



# Who's afraid of the passive? A corpus-study of passives in two legal genres and their simplified Plain English versions

Manon Bouyé

Ecole Normale Supérieure Paris-Saclay, Département des Langues, Equipe de recherche Langues, Enseignement et Anglais De Spécialité (LEADS), France

## Abstract

Plain language is “communication that is comprehended the first time it is encountered, and which relies on textual features such as active voice and common terms” (Rossetti et al., 2020). In the last decades, government agencies in the English-speaking world have encouraged the use of plain English not only in legislative or judicial settings, but also in the communication between legal institutions and non-expert law users. Plain English is based on linguistic recommendations, which include avoiding difficult vocabulary or legal terminology, and keeping sentences short. Avoiding the passive is by far the most frequent of these recommendations. Although research has focused on the evolution of passives in legal settings (Williams 2015, 2022), few studies have investigated its use in Plain legal texts published for lay readers. The aim of this paper is to examine whether the recommendation to avoid the passive is actually applied in legal popularization texts that address the general public. We studied the frequency of passives in two *legalese* corpora, made up of legislative texts from the United Kingdom and New Zealand, and of judgements from the Supreme Court of Canada. These specialized corpora were compared with their Plain English versions. Canonical and non-canonical passives were examined quantitatively. Using a lexicogrammatical approach, contexts were then studied to try to identify possible phraseological patterns centered around passive. Qualitative analyses were performed to identify the rhetorical functions of the passive in our corpora, especially in the Plain English texts. Our results confirm that the passive is a crucial feature of specialized legal phraseology. However,

our analysis also suggests that the passive is also used in canonical and non-canonical forms in Plain English texts. Added to other typical features of popularization and knowledge dissemination, it appears that the passive helps recontextualize legal knowledge towards human actors and law users.

**Keywords:** plain language, law, phraseology, popularization

## 1. Introduction

### *1.1 Legal language and the Plain Language Movement*

Plain language can be defined as "a deliberate linguistic style, consciously adopted with the rhetorical intent of making specialized knowledge clearer and more accessible to non-experts" (Gledhill et al., 2019). In the past decades, encouraged by advocate of the Plain Language Movement, legal and administrative institutions in the English-speaking world have strived to apply Plain Language (now PL) principles to legislative or judicial drafting (Williams, 2022), as well as to the communication between institutions and non-expert law users. Government agencies in the US, Australia, the UK, New Zealand or Canada encourage the use of PL when addressing the general public (Asprey, 2004). To do so, agencies and public service entities publish recommendations in the form of drafting guides or handbooks.

Plain English guidelines include negative rules, such as avoiding the passive, avoiding "difficult" vocabulary or legal terminology, as well as positive rules, for example keeping sentences short or addressing the reader as 'you' (Williams, 2004; Cutts, 2020). Although it is not as formalised as other controlled languages like Simplified Technical English, PL has attained a high degree of official recognition in various English-speaking countries and has been implemented in both expert-to-expert communication (as in statutes), and expert-to-non-expert communication. Numerous studies have examined the implementation of PL in specialized legal settings (Williams, 2022), or its reception by non-experts in English-speaking countries, including the United Kingdom and New Zealand (Masson and Waldron, 1994; Rossetti et al., 2020). In discourse analysis, research has focused on the popularization and the dissemination of legal knowledge in terms of discursive devices and stance, identifying common rhetorical strategies used to reformulate specialised legal knowledge. These strategies include "concretization", i.e. linking abstract concepts to the non-experts' real-life experience, rephrasing and illustrating terms (Turnbull, 2018), and communicative

strategies to rephrase institutional discourse (Preite 2016, 2018). However, few studies have proposed a systematic investigation of the main features of Plain English in legal expert-to-non-expert communication to examine whether PL recommendations are followed, although work by Bouyé (2022) and Bouyé & Gledhill (2019) has attempted to partly fill this gap. In this paper, we focus more specifically on the passive, to examine whether this guideline, which is one of the most frequent PL recommendations, is followed in expert-to-non-expert legal communication.

### *1.2 The passive and linguistic complexity*

The passive is considered to be particularly characteristic of legislative discourse (as well as other specialised languages), although it has evolved in recent decades and its frequency has been shown to decrease, especially in legislative texts (Williams, 2015, 2022). In a study of 15 PL guidelines in various domains, Bouyé (2022) has shown that avoiding the passive appears in 87% of PL handbooks, making it one of the most common recommendations for writing in Plain English. This is also a typical rule in controlled languages, whether Simplified Technical English or other controlled languages in specialize contexts (see for example Warnier, 2018). PL handbooks often advise drafters to use the passive.

[Passive sentences] can be confusing. They often make writing more long-winded.  
They make writing less lively. (Plain English Campaign, 2022)

Not only do passive sentences make sentences longer (which is arguable), according to this quote, they may also pose comprehension problems and make writing “less lively”. Why is the passive so “confusing”, according to various controlled languages and handbooks that encourage maximal comprehensibility and readability? According to Warnier (2018), two reasons can explain why the passive voice is so “unloved” by controlled languages" (p. 92, our translation). This excerpt from a style guide published by the British association Plain English Campaign explains the first reason why the active is often preferred:

The active voice identifies in a direct way who is doing what. (Digital Government  
New Zealand 2020)

In linguistic terms, this means that sentences in the passive voice are considered more complex than their active equivalents because they are seen as the result of a transformation of the canonical

Subject-Verb-Object word order, to which the semantic functions of Agent, Verb and Patient are often associated and are seen as corresponding to the syntax in this interpretation. Here we see not only the influence of controlled languages (Gledhill, 2011; O'Brien, 2010), but also that of transformational generative grammar, for which passive and active constructions are explained in terms of derivation. In this approach, a sentence in the active voice is considered an “unmarked” structure and is seen as requiring less cognitive effort to decode than a sentence in the passive voice, which is seen as a “marked structure”. It is for this reason that the active voice, which preserves a supposedly direct relationship between the grammatical subject and the Agent of the action, is preferred to the passive.

The second reason why the passive is seen as possibly confusing is related to the possibility that the Agent be omitted in a passive clause. Consider the following sentences, taken from Supreme Court judgments:

*The judgement of the court was delivered orally.*

*The judgement of the court was delivered orally by the Chief Justice.*

Both these sentences are grammatically correct, but in the first instance, the Agent is omitted, contrary to the second example, in which the prepositional phrase “by the Chief Justice” introduces the semantic Agent. In the context of controlled languages, such Agent-less passives are seen as posing a risk of “incomplete or unfinished” information (Warnier, 2018, p. 93). For controlled languages and PL advocates, the absence of an Agent can lead to ambiguity or a lack of clarity. This is seen as entailing greater complexity, especially in cases where readers cannot deduce who or what the Agent is from the context. Such a sentence is then likely to appear “incomplete or unfinished because it is not specified by whom or by what the action mentioned is to be performed” (Warnier, 2018, p. 93). In some contexts, the explicit identification of the Agent is crucial information that should not be omitted, hence the preference for the active voice in controlled languages and PL.

