

# UNITY IN DIVERSITY. THE EUROPEAN UNION'S MULTILINGUALISM

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## Abstract

*It is undeniable that the European Union represents the most ambitious legal and linguistic project, integrating 28 Member States and 24 official languages.*

*What we undertook with this study was to explore the importance of multilingualism in the European Union and the problems that unity in diversity involves. This study tried to touch upon both theoretical aspects (i.e., what the multilingualism of EU law implies) and practical issues (i.e., the interaction between legal languages at national and at EU level, problems emerging from multilingualism, illustrated by the relevant case law of the European Court of Justice).*

*In many ECJ cases, it was underlined that multilingualism is essential to the EU legal order. The meaning of EU law cannot be derived from one version of the official languages and the ECJ regularly heads for a uniform interpretation of the contradictory versions.*

*The present study is part of a more complex research on this theme and it is meant to approach certain important points of my PhD thesis. A first part of this research on multilingualism has already been published.*

**Keywords:** *European Union, diversity, unity, multilingualism, languages.*

## 1. Introduction

### 1.1. About law and language

Language is the core of national or minority group identity.

The linguistic diversity is a *specific value* of the EU which should be protected. Contrary to the provisions of Treaty establishing the European Coal and Steel Community (authentic in French only) the European Union (and the European Community first) has always been based on the principle that at least one official

language of each Member State<sup>1</sup> should become an official language of the Union.

As for the provision of Article 314 of the Treaty establishing the European Community, the treaty was drawn up in a single original in four texts equally authentic (*i.e.*, Dutch, French, German and Italian languages). This Article has been amended by the Accession Treaties upon each entry into the Community/Union of new Member States.<sup>2</sup> As from the 1<sup>st</sup> of July 2013, the European Union has 28 Member States, the last Member State entering the European family being Croatia. Almost every Member

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<sup>1</sup> There are multilingual legislative systems in the EU: *Belgium* (French, Dutch and German) and *Malta* (Maltese and English). Other multilingual legislative systems in the world: Canada and Switzerland.

<sup>2</sup> In 1973, English, Irish and Danish, in 1981 Greek, in 1986 Spanish and Portuguese, in 1995 Finnish and Swedish, in 2004 Czech, Estonian, Hungarian, Lithuanian, Latvian, Maltese, Polish, Slovenian and Slovak, in 2007 Romanian and Bulgarian, in 2013 Croatian became official languages in the EU.

State has its own official language, *in the EU being recognized 24 languages per total*.<sup>3</sup> Moreover, “depending on how languages are defined and what inclusion criteria are used, more than 100 regional and minority languages are spoken in Europe”.<sup>4</sup> However, despite *the struggle* of Europeans to keep their linguistic diversity, we notice that the number of languages spoken in Europe has certainly dropped: “[m]any languages have disappeared, and some European states gave even managed to impose an almost perfect linguistic unity on their territory: English in the UK, German in Germany, French in France or Italian in Italy. Some states even share the same official language”.<sup>5</sup>

Like in the past years, we still wonder why EU does not agree on a common language.

Linguistic diversity is part of cultural diversity, which is one of the fundamental values of the EU.

The relation between law and language is very clear. As one author points out very precisely “[I]aw is a highly institutionalized communicative order regulating and giving a special meaning to social action by means of norms expressed in natural language, sometimes using technical terms, as opposed to artificial language with formalized and logical syntax and technical terms and symbols”.<sup>6</sup>

Languages are bridges between people. Their diversity means richness and difference. *Law cannot exist without language*, since legal concepts cannot be embodied in any way other than by using linguistic signs; therefore, a legal norm and its linguistic expression are inseparable.

Moreover, “people live together, not just coexist”,<sup>7</sup> as it is emphasized in the legal doctrine.

