

## **Fine tuning style and precision: Adapting directive citations to Finnish statutes**

**Aino Piehl**

Institute for the Languages of Finland, Finland  
aino.piehl@kotus.fi

*When transposing EU directives into national laws, Finnish drafters usually alter the wording of the directive. This paper describes these modifications and offers some insights into the reasons behind them. The study is based on a corpus of Finnish versions of EU directives and of Finnish laws that transpose those directives.*

### **1. Introduction**

#### **1.1. Background**

Since Finland joined the European Union, a debate has continued over the impact of directives on Finnish legislation. Legal drafters and public authorities often feel that European Union statutes definitely impair the standards of national legislative instruments (e.g., *Better Regulation Programme*, 2006, p. 140). One commonly given reason for this feeling is the verbatim transfer of directive passages into Finnish statutes (*Better Regulation in Europe: Finland*, 2010, p. 119).

To determine whether the influence of any Community law is detectable in the language of Finnish statutes, the Institute for the Languages of Finland compiled a corpus in 2003–2006 of laws enacted from government bills submitted in 2002 to implement the EU directives with which they are associated. This corpus suggests that directives do not influence the sentence and clause structures of Finnish laws, at least not in quantitative terms (see Piehl, 2006, pp. 186–190). A comparison of the most common words in the corpus also failed to reveal any significant influence of directives, as these words did not constitute specialised terms from laws or directives.

Since many specialists nevertheless agree about the impact of directives, the corpus was examined semi-automatically to find citations of directives in Finnish statutes by searching for identical strings of three, four or five words in both parts of the corpus. Surprisingly, relatively few actual citations were found, and they were generally quite brief; the longest comprised about ten words. The majority of the short identical

strings proved to be fragments of a single sentence, but since different lexical items fell between them, the program failed to recognise the whole sentence as a citation. Still, the sentences closely resembled the corresponding ones in the directive. It was evident that when the legal drafters used the Finnish version of the directive, they frequently modified it and had by no means quoted it verbatim (Further discussion of the method in section 1.3 and in Piehl & Lounela, 2012).

Presumably, modifications to passages quoted from directives highlight the differences between legal writing in Finnish acts of parliament and that of EU directives. This article describes those modifications and also sheds light on the reasons for modifying the text of directives. This may help one to recognise some less obvious characteristics of style which give rise to a need to change the wording of the Finnish language versions of directives for the purposes of implementation.

## **1.2. Finnish language versions and their role in implementation**

The translation units of European Union institutions translate EU statutes into all of the EU's official languages. Drafters of Finnish laws can therefore consult a Finnish language version of a directive when preparing its implementation into Finnish legislation, even though the directive is not, *per se*, in force in Finland.

Subject to certain limitations, EU member states are entitled to choose the form and manner for implementing a directive. Implementation may be achieved by, for example, rewriting the provisions of the directive in the form of a national law or other statute. Reinterpretation is considered an effective approach, particularly when the directive confers a margin of appreciation on member states (*Legal Drafter's Guide to the European Union*, 2012, pp. 29–30).

The text of a directive may also be directly incorporated into a national statute, but only in certain respects, such as when a directive is highly detailed or technical. A law is most faithful to the text of a directive if the national statute simply refers to the directive, whereupon the actual meaning must be read from the directive itself. Only in special cases is such an approach recommended, however, as it creates difficulties for those who apply the statute in practice (*Legal Drafter's Guide to the European Union*, 2012, pp. 33–38).

Although the translators working for Finnish translation units of the European Union are Finnish and legally trained Finnish lawyer-linguists inspect and polish the texts, the statutes deviate from the stylistic norms of Finnish legal language (see, for example, *Legal Drafter's Guide to the European Union*, 2012, p. 30). Translating the language of statutes often involves mediating the legal culture and system for readers working

in another culture and system, but the translations of European Union statutes remain within a single system.

European Union translators have nevertheless retained – at least to some extent – the role of cultural mediators. In her study of Finnish translators working at the European Commission, Kaisa Koskinen (2008, p. 108) concluded that translation is subject to mutually conflicting norms and identities. While translators consider themselves officials of the European Commission, they also feel that they differ from other public servants of the Commission. They assign importance to the intelligibility of their translations and to serving the needs of the reader. The texts nevertheless reveal a strong emphasis on institutional character, with the need to use language forms that reflect the special nature and status of the institution and that satisfy the requirements of readers within that institution outweighing the need for general legibility. The authority for the crucial norms of European Union translators is probably their own institution, as it is the specific source of comments and of any sanctions. One can ignore the observations of Finnish public servants who negotiate the statutes without comment or discussion, which leads to the conclusion that, as an authority, they hold a secondary place.

Typical of translating European Union statutes into Finnish is that translators are encouraged not to deviate from the source text (Stenqvist, 2000, pp. 31–33). Surveys conducted by the author in 1998 and in 2006–2007 found that Finnish public servants considered European Union texts less readily intelligible than corresponding Finnish texts. Because the respondents were largely members of working groups at the Council of the European Union and also served as drafters of laws in Finland, their impressions likely took shape chiefly on the basis of EU and Finnish legislation (Piehl, 2008, p. 275; Piehl, 2012, pp. 690–694).

Public servants responding to the survey felt that Finnish-language European Union texts contained excessively long and complex sentence structures. They also included hitherto unfamiliar expressions and a unnatural phraseology. Some respondents felt that translators could take more liberties with the original material in order to achieve a more natural and intelligible translation. Others nevertheless saw risk in such liberties: a more idiomatic mode of expression could result in a change of meaning (Piehl, 2008, pp. 277–280; Piehl, 2012, pp. 694–695).

Finnish legal drafters also wrestle with the same problem at the implementation stage. The implementation guide encourages them to adhere to the style and conventions of national legislation and to clarify expressions in the law if the phraseology of a directive is unclear, but to exercise discretion in doing so to avoid unwarranted interpretations (*Legal Drafter's Guide to the European Union*, 2012, p. 30). The European Commission monitors the implementation of directives, and many drafters believe that it is safer to preserve the wording of the directive so as to avoid demands for explanation from the Commission.

