers explicitly to sections of the relevant statute (*§ 153 StPO, § 153a StPO, § 170 der Strafprozessordnung*) and are thus also clear examples of paraphrases of the content of these sections in the form of reformulations.

In what ways do the paraphrasing reformulations in the extract from the Wikipedia article differ from the underlying formulations, e.g., in the statute? If we compare, by way of example, the text from the statute cited above (§ 160 I StPO) with the first two sentences of the extract from Wikipedia, we see that there is not much difference between the texts at lexical level: central repeated lexems are *Staatsanwaltschaft*, *Anzeige*, *Verdacht*. In later parts of § 160 (§ 160 III StPO) we also find the lexem *Ermittlungen.* Thus, there is no substantial difference between the central words chosen in the two textual extracts, nor does the Wikipedia text directly explain these words in the article investigated here. So the reformulation does not consist in choosing other central words. However, as is visible through the underlining of the words, explanations are given in the form of links, thus referring the reader to other Wikipedia articles. Consequently, there is a difference between the statutory text and its paraphrase in the way that the paraphrasing Wikipedia article takes care of referring the reader to background information, thus making information potentially explicit which in the statutory formulations is only mentioned by a label (the term) and else presupposed. But contrary to before, I would talk about a paraphrase here, as the given

background information may be referred directly back to elements mentioned in the statutory text.

Furthermore, there is a difference to the statutory text in the fact that the Wikipedia article (like the article in *Creifelds*) expresses principles and duties that are inferable from the statutory text, but not explicitly labelled with a term as such in the statute. One example is the concept of *Legalitätsprinzip* mentioned above. Another example is the formulation ... *das Recht und die Pflicht zur Einleitung von Ermittlungen* in the second sentence of the extract from the Wikipedia article. This is equivalent to the formulation in the statute ... *hat sie ... den Sachverhalt zu erforschen*, a formulation which is almost identical in *Creifelds*. Instead of expressing the duty verbally through *haben + zu*, the duty is expressed in a noun, stating it directly and thus a bit more explicitly as such.

Contentwise, focus in the Wikipedia article is on the procedure as such (as it is in the article in *Creifelds*). The headlines in the article are as follows:

1. Einleitung des Ermittlungsverfahrens
2. Ablauf des Ermittlungsverfahrens
3. Abschluss des Ermittlungsverfahrens

The focus upon the procedure as such does not mean that we are not told what authorities are in charge of what steps. But in a number of instances a passiv formulation has been chosen, like in sentence 3 in the extract above. Main topic is not who does what, but what steps the procedure consists of.

To sum up: What we find in the Wikipedia article on *Ermittlungsverfahren* are examples of making background information explicit. In the first part it is not obvious to see it as a paraphrase, as the text mainly explicates information not even alluded to in the statute and in the investigated encyclopedia. The second analysed part, on the other hand, has many clear examples of paraphrasing following the definition by Simonnæs. Interestingly, I do not find attempts to shift to the ontic level in the investigated text. The explicitations stay at the abstract level of the legal concepts. Before speculating about the reasons for this, we shall analyse a second dominantly dissemination oriented text from the internet.

3.2 Example 2: Website for children and adolescents

My second example is taken from the website of the German Ministry of Justice (*Bundesministerium der Justiz*). As part of their presence in the web, they have a section directed especially towards children and adolescents (https://www.gerechte-sache.de/fragenantworten). In this section, the *Ermittlungsverfahren* is also presented. The information on the procedure is placed in a subsection with the title *Tat und Rat* treating reactions upon racism and other criminal offenses against children and adolescents (https://www.gerechte-sache.de/opferrecht). I will not go deeper into the content of the page, but concentrate upon the textual rendering of information on the concept in focus here.[8]
The text on *Ermittlungsverfahren* is reached by clicking the following link:

[8] For an analysis of the actual website, cf. Engberg/Luttermann (2013)

The text in the link says: "This way you can help the investigative authority to solve criminal cases." From here the reader gets to the following text:

> **DAS ERMITTLUNGSVERFAHREN**
>
> [1]Das Verfahren beginnt oft mit der Erstattung einer Strafanzeige bei der Polizei. [2]Sie ermittelt im Auftrag der Staatsanwaltschaft, bei der du die Straftat auch direkt anzeigen kannst. [3]Damit diese beiden Behörden prüfen können, ob eine Straftat vorliegt, ist es notwendig, dass du ihnen schilderst, was dir zugestoßen ist und – wenn du es weißt – wer es war. [4]Die (weiteren) Ermittlungen führt meistens die Polizei durch.
>
> [5]**Je früher die Polizei von einer Straftat erfährt, desto schneller kann sie handeln und findet vielleicht mehr Spuren, die die Straftat beweisen können.** [6]**Eine Anzeige kannst du entweder schriftlich erstatten oder einfach zu jeder Polizeidienststelle hingehen und sie dort aufschreiben lassen**. [7]Natürlich kannst du auch eine Begleitperson mitbringen. [8]Wenn es weitere Zeugen gibt, die du kennst, solltest du sie gleich mit Namen und Adressen benennen. [9]Falls es bereits Untersuchungsberichte oder Atteste von einer Ärztin oder einem Arzt gibt, bringst du sie am besten gleich mit. [10]Sonstige wichtige Beweismittel sind Reste von Blut oder anderen Körperflüssigkeiten des Tatverdächtigen, die sich an deiner Kleidung befinden können. [11]Wenn du noch die Sachen hast, die du während der Tat anhattest, bitte nicht waschen, sondern gleich in eine Tüte packen und der Polizei geben.
>
> (https://www.gerechte-sache.de/das-ermittlungsverfahren)

In this case, the textual formulation contains no links. The sections in bold face are also in bold face in the original. Furthermore, they are highlighted through the use of a colour (orange) different from the rest of the text (black). Contentwise, the first two sentences contain general information on the *Ermittlungsverfahren*: That the procedure starts with *Anzeige* to the police or to the *Staatsanwaltschaft*, and that the police is regularly the active authority. This is also stated in the fourth sentence. We find in these sentences the lexems we know from the previous analysis (e.g., *Anzeige, Staatsanwaltschaft, Ermittlungen*). The lexems are not explained, but they are used in contexts that demonstrate to the reader, which role the concepts play in connection with the process of *Ermittlungsverfahren*: (*Straf-*)*Anzeige* kicks of the process, *Staatsanwaltschaft* governs the process, the police carries out the *Ermittlungen*. The specialised concepts are thus put into a functional context and connected to each other.

However, the main focus is not upon describing aspects of the concept in an objective and depersonalised manner, as was the case in the previously analysed text. Already in the second sentence (*Sie ermittelt* ...) the receiver is addressed directly (..., *bei der **du** die Straftat ... anzeigen kannst* (my emphasis)). A link is thus created between the receiver and the process: *Ermittlungsverfahren* is something YOU can kick off, if YOU need it. It is something of relevance to YOU. This profiling of the concept is repeated all through the rest of the text: It is necessary that YOU report what happened in order for the police to find out whether a crime was committed; YOUR early reporting helps the police to find evidence; YOU may file a report in writing or by going to a police station; YOU may bring a companion, etc. The concept of *Ermittlungsverfahren* as such is not presented in any detail, but the receiver is

told, what he or she can do to help the police make the investigation as efficient as possible. A fairly functional approach is taken to the concept.[9]

Thus, from the point of view of this paper, i.e. of how expert knowledge is disseminated to non-experts in an understandable way, the task realised here is basically different from the one carried out in the first example. Where the idea there was to describe the core elements of the concept of *Ermittlungsverfahren* in a more accessible manner, especially through links to explanations of central words and through the explicitation of principles, rights and duties as such, the aim is here to instruct the receiver in considerable detail about what a citizen can do in order to get an *Ermittlungsverfahren* running. This is done predominantly by way of the second aspect mentioned by Simonnæs on the basis of her investigation, viz. a shift to the ontic level. This shift is achieved in two ways:

- As described above, the process is made relevant to the receiver by addressing him or her directly (*du*) and tying the receiver to the process through syntactical means like placing the receiver syntactically in an agent position, showing his or her decisive role in getting the process of persecution of a possible crime started (..., *bei der du ... anzeigen kannst*).
- Expert terms are made accessible to the receiver through examples from the ontic level. One example of this is in the second part of the text: S*onstige wichtige Beweismittel sind Reste von Blut oder anderen Körperflüssigkeiten des Tatverdächtigen, ...*[10] The expert term *Beweismittel* is exemplified with something more concrete and thus more accessible.