Nowadays, we are discussing about an interdisciplinary field on law and language, called *legal linguistics*. This domain covers “a number of different areas including the development, characteristics, and usage of legal language, comprehensibility of legal texts, language for specific purposes (law), legal translation and interpreting, legal terminology and lexicography, analysis of legal discourse, legal style, semiotics of law, language in the courtroom, forensic linguistics as evidence, and various issues related to language policy and planning, and linguistic human rights”.<sup>8</sup>

## 2. Content

### 2.1. The EU Multilingualism

From the beginning, we want to emphasize that Europe is different from other continents including by the language

<sup>3</sup> However, it must be emphasized that until 2007 Irish was an authentic language of the Treaties but was not included among the official and working languages of the EU. Irish became, with the accession of Ireland, an authentic language of the Treaties but it did not acquire the status of an official language under Regulation No. 1 until 2007 when the regime was extended to Irish with some limitations.

<sup>4</sup> *Anne Lise Kjaer and Silvia Adamo*, “Linguistic Diversity and European Democracy: Introduction and Overview” in *Linguistic Diversity and European Democracy: Introduction and Overview*, *Anne Lise Kjaer and Silvia Adamo (eds.)* (Ashgate, 2011), 4 (footnote omitted).

<sup>5</sup> *Magali Gravier and Lita Lundquist*, “Getting Ready for a New Tower of Babel” in *Linguistic Diversity and European Democracy: Introduction and Overview*, *Anne Lise Kjaer and Silvia Adamo (eds.)* (Ashgate, 2011), 75.

<sup>6</sup> *Joxerramon Bengoetxea*, “Multilingual and Multicultural Legal Reasoning: The European Court of Justice” in *Linguistic Diversity and European Democracy: Introduction and Overview*, *Anne Lise Kjaer and Silvia Adamo (eds.)* (Ashgate, 2011), 98.

<sup>7</sup> *Anghel Elena*, Values and Valorization (in Proceedings of the Challenges of the Knowledge Society Conference, ISSN 2359-9227, 2015) accessed March 28th, 2016 [http://cks.univnt.ro/cks\\_2015\\_archive.html](http://cks.univnt.ro/cks_2015_archive.html), 357-358.

<sup>8</sup> *Lelija Socanac; Christopher Goddard; Ludger Kremer (eds.)*, “Curriculum, Multilingualism and the Law”, *Nakladnizavod Globus*, (Zagreb, 2009), 9.

factor in the configuration of state boundaries. As one author points out: “[a] quick glance at the political map of the continent makes this quite clear. With very few exceptions, European states’ official denominations offer us a direct reference to a state’s official language, be it Greek in Greece, Polish in Poland, Danish in Denmark or French in France. This is not the case in the Americas, for instance, where languages such as «Canadian», «Mexican», «Bolivian» or «Brazilian» simply do not exist. [...] The idea of the national language is a European idea”.<sup>9</sup>

Since the 1950s when the founders of the European Communities (France, Germany, Italy and the Benelux countries) started the project of unification, an important role in the official discourse was given to diversity. It was underlined that the establishment of a common market should not be the sole goal of the unification, but also the cultural diversity. Regarding this concern, it is remarkable what Jacques Delors stated in the 1990s: “you don’t fall in love with a common market: you need something else”. Moreover, in the documents following the Maastricht Treaty, diversity was mentioned. “The highlighting of diversity may well be considered as the genuinely new element of the European Union’s incipient «constitutional» discourse, an element that set the EU apart from the historical precedents of nation-state construction”.<sup>10</sup> Delors’ “something else” could have been the Treaty establishing a Constitution for Europe.

Afterwards, as stated by the Treaty on the Functioning of the European Union, the multilingualism of the EU reflects its commitment to respecting and promoting its cultural and linguistic diversity. Even in the Treaty of Lisbon, diversity is acknowledged:

*It [the Union] shall promote economic, social and territorial cohesion, and solidarity among Member States.*

*The Union shall respect its rich cultural and linguistic diversity, and shall ensure that Europe’s cultural heritage is safeguarded and enhanced.*<sup>11</sup>

The multilingualism is one key characteristic of EU law – “if not *the* key manifestation – of cultural diversity in Europe today”.<sup>12</sup> It is an “indispensable component of the effective operation of the rule of law in the Community legal order”.<sup>13</sup>

Why recognizing equal official status to all languages? We consider that this was the solution found by the European legal architects to “immunizing the European institutions against the nationalist setbacks they anticipated in case some Member States felt symbolically discriminated against because of the preferential treatment given to the languages of others”.<sup>14</sup>

Multilingualism can be *strong* (all official language versions are equally authentic) or *weak* (one language version is authentic, while the others are official translations). In the history of the European construction, we can find both strong and weak multilingualism. For example, the EU adopted the strong multilingualism, because all language versions of an act are authentic, while the European Coal and Steel Treaty

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<sup>9</sup> Peter Kraus, “Neither United nor Diverse? The Language Issue and Political Legitimation in the European Union” in *Linguistic Diversity and European Democracy: Introduction and Overview*, Anne Lise Kjaer and Silvia Adamo (eds.) (Ashgate, 2011), 19.