It must however be noted that some authors have shown that in English four out of five passives are short passives, i.e. passives without a *by*-adjunct, where the Agent does not need to be specified, either because it is obvious from the context or because it does not need to be mentioned for the sentence to be understood (Quirk et al., 1972, p. 807). Some PL drafting guides actually take this into account, as they suggest that drafters can use the passive in certain contexts. What must also be kept in mind is that these recommendations do not take account morphological variations of

the passive. Plain English style guides focus solely on prototypical forms of the passive, [BE + Past Participle], which will be referred to as “canonical passives” or BE-passives in the rest of this paper.

Some structures and morphological variations of the passive are overlooked by PL recommendations. The auxiliary *be* is not the only auxiliaries that can be used to form the passive. In English, *get* can also be used as auxiliary that allows the construction of passive structures. Similarly the forms of passive without auxiliaries, called *bare passives* by Huddleston and Pullum (2002, p. 1430), are overlooked in PL guidelines. We provide an example of *bare passive* in the following excerpt from a judgement by the Supreme Court of Canada:

A person *convicted* of the offence with which Mr. Wong was charged would become inadmissible to Canada, no matter the length of the sentence imposed on him or her.  
(Supreme Court of Canada)

In this example, “convicted of the offence” could be glossed by a relative clause containing a passive with an auxiliary form, “a person who is convicted of the offence”. Bare passives such as this are generally used to modify a noun phrase (NP) and pack more information in an NP, as can be seen here, where it modifies “a person” and refers to an offence that has already been discussed.

### *1.3 Phraseology, legal discourse and popularization strategies in legal settings*

In the remaining sections of this paper, we adopt a phraseological perspective to explore the question of the passive in legal settings quantitatively and qualitatively. Numerous studies have focused on the phraseology of legal language, with several books or papers looking at regular expressions and lexical bundles in legal English (Goźdz-Roszkowski & Pontrandolfo, 2013; Goźdz-Roszkowski & Pontrandolfo, 2017). However, fewer studies have been conducted on the phraseology of PL in French. Among one of the first studies of this type (Bouyé & Gledhill, 2019) we attempted to set out some characteristics of PL phraseology in English and French, using ngrams.

In this paper, our analysis of the passive is based on the concept of the ‘lexico-grammatical patterns’ (LG) in order to examine whether there is such a phenomenon as the ‘phraseology of simplification’. We use the definitions of LG patterns put forward by Gledhill et al. (2017), who define them as recurrent sequences of lexical items (‘collocations’), which correspond to regular

grammatical structures, and which have an identifiable frame of reference or discourse function. Contrary to ngrams and other fixed sequences, LG patterns are productive and potentially discontinuous. The simplest forms of LG pattern are routine formulae or ‘speech acts’ (such as greetings, warnings, official pronouncements, etc.) (Gledhill et al., 2017).

#### *1.4 Research questions*

The first aim of this paper to measure the degree of adherence of the legal popularization texts to the drafting recommendations, since it is one of the most frequent recommendations in the drafting guides for writing in clear style. The second objective is to propose an interpretation of the discourse functions of the passive observed in the two registers represented by the expert-to-expert and expert-lay corpora under study. Differences between discourse genres are also taken into account.

In particular, our aim is to perform a qualitative analysis to observe whether the passive appears in lexico-grammatical patterns (LG patterns) in both specialized and popularization corpora. LG patterns, as mentioned above, are structures that exhibit a certain degree of fixity, where certain continuous or discontinuous elements serve as pivots (i.e. they constitute the recurrent elements) and whose extended context reveals regularities at the semantic (e.g. the referent of the subject is always an institutional actor) and/or grammatical level (in this case, a passive).

## **2. Methodology**

### *2.1. Textual data: The LEX and PLAIN corpora*

Two corpora were collected for this study, which were themselves subdivided into several subcorpora.

The first corpus, entitled LEX, is a specialized legal corpus, which contains two subcorpora:

- EN-Law, made up of legislative texts from the United Kingdom and New Zealand (1,975,302 word tokens), which were still enforced at the time when the corpus was collected in 2018;
- EN-CA-judgements, composed of judgements from the Supreme Court of Canada, delivered in 2018 (671,124 word tokens)

This specialized legal corpus is contrasted with its Plain English version, the PLAIN corpus, containing 981,501 word tokens, which is itself made up three subcorpora, whose intended readership are non-expert law users:

- EN-Brochures, a corpus of 45 leaflets and brochures published online between 2014 and 2018, which guide law users through various legal procedures (including asking for divorce, asylum or employment benefits) and contains 219,332 word tokens;
- Citizens-Advice (711,935 word tokens), made up of 773 texts published on the legal popularization website Citizens Advice Bureau, which also informs law users of their rights and guide them through the legal process;
- Cases in Brief (50,234 word tokens): 66 summaries of judgements published by the Supreme Court of Canada as “Cases in Brief” in 2017 and 2018.

The first two subcorpora of the PLAIN corpus can be said to belong to the administrative register (although the brochures are longer texts than the Citizens Advice texts), as they are published by administrative institutions that guide and assist law users in various legal and administrative processes, while the third subcorpus contains summaries of judicial texts. The summaries do not share exactly the same functions as the texts from the other two subcorpora, as it summarizes. However, all of the texts in the PLAIN corpus share the same non-expert audience and have the same legal mediation purpose, “legal mediation” being defined by Turnbull as not only explaining legal knowledge but also aiming at empowering their readers (Turnbull, 2018).

## 2.2 *Passive extraction*

As mentioned above, the first hypothesis we seek to confirm or disprove concerns the frequency of canonical BE passive forms in the PLAIN corpus with regard to the LEX corpus, to investigate whether they are less frequent in the PLAIN corpus than in the LEX corpus.

The first step of this study was therefore to look for forms containing auxiliary BE lemmas followed by the past participle. Prototypical passive forms in the LEX and PLAIN corpora were extracted using SketchEngine (Kilgarrif et al., 2008) thanks to the Corpus Query Language, which is based on morpho-syntactic tags in the lemmatised corpora (tag: [lemma="be"][tag="VVN"]). Once the passive forms had been extracted, we obtained the normalised frequency of canonical



passives in relation to the total number of conjugated verb forms. Thanks to SketchEngine's Collocation tool, the most frequent collocations associated with BE passive constructions were found automatically. In our case, the span chosen was 3 words before and after the passive constructions.

Then, we aimed to explore non-canonical passive forms. The same extraction method was used to identify get-passives, i.e. which used *get* as an auxiliary instead of *be*, this time looking for the lemmas of *get* in the corpus followed by a past participle. We then moved on to bare passives, but these passives without auxiliaries could not be captured quantitatively by SketchEngine. To capture bare passives, past participle forms can be extracted, but these do not correspond solely to bare passives, as they are morphologically ambiguous: they can also refer to past participles in verb phrases. The concordance and CQL functions were nonetheless useful in an exploratory and qualitative analysis of bare passives in the LEX and PLAIN corpora.

### 2.3 *Passive analysis*

Concordances of passive verb phrases were then analysed in context and selected using the KWIC function to obtain the verbal lemmas that are most frequently often associated with the passive in each subcorpus. This way, we could identify possible lexico-grammatical patterns associated with the passive in the LEX and PLAIN corpora, and in particular explore which types of subject were frequently used with the passive and therefore syntactically placed in theme position, i.e. “the orientation chosen for the message” (Halliday & Matthiessen, 2014, p. 43).