The style of legal writing cannot be learned from style guides. Instead, it is acquired during legal studies by reading such material and receiving comments on written work. Blücker (2010, pp. 267–269) explains that Swedish teachers of legal writing usually just underline deviant expressions with at most a brief comment that they are not used in legal writing. Alternatives are seldom suggested, and the student is left to understand that figurative, value-laden, excessively strong or personal expressions are unsuited to legal writing. Students must also be able to distinguish specifications and superfluous expressions. Blücker refers to the acculturation of students to legal language, which Phillips (1982, p. 181) echoes in a study of writing courses for law students in the USA.

The art of drafting laws in Finland is similarly acquired at work by following the style of existing laws and receiving comments from senior drafters. Not all Finnish legal drafters are lawyers by training, since ministries share the task of drafting laws. The majority of drafters are specialists in various subjects belonging to the ministry's sphere of responsibility rather than in law. Expressions deemed unsuitable for statutes are ultimately removed during inspections carried out by the law inspection unit at the Ministry of Justice.

Finnish law professor and experienced drafter of law Matti Niemivuo is one of the few writers who seeks to describe what is and what is not suitable. He appends a list of 104 deprecated words to his statute drafting guide, because “on tiettyjä sanoja ja ilmaisuja, jotka eivät yksinkertaisesti ole hyväksyttävää lakitekstissä” [= certain words and expressions are simply unacceptable in legal texts<sup>1</sup>] (Niemivuo, 2008, pp. 125–126). The task of compiling an exhaustive catalogue of deprecated expressions is impossible, however; for example, none of the expressions discussed in this article appear on Niemivuo's list.

Students are generally encouraged to aim for precision, brevity and neutrality, but few individual examples of the ideal are ever provided. Another commonly accepted ideal is the intelligibility of language in the laws, which the Administration Act and the Rules of Procedure for the Ministry of Justice, among others, requires. Examples of what intelligibility means in practice are also rare in official instructions for legal drafters, and plain-language guides often deprecate traditional legal expressions. Thus, when formulating implementation provisions, legal drafters evidently also work under the pressure of conflicting norms.

### 1.3. Materials and method

The data for this article were compiled in a trial investigating how reliably a semi-automatic search for identical or similar n-grams could locate citations from directives to their instruments of implementation (see Piehl & Lounela, 2012, for further details). N-grams are text fragments comprising a specified number of letters, words or other

consecutive text elements. Those consisting of words typically serve in text research to find multiword expressions that are characteristic of certain types of text or writer (see, for example, Greaves & Warren, 2010; Lindquist & Levin, 2009; Stubbs & Barth, 2003). Compound word formation and the inflection and derivation of words pose problems when using n-grams formed from Finnish words in an attempt to find possible citations; the n-grams fail to make the connection between, for example, the different forms of a compound word (*lain\muutos\laki\muutos*, “amendment to the law”) or the different endings of the same case (*artiklojen\artikloiden*, “articles”).

The data, consisting of six acts of parliament (totaling 26,852 words) and ten directives (totaling 55,226 words), belong to a larger corpus. The corpus, referred to at the beginning of the article, includes 25 acts of parliament dating from 2002 and 2003, together with 41 directives dating from 1988 to 2002, and has been structured and morphologically analysed (see Heikkinen *et al.*, 2012). National laws and directives showing considerable similarity were selected for the n-gram trial. A search was conducted for identical 3-, 4- and 5-grams (strings of three, four and five words). Stubbs and Barth (2003, p. 76) found in their English language data that identical 5-grams pointed to specific individual texts rather than to a certain genre. In Finnish, forming a text-specific string probably requires fewer words, as a single word in Finnish may correspond to a string of three or four words in English (e.g., *säädösvalmistelussakin*: “also in the legal drafting process”).

Searching for 3-grams also yielded strings of pronouns and conjunctions that can be found in many different texts and phrases typical of statutes and legal writing, but all of the 5-grams and most of the 4-grams in the data pointed to a passage cited from a directive to an act of parliament. A longer citation could include more than one 5-gram (and, of course, even more 3- and 4-grams). Searching only for longer strings, such as 9-grams, would have located fewer citations, and the shorter n-grams found all the longer passages.

Comparison of the identical strings in the act and in the directive revealed that the strings often appeared in a longer similar passage, but were separated from each other by a difference of one word. The conditions for similarity of punctuation (commas, quotation marks, etc. were counted as parts of the word string) were found to be too restrictive as well. Thus, a further search focused on five-word strings with some variation permitted. A string could differ by one word, punctuation marks and variations of inflectional form were eliminated, and conjunctions, prepositions and postpositions were counted only as word class; e.g., the conjunctions *ja* (“and”) and *tai* (“or”) were counted as the same word, as were words with different endings of the same case, e.g., plural forms of genitive case *artiklojen* and *artikloiden* (“articles”). Such variation can occur without the writer noticing the difference.

The comparison of identical and similar textual passages located by n-grams was done manually. Whether a passage was a citation was an estimate by the researchers. The context relevant for understanding the meaning of the passage was taken into account. Even highly edited passages in Finnish laws were viewed as quotations if the similarities in syntax and vocabulary between the law and the directive suggested that the wording of the law had been formulated according to the directive and if the provision in question concerned the same subject matter.

The examples in this article include the relevant context for the strings found automatically. The 3-, 4- and 5-grams in themselves would be insufficient material for analysis of the changes the legal drafters made. The following example (1) shows the corresponding passages of the directive and the act of parliament as well as some of the n-grams that pointed to the passages (for the translations, see Example 5). Both passages contain 20 words, 14 of which they share. The words which do not occur in both the directive and the act are underlined. The sentence structure of the act is similar to that of the directive. All in all, 38 n-grams pointed to these passages of text: 7 identical 3-grams, 1 identical 4-gram and 30 5-grams allowing variation. Identical 5-grams could not form due to the omission of quotation marks from the act.

