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## DOMINANCE OF ENGLISH IN THE EUROPEAN UNION AND IN EUROPEAN LAW

**Abstract.** English has become the first global language of international communication during the last decades. It is dominant in many fields as science, technology, transportation, business and tourism and diplomacy. The European Union with law applicable directly on individuals is officially multilingual. English is, however, preferred in internal communication and in communication with national experts. National laws are closely related with particular states. Related discourse is therefore realized mostly in national language. Legal education and research are thus less anglicized than other university education and research. Nevertheless, increasing importance of international and supranational rules for harmonization and coordination, growing demand for comparison, pressure to publish in internationally recognized journals, Europe-wide research projects and rising numbers of exchange of students cause widespread resort to English also at schools of law. Unfortunately, English is language of countries with Anglo-American law (common law) which differs significantly from continental law (civil law) existing in most European and other countries. Therefore, it is difficult to find adequate English words for phenomena of civil law and to stabilize their use in international discourse.

*Keywords:* English, Law, Education and Research, the European Union.

The conference “Language and Law – Traditions, Trends & Perspectives”, organized by the Białystok Legal English Centre in 13<sup>th</sup>–14<sup>th</sup> June 2013 addressed education of English at law schools of non-English countries. This conference was an opportunity for a Czech lecturer of law of the European Union to analyse emerging dominance of English in this officially multilingual supranational organization which deeply integrates most European countries. The causes, extent, limits, features and consequences of that dominance in various types of international communication in general and in the European Union in particular will be analysed in following text. Special attention will be paid to its impact on law, legal discourse and academic legal writing.

## English as the first among other major languages

German chancellor *Bismarck* allegedly said in 1898 that “The most important event of the upcoming 20<sup>th</sup> century will be the fact that the North Americans speak English”. Indeed, the dominance of English emerged in the last century. This Germanic language with immense vocabulary of Romance origin was minor language for centuries. Two superpowers of this century were English speaking countries. British Empire dominated at the beginning. The power of the United States of America increased gradually.

There are other countries with English speaking population: Canada, Australia, New Zealand and handful smaller countries. Countries with population speaking other languages and using English as language of their government, trade and media are even more important. These countries accepted the language of former colonizer. The most populous country of broadly defined *Anglosphere* is India. Other Asian countries as Pakistan, Bangladesh, Malaysia and Philippines and many African countries including the most populous Nigeria and prosperous South Africa shall be also listed.

Remaining nine languages ranked together with English as “top ten” according the number of primary and secondary speakers, economic power of countries, areas of human activity in which the language is important, number and population of countries and socio-literary prestige (Weber, 1997) have not expanded to similar extent and now even lose their position in favour of English.

French, Russian and Chinese are each language of a single global power – France, Russia and China – and are also used in many, several or few other countries respectively. Spanish and Arabic are both shared by two dozens of countries. No Spanish- and Arabic- speaking country, however, is global power. German lost its position in international communication during the 20<sup>th</sup> century due to outcome of both world wars. Hindi/Urdu is hard to classify as language of international communication despite huge number of speakers also due to mentioned role of English in India and Pakistan. Portuguese is language of communication among few countries despite increasing role of Brazil. Japanese is one country language, albeit of important one, with almost no use in international communication.

### **Extent, limits, perception and consequences of dominance of English**

The resort to English can be observed especially among professionals who need to communicate swiftly and interpretation is not feasible. International air and sea transport authorities developed simplified English – *Airspeak* and *Seaspeak*.

Another highly anglicized activity is contemporary research (Ammon, 2001). Recently, publications in science, medicine and technology must be in English to be counted. Most journals with higher impact-factor are published in English. Publications in domestic language or even in other major languages are perceived as popularization. Similarly, contributions at international conferences are now delivered in English.