<sup>10</sup> *Idem*, 23.

<sup>11</sup> Kraus, “Neither United nor Diverse?”, 26.

<sup>12</sup> *Idem*, p. 27.

<sup>13</sup> Bengoetxea, “Multilingual and Multicultural Legal Reasoning”, 100.

<sup>14</sup> Kraus, “Neither United nor Diverse”, 23 (footnote omitted).

adopted the weak multilingualism, because the French version was considered to be authentic. An example of today's weak multilingualism would be the case law of the ECJ, because the authentic version is the language-of-the-case version.

As stated in our last year's study<sup>15</sup>, from the doctrine and from the ECJ case law, we notice that by adopting the strong multilingualism, the EU faces many problems, leading to contradictions or variations between the language versions of EU acts.

Some authors point out that "embracing weak multilingualism instead of the strong variety would solve some of the EU's multilingualism problems without creating new ones (purely political problems apart), and without squandering any of the opportunities multilingualism may offer in the EU context".<sup>16</sup> The solution for such problems would consist in looking to the single authentic version.

There are however *benefits* of the multilingualism. For instance, translation could lead to a better and clearer version of the original,<sup>17</sup> because by translating the implied assumptions made in the original version may be identified.

Strong multilingualism has the advantage to offer the same rights from a Member State to another Member State, because all European citizens have the right to discover the EU law in their own language.

At an analysis of the EU's language regime, we notice that there is an *external and internal side* of the regime. On one hand, the *external side* concerns the communications between the EU to the Member States and their citizens (*output* – e.g. publication of legal texts in the Official Journal in order to be read by the citizens) or the relation between the Member States and their citizens to the EU (*input* – e.g. the language rules for Court proceedings involving citizens and EU institutions). It concerns the accessibility of the EU legal acts. The external side is governed by the equality of Member State languages, reason for why the majority of EU texts are being published in the 24 EU official languages.<sup>18</sup> On the other hand, the *internal side* concerns the internal procedures (e.g. judicial, administrative, governmental and parliamentary proceedings). As one author pointed out, "[w]hile the external side concerns at least in part questions of the rule of law – which requires e.g. access to the courts and the publication of a law to guarantee its accessibility — the internal side deals mainly with questions of the internal procedures of a government, or a court, and therefore mainly with questions of good governance".<sup>19</sup>

We must emphasize that the internal side of the EU language regime is "less visible" than the external side. It is interesting to see that "the more an internal procedure of an institution, or an inter-institutional procedure, involves elected or

<sup>15</sup> Laura-Cristiana Spătaru-Negură, Reconciliation of Language Versions with Diverging Meanings in the European Union (in Proceedings of the Challenges of the Knowledge Society Conference, ISSN 2359-9227, 2015) accessed March 28th, 2016 [http://cks.univnt.ro/cks\\_2015\\_archive.html](http://cks.univnt.ro/cks_2015_archive.html), 502.

<sup>16</sup> Theodor Schilling, "Multilingualism and Multijuralism: Assets of EU Legislation and Adjudication?" German Law Journal (vol. 12, no. 07, 2011), 1463.

<sup>17</sup> Gerard Caussignac, "Empirische Aspekte der zweiprachigenRedaktionvomRechtserlassen" in RechtsspracheEuropas. Reflexion der Praxis von Sprache und MehrsprachigkeitimSupranationalenRecht, Friedrich Muller and Isolde Burr (eds.) (2004).

<sup>18</sup> Of course, new official languages may be, and usually are, added with each enlargement of the EU.