- (1) Directive: 'Tunnistamisjäsenvaltiolla' tarkoitetaan jäsenvaltiota, johon sijoittautumaton verovelvollinen päättää ottaa yhteyttä ilmoittaakseen verovelvollisena harjoittamansa toiminnan alkamisesta yhteisön alueella tämän artiklan säännösten mukaisesti. (Article 1 of Council Directive 2002/38/EC, Finnish language version)

Act of parliament: Tunnistamisjäsenvaltiolla tarkoitetaan jäsenvaltiota, johon yhteisöön sijoittautumaton verovelvollinen ottaa yhteyttä ilmoittaakseen 133 d §:ssä tarkoitettun toiminnan alkamisesta tämän luvun säännösten mukaisesti. (Section 133 e of the *arvonlisäverolaki* = [Value Added Tax Act], 1501/1993)

3-grams (identical):  
tarkoitetaan jäsenvaltiota,  
jäsenvaltiota, johon  
ottaa yhteyttä ilmoittaakseen  
säännösten mukaisesti.

4-grams (identical):  
tarkoitetaan jäsenvaltiota, johon

5-grams (variation permitted):

Tunnistamisjäsenvaltiolla tarkoitetaan jäsenvaltiota johon  
sijoittautumaton (Directive)  
Tunnistamisjäsenvaltiolla tarkoitetaan jäsenvaltiota johon  
yhteisöön (Act)

sijoittautumaton verovelvollinen päättää ottaa yhteyttä (Directive)  
yhteisöön sijoittautumaton verovelvollinen ottaa yhteyttä (Act)

## 2. Modifications by Finnish law drafters

The texts of directives contain both major and minor modifications. Minimum modification merely involves adjustment of typographical features to comply with Finnish legal conventions, whereas in extreme cases, the content of a directive may be incorporated into the text of a law in a manner that leaves no linguistic traces, even not in terminology. The most common outcome lies somewhere between these extremes.

Translation science has investigated the phenomenon of translation shift, meaning modifications made in translation that lead to differences between the source and target texts. Such shifts can take many forms, and the concept covers both structural and stylistic or even ideological differences (see, for example, Koskinen 2008, pp. 121–22). Modifications made to directives by legal drafters may be considered similar to translation shifts insofar as they seek a functional outcome with respect to the target text. These modifications can be classified in various ways: for instance, we can distinguish changes in denotation whereby an expression with a different meaning replaces an expression in the directive, and changes in form where the meaning remains unchanged even though the legal drafter chooses a different expression or form of presentation. Modifications may also be classified as the substitution of expressions for other expressions and as the deletion or addition of expressions.

### 2.1. Substitution of expressions

#### 2.1.1. Substitutions of meaning required for implementation

In substitution, modifications in expressions required for implementation will alter the meaning of a text, whereby some general expression used in the directive and suitable for all member states is “localised” for the Finnish administrative system. For example, instead of the term “member state”, an act of parliament will name the Finnish authority tasked with discharging functions stipulated in a directive, such as issuing permits or arranging regulatory control. The modification will also introduce into the text a shift in perspective, as the directive often cites an obligation

addressed expressly to the member states, whereas the object of the Finnish statute is a designated institution of the Finnish state. In the example below, this institution is the Finnish government.

- (2) Directive: Niiden jäsenvaltioiden, joilla on omistussuoksia tai päättävältä sähköisiä viestintäverkkoja ja/tai -palveluja tarjoavissa yrityksissä, on varmistettava, että sääntelytoiminta ja omistajuuteen tai päättävältäan liittyvä toiminta erotetaan rakenteellisesti tehokkaasti toisistaan.  
 = [Member States that retain ownership or control of undertakings providing electronic communications networks and/or services shall ensure effective structural separation of the regulatory function from activities associated with ownership or control.] (Article 3 of Directive 2002/21/EC, Finnish and English language versions, my emphasis)

Act of Parliament: Valtioneuvoston on varmistettava, että teleyritysten sääntelytoimintaan ja valtioneuvoston omistajuuteen tai päättävältäan liittyvä toiminta erotetaan toisistaan rakenteellisesti tehokkaalla tavalla.  
 = [The Government shall ensure effective structural separation of the regulatory function of telecommunication enterprises from activities associated with government ownership or policymaking power. (Section 119 of *viestintämarkkinalaki* = [the Communications Market Act], 393/2003, my emphasis)]

Similar modifications required for implementation include substitutions of administrative concept names to comply with Finnish legal usage. For example, the expression *arvonlisäveroilmoitus* (“VAT return”) and *vuosineljännes* (“calendar quarter”) used in a directive will be replaced with *veroilmoitus* (“tax return”) and *verokausi* (“tax period”) respectively, since only the latter expressions appear in Finnish tax laws.

Another modification of content arises in the form of the changes Finnish legal drafters make to statutory references in directives. While an act may sometimes directly refer to a directive, such references are nevertheless made mostly to the corresponding sections of the implementing statute which contain redrafts of the original reference points of the directive, as in the following example. Directive: *5 kohdassa tarkoitettu arvonlisäveroilmoitus* (“the tax return referred to in paragraph 5”), Act of Parliament: *133 h §:ssä tarkoitettun veroilmoituksen* (“the tax return referred to in Article 133 h”) (see also Examples 2 and 6).



### 2.1.2. Substitutions of form required for implementation

Implementation also leads to modifications where quotations from directives are adapted to the formatting conventions of Finnish legal texts. Such conventions include the formatting of parts of a law (which consists of sections with subsections that, in turn, may contain numbered paragraphs). In the data, alphabetically ordered subparagraphs of an article in a directive were typically replaced with numbered paragraphs of a subsection in the Finnish statute.