To classify the Agents or Subjects of passive verbs, we borrow the classification set out by Breeze (2017), who categorizes speech verb subjects in a corpus of academic legal texts based on the following categories: institutional collective legal actors, individual legal actors (e.g. a judge), legal document, impersonal subject (*it/this*), cases, legal argument or principle, or parties, including defendants. For this last category, in our analysis of the PLAIN texts, we pay close attention to how reference is made to lay law users, especially if the second person is used.

The aim of this context analysis was to formulate hypotheses about the rhetorical function of the passive in both corpora (particularly in the PLAIN corpus), but also to see whether passive voice constructions are inserted in recurring phraseological patterns or specialised collocations.



We use the following typographical conventions to describe the LG patterns observed:

- < beginning of LG pattern
- > end of LG pattern
- italics: pivot (mandatory lexical and/or element)
- square brackets: variable but mandatory element

### 3. Results and discussion

#### 3.1. Quantitative results

We present the quantitative results in Tables 1 and 2 below, before moving on to the discursive analysis of the passive in both corpora.

**TABLE 1. Frequency of BE passives in the LEX corpus.**

Subcorpus	Number of BE passives	Number of finite verb forms	Frequency of passives with respect to the number of finite verb forms (%)
EN-Law	29951	109822	27,3
EN-CA-Judgements	7264	48314	15,0

Table 1 suggests that the subcorpus of legislative texts, EN-Law, contains a higher proportion of canonical BE passive constructions than the corpus of judgements from the Supreme Court of Canada (hereafter SCC). The relative frequency of canonical passives in EN-Law (27,3%) is not surprising, as the passive is often described as one of its distinctive linguistic features (Tiersma, 1999). This finding is furthermore consistent with results from other studies on English legislative discourse. In particular, our result corresponds to the proportion described by Williams in his study of the evolution of legislative texts, in which he reported that 26% of transitive verbs in his corpus of laws from 2010 were in the passive voice (Williams, 2013). The difference between the two subcorpora EN-Law and EN-CA-Judgements might at first sight seem more surprising, and could suggest a difference between the legislative and judicial discourse genres. This difference should however to be treated with extreme caution, as these results do not take into account non-canonical passives, notably bare passives.

**TABLE 2. Frequency of BE passives in the PLAIN corpus.**

Subcorpus	Number of BE passives	Number of finite verb forms	Frequency of passives with respect to the number of finite verb forms (%)
Citizens-Advice	9574	70580	13,6
Brochures	3013	17486	17,2
Cases in Brief	711	5680	12,5

The quantitative results presented in Table 2 suggest a clear decrease in the number of canonical passive constructions in certain PLAIN subcorpora compared to their non-simplified version in the LEX corpus. This difference is evident for example between the EN-Law corpus and the Citizens-Advice corpus, with a drop from 23.6% to 13.7% of canonical passive constructions. The EN-Brochures subcorpus also contains much fewer canonical BE passive constructions than the EN-Law corpus, but more than the Citizens-Advice corpus (13,6%). EN-brochures is explicitly based on texts from EN-Law, which may explain why it contains more BE passive constructions than Citizens-Advice, whose texts do not systematically refer to a source legislative text. One interesting finding is that the Cases in Brief subcorpus contains nearly as many BE passive verbs as the corpus of judgements, with a decrease of only 3% (15,0% vs.12,5%).

Besides the fact that it does not capture bare passives or other morphological variations of the passive, one important limitation in the method can already be noted. These results only capture the frequency of “continuous” passives, that is where the past participle directly follows the auxiliary.

Although these results suggest a more or less sharp decrease of the frequency of the passive in the PLAIN corpus compared to LEX, they only provide a partial view of the proportion of the passive in legal texts and their plain English versions, which is why most of our analysis is devoted to an investigation of the contexts of use of the passive in both corpora. We now turn to a more qualitative analysis of our data, based on the most frequent verbs occurring in the passive and other passive forms.

### 3.2 *Qualitative analysis in the LEX corpus: Use and discourse functions of the passive in legal phraseology*

We begin by exploring the passive as a core element of legal phraseology in the specialised LEX corpus.

#### *Be-passives, boilerplates and formulaic sequences:*

Before looking at the verbs that appear most often in BE passive structures, we will examine recurring formulaic sequences, which appear in all judgements and/or legal texts. In LEX, the passive is first found in the introductory formulae of the two legal genres in question, as in the extracts below, which appear at the very beginning of the texts in question:

- (1) This Act *may be cited* as the Consumer Rights Act 2015. (EN-Law)
- (2) The judgement of McLachlin J. and Abella, Moldaver, Karakatsanis, Wagner, Gascon and Brown JJ. *was delivered* by Wagner J. (EN-CA-Judgements)
- (3) The judgement of the Court *was delivered* orally by Abella J. (EN-CA-Judgements)

These introductory sentences not only contain passive verb phrases, they also have a strong metatextual flavour, which is specific to the genre and mode of discourse: in the first example, the Act, a written legislative document, states how it can be cited, while in (2), the judgement, a spoken text, states which Justice from the Supreme Court delivered it. The closing sentence of a Supreme Court judgement is also a passive sentence and also forms a discursive routine, stating the decision of the court, i.e. whether or not the appeal is dismissed.

- (4) The appeals *should be dismissed*. (EN-CA-Judgements)
- (5) The appeal *should be allowed*. (EN-CA-Judgements)

These ritual formulae illustrate the highly standardised and conventional nature of legal discourse, which has been widely established in the literature (Pontrandolfo, 2023). These opening sentences in particular endow these texts with an aura of solemnity and participate in their performativity. What can be noted is that most of these boilerplates contain what Huddleston and Pullum (2002) call 'short passives' (p.1428), i.e. passives without an Agent introduced by a prepositional phrase. The Agent is not expressed, we argue, because it is obvious to both the writers and the readership

(experts and non-experts alike) that the amendment emanates from the legislative institutions or that the decision is the result of the Justices' analysis. The Agent is only expressed, in these examples, when several individual legal actors could have delivered them, namely in the case of the judgements, which could be delivered by more than one Justices.

*Specialized collocations in the two specialised genres:*

A study of the concordances in SketchEngine shows that the verbs that are most frequently used in BE passive constructions in EN-LEX are *make, take and require*. For *make*, we find LG patterns of the type <[Predicative noun] + *is made* + [prepositional phrase (PP)]> in both subcorpora.

- (6) If an **application** *is made* under this section in respect of a temporary protection order, the Registrar must assign a hearing date, which must be as soon as practicable. (EN-Law)
- (7) An **application** for a warrant under subsection may be made by a constable or the chief executive. (EN-Law)
- (8) **Mr. Groia's mistaken allegations** were made in good faith and were reasonably based. (EN-CA-Judgements)
- (9) None of the impugned actions or decisions cited in **Mikisew Cree First Nation's application** for judicial review were made by a "federal board, commission or other tribunal". (EN-CA-Judgements)

The term “predicative noun” is used here to refer to nouns that are often found in verbo-nominal constructions, in collocations where the noun denotes an action or process and where the verb is sometimes called “weak verb” or “support verb” (Gledhill, 2008), for example in *make an application*. Another example is the structure *make allegations* in the passive in (8), where it is the noun “allegations”, not the verb, which expresses that charges have been laid. These constructions can be called complex predicates, as they contain predicative nouns, or verbo-nominal constructions, and are often cited as characteristic of legal discourse (Tiersma, 1999). In the EN-Law corpus, the grammatical subject is often a legal document (*application, order*) as in examples (6) and (7) and one frequent collocate of this pattern is the phrase “under this (sub)section”, which specifies that the legal document in question must refer to this particular passage of the law. This yields a lexico-grammatical pattern of the form <*An order/application* (+ auxiliary) + be made + *under this section*>. In EN-CA-Judgements, the examples of verbo-nominal constructions, such as *make a decision* (9) or *make allegations* (8) contain subjects which are often more abstract:

decisions and allegations refer not to documents but to abstract actions linked to judicial procedures or concepts.