<sup>19</sup> Schilling, "Multilingualism and Multijuralism", 1469 (footnote omitted).

appointed politicians as opposed to civil servants or experts, the more the respective language regime tends to respect the criterion of the equality of Member State languages”.<sup>20</sup> We agree with the author’s opinion because the national politicians working at the Council or at the European Parliament “are not selected according to their linguistic abilities”<sup>21</sup>, while the EU public functionaries have to know two official languages in addition to their mother tongue. There is, however, an exception – for the ECJ judges, Member States are encouraged to select and appoint judges with advanced French skills. This selection may discriminate the most prepared candidates for the job.

The paradox expressed in the EU motto “united in diversity” affects also the EU legal regime, the legislation being translated into 24 official languages. All the official languages have equal authenticity. We consider that “in stressing the equal value of the different linguistic versions of the Community acts, the Court [the European Court of Justice] discounted legal argument brought by some States, aimed at supporting the greater value of the different linguistic versions, based, for example, on the corresponding percentage of population in the Community; the Court will not allow the interpretative value of an official version

to vary in proportion to the number of individuals of member States where certain languages are spoken”.<sup>22</sup>

In the doctrine it is underlined that even if EU law is not a case law “the interpretation and application of EU law in accordance with the Treaties are possible only through the jurisprudence of the European Court of Justice”.<sup>23</sup> As stated by the Court in the *EMU Tabac* case<sup>24</sup>, “all the language versions must, in principle, be recognised as having the same weight and this cannot vary according to the size of the population of the Member States using the language in question”.

In many ECJ cases, it was underlined that multilingualism is essential to the EU legal order. For instance, in the case *Kik v. OHIM*, it was said that:

*Multilingualism is an indispensable component of the effective operation of the rule of law in the Community legal order, since many rules of primary and secondary law have direct application in the national legal systems of the Member States.*<sup>25</sup>

Another example can be discovered in the *CILFIT* case, where the Court stated:

*It must be borne in mind that Community legislation is drafted in several languages and that the different language versions are all equally*

<sup>20</sup> Schilling, “Multilingualism and Multijuralism”, 1470.

<sup>21</sup> *Ibidem*.

<sup>22</sup> Fabrizio Vismara, “The Role of the Court of Justice of the European Communities in the Interpretation of Multilingual Texts” in *Multilingualism and the Harmonisation of European Law*, Barbara Pozzo and Valentina Jacometti, (Kluwer Law International, 2006), 66. See also judgment in Case C-296/95 *The Queen v Commissioners of Customs and Excise, ex parte EMU Tabac SARL, The Man in Black Ltd, John Cunningham* [1998] ECR 1605, and Case 9/79 *Marianne Wörsdorfer, née Koschniske, v Raad van Arbeid* [1979], ECR 2717. In these cases, the Court held that in case of doubt, the text of the legal norms should not be considered in isolation, but it should be interpreted and applied in the light of other texts drawn up in the other official languages.

<sup>23</sup> Roxana-Mariana Popescu, Features of the Unwritten Sources of European Union Law (in Proceedings of the Challenges of the Knowledge Society Conference, ISSN 2359-9227, 2013) accessed March 28th, 2016 [http://cks.univnt.ro/cks\\_2013\\_archive.html](http://cks.univnt.ro/cks_2013_archive.html), 640.

<sup>24</sup> Case C-296/95 *The Queen v Commissioners of Customs and Excise, ex parte EMU Tabac SARL, The Man in Black Ltd, John Cunningham* [1998] ECR 1605, par. 36.

<sup>25</sup> Judgment of the Court in Case C-361/01 P *Christina Kik v. Office for Harmonisation in the Internal Market* [2003] ECR I-8283.

*authentic. An interpretation of a provision of Community law thus involves a comparison of the different language versions.*<sup>26</sup>

*The meaning of EU law cannot be derived from one version of the official languages, therefore the languages are interdependent and “[h]ence EU citizens cannot purely rely on their own languages when they want to know what EU law says on a particular issue. In principle, EU citizens must know the law in each and every official language because the meaning of the law is anchored not in one single language version, but in all the language versions taken together”.*<sup>27</sup>

We have to keep in mind that “[l]aw must itself contain the equilibrium between the letter and spirit of rules”.<sup>28</sup>

The differences between the languages are inevitable because they are not absolute copies one of each other. In this case, the EU multilingualism leads to “legal miscommunication, misinterpretation, incoherent and divergent texts and, ultimately, an obstacle to achieving what lies at the very core of the rule of law, namely legal certainty”.<sup>29</sup>

But to what extent must language be regarded as *a barrier* to the development of a uniform European law?