Punctuation of Finnish versions of directives, on the other hand, complies with the conventions of Finnish statutory language. Other languages of the European Union also apply disparate conventions in punctuation. Subparagraphs are nevertheless listed alphabetically in all language versions of directives. In contrast, punctuation is a straightforward way of highlighting the Finnish language character of the text; it also emphasizes the fact that the text is an example of statutory drafting style. In fact, punctuation in lists in Finnish statutes differs from that of the numbered lists in everyday language, which avoids the use of colons and semicolons.

### 2.1.3. Optional substitution of expressions

Finnish legal drafters modify the Finnish text of a directive for reasons that are less evident than for modifications required for implementation. Such modifications generally arise by substituting synonyms for expressions used in the directive. Optional substitutions are a matter not of correcting indisputable errors of language or style, but rather of following different stylistic conventions.

Legal drafters change derivative and inflection types used in a directive into other types with the same meaning. For example, the cognate *hyväksyntä* might replace the term *hyväksyminen* (“approval”) in the expression *eurooppalainen tekninen hyväksyminen* (“European technical approval”). The difference between these cognates is that one can form the derivative ending *-minen*, from any verb whatsoever; the *-minen* ending also carries a more temporary connotation than the *-nta* type derivative, which occurs more often in terminology. One example of a substitution in inflection type arises when the variant form *puheluita* (“telephone conversations”) serves as the partitive plural instead of the form *puheluja*. There is no stylistic difference between these forms, nor did the modification serve to avoid alliteration with a preceding word.

Another way to alter the text of directives is to switch a grammatical word to some synonymous expression; Finnish legal drafters will often replace one conjunction, pronoun, adverb, or postposition with another. Drafters switched the adverbial expression *siinä määrin* (“thereby”/“in such a manner”/“insofar as”) to the synonymous adverb

*siten*, and replaced the pronoun *jokaiselta* (“apiece”/“for each”) used in a directive with the equivalent pronoun *kultakin*. While the substitute expressions in the foregoing examples appear to be similar in style to the expressions they replaced, it nevertheless turns out that they occur much more frequently in acts of parliament than do the expressions they substitute. These preferences do not appear in any guidelines for legal drafting.

In other cases, such change is motivated by common stylistic considerations. The essentially correct adverb of manner *tehokkaasti* (“effectively”) in the directive expression *erotetaan rakenteellisesti tehokkaasti* (“effective structural separation”) is replaced by the two-word expression *tehokkaalla tavalla* (“in an effective manner”), probably to avoid the stylistically clumsy use of consecutive adverbs both formed with the *-sti* suffix (*rakenteellisesti tehokkaasti*, “structurally effectively”).

The following example may also be motivated by a desire to adhere to stylistic conventions. The co-ordinating conjunction *ja* (“and”) is replaced by the equivalent conjunction *sekä*. While the conjunction as such is used correctly, Finnish customarily seeks to avoid consecutive coordinations with *ja* and to use the *sekä* conjunction to show the relationship between various co-ordinate structures. Whereas all of the co-ordinate structures in the directive are presented as equivalent, the use of the *sekä* conjunction in the act of parliament suggests that the equipment falls into a slightly different category from that of the number of employees and the training.

- (3) Directive: Näiden työntekijöiden lukumäärän ja koulutuksen ja heidän käytettävissään olevien varusteiden on oltava asianmukaiset  
= [The number of such workers, [and] their training and the equipment available to them shall be adequate.] (Article 8 of Directive 89/391/EEC, Finnish and English language versions, my emphasis)

Act of Parliament: Näiden työntekijöiden lukumäärän ja koulutuksen sekä heidän käytettävissään olevien varusteiden on oltava asianmukaiset  
= [The number of such workers and their training, and the equipment available to them shall be appropriate - -.] (Section 47 of *työturvallisuuslaki* = [the Occupational Safety and Health Act], 738/2002, my emphasis).

Textual modifications often call for other changes as well in order to achieve a natural-sounding sentence structure. In the following example, the expression *suorittamisen on määrä tapahtua* (“the supply is deemed to take place”) in the directive is replaced in the act of parliament by an expression in which the action noun *suorittaminen* (“the supply”) has

become the predicate verb *suoritetaan* (“are supplied”) in the sentence, which is commonly considered as better style. To clarify the mutual attribute relations between the words, this modification creates the need to move the verb to the end of the sentence, which, in the wording of the directive, is occupied by the postposition *mukaisesti* (“in accordance with”). The shorter (in Finnish) synonym *mukaan* (“in the sense of”) then replaces the postposition. Longer linguistic elements often come at the end of a sentence or phrase due to their weight (Karlsson, 1998, p. 174). The decisive factor is probably that placing the verb in final position is typical of the word order in legal language, a characteristic that also distinguishes it from everyday language.

- (4) Directive: 'Kulutusjäsenvaltiolla' tarkoitetaan jäsenvaltiota, jossa sähköisten palvelujen suorittamisen on määrä tapahtua 9 artiklan 2 kohdan f alakohdan mukaisesti.  
 = ['Member State of consumption' means the Member State in which the supply of the electronic services is deemed to take place in accordance with Article 9(2)(f).] (Article 1 of Council Directive 2002/38/EC, Finnish and English language versions, my emphasis)

Act of Parliament: Kulutusjäsenvaltiolla tarkoitetaan jäsenvaltiota, jossa sähköinen palvelu kuudennen arvonlisäverodirektiivin 9 artiklan 2 kohdan f alakohdan mukaan suoritetaan.  
 = ['Member State of consumption' shall mean the Member State in which electronic services in the sense of Article 9(2)(f) of the sixth VAT Directive are supplied.] (Section 133 e of *arvonlisäverolaki* = [the Value Added Tax Act], 1501/1993, my emphasis)

Obligation may be expressed in a wide variety of ways in Finnish. Legal drafters may replace an expression of obligation appearing in a directive with another such expression, even though both are common in statutory texts and carry no difference in meaning or style between them in legal language. For example, the verbal construction *on oltava* (“must be”) appearing in a directive can be replaced with the synonymous expression *tulee olla* (“shall be”). While the *tulla* verb used to indicate obligation in the latter expression is typical of legal writing in particular, the combination of the *olla* (“to be”) verb and its participle *oltava* commonly serves a similar role in other types of language use as well.