Another frequent collocation that occurs in the passive in both legal genres contains the idiom *take into account*. In this construction, the prepositional complement *into account* also has a predicative function; the use of this structure in the passive allow legal drafters to thematise the factors that judges must take into account when interpreting the law, as we see in the following examples:

(10) For the purposes of subsection X, the following matters *may be taken into account* in deciding whether a failure, default, or contravention is serious: the amount of money involved; whether it comprises a single instance or a series of instances; if it comprises a series of instances, how many instances it comprises. (EN-Law)

(11) As I will explain, the fact that the behaviour occurs in a courtroom is an important contextual factor that *must be taken into account* when evaluating whether that behaviour amounted to professional misconduct. (EN-CA-Judgements)

In both cases, the subject's referent is usually one of the factors that can (10) or must (11) be considered by judges when analysing an offence. There are, however, differences in the use of this construction between the two discourse genres. In legislative texts, it is used in the passive to refer to elements of the procedure in question, with an abstract meaning (steps to be followed) or a concrete meaning (fingerprints to be taken):

(12) **The steps to be taken** under subsection above shall include giving the requisite information both orally and in writing.

(13) **Fingerprints** *may be taken* from the detained person only if they are taken by a constable with the appropriate consent given in writing, or without that consent under sub-paragraph 2.

These passives with *take* are therefore sometimes used to thematize abstract legal concepts and to guide magistrates and executive officials, in particular by indicating the information they must obtain in the legal process. In EN-CA-Judgements, the LG pattern < *be taken as* + V + ing > is more metatextual and can be understood as a synonym for *understood*, as can be seen in the examples below.

(14) The phrase "obviously relevant" should *not be taken* as indicating a new standard or degree of relevance: Jackson, at para 125, per Watt. Rather, this phrase simply describes information that (..) would nonetheless be required to be disclosed under Stinchcombe because it relates to the accused's

ability to meet the Crown's case, raise a defence, or otherwise consider the conduct of the defence. (EN-CAJudgements)

(15) In saying this, I do not wish to *be taken as* suggesting that the categorical approach established in this Court's jurisprudence is without difficulties. (EN-CA-Jugements)

In the first case (14), the passive serves to thematise an extract from the case law that is quoted: the phrase "obviously relevant", which the Justice comments on and explains as part of their analysis, clarifies the meaning of the legal principle that applies to the case in question. The sentence could be glossed as "The phrase "obviously relevant" is not *to be understood as*...", and expresses a comment by the judge, who restricts the meaning of the expression in question (as shown by the adverb *simply*) and indicates what information may or may not be passed on to the police. In the second case (15), the passive structure is used with a first-person pronoun, and the Justice rephrases or clarifies what they mean. The judge expresses his or her position (stance) and makes sure, thanks to the use of a passive structure, that they have been properly understood by his or her colleagues. These passive collocations seem to have both a more argumentative value in the reasons for judgement, whereas they have more of a descriptive and procedural value in EN-Law, since they are intended to guide the magistrates in their analysis.

Other verbal lemmas that are often found in passive VPs are more specific to each of the legal genres in question. In EN-CA-Judgements, the most frequent canonical passives, such as *entitled* and *found*, allow for the thematisation of collective institutional actors (such as the Court, the Appeal Panel) or the parties (below, the accused).

(16) Justice Moldaver states that it was "not reasonably open" to the Appeal Panel to find that Mr. Groia's allegations lacked a reasonable factual basis: M.R., at para 134. (...) With respect, the Appeal Panel *was entitled* to make the findings of fact it made. (EN-CA-Jugements)

(17) If, as in the case at bar, an element of the actus reus is missing at the time of the alleged offence, **the defendant** cannot *be found* guilty. (EN-CA-Jugements)

The analysis of contexts also revealed a specialised collocation which seems to be specific to the judgement as a genre, to explain legal principle that the Court has to establish to make a certain decision.

(18) Both **the actus reus and the mens rea** must *be made out*. While there is no doubt that Mr. Carson had a guilty mind, establishing the mens rea is insufficient, in and of itself, to make out the offence.

This is a specialised use of the phrasal verb *make out*. The LG pattern exemplified in (18) is of the form <[Legal principle] (+ modal/aspect auxiliary) + *be* + *made out* >. The auxiliary *must* has a deontic value here. The judge is expressing an obligation, recalling what the law provides: for a criminal offence to be established, both the material element (*actus reus*), i.e. the criminal act (e.g. murder), and the intention (*mens rea*) must be demonstrated.

Some specialised LG patterns also occur in the legislative corpus, as can be seen in the examples below.

(19) **Any statement** made in court to a Judge or a witness by a person providing communication assistance must, if known by the person making that statement to be false and intended by that person to be misleading, *be treated* as perjury for the purposes of sections 108 and 109 of the Crimes Act 1961. (EN-Law)

(20) **The Tribunal** must *be given access* to classified information that was relied on to make a decision that is on appeal to the Tribunal; or *is first raised* in the course of an appeal to, or a matter before, the Tribunal. (EN-Law)

(21) For the purposes of sections 157 and 158, **an applicant** *is treated as* having concealed relevant information if he or she fails to comply with the obligation in subsection .

Example (19) shows an example of an LG pattern of the form <[GN = document / procedural element] + *is to be/must be treated as* + [NP] + *for the purposes of* + [NP = reference to a section of law]>. The presence within this pattern of the complex preposition *for the purposes of this section*, an extremely frequent segment in English-language legal texts, gives this lexico-grammatical pattern a meta-textual dimension. As for example (20), it illustrates the thematization of a collective institutional actor (the Tribunal), followed by <[modal auxiliary] + *be given* + *access / notice / information*>. The NP after *given* can vary, but the sequence always refers to the information that is given to the courts in the course of the legal proceedings. Once again, these structures are used to guide magistrates and officials in their implementation of the law by specifying the conditions of its application, which may change according to individual situations (this is why these sentences contain conditional or concession clauses). What can be noted here is that these passives, in both



cases, appear in a structure containing the modal auxiliary *must*. The modal again has a deontic value: the content of the proposition is an obligation for the institution (the Tribunal) or its representative (the judge) to comply with.

What we have strived to demonstrate by analysing these examples is that the passive frequently enables institutional actors, as well as legal principles, concepts, legal texts/documents to be thematised within LG patterns that have a partially predictable structure (Gledhill et al., 2017) . In these lexico-grammatical patterns we have described, the passive is used systematically, which supports the interpretation of the passive as a central feature of legal discourse, which serves to reinforce some discourse functions of legal texts, and is not merely the result of syntactic rearrangement.

