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## Is ambiguity a source of inequity? Nominalization in sustaining and effacing power asymmetries

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### Abstract

This article explores the tendency to nominalization in legal discourse from different perspectives, underscoring arguments from the field of critical discourse analysis (in particular, those related to the detrimental consequences that omitting the agent may entail), and offers a qualitative case study regarding the use of nouns in the informative texts given by the Spanish Social Security department on its web about a minimum wage benefit scheme. For this case study, we have used the framework proposed by Willerton (2015) involving his BUROC model, aimed at identifying the circumstances in which plain language should be a priority. As an answer to the question posed in the title of this article, the findings suggest that excessive nominalization harms the lay reader's ability to comprehend and, as a result, places him or her in a disadvantageous position in legal settings; however, the results also indicate that it is the writer's overall lack of empathy towards the reader which ultimately has the most negative impact on legal communication.

**Keywords:** nominalization, legal language, plain language, grammatical metaphor, critical discourse analysis, power asymmetry

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## 1. Introduction: Action nominalizations

A nominalization is “[a] noun or noun phrase derived from, or corresponding to, another part of speech or a clause,” and “the process by which such a phrase is derived” (Chalker & Weiner 2014). In a more straightforward definition, Fairclough (1989, 124) describes nominalization as “a process converted into noun,” and hints at one of its potential shortcomings as a linguistic strategy by saying that “[nominalization] is reduced in the sense that some of the meaning one gets in a sentence is missing—tense, so there is no indication of the timing of the process; modality . . . ; and often an agent and/or a patient.” By way of an example, we can take the Spanish noun *detención* (‘arrest’), derived from the verb *detener* (‘to arrest’). In this specific case, we are dealing with a deverbal nominalization, because the root form is a verb as well as an action-conveying nominalization, as the noun *detención* reflects an action. In order to properly contextualize this type of nominalization (in Spanish), that of nouns that convey action or, as described by Fraser (1970), “action nominalizations,” it is worth mentioning that nominalizations can be sub-divided into four different groups apart from this one, according to the *Nueva gramática de la lengua española* (RAE & ASALE 2009). The other four groups are: those of effect or result (*la resolución del juez* [‘the judge’s decision’]), those of agency (also derived from verbs: *el presidente de la sala* [‘the court’s president’]), those of state (derived from verbs, these allude to sensations, impressions, or states of awareness: *el deseo de que el juicio no se demore* [‘the desire for the trial not to be delayed’]) and those of quality (derived from adjectives and denoting properties of people or things: *la rudeza en la actuación del abogado* [‘the rudeness in the lawyer’s behaviour’]). Given the potential for ambiguity between action nominalizations and those that transmit effect or result, some experts put the two categories together under the same name (for example, Palazón 2008). In our case, while we will concentrate on action nominalizations, we are aware that the exact point at which one category ends and another starts is not always clear-cut.

The initial definitions given remind us that nominalization may occur with either a single word—as in the case of *detención* (‘arrest’) and *detener* (‘to arrest’)—or with a group of words. In this latter case, we can even find instances in which a

whole sentence is condensed into a noun, as we can see in the following example: *la policía detuvo al presunto delincuente en su domicilio el 20 de junio de 2022* ('the police arrested the alleged criminal at his home on 20th June 2022'), which is transformed into one noun accompanied by an article: *la detención* ('the arrest'). In most cases, these nouns encompass the properties of their syntactic base, that is, "nouns do not possess subjects, direct or indirect complements, but they do take agents, patients or recipients, among other semantic functions" (authors' translation, RAE & ASALE 2009, 863). This is the case particularly in action nominalizations. We could, for example, use the concise expression *la detención* in a context in which the circumstances surrounding the arrest remained implicit, either because they were considered common knowledge, or because they had already been described. Alternatively, this noun group could be enriched with complements as natural companions of the verb *detener* in the above-mentioned sentence, leading us to the following wording: *la detención del presunto delincuente por la policía en su domicilio el 20 de junio de 2022* ('the arrest of the alleged criminal by the police at his home on 20th June 2022'), in which *por la policía* ('by the police') denotes the agent carrying out the action, *del presunto delincuente* ('of the alleged criminal') corresponds to the role of the patient, and *en su domicilio* ('at his home') and *el 20 de junio de 2022* ('on 20th June 2022') are two complements (adjuncts) that indicate the place and the time, respectively, at which the action occurs.

Even though it is not common for essential complements such as the agent to remain implicit (referring here to the arguments, the essential noun complements derived from the lexical bases), speakers may not explicitly mention the agent when they use an action nominalization, particularly in the following cases (Van Dijk 2008, 827):

- when the noun constitutes the most common or concise way of describing an action (for example, *elections, revolution, inflation, etc.*);
- when the agent is unknown (*car theft, pollution, etc.*), or knowledge about agency is irrelevant in the specific context (as in *the weather forecast*);
- when the agent has already been identified in the (con)text, or as part of the implications or implicatures of the text (as in *demonstrators . . . the demonstration*);

- when the agent can be inferred from general knowledge about the action (as in *elections: voters*);
- when the author momentarily does not want to focus on agents, but on actions or victims (as in *the assassination of the president*);
- when there is lack of space, as in headlines, titles, slogans, etc. (as reform in *Ministers back radical voting reform—The Guardian*, March 24 2008);
- or, finally, when the author wants to hide or downgrade the responsible negative agency of ingroup agents (as in *discrimination against immigrants is increasing*).

In most cases, the omission of the agent should not represent an added difficulty to the proper understanding of what is being expressed. In some cases, however, the non-specification of exactly who carried out the action could lead to some vagueness or abstraction in what is being said, and this quality (lack of concrete clarity) could make it more difficult for the receiver to understand. We will return to this at a later stage, and here offer, to illustrate the use of nominalization both with and without the use of an agent, a fragment of Section 55 of the Spanish Civil Code (*Código Civil*), part of Title IV of the First Book; in its third paragraph we can observe a high concentration of nouns (authors' translation and emphasis on nouns):

#### **Artículo 55**

[...]