The foregoing examples concern “grammatical words” that indicate the relations or modality of the words in a sentence. Besides grammatical expressions, legal drafters also change content words (nouns, verbs, adjectives) into synonyms. This is sometimes a question of adhering to some idiomatic feature of legal language, as when the expression *antaa veroilmoitus* (“file a tax return”) replaced the phrase *toimittaa (arvon)lisäveroilmoitus* (“submit a VAT return”). In other cases, identifying a specific reason for the alteration may prove difficult,

as when the adjective *läheinen* (“close”) replaces the adjective *tiivis* (“tight”) in the expression *tiivissä yhteydessä* (“closely/tightly connected”). Again, it turns out that only the former collocation appears in the existing legislation, although the latter is also in common use.

Changes in content words may also adhere to general standards of good language and style. Although the following expressions are in general use and common in legal discourse, their use is discouraged from secondary-level education. As a metaphorical expression used in statistical description, the word *alempi* (“lower”) is considered too abstract and is deprecated in favour of the word *pienempi* (“smaller”), which more directly describes the underlying reality. The switch from the word *korkeintaan* (literally, “at its highest”) to the word *enintään* (“at most”) reflects longer-term stylistic standards, as the former term is viewed as a literal translation from Swedish. Strenuous efforts in the first half of the 20th century aimed to purge the written Finnish language of many translation loans from Swedish, which until then had been the source language for nearly all official documents in Finland. Most of the legal and administrative vocabulary was coined quickly after 1863 when the Russian emperor Alexander II bestowed official status on Finnish, along with Swedish, in the administration of the then Grand-Duchy of Finland (e.g., Mattila, 2002, pp. 1117-1118).

## 2.2. Removal and addition of expressions

Besides substitutions, legal drafters modify directive texts by adding and deleting words. Deletion often raises the question of the necessity or superfluousness of certain specifying expressions such as restrictive modifiers and other elements providing specific information about the referent in question. Precision is one of the principal objectives of legal language and also determines many of its most typical features (see, for example, Mattila, 2013, pp. 87–94, for further details). From the viewpoint of other language users, specifying expressions are often needlessly verbose, and law students must acquire a sense of the kinds of specifications that are standardised in legal language and those that are not.

### 2.2.1. Specifying premodifiers and other specification types

Specifications that are deleted from the acts of parliament are usually determiners or adjectival modifiers appearing before the headword, such as *tämä erityisjärjestelmä* > *erityisjärjestelmä* (“this special scheme” > “the special scheme”), *ehdotettu käyttöoikeus* > *käyttöoikeus* (“the proposed license” > “the license”).

The deleted specifications also include expressions specifying time, place or manner that may be placed more freely in the word order. The following examples from acts of parliament omit the geographical expression *yhteisön alueella* (“territory of the Community”).

- (5) Directive: 'Tunnistamisjäsenvaltiolla' tarkoitetaan jäsenvaltiota, johon sijoittautumaton verovelvollinen päätää ottaa yhteyttä ilmoittaakseen verovelvollisena harjoittamansa toiminnan alkamisesta yhteisön alueella tämän artiklan säännösten mukaisesti.

= ['Member State of identification' means the Member State which the non-established taxable person chooses to contact to state when his activity as a taxable person within the territory of the Community commences in accordance with the provisions of this Article.] (Article 1 of Council Directive 2002/38/EC, Finnish and English language versions)

Act of Parliament: Tunnistamisjäsenvaltiolla tarkoitetaan jäsenvaltiota, johon Yhteisöön sijoittautumaton verovelvollinen ottaa yhteyttä ilmoittaakseen 133 d §:ssä tarkoitetun toiminnan alkamisesta tämän luvun säännösten mukaisesti.

= ['Member State of identification' shall mean the Member State that the taxable person who is not established in the Community contacts in order to notify commencement of the activity referred to in section 133 d in accordance with the provisions of this chapter.] (Section 133 e of the arvonlisäverolaki = [Value Added Tax Act], 1501/1993, my emphasis)

The verb “chooses” (rendered *päätää*, “decides”, in the Finnish language version of the directive) has also been omitted from the act in the example, perhaps because the authority has no means to determine the taxable person’s decision other than by that person contacting the authority. Thus, even a deletion may be counted as a specification.

However, legal drafters also add specifying words, which may serve as an attempt to achieve terminological consistency. In the previous example, the word *Yhteisöön* (“in the Community”) was added to the text of the act to specify the words *sijoittautumaton verovelvollinen* (“a taxable person who is not established”). Together, the words construct the term *Yhteisöön sijoittautumaton verovelvollinen* (“a taxable person who is not established in the Community”), which the act defines. Whenever the term appears in the act, it will be repeated in full in the form that it takes in the definition provision. The term defined in the directive, on the other hand, is *sijoittautumaton verovelvollinen* (“a non-established taxable person”), which appears along with several premodifiers such as *jäsenvaltioiden alueelle/jäsenvaltioon/yhteisöön* (“in the territory of the

Member States”/“in the Member States”/“in the Community”) *sijoittautumaton verovelvollinen*.

Legal drafters add premodifiers that are not included in a term. For example, legal drafters have added the premodifier *verovelvollisen* (“taxable person”) to the expression *tunnistamisnumero* (“identification number”) in the act and specified the word *vuosi* (“year”) in the directive by replacing it with the compound word *kalenterivuosi* (“calendar year”).