#### *Non-canonical passive forms in the LEX corpus*

This section would not be complete without an investigation of non-canonical passives in the LEX corpus. From the quantitative results described in Table 1., the conclusion could be that the judgements contain less passives than the legislative corpus. However, our hypothesis is that this difference is due to the texts in the EN-CA-judgements corpus containing fewer canonical passive structures but more bare passives. These non-canonical passive forms are not detected by the CQL search, but a quick look at a few extracts from this subcorpus show that a great amount of these are bare passives.

(22) More importantly, in reading the LSA as a whole, it becomes readily apparent that the **functions, duties and powers** *set out* therein relate only to the governance of the LSUC itself, to the provision of legal services by lawyers, law firms and lawyers of other jurisdictions, and to the regulation of articulated students and licensing applicants. (...) **Each of the matters** *listed* in 62 ("By-laws"), and 62 *read* as a whole, grant the LSUC by-law making powers only for matters relating to the affairs of the Society, and the governing of licensees, the provision of legal services, law firms, and applicants. (EN-CA-Judgements)

(23) Further, as indicated, despite **the criticisms** *levelled* at Mr. Groia by Campbell J. and Rosenberg J.A. for the uncivil way in which he had made his allegations against Mr. Naster, the trial judge never once castigated Mr. Groia for the tone or manner of his submissions or the language *used* by him. (EN-CA-Judgements)

The extracts above contain a large number of passives, some of them canonical, but mostly without auxiliaries. Although, at first sight, it seems that judgements contain fewer passives, on closer inspection, it appears that this is actually not the case: they are in fact present in the form of bare passives. These passives are used by the judges to integrate certain facts and quotes into their arguments, thus fulfilling in part an intertextual function, as can be seen with “Each of the matters listed in 62” (“By-laws”), and “read as a whole” in example (22). These non-canonical passives can be said to add to the nominal complexity, by post-modifying NPs composed of several nouns, e.g. “functions”, “duties” and “powers”, as well as NPs whose nucleus is post-modified not only by prepositional phrases (PPs) but also by other PPs, e.g. “for the uncivil way in which he had made his allegations against Mr. Naster”. Bare passives therefore contribute to discursive cohesion, by thematizing the elements put forward by the judges. What's more, since these texts have a strong nominal dimension, these passives without auxiliaries reinforce discourse cohesion and contribute to the nominal style of these texts. This corroborates some of the findings set out by Halliday, who showed the most technical and “bureaucratic” varieties of English, and therefore the ones we are interested in, are characterised by a high lexical density (Halliday & Webster, 2009, p. 75).

On closer examination, both legal corpora contain a large amount of both BE passives and bare passives. This can also be seen in EN-Law:

(24) If **fingerprints** *are required* by section 18 to *be destroyed*, any copies of the fingerprints *held* by the law enforcement authority *concerned* must also *be destroyed*.

In this example, bare passives are therefore used to describe an element of police procedure, fingerprint taking, and the legal document that records them. The modified NP is complexified by passive post-modification. This sentence is structurally complex, because it contains cascades of nouns: as in the extracts from judgements analysed above, the bare passive is part of the nominal style of legislative texts. Going back to the argument against the passive in PL guidelines, the risk that can be seen in these examples is not so much the incompleteness of the information (since the agent is mentioned), but possible difficulties in understanding the structure of the sentence, which requires cognitive effort to unpack all the information contained in these complex NGs.

The results from this subsection corroborate various analyses and descriptions of the phraseology of legal language (Tiersma, 1999; Goźdź-Roszkowski & Pontrandolfo, 2017). They suggest that the passive is used as a full syntactic and information-packaging in the clause in both judicial and legislative legal discourses. This seems to confirm Minton's (2015) analysis of the

passive in medical texts. According to the author, the role of the passive is not to obscure the Agent (which we have seen is most often obvious), but to maintain stylistic patterns and information packaging. Our study of LG patterns seems to show that the passive is a central part of legal phraseology, as well as a cohesive device. We now turn to the PLAIN corpus to investigate the passive as part of a ‘plain language phraseology’.

### *3.3 Forms and functions of the passive in PLAIN legal texts*

We have seen in Section 3.1. that canonical BE-passives are present in various proportions in the three subcorpora written for the general public. In this section, we try to establish some regularities associated with the use of the passive in the PLAIN corpus. In other words, we look for rhetorical or discursive functions to account for the use of this ‘prohibited’ form, i.e. to understand why the texts do not adhere to the plain language recommendations.

#### *The passive in plain administrative texts*

This section first focus on the EN-Brochures and Citizens-Advice corpora, which represent administrative genres, i.e. texts which guide non-expert law users through the legal process. According to SketchEngine, the verbs most frequently found as passives in these corpora include *give*, *take*, *require*, *entitle* and especially *make*, which is found in the same verbo-nominal constructions in the EN-LEX corpus, for example below *make an order*.

(25) If a *bankruptcy restrictions order (BRO)* is made against you, this rule will also apply as long as the BRO is in force. (Citizens-Advice )

(26) You will be legally divorced 1 month after the date *the Dissolution Order is made*. (EN-Brochures)

As in specialised texts, the complex predicate <*make* + [legal document]> is used to refer to the document resulting from the order, and the predicative noun denotes both the process ordered and the administrative document sent by the court. According to the concordances, in these administrative texts, the subject of the passive is very often an abstract element relating to an aid or allowance, and, after the verb, an adjunct explains very concretely how and on what conditions this aid is paid, as illustrated in examples (27) and (28) below.

(27) Usually, **SSP** [Statutory Sick Pay] *is paid* for the first 28 weeks of sickness if you work for an employer. (Citizens-Advice )

(28) **Legal aid** *is paid* to your lawyer directly. (EN-PLAIN)

(29) When **evidence** *is given*, it is possible for the court to be cleared of everyone except the defendant, their lawyers, interpreters and one news reporter. (EN-Brochures)

These texts therefore contain passives whose subjects refer to abstract legal principles, which we have also seen in the LEX corpus. However, a study of the contexts in the PLAIN subcorpora also shows that canonical passive which contain second-person pronouns are over-represented. As seen in all the examples above, in sentences containing a verb in the passive, the subject of the proposition containing the passive, or of the following proposition, is very often YOU or a NP which contains the second-person pronoun YOUR. This use of the second person corresponds to the “conversationalisation” of institutional discourse, as defined in critical discourse analysis approaches (Turnbull, 2018). The institutions and associations address law users directly, as if in an imaginary dialogue, in accordance with the recommendations for PL. Law users themselves are placed in theme position in the form of a second-person pronoun (you), or elements of the legal procedure are preceded by a second-person possessive determiner to relate these concepts to the laypeople’s experience, as the following examples show.

(30) **You’re** unlikely to *be given* bail if: **you** *are charged* with a serious offence, e.g. armed robbery; **you’ve** *been convicted* of a serious crime in the past; **you’ve** *been given* bail in the past and not stuck to the terms (EN-Brochures).

(31) **The amount you owe** to your creditor can only *be taken out* of the money you earn above this amount. (Citizens-Advice)

(32) **Your circumstances** can be checked at any time while you are claiming Disablement Benefit. Benefit fraud is a criminal offence and **you** can *be prosecuted* or asked to pay a penalty. (Citizens-Advice)

This use of the second-person is linked to the reorientation of discourse in popularization texts, which reformulate legal discourse to place law users and their experience of the law at the centre of their discourse. This personalisation is achieved by means of relative propositions (*the amount you owe*) and direct references to law users in situations described as justice-related (*you can be prosecuted*), in order to explain not only their rights but also the penalties that they face if they fail to comply with the law. As far as the grammatical environment of these canonical passives is

concerned, they are often associated with modality, as was also the case in the specialised corpora, although the type of modality differs in the expert-to-non-expert texts.