*El poder se extinguirá por la revocación del poderdante, por la renuncia del apoderado o por la muerte de cualquiera de ellos. En caso de revocación por el poderdante bastará su manifestación en forma auténtica antes de la celebración del matrimonio. La revocación se notificará de inmediato al Juez, Alcalde o funcionario autorizante.*

#### **Section 55**

...

The power of attorney will be terminated by revocation by the donor, by renouncement by the attorney or by the death of either. In case of revocation by the donor, an authentic manifestation by him or her to this effect before the celebration of the wedding will suffice. A revocation will be notified immediately to the Judge, Mayor or authorizing officer.

In the first five cases, the agent is explicitly stated (*by the donor* [*del poderdante*], *by the attorney* [*del apoderado*], *of either* [*de cualquiera de ellos*], *by the donor* [*por el poderdante*], and *by him or her* [*su (del poderdante)*]). In the last two, the agent (i.e., who celebrates the marriage and revokes the power of attorney) is implied by the context (both by the more immediate co-text and by the knowledge of how the world works that speakers are assumed to have).

## 2. Nominalization as a drafting strategy in legal discourse

Nominalization is a drafting strategy that is generally well-consolidated among authors of scientific and academic texts (understood as those that reflect authors' expert knowledge in academia). It is almost axiomatic to say that scientific discourse has a markedly nominal character, given the number of authors who have shown it to be the case, including the notable examples of Halliday (2004) and Hyland (2009). As Liardét (2016, 16) summarizes: "[a] key feature of academic discourse is the move towards static representations of language that reorganize dynamic spoken interactions into lexically dense, noun-dominated language." The principal objective of this strategy is to produce a more concisely-expressed discourse, and action nominalizations "seem to reflect the parallel process whereby results are inferred from experiments and objects from their construction process" (Raluca 2013, 251). This linguistic strategy is so closely identified with scientific writing that Billig (2008), in a pertinent affirmation for our study, says that, in order to be promoted in academia, social scientists (linguists among them) tend to over-charge the technical character of their texts, among other means by turning verbs into nouns; even though he claims that academic language in the social sciences, revolving as they do around people and their actions, should not be equated to physical sciences regarding the creation of technical terms (as absolute things).

This clear tendency in scientific or academic language can also be seen in the technical jargon that legal practitioners use in their communicative acts. In Spanish, a number of field studies carried out by the Committee for the Modernization of Legal Language (Comisión de Modernización del Lenguaje

Jurídico, hereinafter CMLJ), set up by the Spanish Ministry for Justice in 2009, have reached this same conclusion. Firstly, referring to written language, mention is made of the tendency to nominalization in legal jargon in order to explain the preference for analytical forms requiring action nominalizations (Montolío 2011, 156). Secondly, in studying the language of rules and regulations, it is observed that legal language makes frequent use of action nominalizations accompanied by verb-like complements (Gutiérrez Ordóñez 2011, 29). Thirdly, in the discourse of procedural templates, an excess of nominalizations has also been identified (Borrego Nieto 2011, 10). Finally, this appears to spill over into spoken language: a field study on this topic found one of the main problems of oral texts in legal areas to be the influence of written discourse, including excessive recourse to nominalizations, on oral expression (Briz Gómez 2011, 41).

The results obtained by these experts seem to suggest that references to the nominal character of a large part of legal discourse sway between, on the one hand, recognition of its obvious presence and associated lexical density and, on the other, criticism of its overuse. The following quote leans towards the former point of view (Samaniego Fernández 2005, 295) (authors' translation):

[Nominalization] is a feature common to almost all specialised languages and stands at a halfway point between morphology and syntax . . . . By means of this process, a large amount of lexical information tends to be included in the noun group, giving rise to more compact texts. Nominalizations, therefore, are important because they make it possible to summarise very complex phenomena in just a few words . . . . They also enable the agent to be omitted and the prose to take on an impersonal tone: when nouns are used, the people who accompany the verbs (the actors) disappear, and the ensuing text is more elusive.

However, the final proposition expressed points towards the latter view: a criticism of the overuse of nouns, and how this practice can make meaning less clear. Taking an ideological stance, this loss in clarity of meaning (in particular, not knowing who does what) should be viewed in the light of the prevailing power imbalance in the field of law. As Monzó-Nebot (2008, 229) points out in connection with Bourdieu's analysis (1986), nominalization is one of the neutralizing resources

used by legal professionals to present “the agents’ decisions as fundamentally rational,” with the ultimate goal of legitimating and perpetuating “the dominance of legal actors so that lay people—like the Cyclops who fell victim of Ulysses—may be tricked, blinded and deprived of any powers of decision in favour of specialists.” The members of the Spanish CMLJ also question the benefits of this tendency towards nominalization, albeit in a rather less politically-charged way; their position on this matter could be summed up in their observation on procedural templates, in which the use of nouns to convey actions where verbs could easily be used is described as excessive in some texts, leading to a more static, compressed, abstract text that is more difficult to read (Borrego Nieto 2011, 10). The Committee’s authors also give some examples of where verb forms could be used instead of the more frequent nominalizations, so that in the expression *por lo que no ha lugar a la estimación de la petición de acumulación* (‘the consideration of the cumulation request is not allowed’), some of the nouns could have been converted into verbs: *por lo que se desestima la petición de que se acumulen* (‘the request to cumulate . . . is rejected’).

Some of the authors of the CMLJ’s field studies mentioned above have taken an identical stance elsewhere (on their own, such as Carretero González 2019, and Montolío 2019, or with other scholars, such as Carretero González & Fuentes Gómez 2019, and Montolío & Tascón 2020). Interestingly, these linguists’ findings have also permeated more practical publications on better writing addressed to legal professionals, which have been backed by public and private legal entities in Spain. As a case in point, the view that nominalizations may be useful for their synthesizing quality, but overusing them may hinder comprehension, is upheld by Muñoz Machado (2017) in a manual supported by the Spanish Judiciary, and by Jiménez Yáñez (2016) as part of a published series on how to manage legal firms. The former complains that, as regards nominalization, a language virtue has been transformed into a vice by reason of its overuse (Muñoz Machado 2017, 67), and lists the main drawbacks of the nominalizing habit: the cacophonous effect of noun chains, the resulting ambiguity in meaning, the resort to rare nouns, the greater use of weak verbs (as a mere supplement to nouns in verb groups), and the consequent overall impersonal and baroque style. He concludes by saying that the most negative effect of nominalization is the fact that it makes a text

more difficult to understand, first by concealing the agent, and second by taking away information which, as Spanish is an inflected language, would otherwise be clearly conveyed through verb forms (Muñoz Machado 2017, 68).