It is thus interesting to note that even in this case the reformulation or paraphrasing is not done by changing the choice of words away from the expert terms. Neither is the strategy to actually explain the terms to any great extent – actually, in the case of giving examples from the ontic level above, the example contains such unexplained expert terms like *Körperflüssigkeiten* and *Tatverdächtigen*. The idea seems not primarily to be to make the underlying concepts as such accessible to the receiver. The most important task is to make the process of *Ermittlungsverfahren* relevant to the receiver – and maybe to prepare them for the words they are going to encounter, if they go to the police in order to report an offense. So to sum up: Again, we see the mechanism described by Simonnæs working here – and this time with much emphasis upon the aspect of shifting to the ontic level.

4. Concluding remarks

In these concluding remarks, I would like to compare first the two texts analysed in section 3 with each other and then compare the results of the analyses with the results of Simonnæs' study.

In both texts analysed here I found ample use of pragmatic paraphrases *sensu* Simonnæs. Interestingly, however, I found no attempts of reaching the ontic level in the text from Wikipedia, whereas this was done heavily in the text from the website of the

[9] In Engberg/Luttermann (2013) we have shown that this strategy is visible in other parts of the website describing parts of the criminal procedure, too, even to the extent that some potentially relevant parts of the expert knowledge (from the point of view of a full picture of the concept of *Ermittlungsverfahren*) are not mentioned or are argumentatively subdued. We see this as a choice of an institutional perspective: The main aim of the investigated web pages seems to be to instruct victims on how to approach the authorities in the most efficient manner and thus help the authorities help the victims.

[10] Other important evidence are remains of blood or other bodily fluids of the suspect, ... (my translation)

Bundesministerium der Justiz (BMJ). This has probably to do with differences in the target groups, combined with differences in the intended functions of the texts. The text from Wikipedia is the most clearly informative text of the two. The intended function is to give the receiver an overview over the structure of the *Ermittlungsverfahren* and the players involved. It seems to follow the classic format of encyclopedia articles, and it also bears a number of similarities (general structure, choice of words, use of references to other articles and to sections in the statute) with the article from *Creifelds*, which I have used as a reference in the analysis. On the basis of the lack of actual explanations and of shifts to the ontic level, I would suggest that the target group of this text is people with either considerable background knowledge and/or considerable interest in the treated concept. For they are required to follow a number of links and to stay at a somewhat abstract level in their thinking in order to achieve the intended insight.

The other text, the one from BMJ, on the other hand, is virtually characterised by connecting the legal concept to the ontic level. This is a natural consequence of the difference in target group: Children and adolescents are believed to be better able to understand things they can connect to their own life. However, I also believe that it has to do with a difference in dominant function of the texts. The dissemination of the concept knowledge on *Ermittlungsverfahren* is not done just for the sake of it, as is the case in the Wikipedia text. Instead, the BMJ text is intended to convince victims of crime to report to the police in order for the authorities to help them. Thus, it is important to disseminate such aspects of the concept that may aid the victims in seeing the use of helping the police start an *Ermittlungsverfahren*. We thus here have an example of dissemination being instrumental to a different function or goal.

If we compare with the analysis in Simonnæs (2003), I think that the case of dissemination she works with is closer to my BMJ case than to my Wikipedia case. In Simonnæs' case, the dissemination of legal knowledge is also instrumental to another goal, viz. the goal of making the argumentation of the court accessible to the parties. Therefore, the court does not go into explaining the underlying legal concepts to any level of detail. Instead, the court establishes links between what the parties know from the concrete case and the legal concepts represented by terms in the text. And this is fairly close to what is done in the BMJ case by stressing the relations to the receiver through the use of *du* and by giving concrete examples for more abstract concepts.

On this basis, I would venture a few assumptions or hypotheses supplementing her previous results, which I see as invitations to further discussions with Ingrid Simonnæs in the future:

- (Pragmatic) paraphrases are efficient and often used means of disseminating conceptual knowledge
- (Pragmatic) paraphrases consist in reformulations of utterances contained in texts with a higher knowledge status in the field than the one they are found in
- If they are used for purely informational purposes, they may, but must not necessarily contain a shift to the ontic level, depending on the target group
- If they are used for other than purely informational purposes it is likely that they will contain a shift to the ontic level, depending upon the function.

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