The extended contexts of the [modal + canonical passive] structures in the two subcorpora suggest that they often appear after conditional clauses in IF, WHERE or WHEN/UNTIL, as in the example below.

(33) If **you** are vulnerable and you are in Scotland, **you** may *be allowed* to have your screening interview in Glasgow (8.2).

In this respect, these contexts are partly similar to LEX texts, which also use MAY and CAN to express the various possibilities for applying and interpreting the law, as well as other deontic modals, as seen in Section 3.2. This use of modality illustrates a paradoxical feature of the law, which aims to be universal but also depends on individual cases. However, in these subcorpora intended for the general public, we consider that these modals, in particular *may*, also express a form of hedging on the part of the drafters, to indicate to users that the result indicated in the proposal may not be achieved. To return to example (33), while it is possible that a vulnerable person in Scotland might be authorised to obtain an interview in Glasgow, this is not always the case, hence the modalisation with *may*. Writers cannot in fact guarantee that the contents of the main proposition, under the conditions expressed by the conditional subordinate in IF, will apply to the law users in their personal situation. For Turnbull (2018), the use of modality and hedging can also reinforce the communicative dimension and present the information politely, especially as the advice given by experts could be perceived as face-threatening in some English-speaking contexts.

What this qualitative analysis suggest is that the canonical passive thus plays a part in the reformulation strategies to personalise the text. In the transition from LEX to PLAIN, there is a movement from abstract or generic subjects, which refer mainly to collective entities or legal principles (sometimes generic humans), to forms of second person that address the non-specialist reader directly, in order to recontextualise legal knowledge in their own experience of the world. In these brochures and leaflets that guide the users through, the passive thus serves a double rhetorical function. It is not only used to topicalize some elements of the legal procedure but also appears to have an interpersonal function, as it participates not only in the cognitive dimension of reformulating legal content (Turnbull, 2018), but can also, to varying degrees, have an interpersonal

function. Two examples illustrate this idea particularly well, in two texts addressed to sexual assault victims and asylum seekers.

(34) There are some court rules (law) about what they can and cannot ask you, and it is up to the judge to oversee these. **You** cannot *be asked* about your sexual experience with any person other than the defendant, except with the permission of the judge. **You** cannot *be asked* any question about your sexual reputation. There is no right or wrong way for you to handle cross-examination because each case is different. Some suggestions are: Listen carefully to the question, sometimes there can appear to be more than one question in what is being asked. Make sure you understand what you are answering. (. . .) If you don't understand a question, ask *for it to be explained*. If you don't hear a question, ask *for it to be repeated*. (EN-Brochures)

(35) Your interview will take place in a Home Office building near to where you live. (. . .) When you arrive you will need to go through security. This is **nothing** *to be alarmed about* and is purely for safety reasons. **You** *will be asked* to remove any coats, jackets or belts and place them in a tray with the contents of your pockets. (EN-Brochures)

In these two extracts, the writers anticipate and respond to potential difficulties for their readers in high-stake situations. In example (34), the readers are repeatedly encouraged to have the questions repeated or clarified if they do not understand them, in order to insist on this right (*ask for it to be explained, ask for it to be repeated*). The brochure, which is addressed to sexual assault victims, places their readers in topical position and uses the passive as an interpersonal strategy which anticipates some of the questions that they could have about being asked questions about intimate details of their lives in the highly sensitive context of courtroom examination. In extract (35), which is addressed to people seeking asylum, the readers are placed in a thematic position through the second-person pronoun. The passive sentence *This is nothing to be alarmed about* is syntactically quite complex, as it contains an impersonal subject (this), an infinitive structure but expresses a reassuring assessment of the situation (*nothing to be alarmed about*). These quite complex sentences, in both examples, are used by the drafters to anticipate emotional reactions of worry or fear on the part of the law users, in situations which not only have material and procedural aspects, but are also highly emotionally charged. These examples illustrate how the passive may have an interpersonal and communicative function in legal dissemination settings.

### *The passive in the summaries of judgements from the Supreme Court of Canada*

We now turn to the third subcorpus from our PLAIN corpus, which is made up of summaries of judgements from the Supreme Court of Canada. This subcorpus is analysed separately because the summaries have a slightly different function to that of the Brochures and Citizens-Advice corpora, although all the genres represented in our PL corpus aim at empowering non-expert citizens by improving access to justice.

The Cases in Brief subcorpus also contains canonical passive constructions, although it is the English-speaking subcorpus which contains the least of those we propose to study. In fact, it is the subcorpus which appears to be the closest to certain recommendations for writing in PL, which recommend that 90% of finite verb forms should be in the active tense. However, as for the Judgement, this result needs to be considered with much caution, as it does not take non-canonical passives into account. Canonical passives are nevertheless present in these Cases in Brief, and seem to be used in collocations which are specific to legal proceedings. BE passives are notably frequently used in the part of the summary that recalls the facts and sentences handed down by the lower courts, in particular to thematise the human actors on trial (defendants or accused), the cases themselves or the elements of the proceedings (evidence), as can be seen in the examples below.

(36) **Mr. Gubbins and Mr. Vallentgoed** *were charged* with having blood alcohol "over 80" in separate incidents. (Cases in Brief)

(37) Without it, **Mr. Reeves** *was found* not guilty. (Cases in Brief)

(38) Before [**anyone can be found** guilty] of a crime, a judge or jury has to believe that the person is guilty beyond a reasonable doubt. (Cases in Brief)

(39) The judge who heard the pre-trial argument agreed with Mr. Reeves that **the computer evidence** *couldn't be used*.

As can be seen in examples (36) to (38), in particular, the passive is found in the LG pattern <[human GN] was/were + found + (not) guilty >, which is also prominent in its specialized version, EN-CA-Judgements.

Other patterns that contain the passive in this corpus have more of a metatextual function. One of the most frequent passive constructions in the Cases in Brief subcorpus is used to explain



specialised terms in a pattern of the form < *This is called* + [term] >. There are numerous occurrences of this sequence in Cases in Brief (113.5 pmm):

(40) If you have rent arrears, your landlord may try and evict you. *This is called* seeking possession. (Cases in Brief)

(41) When a large group of people have the same legal problem, they might decide to get together and sue as a group. *This is called* a class action. (Cases in Brief)

These structures suggest that the passive is really part of the phraseology of legal dissemination, since they seem to belong to lexico-grammatical patterns whose function is to define and introduce terms. Other examples of these patterns can in fact also be found in the other PLAIN subcorpora. It therefore seems that this LG pattern is part of the rhetorical strategies to reformulate legal terms and knowledge, in the form of explicitly metatextual segments.

In the Cases in Brief, the passive is also often used with *allow* and *authorise*, to explain the rules of law, i.e. what the actors in the justice system have the right to do, especially concerning collective institutional actors, the police or jurors.

(42) Judges can tell juries what kinds of inferences **they are allowed** to make.