The recognition of this major flaw is also among the findings of Conde Antequera (2009) and Da Cunha (2020) in their respective studies of texts written by public officials in Spain. This should be of particular concern to us as the activity of a public administration revolves mostly around the application of the law and the assertion of citizens' rights. We will further discuss these communicative flaws by incorporating some arguments from plain language advocates and critical discourse analysts next.

### 3. Action nominalizations as a source of vagueness and inequity in legal discourse

Section 99 of the aforementioned Spanish Civil Code presents numerous examples of the lack of fluidity and excessive abstraction, which the previously quoted researchers have linked to nominalization. While a seasoned reader will be able to understand what is stated in the following extract from section 99, the repeated use of nouns to express actions may make the circumstances in which the actions are taken overly implicit (particularly, whoever it is that actually substitutes, constitutes, usufructs and hands over):

#### **Artículo 99**

*En cualquier momento podrá convenirse la sustitución de la pensión fijada judicialmente o por convenio regulador formalizado conforme al artículo 97 por la constitución de una renta vitalicia, el usufructo de determinados bienes o la entrega de un capital en bienes o en dinero.*

#### **Section 99**

"At any time, the substitution of the support determined by the Judge or by the agreement drawn up pursuant to section 97 by the constitution of a life-long income, the usufruct of specific assets or the handing over of capital in the form of assets or money may be agreed on". (Authors' translation and emphasis on nouns)

The critical attitude towards the overuse of action nominalizations to denominate processes can be linked to the perspective of defendants of plain language, who advocate the use of comprehensible language in all texts in the legal, administrative, and economic fields that, in whatever shape or form, are aimed at citizens. This movement enjoys considerable influence in Anglo-Saxon countries such as the UK and Australia, as well as in other regions like, for example, Scandinavia. Its proponents include a wide range of academics and professional practitioners, and it has inspired a great number of guidelines or stylesheets with a view to achieving texts that are clearer for the reader.<sup>2</sup> All the classic English handbooks on plain language (such as Garner 2001; Wydick 2005; Butt & Castle 2006; or Cutts 2009), refer to the “endemic” nominalization tendency in English legal texts (Butt & Castle 2006, 153). Their criticism of this tendency normally focuses on the increased number of words and greater complexity that using nouns involves (*Please make a statement of why you are interposing an objection to the question*, as opposed to the simpler and more direct *Please state why you object to the question*; or *someone was in violation of the law*, and the alternative working *someone has violated the law*). The arguments underlining the standpoint of plain English authors can be summarized in the three reasons given by Garner (2001, 39) for recommending banishing nouns ending in *-ion*: “[1] You’ll generally eliminate prepositions in the process, especially *of* . . . [2] You’ll often avoid inert *be*-verbs by replacing them with action verbs . . . [3] You’ll humanize the text by saying who does what.” This author concludes as follows: “[t]he underlying rationale in all this is concreteness. By uncovering buried verbs, you make your writing much less abstract—it becomes much easier for readers to visualize what you’re talking about.”

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<sup>2</sup> The International Federation of Plain Language (IPLF) is formed by some of the most influential organizations advocating plain language in the world. IPLF’s website is home to key data about the progress of plain language in the various sectors and countries (<https://www.iplfederation.org/>). Among the more outstanding developments featured in IPLF’s website, an agreed-upon definition of plain language and the details about the expected publication in 2023 of an ISO (International Organization for Standardization) standard on plain language are particularly noteworthy.

In this context, it is worth looking at the BUROC model proposed by Willerton (2015). This model (whose name is formed by the initials Bureaucratic, Unfamiliar, Rights-Oriented and Critical, in reference to situations that are especially challenging for vulnerable readers who need to acquire information and then act on it) offers a framework to identify the circumstances in which writers should resort to plain language. In Willerton's view (2015, 74), "[p]lain language can help people facing BUROC situations feel more at ease, understand more about their situations, and make decisions more confidently." As for the bureaucratic element, he points out that "[t]hose with expertise and authority . . ., such as physicians, lawyers, legal experts, or managers, enjoy advantages unavailable to those who need their services," and adds that "[t]he bureaucracy's public façade often keeps outsiders distant and limits their access to information" (Willerton 2015, 74). In our opinion, nominalization is one of the strategies this "public façade" often uses (though not always consciously) to keep readers at a distance and limit their access to information. As it helps recognize the contexts of power imbalance in which clear communication should be a requirement, we will use the BUROC model as the framework for the case study in this paper to look into the effect that the excess of nouns may have on public information addressed to vulnerable citizens.

As one of the bases for the BUROC model, Willerton (2015) cites Buber's (1970) dialogic ethics and his distinction between two types of relationships one can have with others: I-It relationships, where "one person speaks down to the other in technical dialogue" and "there is no true relationship between them"; and I-You relationships, where "each stands in relation to the other" and "the relationship is reciprocal" (Willerton 2015, 43). Willerton (2015, 181) summarizes his viewpoint by saying that "[b]y treating their audiences as Yous and not Its . . ., plain-language professionals act ethically. Simply producing information that is ostensibly clear and well organized does constitute a dialogue with the audience." This bears comparison to Bourdieu's discourse effect of neutralization in legal texts as considered by Monzó-Nebot (2008), and to the role nominalization plays in the language of the law: by using action nominalizations, writers make meaning more distant and indisputable, and render any dialogue with lay readers impossible (or at least unlikely). Taking this allegation further, writers who hamper the possibility

of dialogue would be engaging in what Benedito (2010) calls a “domination relationship,” in which the subject who initiates the communication treats the receiver as an object, as someone to whom they feed a piece of information but who is not allowed to react to it (in contrast with other types of relationships, where the receiver would be treated, at least partially, as a subject entitled to respond to what is said to them).