English has expanded in other spheres of international communication, albeit other major languages are also used. For example, it gradually replaced French in diplomacy. English also pushes off other languages in international trade in many regions of the World. English is widely used for communication in multinational corporations (Thomas, 2007). Workers of service providers are encouraged to learn languages of the largest groups of tourists. Nevertheless, resort to English has become general if other language is not known mutually.

Terminology of several technologies is English. An example of its dominance even in domestic communication can be found in information technology. Programming requires uniform language. Computer languages are based mostly on English, because information technology has emerged in the United States.

Widespread use of English makes its learning attractive. Tendency to use English as language of international communication is thus further fostered. English is promoted also thank global popularity of American movies and pop music. English words are known even to people without any learning of English solely thanks television. Despite all learning, few countries have population with sufficient knowledge of English on level enabling international communication. The Netherlands and Nordic countries have population with good knowledge of English. People in most other countries have limited knowledge. Communication in English is mastered by educated elites of these countries. Learning English is differently challenging for speakers of various languages. People with good knowledge speak Germanic languages. It is easier to learn English by people speaking Indo-European languages than by people speaking unrelated languages, especially those written in other scripts.

Nevertheless, English has undoubtedly become the first global *lingua franca*, i.e. the language of international communication on global level. This position of English can be perceived as both symptom and motor of recent globalization.

Dominance brings obvious benefits to English-speaking countries and to their population. Native speakers enjoy advantage in international communication and are accepted as language teachers worldwide. Global dominance of English increases attractiveness of Anglo-American models of business, politics and society. For example, Anglo-American model of tertiary education has proliferated through the Bologna-Process. Some researchers observe significant enrichment. Radicals propose language taxation of English-speaking countries in favour of other ones (Grin, 2005).

There is ongoing debate (Jambor, 2007), whether English is accepted voluntarily by other countries and their population, or the World encounters English linguistic imperialism (Phillipson, 1992).

Dominance provokes opposition. Several countries try to curtail use of English (French *loi Toubon* mandates use of national language in many spheres). Some countries promote their education abroad with public financing (generous support of France to halt decline of international use of French).

Native English speakers can feel one disadvantage of global dominance of their language. They are losing control over development of their native language. Several features of English language are important in this context. English is open towards words of foreign origin. It lacks official regulatory authorities and thus develops spontaneously. American, British and Indian English are the most important varieties which gradually become different standards. English has thus become pluricentric language. Communication of individuals which have studied English in school or in adulthood establishes other varieties labelled as International English, World English or even *Globish* (McCrum, 2011).

Native speakers often face bad English due to its worldwide dominance. Nevertheless, they are mostly accustomed to it. They hear speeches and read texts in bad English also due to partial language apprehension by numerous people immigrating to their countries.

### **Language regimes of states and of international organizations**

Most countries are monolingual. Linguistically defined nations formed base for them. Several states were unified thanks shared language and other

ones were dissolved along language borders. Many governments recognized importance of language for stability and suppressed other languages. Coexistence of majority with linguistic minorities is challenging. Several countries are officially plurilingual. Two, three or four languages are used for operations of the government. Balancing language plurality is, however, challenging task in many of them.

Many countries are multilingual as regards communication at home and in local community. Nevertheless, solely one language (English in many countries) is used in operations of government, in education and internal trade and for interethnic communication in many these countries.

Few countries are multilingual also in their public sphere. India is the best example. Twenty two languages are scheduled as languages of national importance in the Constitution of India. Most of these languages are used by huge ethnic nations (*subnations* of broader Indian nation). Half of states were formed on territories with linguistically defined populations. Many Indian languages have long tradition of literature. They are used in media, in education and in politics. Nevertheless, hierarchy of languages developed. English and Hindi are used in operations of the central government. States are compelled to use these languages for interstate communication. English and Hindi are widely used also in media, higher education, judiciary, and in all-India business.

Several languages are official in international organizations (six the first mentioned top ten languages are official in the United Nations Organization). Surely, the selection reflects importance of founding member states. These languages are also learnt by foreign elites. Diplomats and experts are expected to master them. Use of other languages is necessary in field operations (peace-keeping missions, humanitarian aid and development engagement) or if individual complaints and submissions are administered.