(43) Justice Abella said that, like other accused, **police officers should not be allowed** to share informer-privileged information with their lawyers unless they show they might be wrongfully convicted if they don't.

In the Cases in Brief subcorpus, modals do not have a hedging value as in the more administrative texts, but they can also be found in the summaries. The interpersonal dimension is nevertheless visible through the use of contracted forms and informal expressions, both illustrated in example (43). *Should* is also frequently used to explain what a judge or a decision says in relation to lower court judgements, for example in example (43). The Cases in Brief thus partly imitate the judges whose words they report, since the latter use modality to express what they think the law should be (Maley, 1994). The patterns that include the passive and modals are thus reformulations of the original version of these texts. The drafters reframe the voice of the judges, who themselves reformulate and interpret the previous discourse on a case, both from the law and the lower courts. It should also be noted that in all the examples cited, the Agent is not expressed: these are therefore short passives without complements, which echoes the results of the literature concerning the

absence of a complement in most passive constructions. As seen in the specialized legal corpus, the Agent only needs to be expressed when the question of agency is at the heart of the matter or could be instantiated by several actors (for example, several judges).

The analysis of these summaries, in contrast with the administrative subcorpora, suggests that the use of the passive slightly differs between the PLAIN subcorpora based on the textual function of each genre. In the Cases in Brief, according to the concordance analysis, BE-passives are used to thematize the actors of the law, in particular defendants and the accused, as well as collective institutions and their representatives (the judges in this case). In these examples we see that the writers perform a double movement of personalisation and generalisation. The writers do not use second-person pronouns, as they are not addressing their readers, but they first state a generalisation, i.e. the decision taken by the SCC on the question of law raised by the case, before recalling the specific and individual facts of the case and setting out the judges' reasoning. These summaries reproduce and explain what the Supreme Court itself does, by stating a general rule of law based on a particular case. However, similarly to the other PLAIN texts, these summaries reformulate and explain the arguments and decision so that it can be understood by lay readers, and the passive is part of this recontextualization strategy.

#### *Non-canonical passives in the PLAIN corpus*

So far, we have focused on *be*-passives in the dissemination corpus, but, as in the LEX corpus, many examples of non-canonical passives can also be found in the PLAIN corpus, in particular to explain legal terms:

(45) Your appeal will be heard by **an independent tribunal** *called* the First-Tier tribunal. (EN-Brochures)

(46) **Anyone** *detained (held)* in prison or at the Mangere Refugee Resettlement Centre or any other place *is said to* be in detention. (EN-Brochures)

In these examples, bare passives introduce institutional terms or actors metatextually, using a metalinguistic comment ("is said to be in detention") or typographic sign (like brackets to introduce a simpler version of the word in example (46)). As in the LEX corpus, "cascades" of passives can also be found, i.e. clauses, sentences and paragraphs containing both canonical passives and bare passives.

(47) **Anyone** who can prove *they are owed* money can make a claim, *called* a "claim provable in bankruptcy." **Anyone** with a provable claim *will get paid* in a **certain order** *set out* in the BIA. (Cases in Brief)

(48) **You** *will be asked* a series of questions *tailored* to your individual circumstances to try and find out this information. (Citizens-Advice )

Just as canonical passives, bare passives appear in propositions that thematise human referents:

(49) **A person** *named* as an irrevocable beneficiary of a life insurance policy doesn't always have a right to keep the insurance money, the Supreme Court has confirmed. (Cases in Brief)

In these examples, the subjects of these passive verb phrases are either abstract legal concepts, or legal documents (47), generic human referents (46, 49) or even to law users themselves (48). As in the LEX corpus, it seems that the passive serves the information packaging and thematisation at clause level, although its uses are different. In particular, it seems to be used to introduce terms within certain sentences, as can be seen with the examples "*a legal concept called 'privilege'*" or called a "*claim provable in bankruptcy*". It would therefore be a more concise equivalent of the LG discussed above, *<This is called + [term]>*, where the term is introduced in the same clause. In the other examples, passives simply post-modify nouns and serve to ensure discursive cohesion within the same sentence, by adding more precise details about a document or concept. For example, the writers define who they are talking or to specify the actors and the origin of certain administrative or legal documents (*a certain order set out in the BIA, 48*).

As regards the other forms of passive, the PLAIN corpus contains a few examples of passives with an auxiliary other than *be*, namely *get*, in each of the discourse genres represented.

(51) Discuss openly the effects and the risks of drugs, the illegal nature of the drugs and what it would mean if your child *got* caught. (EN-Brochures)

(52) If you do this, you could *get* fined or even sent to prison. (Citizens-Advice)

(53) Most cases *get* appealed to a court of appeal, but courts of appeal don't have the power to look at bail review decisions. (Cases in Brief)

This use of *get*-passives, which in English is restricted to an informal language (Huddleston & Pullum, 2002, p. 1429), reinforces the idea of an emphasized interpersonal and dialogic in the

PLAIN texts, achieved in part through features of oral language. The authors adopt a conversational tone, which, as we have seen, is typical of legal popularization discourse (Turnbull, 2018).

*The passive in plain legal texts: discussion*

What does this analysis suggest, overall, about the use of the passive in these corpora intended for non-specialists? As in the LEX corpus, the accumulation of various passive constructions in the PLAIN corpus seems to be part of a general strategy of information packaging. Passives are often used to add precision, or to explain and clarify a term.

Far from being avoided, both typical and non-canonical passives are used to recontextualize legal knowledge and to personalise the texts. In the transition from LEX to PLAIN, we move from very abstract or generic subjects to second-person forms aimed directly at non-specialist readers, or to human legal actors (judges, defendants, etc), in order to recontextualise legal knowledge in the users' experience of the world. The passive therefore serves not only the cognitively reformulate legal content (Turnbull, 2018), but can also, to varying degrees, have an interpersonal function.

What does this say about the recommendations for a clear style, which suggest that the passive can create ambiguity by not clearly identifying 'who does what'? At first sight, it seems obvious that a longer word or a sentence with more words can lead to a higher cognitive cost and greater memorization effort for the reader. But the complexity of a linguistic form is highly dependent on the context of production and reception. Halliday summarizes up this idea as follows:

Formulations such as "passive is more complex than active", or "longer sentences are more difficult to process than short ones", are without any value, and not to be taken seriously, as it is easy to find contexts where the opposite is the case. A "difficult" text is one that is complex in the wrong way, unrelated to what the situation demands; or, perhaps, addressed to the wrong audience - such as the wrong age group. (Halliday & Webster, 2009, p. 77)

In the PLAIN corpus, it seems that the writers of these dissemination texts consider that the passive forms that they employ do not present a risk for their non-specialised readership. In the examples we have seen, either the Agent is clearly identified, and does not need to be specified, or it is specified using a prepositional phrase. In addition, what this paper has strived to demonstrate is that

the passive serves a precise discourse function, as we have seen, and that this reorientation of legal discourse involves the use of several linguistic features of which the passive is an integral part.

Of course, our study has one important limitation. It focuses only on the production of plain language texts, but not on their reception. Although it seems that passive sentences are not considered to pose a risk to legibility by writers, an investigation of how study of lay readers perceive and understand the passive in plain legal texts would therefore be necessary to test this hypothesis, for example by proposing a self-paced reading task.

