Fachsprachlichkeit vs Verständlichkeit. Zu Dilemmas in Mietverträgen
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The purpose of this paper is to examine accessibility in legal texts, in this case German tenancy contracts between professionals and non-professionals, with a genre analytical approach. Focus will be on the demand of the German civil law stating that conditions in contracts must be clear and understandable in order to be valid (BGB § 307) and on the text producer's perspective on complying with this demand. The paper aims at providing an overview of the characteristics of the contracts, especially focussing on the differences that exist if the text producer takes a special interest into accounting for the knowledge asymmetries between the two parties. These differences are found in linguistic categories (“lexis” and “syntax”) and in a content related category (“references and intertextuality”). The analysis is carried out on the basis of a model of analysis that was developed for identifying language differences in contracts (Larsen 2008).

A plausible reason for the differences could be that legal texts can use a citizen perspective or a court perspective and give preference to the understanding of the parties involved in the contract or to the judging by the judge in case of a litigation between the parties (Gunnarsson 1982, 2009).

Furthermore, the presentation will elaborate on a special feature found in some of the texts: Trying to make the text more comprehensible for the non-professional reader, the text producer writes “gesetzliche Bestimmungen” [in English: the provisions of the law] instead of precisely stating which law and which provisions, however this does the non-professional reader a disservice, as it leaves him to make his own interpretation of the term. Finally, I will discuss the consequences of these problems.