In line with this critical perspective, but with a stronger ideological component, critical discourse researchers have also examined the effect that overuse of nominalization in certain fields entails. Following systemic-functional linguistic ideas, they consider nominalization to be the most powerful way of creating a “grammatical metaphor,” leading to a process that is represented as if it were an entity, by converting clauses (and verbs) into nouns. Halliday (1994) calls this “grammatical metaphor” an “incongruent” manner to express an action or a process, which (by contrast) would be more congruently, more naturally realized through a verb. Fairclough (2003, 220) gives us an example from the perspective of critical discourse analysis: “*employees produce steel* is a non-metaphorical representation of a process, whereas *steel production* is a metaphorical, nominalized representation.” He goes on to add:

As this example shows, nominalization often entails excluding social agents in the representation of events (in this case, those who produce). It is a resource for generalizing and abstracting which is indispensable in, for instance, science, but can also obfuscate agency and responsibility. (Fairclough 2003, 220)

In the same vein, critical discourse analysis experts suggest that, in some situations, the drafter of a text may nominalize in order to manipulate the receiver of the text. This manipulation may take the form of concealing the agent who performs the action (particularly when said agent has some kind of negatively-perceived responsibility in the action conveyed by the noun). Alternatively, the process or action that is nominalized may be depersonalized, and thereby reified or commodified. Thirdly, this use of nominalization as an object that makes things (i.e., an object that is modified by verbs, as either a subject or an object) may lead the reader to believe that the nominalized process or action is inevitable,

as if this process had not actually been caused by specific people in concrete situations. Van Dijk (2008, 823) takes a categorical stand on the concealment of the agent performing the action from the standpoint of critical discourse analysis: “public discourse that systematically hides or mitigates the negative actions of powerful social actors is professionally inappropriate, socially misleading and ethically wrong, and hence a form of discursive power abuse.” He concludes that “[n]ominalizations may be abused as a form of manipulation, as mind control.”

Likewise, Bednárová-Gibová’s research (2016) on nominalization is informed by the idea that “all texts are ideological,” as she quotes Jeffries (2010) in reference to the latter’s approach to critical stylistics. Also using critical discourse analysis as theoretical background and a corpus of parallel English–Slovak EU texts as her object of study, Bednárová-Gibová examines nominalization “as a means of the ‘institutionalization’ of translation by which EU institutions assert their textual presence by imposing certain linguistic means on translators” (2016, 31). In the process, she maintains that nominalization “serves as a mystificatory textual tool of ‘Euro-fog’ to reproduce the workings of ideology” (Bednárová-Gibová 2016, 29), and agrees with the claim that “a high incidence of nominal phrases in legal discourse results in the ambiguity of the legal message and works to the detriment of effective and intelligible communication” (Bednárová-Gibová 2016, 30). As a result of her study, she confirms her hypothesis positioning EU institutions as “ideological text producers,” which favour nominalization “as a particular naming mechanism” in all language versions of EU texts (Bednárová-Gibová 2016, 36–37).

This does not mean that all cases of nominalization in which the agent is omitted necessarily represent an attempt to manipulate the receiver. We have explained above that there may be a wide range of situations in which the drafter decides not to state explicitly who is responsible for an action in which the receiver is given all the information he needs. Nevertheless, in circumstances in which imbalances of power between those parties in interaction may occur (which is often the case where legal texts are concerned), more powerful social actors,<sup>3</sup>

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<sup>3</sup> Social actors, in the sense given by Fairclough (2013, 222), are “participants in social processes.”

such as legal professional practitioners, may benefit from the vagueness that a surfeit of action nominalizations with no mention of the agent or other relevant complements so often entails.

#### **4. Case study: The effect of nominalization on online information about the Spanish minimum vital income scheme**

To add further elements for discussion about the extent to which a text in a legal context is negatively affected by the tendency to nominalize (and whether, consequently, the potential ambiguity of meaning may reinforce power asymmetries between participants in a legal act), we will present some qualitative findings from a case study regarding written legally-relevant communication addressed to vulnerable citizens. Specifically, we have analysed the informative texts that the website of the Spanish Social Security department offers to those eligible for the so-called minimum vital income (*ingreso mínimo vital* or *IMV*), a non-contributory social assistance programme introduced by the Spanish Government in May 2020,<sup>4</sup> and designed to support low-income households with a view to fight poverty and social exclusion. These informative texts include details such as who is eligible, what documents are to be submitted, or how much money an eligible person is entitled to receive and for how long. All of these details are essential information for anyone attempting to succeed in the application procedure.

As of July 2022, this benefit had reached only 20% of all Spanish households living in severe poverty according to official figures (Olías, Sánchez & Ordaz 2022). One of the reasons for this very low take-up is to be found in the fact that its potential beneficiaries do not even know about the programme or, when they do,

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<sup>4</sup> The scheme was first introduced as legislation by the *Real decreto 20/2020, de 29 de mayo, por el que se establece el ingreso mínimo vital* ('Royal Decree 20/2020, of 29 May, establishing the minimum vital income'), and was later replaced by the *Ley 19/2021, de 20 de diciembre, por la que se establece el ingreso mínimo vital* ('Act 19/2021, of 20 December, establishing the minimum vital income').

they are incapable of successfully completing the difficult application process (Fundación FOESSA 2021, 47–48). A 2022 report by Human Rights Watch adds that “the Minimum Vital Income scheme . . . , while admirable in its objectives, proved extremely difficult to access due to stringent eligibility criteria and documentation requirements” (HRW 2022). Though the application procedure can also be initiated either by sending the application and the supporting documents by post, or by attending a Social Security information office to seek in-person assistance, it seems that these methods often entail delays and problems due to lack of staff. In practice, this means that most beneficiaries-to-be see themselves forced to find out about the programme and its requirements by reading the information which is available on the Government’s website, and then fill in the application form and upload their documents online with hardly any external help. This is why HRW (2022) recommends the Spanish Government “remove undue bureaucratic and other barriers” to the IMV by, among other measures, “[i]ncreasing assistance to people seeking to access the Minimum Vital Income, who are socioeconomically vulnerable or face difficulties accessing digitized application systems, including through in-person or telephone appointments to allow people to make their applications in an efficient manner.”