### 3. Conclusions

What we undertook with this study was to explore the importance of multilingualism in the European Union and the problems that *unity in diversity* involves.

It appears that the meaning of EU law cannot be derived from one version of the official languages, therefore the languages are interdependent and “[h]ence EU citizens cannot purely rely on their own languages when they want to know what EU law says on a particular issue. In principle, EU citizens must know the law in each and every official language because the meaning of the law is anchored not in one single language version, but in all the language versions taken together”.<sup>30</sup>

The differences between the languages are inevitable because they are not absolute copies one of each other; therefore, the EU multilingualism leads to “legal miscommunication, misinterpretation, incoherent and divergent texts and, ultimately, an obstacle to achieving what lies at the very core of the rule of law, namely legal certainty”.<sup>31</sup>

This study tried to touch upon both theoretical aspects (*i.e.*, what the multilingualism of EU law implies) and practical issues (*i.e.*, the interaction between legal languages at national and at EU level, problems emerging from multilingualism, illustrated by the relevant case law of the European Court of Justice).

Of course that the meaning of EU law cannot be derived from one version of the official languages, therefore the languages are interdependent and “[h]ence EU citizens cannot purely rely on their own languages when they want to know what EU law says on a particular issue. In principle, EU citizens must know the law in each and every

<sup>26</sup> Judgment of the Court in Case C-283/81, *Srl CILFIT and Lanificio di GavardoSpA v. Ministry of Health* [1982] ECR 3415, par. 18.

<sup>27</sup> *Kjaer and Adamo*, "Linguistic Diversity and European Democracy", 7.

<sup>28</sup> *Anghel Elena*, The Importance of Principles in the Present Context of Law Recodifying (in Proceedings of the Challenges of the Knowledge Society Conference, ISSN 2359-9227, 2012) accessed March 28th, 2016 [http://cks.univnt.ro/cks\\_2012\\_archive.html](http://cks.univnt.ro/cks_2012_archive.html), 756.

<sup>29</sup> *Kjaer and Adamo*, "Linguistic Diversity and European Democracy", 7.

<sup>30</sup> *Kjaer and Adamo*, "Linguistic Diversity and European Democracy", 7.

<sup>31</sup> *Ibidem*.

official language because the meaning of the law is anchored not in one single language version, but in all the language versions taken together<sup>32</sup>.

As stated by the European Commission, “[t]he responsibility of the European legislator for adequate linguistic and terminological choices is the more underlined by the fact that, with regard to undefined or unclear concepts or diverging linguistic versions of an act, it is ultimately the European Court of Justice to decide on the EU meaning of the concept or to conciliate between diverging language versions. The jurisprudence of the Court is quite clear on this point and its approach prefers a systematic and teleological interpretation over a textual one<sup>33</sup>.

Of course that multilingual judicial reasoning means “more than mere comparison of language versions although it cannot possibly neglect or elude such comparison. It would involve deploying all linguistic techniques or skills and interpretation methods<sup>34</sup> to all language versions and being aware, when drafting the terms of its reasoning, of how such terms would be translated into the other official languages so that the message is clearly

understood and, as the case might be, any possible ambiguity is properly preserved<sup>35</sup>.”

However, the ECJ<sup>36</sup> “regularly heads for a uniform interpretation of the contradictory versions<sup>37</sup>, therefore the wording contained in the majority of the language versions should be accepted. But, if one of the language versions is due to a discernible typing error, the other versions are decisive<sup>38</sup>. We have to underline that “[t]his interpretation is not necessarily according to the (contradictory) wording of the provision in question but rather according to its meaning and purpose<sup>39</sup>”<sup>40</sup>.

Upon our research, there are also *challenges* raised by multilingualism. One of them is the *use of foreign origin words*, due to the origin of the original drafting language. It appears that the “EU translators often seem to be more purist than draftspersons or writers within the national administration<sup>41</sup>. Consistency should be the key, because using two different equivalents can lead to inconsistencies where the context of their use is not defined (e.g. the Dutch national equivalent of the term *conformity* – *overeenstemming* - disappeared in the course of time in favour of the term *conformiteit* which took its place in legal texts.).