Another type of specifying modifiers is a restrictive relative clause. The participial premodifier *verottavaa* (“where tax has become due”, literally “taxing” or “levying tax”) used in a directive is replaced in the act of parliament with the specifying subclause *jossa veroa on suoritettava* (“in which tax is payable”). Although relative subclauses can always be substituted for a participle using the predicate verb, the approach taken in the example was to use another verb in the subclause: *suorittaa* (“pay”) instead of *verottaa* (“tax”). The meaning of the provision nevertheless remains unchanged from a legal standpoint, indicating that a desire to specify a provision may lead to changes in sentence structure.

### 2.2.2. Orthographical considerations

Finnish legal drafters also modify the orthography of directives, even when they contain no errors. Orthography is thus considered to have stylistic significance. For example, the use of hyphens in a directive to mark identical endings in a list of consecutive compound words may be replaced in the act of parliament by writing out each word in full. Thus, *lähi-, kauko- ja ulkomaanpuheluja* (“local, trunk and international calls”) is substituted for *lähipuheluita, kaukopuheluita, ulkomaanpuheluita* (“local calls, trunk calls and international calls”).

In Finnish statutes, the preferred orthographical form is the one that is as complete as possible and leaves out no redundant units, even though the practice applied in directives is unambiguous, familiar to all and readily understood.

### 2.3. Changes in sentence structure

Since the 1970s, Finland has sought to make legal language more generally intelligible. One of the best-known and longest-sustained strategies in this respect is to shorten sentences and simplify their structure (see, for example, *Legal Drafter’s Manual* 1996, pp. 128–131; Niemivuo, 2008, p. 123). This is one reason for recommending the reformulation of points expressed as subclauses and various nominal forms as independent sentences. The sentences in new Finnish acts of parliament are shorter on average than those in the directives

implemented by the acts (Piehl, 2006, p. 187). Some examples in the data show that part of the meaning of a sentence in a directive has been reformulated as a new sentence. Such a conversion appears in the following example, which concerns a provision on the size of asset items expressed in a directive in the end of the sentence. The sentence in the directive contains 44 words, whereas the sentences in the act contain 22 and 25 words in Finnish.

- (6) Directive: Tässä tarkoituksessa ja ainoastaan väliaikaisesti toimivaltaiset viranomaiset voivat sallia, että liikkeeseenlaskijan sähköiseen rahaan liittyvien rahoitusvaateiden takeena on muita kuin 1 kohdassa tarkoitettuja omaisuuseriä korkeintaan sellainen määrä, joka ei ylitä viittä prosenttia näistä vaateista tai liikkeellelaskijan omien varojen määrästä sen mukaan, kumpi näistä on alempi.

= [To this end, and for a temporary period only, the competent authorities may allow the institution's financial liabilities related to outstanding electronic money to be backed by assets other than those referred to in paragraph 1 up to an amount not exceeding the lower of 5 % of these liabilities or the institution's total amount of own funds.] (Article 5 of Directive 2000/46/EC, Finnish and English language versions, my emphasis)

Act of Parliament: Rahoitustarkastus voi tällöin tai muutenkin maksuliikkeyhteisön hakemuksesta määrääjäksi sallia, että maksuliikkeyhteisön 1 momentissa tarkoitettujen velkojen katteena on muita kuin momentissa tarkoitettuja omaisuuseriä. Näitä omaisuuseriä saa kuitenkin olla enintään määrä, joka ei ylitä viittä prosenttia näiden velkojen tai maksuliikkeyhteisön omien varojen määrästä, sen mukaan kumpi näistä on pienempi.

= [The Financial Supervision Authority may at that time or otherwise, upon application of the payment institution, allow, for a set period, the liabilities of the payment institution referred to in subsection 1 to be backed by asset items other than those referred to in the said subsection. The maximum of these asset items may, however, not exceed five percent of the amount of the said liabilities or the own funds of the payment institution, according to whichever is the smaller.] (Section 66 a of laki luottolaitostoiminnasta = [the Act on Credit Institutions], 1607/1993, my emphasis)

## 2.4. Special cases

### 2.4.1. The “and” and “or” conjunctions

Writers sometimes experience difficulty distinguishing the roles of *ja* and *tai* (“and” and “or”) conjunctions in Finnish. While both are co-ordinating conjunctions, *ja* (“and”) essentially represents co-ordinates existing simultaneously, whereas *tai* (“or”) represents them as alternatives. These alternatives are nevertheless not always mutually exclusive, and their meaning will depend on the nature of the co-ordinated items (i.e., whether they both can be true at the same time). Explicitly exclusive disjuncts in the logical sense are expressed using the conjunction pair *joko - tai* (“either - or”) (Hakulinen *et al.*, 2004, p. 1047). Legal drafters in particular must often consider which conjunction is better suited for construing the intended meaning and whether a difference in meaning would arise if one of the conjunctions were to replace another.

In the following example, a directive lists the parties of which an enterprise must be independent in order to be deemed to wield significant market power. The list items are separated by the *ja* conjunction: *riippumattomana kilpailijoista, asiakkaista ja viime kädessä kuluttajista* (“independently of competitors, customers and ultimately consumers”). The listing in the corresponding act of parliament uses the *tai* conjunction: *riippumattomana kilpailijoista, kuluttajista tai muista käyttäjistä* (“independently of competitors, consumers or other users”). This substitution does not, however, alter the meaning, as an enterprise with significant market power must be independent of all of the parties specified. Use of the “or” conjunction merely emphasises the fact that independence of each of the parties specified is essential.

Example 2 shows the *and/or* combination conjunction used in the English version of the directive. Although the *and/or* combination is fairly common in EU statutes, in Finland, the equivalent *ja/tai* is considered not only unnecessary, but also unclear (Itkonen & Maamies, 2011, p. 23). It is always removed in the implementation process, followed by a decision as to which of the conjunctions *ja* and *tai* (“and” and “or”) is to be used in the implementing statute. The combination evidently poses problems for other European Union languages as well. While the language versions most often select a combination conjunction of corresponding form, languages such as Spanish, Polish, Czech and Estonian often replace them with one conjunction or the other.