In such a context, we wish to explore whether, together with the “complex application process” or “the difficulties accessing digitized application systems” (HRW 2022), another reason for the low take-up of the Spanish IMV scheme is the elaborate language (we could even dare say *legalese*) in which the information about the IMV is conveyed on the website of the Spanish Social Security department. In particular, our focus is on nominalization and its damaging effect (if any) on clarity and understanding.

To this end, Willerton’s BUROC model (2015) provides us with a method for selecting our object of study (by assisting us in recognising a textual situation which may be detrimental to citizens), and a general framework to observe the relationship between plain language and ethical behaviour. As has been explained above, BUROC stands for Bureaucratic, Unfamiliar, Rights-Oriented and Critical, which are the criteria used by Willerton (2015) to identify the circumstances in which, if ethics is put at the forefront, writers should adopt the principles of plain language. By applying the BUROC test, we have found that the communicative

situation involving the informative texts about the IMV which the Spanish Social Security offers on its website meets the criteria proposed by Willerton:

- It is *bureaucratic* because it refers to a procedure designed by the Government, as part of an organized system of administration, where there is an evident hierarchy of authority: at the top, Government officials in a position of power, as decision-makers adjudicating on who is eligible or which applications must be rejected for being incomplete; at the opposite end, socially and economically vulnerable citizens, very likely living below the poverty line, and usually lacking the digital skills to successfully access and complete the complex digitized application system. The imbalance of power is underscored by the fact that citizens at the lower end of the hierarchical relationship will be badly hit if their application is rejected (that is, their right to proper food or housing will be endangered), whereas the official's socioeconomic situation will not sustain any damage at all in that event. It is also a complex situation, which "may require a lot of time to resolve, and . . . may occur over several episodes" (Willerton 2015, 74).
- It is *unfamiliar* for various reasons. Firstly, according to the reports mentioned above, most people eligible for this benefit are not acquainted with it and, as a result, do not even apply for it. Secondly, the online application procedure may be a world apart for those with poor digital skills or low levels of literacy (two traits frequently linked to citizens living below the poverty line<sup>5</sup>), even though in-person assistance is available (but not as much as needed, as pointed out by HRW's 2022 report). Thirdly, even when a person can access the application form, they will find a very poorly designed 19-page document in which directions for the applicant and the boxes to be completed are mixed up and may well lead to confusion as to which parts are to be filled in.<sup>6</sup> In connection with this, it

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<sup>5</sup> This claim is supported by the results from the Spanish national statistics body's survey on living conditions in Spain in reference to the income of Spanish nationals in 2020 (INE 2021, 6).

<sup>6</sup> The application form (PDF file) is available on <https://bit.ly/Seg-SocialIngresoMinimoVital>, last accessed on 12 January 2023.

is an uncommon situation in which people are required “to use jargon, policies, and even facilities that are not immediately at their command or recollection” (Willerton 2015, 74). All the above result in an unfamiliar situation (one in which it is *them* versus *the system*, and one which is based on uncertain terms, as they may see it), in which people do not know how to act and depend almost entirely on the help and advice of Government officials or third-party organisations.

- It is *rights-oriented* because the written information is part of the procedure that allows access to a minimum basic income, a benefit designed to guarantee the right to a decent standard of living for those most in need. As such, it helps vulnerable citizens to assert one of their fundamental rights as human beings and members of society.
- It is *critical* because, as has been pointed out above, access to proper food and housing may depend entirely on being able to successfully complete the application procedure (which involves not only filling in the form and handing in all required documents, but also correctly understanding the basics of the policy and knowing which details and documents are required). It is not a situation which has arisen without warning, but it is one that “can have significant consequences for people facing [it]” (Willerton 2015, 74).

As regards our corpus of study, we have selected two official webpages from the Spanish Social Security department: one of them offers general information about the IMV programme, by way of a summary of the legal provisions which are applicable (MISSM 2023a); the other takes the form of a FAQs page, with answers to practical, specific queries regarding entitlement to the IMV and the corresponding application process (MISSM 2023b). The former page seems to

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<sup>7</sup> This sign of empathy is shown only once, within the contents of the first drop-down item of the main menu in the page, where the writer employs *usted* ('you') and *nosotros* ('we') to refer to the citizen and the Government department respectively.

reproduce the content of the law almost literally, and its writer only occasionally addresses the reader in a direct manner.<sup>7</sup> By contrast, the latter page comprises direct questions (in which the grammatical subject is the citizen himself or herself, in the form of *yo* ['I']) and some direct answers (addressed to *usted* ['you']). Both pages are composed of a menu of drop-down items, within each of which only linguistic information is provided to the user. Also in both cases, the two pages are mutually cross-referenced as part of the contents of the first drop-down item in each of their respective menus. These are not the only webpages regarding the IMV programme on the official site of the Social Security; there are others too (most significantly, the one where citizens can start and manage their application procedure [MISSM 2023c]), but all of them refer the user to the first of our chosen pages for further information.

After an initial, global analysis of the language featured on the two webpages, we have further selected two excerpts which, in our opinion, exemplify the stylistic choices made by their respective writers. Both segments, one per each of the pages under study, describe the obligations for the citizens who are entitled to the benefit and for those in their household. In the general information page, the fragment comes under the title *Obligaciones de las personas beneficiarias* ('Obligations of beneficiaries') (sample 1); and, in the FAQs page, the chosen portion is to be found as the answer to the question *¿Qué obligaciones asumo por ser perceptor del Ingreso Mínimo Vital?* ('What are my obligations as a recipient of the minimum vital income?') (sample 2).