## **Conclusion**

In this article, we set out to characterise the use of the passive in the LEX and PLAIN corpora. While the quantitative results concerning canonical passives suggested differences between registers and discourse genres, they must be considered with caution. Our study of contexts reveals that both corpora, LEX and PLAIN, contain canonical and non-canonical forms of passives, in particular bare passives and GET-passives in the latter.

In the LEX corpus, the passive is used mainly to thematize institutional actors and abstract principles of law. In all its forms, it seems intrinsically linked to the nominal and impersonal style favoured by the drafters of legislative and judicial texts. Concerning the PLAIN corpus, and to respond to the question set out in the title this paper “who’s afraid of the passive?”, it appears that legal dissemination drafters do not shy away from the passive, be it in its canonical BE form, or in bare passives. Our analysis suggests that the passive, although criticized and discouraged in PL recommendations, achieves a genuine discourse function in popularization texts, and that it participates in the re-orientation of legal content. Combined with other typical strategies of legal knowledge mediation (such as the use of direct questions or the second person), it helps recontextualize legal information by thematizing human actors involved in the law. In its non-auxiliary form, it is used to specify the concepts and actors in question, while adding a form of syntactic complexity. This result is consistent with other studies of Plain English, for example in the medical field (Gledhill et al., 2019). The qualitative analysis of contexts suggests that the passive is one of the many rhetorical tools used by PL drafters to express engagement with the readers in legal popularization texts.

## References

- Bouyé, M. (2022). *Le style clair en droit : Étude comparative du discours juridique en anglais et en français, avant et après simplification*. [Doctoral dissertation. Université Paris Cité.] [https://u-paris.fr/theses/detail-dune-these/?id\\_these=5843](https://u-paris.fr/theses/detail-dune-these/?id_these=5843)
- Bouyé, M., & Gledhill, C. (2019). *Disseminating legal language for the general public : A corpus-based study of the discursive strategies used in English and French*. 349. <https://u-paris.hal.science/hal-04050459>
- Cutts, M. (2020). *Oxford Guide to Plain English*. Oxford University Press.
- Digital Government New Zealand. (2020). *Plain language*. <https://www.digital.govt.nz/standards-andguidance/design-and-ux/content-design-and-management/plain-language/>.
- Engberg, J., Luttermann, K., & Cacchiani, S. (2018a). *Popularization and Knowledge Mediation in the Law. Popularisierung und Wissensvermittlung im Recht*. LIT Verlag Münster.
- Gledhill, C. (2008). *Le signe et le syntagme : Entre phraséologie et lexico-grammaire. Une synthèse du modèle systémique fonctionnel de Michael Halliday et de la théorie sémiotique de Charles S. Peirce*. [Thesis, Université de Bretagne Occidentale]. <https://hal.science/tel-03242458>
- Gledhill, C., Martikainen, H., Mestivier, A., & Zimina-Poirot, M. (2019). Towards a Linguistic Definition of ‘Simplified Medical English’ : Applying Textometric Analysis to Cochrane Medical Abstracts and Their Plain Language Versions. *LCM - La Collana / The Series*, 9788879169196, 91. <https://doi.org/10.7359/919-2019-gled>
- Gledhill, C., Patin, S., & Zimina, M. (2017). Lexicogrammar and Textometrics : Identification and Visualisation of Typical Lexico-Grammatical Patterns in Two Comparable Corpora of Legal French. *Corpus*, 17. <https://doi.org/10.4000/corpus.2868>
- Goźdz-Roszkowski, S., & Pontrandolfo, G. (2017). *Phraseology in Legal and Institutional Settings : A Corpus-based Interdisciplinary Perspective*. Routledge.
- Halliday, M. A. K., & Webster, J. J. (2009). *Bloomsbury Companion to Systemic Functional Linguistics*. A&C Black.
- Huddleston, R., & Pullum, G. (2002). *The Cambridge Grammar of the English Language*. Cambridge University Press.
- Kilgarriff, A., Rychly, P., Smrž, P., & Tugwell, D. (2008). The Sketch Engine. In T. Fontenelle (Ed.), *Practical Lexicography* (pp. 297-306). Oxford University Press. <https://doi.org/10.1093/oso/9780199292332.003.0020>

- Masson, M. E. J., & Waldron, M. A. (1994). Comprehension of legal contracts by non-experts: Effectiveness of plain language redrafting. *Applied Cognitive Psychology*, 8(1), 67-85. <https://doi.org/10.1002/acp.2350080107>
- Minton, T. D. (2015). In Defense of the Passive Voice in Medical Writing. *The Keio Journal of Medicine*, 64(1), 1-10. <https://doi.org/10.2302/kjm.2014-0009-RE>
- Plain English Campaign. (2022). *How to write in Plain English*. Plain English Campaign Drafting Resources. [www.plainenglish.co.uk/free-guides.html](http://www.plainenglish.co.uk/free-guides.html).
- Preite, C. (2015). *Dictionnaires Internet et vulgarisation des termes de la crise économique et financière*. In Paissa, P., Rigat, F., Vittoz, M.-B.(Ed.), *Dans l'amour des mots. Chorale (s) pour Mariagrazia* (pp. 449-464). Dell'Orso.
- Preite, C. (2016). La vulgarisation des termes juridiques et la construction d'un savoir («que» faire) chez le grand public. *REPÈRES-DORIF*, 10, 1-9. <https://iris.unimore.it/handle/11380/1109183>
- Pontrandolfo, G. (2023). The importance of being patterned. In Biel Ł., Kockaert H. J. (Ed.), *Handbook of terminology*. (pp. 124-150). John Benjamins.
- Quirk, R., Greenbaum, S., Leech, G. N., & Svartvik, J. (1972). *A grammar of contemporary English*. Longman.
- Rossetti, A., Cadwell, P., & O'Brien, S. (2020). “The Terms and Conditions Came Back to Bite”: In C. Stephanidis, M. Antona, Q. Gao, & J. Zhou (Éds.), *HCI International 2020 – Late Breaking Papers: Universal Access and Inclusive Design*. (pp. 699-711). Springer International Publishing. [https://doi.org/10.1007/978-3-030-60149-2\\_53](https://doi.org/10.1007/978-3-030-60149-2_53)
- Tiersma, P. M. (1999). *Legal Language*. University of Chicago Press.
- Turnbull, J. (2018). Communicating and recontextualizing legal advice online in English. *Popularization and knowledge mediation in the law. Popularisierung und Wissensvermittlung im Recht*, 201-222.
- Warnier, M. (s. d.). *Contribution de la linguistique de corpus à la constitution de langues contrôlées pour la rédaction technique : L'exemple des exigences de projets spatiaux*. [Doctoral dissertation, Université Toulouse]. [https://theses.hal.science/tel02062833/file/WARNIER\\_Maxime\\_these.pdf](https://theses.hal.science/tel02062833/file/WARNIER_Maxime_these.pdf)
- Williams, C. (2004). Legal English and Plain Language: An introduction. *ESP across Cultures*, 1(1), 111-124.
- Williams, C. (2015). Changing with the Times : The Evolution of Plain Language in the Legal Sphere. *Alicante Journal of English Studies / Revista Alicantina De Estudios Ingleses*, (28), 183–203. <https://doi.org/10.14198/raei.2015.28.10>



Williams, C. (2022). *The Impact of Plain Language on Legal English in the United Kingdom*.  
Taylor & Francis.