### **Specific language regime of the European Union**

The European Union (as successor of the European Communities) forms, however, a supranational organization. Its law is directly applied on individuals under jurisdiction of the member states. It establishes their rights and duties. It shall enjoy primacy over inconsistent law of the member states. The range of agendas is broader if compared with other international organizations.

Limited knowledge of any major language including English requires use of all official languages of the member states as official languages. Twenty

four official languages of the European Union (listed in the Regulation 1/58 determining the languages to be used in the European Economic Community as amended with acts of accession of new member states and in Article 55 of the Treaty on Functioning of the European Union) composed from twenty eight member states confirms claims that single national language has been impulse for establishment of most European countries.

According to recent figures (Interinstitutional Committee for Translation and Interpretation, 2013), the European Union operates large translation and interpretation service, probably the largest one in the World as regards the number, the volume and the importance of translated documents and interpreted speeches. Expenditures cannot be neglected, though not high *per capita*.

English, French and German are internal working languages. However, little recognition of this status can be traced. They were chosen spontaneously thank communication of professionals as languages taught in European schools.

Language hierarchy in the European Community and in the European Union developed during the last sixty years. English gradually replaced French on the top position. French was sole working language in early European Communities reflecting its then prominent position in diplomacy and the decline of German in post-war period. English was not official language from the beginning due to postponed accession of the United Kingdom. Nevertheless, English has become the first language of communication among representatives and experts from the member states. Its knowledge is expected. Resort to English is practical also in external relations, because its knowledge can be also expected from diplomats and experts from entire World.

On the contrary, knowledge of German, French, Spanish and Italian cannot be expected. People representing different member states resort to them or to other languages only if know about mutual knowledge and prefer their use. Cessation of multilingual or bilingual (English and French) communication with assistance of interpreters contributed to simplification of meetings. Related e-mails and phone calls are now also exclusively in English.

French as working language at the Court of Justice of the European Union is an interesting exception from recent dominance of English. Official policy of the European Union is multilingualism. Entire legislation is translated into all official languages. The Court of Justice strives for translation of all important judgments for their adequate consideration by courts, administration and lawyers in the member states. Documents of general im-

portance are, however, drafted in few languages (the Directorate General for Translation, 2009). English gradually became dominant with 72% (p. 8), French and German remain clearly behind. Other languages are source languages only if documents originate in respective countries.

The most important dispute showing emerging language hierarchy is related to proposed single patent for inventions. Patent documentation in all official languages would be expensive. Nevertheless, any reduction of languages faced opposition. Recent compromise (Regulation 1257/2012 adopting language rules of the European Patent Organization) reveals ongoing shift. Patent claims (summaries) shall be in English, French and German and entire documentation in one of them. It will be undoubtedly English in most cases.

Nevertheless, the position of languages is issue of prestige also in this issue. Italy and Spain object vehemently the suppression of their languages in sphere of patenting of inventions. Germany and France would behave similarly if their languages were excluded. On the other hand, increasing dominance of English in various spheres is accepted and eventual recognition of its prominent position would not be objected by the member states of central Europe which cannot expect international reputation of their languages. Several these states preferred English-only regime of single patent.

### **Close relation of laws and languages**

Law is based on communication of individuals realized with speeches and texts. Statutes, treaties, decisions, judgments, contracts, statements, petitions of any kind are written in particular human language. Similarly, entire oral communication is realized in such language. Traffic signs, codes, numbers and other examples of non-linguistic communication are marginal.

Legal language is standardized version of national language with specific features. It differs significantly from standard language in many countries. Legal discourse is thus hardly understandable for laymen. Every country has its own law. Legal terminology is thus closely connected with particular country and with its government.