In the context of our qualitative case study, the research question which inspires this paper (does excessive nominalization, as a possible source of ambiguity, work to the detriment of vulnerable lay citizens in legal settings?) leads us to two assumptions which we intend to put to the test. Firstly, we assume that the actual words of the law have been subjected to a progressive simplification (Bhatia 1993, 1997)<sup>8</sup> in the two webpages under analysis to make them more accessible to the

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<sup>8</sup> Recognising the existence of different audiences with disparate communicative needs, Bhatia (1993, 1997) suggests two distinct sets of strategies to make legal texts clearer: one of them is aimed at *easing* them for a specialist audience, and the other at *simplifying* the same texts for lay readers.

general public. Ideally this would take us through a three-stop “communicative journey,” which would start with the original piece of legislation (drafted by legislators in a technical, elaborate style), then it would bring us to an intermediary halt at sample 1 (where the legal provisions are theoretically summarised for potential lay users, as claimed in the FAQs page), and finally would leave us at sample 2 (where essential questions unresolved by the previous summary should be answered). On this *journey*, each stop should represent, at least theoretically, a clearer piece of communication than the previous one. To check the extent to which the three texts differ and whether there is a manifest simplification process, we have compared them against each other, with rather discouraging results. To start with, sample 1, which is supposed to summarize the applicable legal provisions, replicates the text of the Act except for a very few omissions from the original piece (mostly, cross-references to other parts of the Act). More surprisingly, sample 2 also replicates the legal text except for the shorter opening paragraph and a greater deal of omission from the Act (specifically, nothing is said in sample 2 concerning the obligations of the members of the household, the so-called *unidad de convivencia* [‘unit of cohabitation’]). This means that the authors have not undertaken any simplification process but have merely reproduced the elaborate style of the source legislation both in their summary of the law and in their answers to citizens’ frequent questions. Such a decision (since it is a *decision*) implies a lack of empathy towards the numerous groups of potential users with limited educational backgrounds, who will likely have difficulty in reading and understanding an unaltered piece of legislation.

As for the second assumption we wish to examine as part of our case study, this involves analysing the degree of nominalization in sample 2 and suggesting, when needed, an alternative rewording favouring verb forms. In principle, we chose sample 2 because, as part of a FAQs page and theoretically more reader-oriented, the degree of nominalization found would give us more clues about how this trait permeates all kinds of linguistic output in legal settings. However, our findings so far have revealed that sample 2 is almost a literal, albeit partial, reproduction of the law, so in practice we will be studying the presence and effect of nominalization in the original Act as is reproduced in the FAQs page. In the following table, the left-hand column contains sample 2, where all action conveying nouns have

been underlined, and the right-hand column features a partial rewording with verb alternatives for the marked action nominalizations, with all changes also underlined. In our verb proposal, we have also used personal pronouns to give actions a personal dimension and made explicit who does what, or what affects whom. This has entailed identifying those imposing the regulations (the Spanish Social Security department) as *nosotros* ('we'), and those who must comply with them (the IMV beneficiaries) as *usted* ('you'), as well as occasionally replacing descriptive nouns like *titular* ('beneficiary') with the corresponding pronoun. In a few other cases, we have also altered the base verb of the Spanish noun used in sample 2 because the resulting verb form was not natural or clear enough in the context (for example, we have preferred *viajar* ['travel'] instead of the less specific *salir* ['depart'] as a verb replacement for the noun *salida* ['departure']).

Table 1. Sample 2 and our proposal in Spanish

Sample 2	Our proposal
<p><u>¿Qué obligaciones asumo por ser perceptor del ingreso mínimo vital?</u></p> <p>Las obligaciones que asumen los perceptores de la prestación son:</p> <p>a) Proporcionar la documentación e información precisa en orden a la <u>acreditación</u> de los requisitos y la <u>conservación</u> de la prestación, así como para garantizar la <u>recepción</u> de notificaciones y comunicaciones.</p> <p>b) Comunicar cualquier cambio o situación que pudiera dar lugar a la <u>modificación</u>, <u>suspensión</u> o <u>extinción</u> de la prestación, en el plazo de treinta días naturales desde que estos se produzcan.</p>	<p><u>¿Qué obligaciones asumo por ser perceptor del ingreso mínimo vital?</u></p> <p>Las obligaciones que <u>asume usted como perceptor</u> de la prestación son:</p> <p>a) Proporcionar la documentación e información precisa <u>para acreditar que usted cumple</u> los requisitos y <u>para seguir recibiendo</u> la prestación, así como para garantizar <u>que usted recibe</u> las notificaciones y comunicaciones <u>que nosotros le enviamos</u>.</p> <p>b) Comunicar cualquier cambio o situación que pudiera dar lugar a <u>que nosotros modifiquemos o suspendamos la prestación que usted recibe, o a que</u></p>

<p>c) Comunicar cualquier cambio de domicilio o de situación en el Padrón municipal que afecte personalmente a dichos titulares o a cualquier otro miembro que forme parte de la unidad de convivencia, en el plazo de treinta días naturales desde que estos se produzcan.</p> <p>d) Reintegrar el importe de las prestaciones indebidamente percibidas.</p> <p>e) Comunicar al INSS con carácter previo cualquier <u>salida</u> al extranjero tanto del titular como de los miembros de la unidad de convivencia, por un periodo, continuado o no, superior a noventa días naturales durante cada año natural.</p> <p>f) Presentar anualmente declaración correspondiente al Impuesto sobre la renta de las personas físicas.</p> <p>g) En caso de compatibilizar la prestación del ingreso mínimo vital con las rentas del trabajo o la actividad económica, cumplir las condiciones establecidas para el <u>acceso y mantenimiento</u> de dicha compatibilidad.</p> <p>h) Participar en las estrategias de <u>inclusión</u> que promueva el Ministerio de Inclusión, Seguridad Social y Migraciones.</p>	<p><u>esta se extinga</u>, en el plazo de treinta días naturales desde que estos se produzcan.</p> <p>c) Comunicar cualquier cambio de domicilio o de situación en el Padrón municipal que <u>le</u> afecte personalmente a <u>usted</u> o a cualquier otro miembro que forme parte de <u>su</u> unidad de convivencia, en el plazo de treinta días naturales desde que se produzcan.</p> <p>d) Reintegrar el importe de las prestaciones indebidamente percibidas.</p> <p>e) <u>Comunicarnos</u> con carácter previo <u>si usted o alguno de los miembros de la unidad de convivencia va a viajar</u> al extranjero, por un periodo, continuado o no, superior a noventa días naturales durante cada año natural.</p> <p>f) Presentar anualmente declaración correspondiente al Impuesto sobre la renta de las personas físicas.</p> <p>g) En caso de compatibilizar la prestación del ingreso mínimo vital con las rentas del trabajo o la actividad económica, cumplir las condiciones establecidas para <u>poder acceder a dicha compatibilidad y seguir disfrutando de ella</u>.</p> <p>h) Participar en las estrategias que promueva el Ministerio de Inclusión, Seguridad Social y Migraciones <u>para ayudarlo a usted con programas encaminados a mejorar en lo social y en lo educativo</u>.</p>
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Table 2. Sample 2 and our proposal in English (both sample 2 and our proposal are the authors' translation)