<sup>32</sup> *Kjaer and Adamo*, "Linguistic Diversity and European Democracy", 7.

<sup>33</sup> EUROPEAN COMMISSION, Directorate-General for Translation, *Studies on translation and multilingualism. Lawmaking in the EU multilingual environment*, 1/2010, 153.

<sup>34</sup> For more information on the ECJ's interpretation methods, please see and *Augustin Fuerea*, *Manualul Uniunii Europene*, 5th edition revised and enlarged, after the Lisbon Treaty (*Bucharest: Universul Juridic Publishing House, 2011*), 175.

<sup>35</sup> *Bengoetxea*, "Multilingual and Multicultural Legal Reasoning", 115.

<sup>36</sup> For more information on the ECJ's case law as a source of EU law, please see *Roxana-Mariana Popescu*, *Introducere în dreptul Uniunii Europene*, (*Bucharest: Universul Juridic Publishing House, 2011*), 96.

<sup>37</sup> *Schilling*, "Multilingualism and Multijuralism", 1487 (footnote omitted).

<sup>38</sup> Case C-64/95 *Konservenfabrik Lubella v. Hauptzollamt Cottbus* [1996] ECR I-5105, para. 18.

<sup>39</sup> *E.g.* Case 100/84 *Commission of the European Communities v. United Kingdom of Great Britain and Northern Ireland* [1985] ECR 1169, para. 17.

<sup>40</sup> *Schilling*, "Multilingualism and Multijuralism", 1488.

<sup>41</sup> For example, within the Austrian and German administration, the terms *Monitoring*, *Governance*, *Follow-up* and *Implementierung* are more frequently used than the terms *Überwachung*, *Staatsführung*, *Folgemaßnahmen* and *Umsetzung* subsequently used by German translators at EU institutions for the same concepts. EUROPEAN COMMISSION, Directorate-General for Translation, *Studies on translation and multilingualism. Lawmaking in the EU multilingual environment*, 1/2010, p. 84.

Another challenge is the *impact of the original language* as a source language on the official languages in the translation phase.<sup>42</sup> However, nowadays, we notice that English is the preponderant drafting language at the Commission who influences the former drafting language, French. Of course that French influenced also English in the past, because English became official in 1973, therefore the vocabulary was established mainly on French texts. It is relevant what Simone Glanert underlines about using English as a working language “[i]n practice, the recourse to English as a working language compels most of the participants in the various task forces to operate in a foreign tongue and thus to relinquish their native language. In effect, each lawyer is expected to explain her national law to all the other members of her working group. Given the multiplicity of languages around the table, this account, in the name of efficient communication, can only take place in a common working language, that is, in English. Concretely, the Italian lawyer, for example, in order to elucidate the present state of Italian law with respect to a particular legal problem, must therefore translate the Italian legal rules and principles into the common working language. In the same way, her German colleague, who wants to describe the German point of view with regard to a specific question, is constrained to express the German legal ideas in the English language. Once the different national legal

solutions have been translated into the working language, further discussions will generally take place in English”.<sup>43</sup>

Another difficulty appears from this challenge when English uses two terms with *similar meanings* and other languages do not have two equivalents but only one for both terms and they create an artificial new term to be able to distinguish between them.<sup>44</sup> Another difficulty that appears is the *syntactic and stylistic impact* (e.g. different punctuation rules in English that overrule the orthography rules of national languages, abusive use of passive voice, excessive use of some words – *shall, will, should*). Moreover, some languages have problems adapting to the wide usage of figurative phrases and metaphors, which are not common to the national official texts which are more neutral (e.g. the Latvian legal system – the translators literally translated the EU legal texts, fact which created many problems because of the concepts like: *sunset clause, carbon footprint, open sky, predatory pricing behaviour*).

Another difficulty is the lack of clarity in the source language version, which can drive to opposite results: inconsistencies in the translations or better quality of the translations.

We consider that in order to solve these conflicts resulted from translations of the European acts, the national judges should read other language versions of the EU acts than their own, not just when the national version is very absurd.