### 2.4.2. Shifts from active to passive voice

The data include a few cases where a passive form in the implementing act replaces an active-form predicate verb used in the directive.



According to the grammar and semantics of the Finnish language, replacing an active-form predicate verb with a passive one means that the act excludes the person referred to in the directive. Use of the passive form is quite common in Finnish and is even more customary in legislative contexts than in general use. In basic cases of the passive, the person is general (i.e., “anyone” or “everyone”), and the person engaging in legal obligations is often simply any member of the public. The subject *loppukäyttäjä* and the predicate *voi* of the directive in Example 5 are replaced in the act with the predicate passive form *voidaan*. In this case, the general “anyone” meaning of the passive voice suits the context and is a normal choice of expression in regular Finnish language. The term *loppukäyttäjä* (“end-user”) that appears in the directive is a rare expression in common language and does not appear in the act at all.

- (7) Directive: Tarjotun liittymän on oltava sellainen, että loppukäyttäjä voi soittaa ja vastaanottaa lähi-, kauko- ja ulkomaanpuheluja.  
 = [The connection provided shall be capable of allowing end-users to make and receive local, national and international telephone calls ...] (Article 4 of Directive 2002/22/EC, Finnish and English language versions, my emphasis)

Act of Parliament: Tarjottavan puhelinliittymän tulee olla sellainen, että siitä voidaan soittaa ja vastaanottaa lähipuheluita, kaukopuheluita, ulkomaanpuheluita ja muita tavanomaisia puheluita.  
 = [The connection provided shall enable local, national, international and other ordinary telephone calls to be made and received...] (Section 59 of viestintämarkkinalaki = [the Communications Market Act], 393/2003, my emphasis)

In the following example, the subject expression *tunnistamisjäsenvaltio* (Member State of identification) used in the directive is absent from the corresponding sentence of the act, and the predicate *poistetaan* (“excluded”) appears in the passive form. In the act, the object *verovelvollinen* (“taxable person”) is placed before the predicate, as in the normal word order in passive sentences.

- (8) Directive: Tunnistamisjäsenvaltio poistaa sijoittautumattoman verovelvollisen tunnistamisrekisteristä, jos...  
 = [The Member State of identification shall exclude the non-established taxable person from the identification register if ...] (Article 1 of Directive 2002/38/EC, Finnish and English language versions, my emphasis)

Act of Parliament: Edellä 1 momentissa tarkoitettu verovelvollinen poistetaan tunnistamisrekisteristä, jos...

= [The taxable person referred to in the preceding subsection 1 shall be excluded from the identification register if ...] (Section 133 g of *arvonlisäverolaki* = [the Value Added Tax Act], 971/2002, my emphasis)

Finnish written discourse typically alternates between active sentences indicating the agent and passive sentences. The context often infers that the subject or agent indicated by the passive form is the same as the agent mentioned in the previous sentence. This is also true of the previous example. Using passive voice thus enables writers to vary the rhythm of the text.

### 3. Conclusions: The reasons for modifications

The aim of this article was to provide examples of the diverse types of modifications legal drafters make to the wordings of directives and to understand the motives and reasons for their modifications. While some of these modifications can be attributed to clear motives, such as the need to name national authorities as agents and to use the terms customary in Finnish administration, other motives are less compelling. Often modification seems to be a matter of style, and some of the modifications reveal an attempt to comply with general stylistic ideals by avoiding, for example, unnecessary repetition of similar lexical or morphological items or avoiding expressions deprecated for reasons of purism. Some modifications seem to originate from a stylistic ideal that especially applies to legal language, namely clarity, or plain legal language (e.g., avoiding long sentences), and are not only encouraged by generally accepted style guides, but reinforced by tutoring in schools and writing courses in working life.

At first glance, some modifications appear to be matters of individual taste, with style guides remaining silent on the need to avoid expressions that have been replaced. Nevertheless, a search through the statute database revealed that many of the replacement expressions inserted into acts of parliament are clearly more common in Finnish statutes than were their corresponding expressions originally in the directives, or that the latter are altogether absent from the existing statutes (e.g., *viime kädessä*, “ultimately”, which was omitted from the act without replacement). These cases therefore suggest that adapting the directive text to conform to special stylistic features of the language of acts of parliament is a skill apparently learned only in the course of work. Yet some modifications made by legal drafters must be purely matters of individual taste.

Finnish implementing statutes seem to be influenced by several different forces, some of which are pulling in different directions. The

Administration Act, along with a few other statutes, instructs legal drafters to aim for general intelligibility in legal language. Achieving this readability by abandoning some of the traditional features of legal language conflicts with the practice of learning legal drafting, which namely entails following the examples of existing laws and senior colleagues. Still, some stylistic modifications consistent with plain language recommendations are evident. Drafters have no explicit and detailed guidelines to which they must adhere, so the importance set on general intelligibility and the conceptions of what such general intelligibility requires may well vary from person to person. The same is likely to be true of what is considered appropriate style in the language of law. Investigating impressions of suitable style by asking legal drafters to explain their individual choices would therefore prove worthwhile.

Another dilemma with which legal drafters must struggle is whether to choose national or EU legislation as the model for a given situation. On the one hand, drafters modify the Finnish text of the directive to adapt it to the conventions of national lawmaking. On the other hand, these same drafters must keep the text of the implementing law close enough to the directives to keep it recognisable to the European Commission and to ensure its acceptance for implementation. Conceptions of what is required of the text vary from drafter to drafter.