Sample 2	Our proposal
<p><b>What are my obligations as a recipient of the minimum vital income?</b></p> <p>The obligations of the recipients of the minimum vital income are:</p> <p>a) To provide accurate documentation and information by way of <u>accreditation</u> that the requirements are met and as a means of <u>preservation</u> of the benefit, as well as to guarantee <u>receipt</u> of notifications and communications.</p> <p>b) To give notice of any change or circumstance that could give rise to the <u>modification, suspension or extinction</u> of the benefit, within thirty calendar days from the moment said change or circumstance occurs.</p> <p>c) To give notice of any change of residence or status in the Municipal Register that may individually affect the beneficiary or any other member of the unit of cohabitation, within thirty calendar days from the moment said change occurs.</p> <p>d) To reimburse any benefit amounts that may have been wrongly received.</p> <p>e) To give the INSS advance notice of any <u>departure</u> to a foreign country by the beneficiary or any of the members of the unit of cohabitation for a period of more than ninety calendar days, be they continuous or not, per calendar year.</p>	<p><b>What are my obligations as a recipient of the minimum vital income?</b></p> <p><u>Your</u> obligations <u>as a recipient</u> of the minimum vital income are:</p> <p>a) To provide accurate documentation and information in order to <u>accredit that you meet</u> the requirements and <u>to continue to receive</u> the benefit, as well as to guarantee <u>that you will receive the notifications and communications that we will send you</u>.</p> <p>b) To give notice of any change or circumstance which could make <u>us modify or suspend the benefit you receive, or which could extinguish your right to the benefit</u>, within thirty calendar days from the moment said change or circumstance occurs.</p> <p>c) To give notice of any change of residence or status in the Municipal Register which may individually affect <u>you</u> or any other member of <u>your</u> unit of cohabitation, within thirty calendar days from the moment said change occurs.</p> <p>d) To reimburse any benefit amounts that <u>you</u> may have wrongly received.</p> <p>e) To give us advance notice <u>if you or any of the members of your unit of cohabitation travel and stay abroad</u> for a period of more than ninety calendar days, be they continuous or not, per calendar year.</p>

<p>f) To file the beneficiary's annual tax return.</p> <p>g) If the minimum vital income is compatible with any compensation for employment or economic activity, to comply with the terms set forth for the <u>access and preservation</u> of said compatibility.</p> <p>h) To take part in the <u>inclusion</u> policies promoted by the Ministry of Inclusion, Social Security and Migrations.</p>	<p>f) To file <u>your</u> annual tax return.</p> <p>g) If the minimum vital income is compatible with any compensation for employment or economic activity, to comply with the terms set forth to <u>access and continue to enjoy</u> said compatibility.</p> <p>h) To take part in the policies promoted by the Ministry of Inclusion, Social Security and Migrations <u>that are designed to help you improve your education and socially</u>.</p>
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The number of action nominalizations in sample 2 is relatively low, so at face value it should not be interpreted as a crucial factor for the potential overall complexity of the text. Their transformation into personal verb forms (in the right-hand column), however, brings to light a wealth of hidden meanings and shows a care for the reader's needs which is lacking in sample 2, thus giving evidence of the shortcomings of nominalization. By way of illustration, the ambiguous *para garantizar la recepción de notificaciones y comunicaciones* ('to guarantee receipt of notifications and communications'), in paragraph (a), gives such a sense of detachment and abstraction to what is being said that readers will likely struggle to understand that what is dealt with is their right to be informed. By contrast, the verb alternative expresses this idea much more clearly, not least because it foregrounds the participants in the action: *para garantizar que usted recibe las notificaciones y comunicaciones que nosotros le enviemos* ('to guarantee that you will receive the notifications and communications that we will send you'). This said, may we conclude that a lay reader will find sample 2 hard to understand precisely because of the occurrence of the action nominalizations which have been marked? A preliminary answer, in the absence of further empirical studies, would be no.

An alternative answer would be that action nominalizations do affect the readers' ability to comprehend the message (in the sense that ordinary actions are disconnected from the readers' most immediate environment), but this is only one of many traits which, in combination, make sample 2 rather intricate and complex. In our opinion, it is especially significant that action-conveying nouns are not the only instances of nominalization to be found in sample 2; these are greatly outnumbered, in particular, by deverbal nouns transmitting effect or result (such as *information* [*información*], *notification* [*notificación*], *documentation* [*documentación*], *obligation* [*obligación*], *cohabitation* [*convivencia*], *requirement* [*requisito*], *benefit* [*prestación*], or *income* [*ingreso*]). Some of them are regarded as technical (and, as such, irreplaceable) by legal writers and civil servants, particularly in the form of coined noun phrases (for example, *ingreso mínimo vital* ['minimum vital income'] or *unidad de convivencia* ['unit of cohabitation']), and this explains why they are used with such profusion throughout the text. Whether some of these nouns are actually indispensable or not, the sum of all instances of nominalization in a single piece of text seems to add to the alienating nature of the legal message and increase the communicative distance between the writer and the reader.