Legal languages in countries sharing one language (English, Spanish, Arabic, French or German) diverge. Identical institutions and institutes are labelled differently. Similarly, same words and phrases can have different meaning. Real understanding thus requires familiarity with the national law. On the other hand, countries with two or several official languages (Belgium, Switzerland, or Canada) develop parallel legal terminologies.

Similar parallelism is harder to achieve in multilateral international treaties adopted now mostly in international organizations in several authentic languages. International law addresses relations of states. Its impact on individuals is usually indirect. It harmonizes and coordinates use of national laws and eventual directly applicable rules need to be accompanied with national implementation.

Despite all supranational features of the European Union and its law, establishment of terminological parallelism is similarly challenging, because implementation and enforcement is task of the member states. The activity need to be immense due to many agendas and also due to high number of languages.

### **English in international legal communication**

An increasing use of English in international communication addressing legal issues is affected with the fact that English is language of countries with Anglo-American legal system (*common law*).

*Common law* is one among three or four basic national legal systems. Other systems are continental law (*civil law*), Islamic law and eventually socialist law. Legal practice in non-English speaking countries is far less anglicized if compared with other professional activities. Legislation is prepared, discussed and formulated in national language. Decisions and judgments together with other documents related to proceedings, contracts, submissions, petitions, offers and calls are written in such language. Courts and agencies are unwilling to accept documents and to communicate in other languages. Use of English or to expect in domestic legal practice is not expected and required. Therefore, academic reflection of particular national law is realized further in national language. This situation differs from science, medicine and technology where valuable publications are written in English.

Certainly, an exception is communication with foreigners. When addressing particular communities of foreign origin, authorities translate information into their languages. Nevertheless, states expect knowledge of English by experts. Similarly, international business communication and cross-border contracts are in English. Administration and judiciary start to use English in their cooperation. First documents in English are accepted without translation (the documentation for authorization of pharmaceuticals). Legislation is increasingly translated into English for international readership (Estonia systematically translates its law into English). Even

selected landmark judgments are translated to English by supreme courts of non-English speaking countries.

No non-English speaking country, however, adopts English in government operations to extent allowing label it as its second official language.

English used for communication of legal issues among people and institutions from non-English speaking countries deviates from British or American English due to specific features of national laws. Most people have imperfect knowledge of English. They thus follow their own models of thinking resulting in expressions typical to their languages.

### **Pressure for Anglicization in university environment and legal education**

English has become language of academic debate about law in Europe despite deep roots of law in national life. Legal scholars are encouraged to internationalize their research. It goes beyond international and supranational law addressing cross-border activities and harmonization. Comparison of national laws is expected.

Smaller countries including these in central Europe cannot expect international students in programs co-financed by the European Union (Erasmus) having knowledge of their languages similarly as Germany, France and Spain do. Education is realized exclusively in English. Elder professors willing to teach international students in French, German and Russian did not meet sufficient number of students.

Courses offered to international law students, however, face limitations due to their limited proficiency. According to experience of lecturers, several students hardly understand despite all language testing necessary for their participation. Other students loose quickly their concentration.

Most exchange students had few opportunities to listen, speak and write in English before their study travel abroad. Nevertheless, several months contribute to improvement of knowledge of English albeit most people they encounter are not native speakers. Specific Erasmus-English emerges in communication of exchange students and few talkative domestic students (Kalocsai, 2009). Basic knowledge of language of host country is acquired by brighter exchange students. Perhaps, this improvement together with experience with foreign society and culture is more important than content of several simplified courses. Education of international students is challenging also for teachers. Many perceive deficiency of their English learned in higher age. Lecturers and seminars held in English are exhaustive even for teachers with good knowledge.

Close relation of national laws and languages causes specific troubles for legal education of international students. Search for adequate English equivalents is permanent in lessons in central European countries. Law of the European Union is not spared. Certainly, fixed terminology can be found in English version of its legal texts. Nevertheless, this course cannot be isolated from national laws.