The multiple and often comprehensive modifications that legal drafters make suggest that the implementation process is quite independent of, rather than heavily influenced by, the wording and style of directives, especially when the number of citations found in the data examined for this article was rather small. However, the question of how the influence of EU legislation manifests itself in Finnish legal language has received no significant clarification through this investigation; this question will require further research. To that end, asking the drafters this question directly and letting them provide examples of the influence of EU legislation on Finnish legal texts would prove illuminating. Discussions with drafters have already identified some interesting phenomena, such as the very detailed method of writing provisions in EU law and textual practices specific to EU law (e.g., assembling all definitions in one section of each law). Interviews would assist in constructing hypotheses and in directing the search toward relevant features in corpus data.

## References

*Better Regulation in Europe: Finland* (2010). OECD (Organisation for Economic Co-operation and Development). Retrieved from [http://www.oecd.org/document/9/0,3343,en\\_2649\\_34141\\_45056137\\_1\\_1\\_1\\_1\\_00.html](http://www.oecd.org/document/9/0,3343,en_2649_34141_45056137_1_1_1_1_00.html).

- Better Regulation Programme = *Paremmän sääntelyn toimintaohjelma* (2006). Helsinki: valtioneuvoston kanslia.
- Blückert, A. (2010). *Juridiska - ett nytt språk?: En studie av juridikstudenters språkliga inskolning*. Uppsala: Uppsala Universitet.
- Greaves, C., & Warren, M. (2010). What can a corpus tell us about multi-word units? In A. O’Keeffe & M. McCarthy (Eds.), *Routledge handbook of corpus linguistics* (pp. 212–226). London: Routledge.
- Heikkinen V., Lounela, M., & Voutilainen, E. (2012). Aineistot ja niiden käyttö tekstilajitutkimuksessa. In V. Heikkinen, E. Voutilainen, P. Lauerma, U. Tiililä, & M. Lounela (Eds.), *Genreanalyysi: Tekstintutkimuksen käsikirja* (pp. 325–350). Helsinki: Gaudeamus.
- Hakulinen, A., Vilkuna, M., Korhonen, R., Koivisto, V., Heinonen, T. R., & Alho, I. (2004). *Iso suomen kielioppi*. Helsinki: Suomalaisen Kirjallisuuden Seura.
- Itkonen, T., & Maamies, S. (2011). *Uusi kieliopas* (4th ed.). Helsinki: Tammi.
- Karlsson, F. (1998). *Yleinen kielitiede*. Helsinki: Yliopistopaino.
- Koskinen, K. (2008). *Translating institutions: An ethnographic study of EU translation*. Manchester: St. Jerome.
- Legal Drafter’s Manual = *Lainlaatijan opas* (1996). Helsinki: oikeusministeriö.
- Legal Drafter’s Guide to the European Union = *Lainlaatijan EU-opas* (2012). Helsinki: oikeusministeriö.
- Lindquist, H., & Levin, M. (2009). The grammatical properties of recurrent phrases with body part nouns. In U. Römer & R. Schulze (Eds.), *Exploring the lexis-grammar interface* (pp. 171–188). Amsterdam: John Benjamins.
- Mattila, H. E. S. (2013). *Comparative legal linguistics*. Farnham: Ashgate.
- Mattila, H. E. S. (2002). Lakimies-lehti ja oikeuskieli. *Lakimies*, 7–8, 1108–1119.
- Niemivuo, M. (2008). *Lain kirjain: Lakitekniikka ja lakikieli*. Helsinki: Edita.
- Phillips, S. U. (1982). The language socialization of lawyers: Acquiring the “cant”. In G. Spindler (Ed.), *Doing the ethnography of schooling: Educational anthropology in action* (pp. 176–209). New York, NY: Holt, Rinehart & Winston.
- Piehl, A. (2006). The Influence of EU legislation on Finnish legal language. In M. Gotti & D. S. Giannoni (Eds.), *New trends in specialized discourse analysis: Linguistic insights*. Studies in Language and Communication, Vol. 44 (pp. 183–194). Peter Lang: Bern. (Available at [http://www.kotus.fi/files/2074/New\\_trend\\_in\\_Specialized\\_Discourse0001.pdf](http://www.kotus.fi/files/2074/New_trend_in_Specialized_Discourse0001.pdf).)
- Piehl, A. (2008). Virkamiehet EU:n säädösvalmistelussa: Tasapainoilua oman kielen ja työkielten välissä. In R. Foley, T. Salmi-Tolonen, I. Tukiainen, & B. Vehmas (Eds.), *Kielen ja oikeuden kohtaamisia: Heikki Mattilan juhlaKirja* (pp. 207–227). Helsinki: Talentum.
- Piehl, A. (2012). Les fonctionnaires dans la préparation des actes législatifs de l’UE: L’équilibre entre leur propre langue et celles de travail. In J. C. Herreras & K. Ziegler (Eds.), *L’Europe des 27 et ses langues*. Collection Europe(s) N° 3, (pp. 685–698). Presses Universitaires de Valenciennes.
- Piehl, A., & Lounela M. (2012). Tekstilainauksen tutkiminen puoliautomaattisesti. In V. Heikkinen, E. Voutilainen, P. Lauerma, U. Tiililä, & M. Lounela (Eds.),

*Genreanalyysi: Tekstilajitutkimuksen käytäntöä* (pp. 129–156). Kotimaisten kielten keskus. Retrieved from <http://scripta.kotus.fi/www/verkkojulkaisut/julk29/Genreanalyysi.pdf>.

Stenqvist, U. (2000). Krav och förutsättningar för lagspråk i Europeiska unionen: Att använda det nationella språket internationellt. In B. Lindgren (Ed.), *Rapport från en konferens den 29 november-1 december i Bryssel* (pp. 30–37). Stockholm: Nordiska språkrådet.

Stubbs, M., & Barth, I. (2003). Using recurrent phrases as text-type discriminators: A quantitative method and some findings. *Functions of Language*, 10(1), 61–104.

---

1 The text and examples from the Acts of Parliament are translated by Darryl Taylor and Stephen Stalter.