To make things worse, nominalizations of every kind are not the only obstacles to understanding for readers in sample 2. Some of the characteristics usually linked to elaborate legal writing (for example, by the CMLJ's field studies previously mentioned) are also present here. Specifically, the author seems to have favoured long, convoluted sentences, as well as unfamiliar terms with no technical meaning attached (such as *perceptor* ['recipient'] or *prestación* ['benefit']). All these factors, taken as a whole, contribute to a piece of communication which is inefficient and unfit for purpose. As stated, the abuse of nominalizations is only one of the linguistic decisions which evidence the author's overall lack of empathy towards potential readers, in the sense that he or she seems to have made no effort to acknowledge the average socioeconomic and educational background of IMV beneficiaries-to-be (the main addressees of the webpage contents).

Not attending to the particular communicative situation (who is to read the message?, what do official statistics say about the users' reading skills?, etc.) condemns any linguistic endeavour to a sure failure and, in a legal situation, results in inequity.

As Van Dijk (2008, 827) states, one should not over-interpret the ideological load of any linguistic feature (for instance, criticizing nominalizations for their own sake), but instead pay attention to the co-text and the context, and check if that feature was chosen over other more plausible grammatical possibilities. In our case study, we claim that the decision to solve lay people's doubts by literally giving them the law (in an excerpt peppered with conventional, complex linguistic traits, nominalization among them) was chosen over other options that would have been more reasonable and reader-sensitive. Whether it was a conscious decision by the author or just the effect of inertia and tradition is another matter.

## **5. Conclusions: Nominalization vs. effective, fair communication**

It is worth bearing in mind that legal texts, unlike their scientific counterparts, are more directly aimed at the ordinary woman and man on the street, who will have to react one way or another when they are included in this type of text (be they the issuer, as in a claim form, or the receiver, as in the case of a summons). Thus, while some stakeholders in the process of drafting scientific reports may view nominalizations in a positive light, as they contribute lexical density and concision, they should not perhaps be viewed as so beneficial in legal circumstances. The overuse of action nominalizations (particularly when used one after another or combined with further nouns of effect or result) in legal documents may lead to confusion and, thereby, to situations in which laywomen and laymen in legal affairs and procedures find themselves at a disadvantage, where their defence and equal opportunities could be undermined.

However, even if this were not the case, there is an argument to be made for revisiting the excessively formal tone and level of abstraction that the

tendency towards nominalization in legal discourse gives rise to. As the verb alternatives proposed by us in our case study have shown, it may well be the case that texts in this field not only become clearer but also gain in terms of how effectively they communicate their message(s) if verb forms are prioritized over nouns. In this sense, it would be useful to carry out empirical studies in which a potential reader is presented with two alternative texts, one with a higher proportion of nouns than the other, in order to determine which of the two better fulfils its communicative function of informing the receiver about a specific legal process or event. This would enable us, a priori, to test the extent to which real communicative effectiveness is lost when long lists of nouns are used as opposed to simple verb phrases, and to determine the potential loss of communicative effectiveness when essential complements, such as the agent, are omitted.

An example of empirical research of this type can be found in García Alfonso's (2017) small-scale study, consisting of two Spanish translations of the same source legal text in English legalese. In one of them, he used nouns to convey actions, which made the text slightly longer as more words were required to express the semantic elements of the action, while in the other one, these actions were communicated more directly by using verbs. He then showed them to two groups of 16-year-old high-school students (one group per text), all of whom spoke Spanish as their mother tongue, and asked them to answer a set of comprehension questions about what they had read. The two groups performed quite similarly, both in terms of the rate of correct answers and the time required to complete the task. Even bearing in mind that this was a very small-scale piece of research, and that the number of subjects was relatively low, the result apparently indicates that nominalization, as an isolated factor, is not necessarily a major handicap for comprehension (or, in other words, that it need not have a radical impact on how well a person understands a text). García Alfonso's outcome agrees, at least partially, with the conclusions in our case study regarding information about a benefit programme aimed at vulnerable citizens, in the sense that it suggests that single traits of complexity, when taken separately, do not have a determining impact on clarity of expression.

This idea can be linked to the conclusions drawn by Bayés (2021), who dismisses the application of isolated plain language strategies as a means to improve the texts issued, in his case, by civil servants. In his view, isolating and applying a certain strategy may give rise to “Frankenstein texts,” where the overall sense of obscurity may even be increased when the writer applies a singled-out technique aimed at clarifying the text (Rada 2022, 39). However, as our case study apparently suggests, we think it is right to say that, in combination with other features (such as the preference for long and convoluted sentences, nouns of effect or result, or unnecessary jargon), we should consider nominalization a strategy that writers should employ with care for two main reasons: (a) because it usually leads to more words in the sentence (especially within verb phrases), and (b) because it may be a strategy to conceal the agent (with all the obscuring consequences pointed out by followers of critical discourse analysis). The former problem is, in our opinion, a stylistic question, a relatively harmless aspect that in principle should not obscure understanding. The latter, on the other hand, may be more politically charged, as it keeps (vital) information from the reader, rendering him or her incapable of reacting to the text in a proper way, in a context of a clear imbalance of power in communication. Cutts (2009, 64) says that the “word-savings [obtained by using verbs] would be too small a gain to justify the effort, if brevity was the only criterion. More important is that the sentences [where mostly verbs are used] can now be read without stumbling and backtracking to get the meaning.”

As regards nominalization, the possible adoption of Buber’s dialogic alternatives cited by Willerton (2015) will depend on whether legal professionals wish to engage in a cooperative dialogue with lay people (e.g., by using verbs to express actions in a straightforward fashion), or if they prefer to maintain the status quo of legal discourse as a distant, technical form of communication (e.g., by treating actions and processes as obscure, quasi-sacred noun entities). By choosing one specific drafting technique, writers take an ethical stance on how they deal with the imbalance of power in the legal system.

When referring to the overuse of nominalization in scientific writing in humanities and social sciences, Billig (2008, 837) describes a temptation that could be perfectly extrapolated to the drafting of professional legal practitioners:

“Too many of us have fallen in love with our technical vocabulary—and love can make us blind.” Even in the absence of more thorough, robust empirical studies, it seems circumspect to conclude that legal writers should avoid this temptation and, more generally, base their stylistic choices chiefly on their readers’ needs.

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