<sup>42</sup> New disciplines are used in their ‘internationalised’ English form (*victimology*) and when they are translated, it is often a transliterated form (in Spanish *victimología*, in French and Romanian *victimologie*, in German *Viktimologie*) and seldom with an indigenous term (*iospairteolaíocht* Irish). Additionally, some English terms linked to modern technologies, are still often used in their original form (*on-line, website, newsletter, and voucher*).

<sup>43</sup> Simone Glanert, Europe, “Aporetically: A Common Law Without A Common Discourse”, *Erasmus Law Review*, vol. 5, no. 3/2012, accessed March 28th, 2016 <http://connection.ebscohost.com/c/articles/85331719/europe-aporetically-common-law-without-common-discourse>.

<sup>44</sup> For example, the Slovak language when translating *effective* (delivering the desired outcome) and *efficient* (using resources to best effect) using different terms. Despite the efforts made to translate them differently, the terms are used as synonyms.



Is the linguistic question in the European Union *the new legal Pandora's box*? After all, how deliberative democracy should function in polities that are made up of many linguistic groups and seem to forget the impact that linguistic diversity may have on political communication and mutual understanding across languages.<sup>45</sup>

Consideration must be given concerning the goal of bringing Europeans from a range of countries together, because this may affect the European citizens' right to speak their own language.

In the end, languages "are exclusive, and they exclude. Even if the possibility for speakers of a minority language to speak their own language should be protected, representing a fundamental constitutional right in democratic societies, supported at both national and European level, minorities would be culturally, socially and politically isolated if they were unable to speak the language of the majority. Therefore, one might conclude that language rights should be concerned not only with the protection of linguistic diversity and the right to speak one's own language, but also with the right to learn the language that enables one to be among those who exercise power, or, less ambitiously, to understand the linguistic code of those in power".<sup>46</sup>

Could we talk about the hypocrisy of the Member States concerning the language diversity? As some authors point out "[m]ost EU Member States seem to endorse the view

that diversity is valuable only if they are in charge of that diversity, defining its meaning and limits. Thus, minority language rights are protected and diversity celebrated only with respect to languages with a long historical presence in Europe. The increasing and widespread presence of non-European immigrant languages is not protected by language laws".<sup>47</sup> Nowadays, English is the *de facto* language of the European Union, becoming "the dominant supranational language".<sup>48</sup>

But following and respecting the European motto is not just a question of good intentions, but it requires institutional ambition and consistency. "Needless to say, many nuances will have been lost throughout the different translation processes, but the question remains whether and when these nuances will be noticed and acted upon and whether the nuances are so grave as to lead to inconsistencies".<sup>49</sup>

Of course that we have to see that multilingualism is an advantage, a blessing of the EU and not an obstacle, a curse. We consider that, despite the various problems with the EU multilingualism described in this study, it is "quite unlikely that anything would change in legal terms in the foreseeable future".<sup>50</sup>

However, we consider that lawyers should research more in languages and legal interpretation. Interdisciplinary efforts could solve the multilingualism problems of the EU.

<sup>45</sup> Kjaer and Adamo, "Linguistic Diversity and European Democracy", 1.

<sup>46</sup> *Idem*, p. 9 (footnotes omitted).

<sup>47</sup> Kjaer and Adamo, "Linguistic Diversity and European Democracy", 10.

<sup>48</sup> R. Phillipson, "The EU and Languages: Diversity in What Unity?" in *Linguistic Diversity and European Democracy: Introduction and Overview*, Anne Lise Kjaer and Silvia Adamo (eds.) (Ashgate, 2011), 69.

<sup>49</sup> Bengoetxea, "Multilingual and Multicultural Legal Reasoning" in *Linguistic Diversity and European Democracy: Introduction and Overview*, Anne Lise Kjaer and Silvia Adamo (eds.) (Ashgate, 2011), 101.

<sup>50</sup> M. Bobek, "The Multilingualism of the European Union Law in the National Courts: Beyond the Textbooks" in *Linguistic Diversity and European Democracy: Introduction and Overview*, Anne Lise Kjaer and Silvia Adamo (eds.) (Ashgate, 2011), 141.

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