According to some politicians, journalists, experts and observers, universities shall further anglicize their activities. They are encouraged to teach domestic students in English. Schools of law are not spared. It can be debated, whether advantages overweight limited preparedness of students and teachers, quicker mutual exhaustion and resulting alienation from domestic legal discourse which will be realized further in national language. Expressed doubts about forthcoming Anglicization of legal education shall not be interpreted as opposition against education of legal English based on satisfactory general knowledge of this language. Future lawyers shall know English for international communication, albeit most of them will not use it in their profession on daily basis. The education of legal English thus became reasonably obligatory at many law schools. Certainly, many students facing choice among several major languages mostly enrol in courses of legal English not only for its general importance, but also because they have learnt it in primary and secondary schools.

*International Legal English Certificate* is a new set of exams, model courses and literature organized and delivered by the Cambridge Assessment – University of Cambridge Local Examinations Syndicate, an institution aimed at testing of knowledge of *English for Speakers of Other Languages*. It organizes various sets of examinations, licenses courses and delivers study materials. This tendency confirms increasing globalization together with open markets for lawyers in English speaking countries. It will be interesting to investigate in near future, whether this educational standardization will contribute to development and stabilization of English terminology for discussion of legal issues in other legal systems.

Another question is whether increasing dominance of English causes exportation of *common law* to countries with other legal traditions. It is necessary to recognize genuine differences between the two legal systems. Case-law is not everything in *common law* countries and nothing in *civil law* ones. Similarly, methods of legal analysis in both practice and in education are not opposite.

Increasing tendency to seek inspiration for legal argumentation abroad results draws attention to populous countries where detailed analyses of specific issues are more available than in smaller countries. Language barrier

hinders use of analyses from most non-English speaking countries. Resulting resort to British and American texts can contribute to subconscious acceptance of methods of discourse typical to *common law*.

### **Consequences of dominance of English for law in the European Union**

It is hard to classify law of the European Union as belonging to particular legal system. It is mixture of international law and national laws.

Great Britain, Ireland, Cyprus and Malta are sole member states with *common law* or under its substantial influence. Most member states belong to Roman and Germanic branch of continental legal system. Post-socialist member states deemed in the second half of 20<sup>th</sup> century to have distinct system of *socialist law* are now listed as countries with *civil law*. Albeit Nordic subsystem is closer to common law, it also forms a subsystem of *civil law*. Several features linked with *common law* emerged in the European Communities and in the European Union. However, they could be hardly explained as result of dominant use of English in discourse related to the law. Landmark judgments of the Court of Justice have contributed to the development of this supranational law in way comparable to role of judgments in *common law* decades before the dominance of English and before the accession of the Great Britain to the European Communities.

Nevertheless, omnipresent and sometimes exaggerated attention to case-law of the Court of Justice instead of secondary law and implementation in the member states in education and academic writing could be perceived as tendency towards methods of legal studies typical for the *common law* countries.

English used in institutions of the European Union and in its communication with national representatives and experts is altered. Linguists observe emergence of continental English, “Euro-English” or “Brussels English”. Two latter ones are characterized with increased impact of French (beyond its significant influence of the past) thanks location of European institutions in French-speaking cities and its position in the European Union. Deficient English (the European Court of Auditors, 2013) in routine of the European Union is confirmed at least in efforts to promote genuine British English style in drafting of documents (the Directorate-General for Translation, 2011).

We can also debate whether perceived resort to methods and style of legal research typical in *common law* is promoted with superiority of journals

published by global publishing houses (Common Market Law Review or European Law Review) or other legal journals published in other countries aimed at European readership with exclusive use of English.

Existing rankings of legal journals are relevant for the United States of America. Even the most prestigious English-language journals published in the United Kingdom or in Europe have lower impact factor. Few German and French legal journals are ranked and journals in other languages are absent.

Dominance of English can be observed also in comparative studies of legal issues actually and potentially affected with integration. Many these studies are initiated and financed by the European Union. Despite official multilingualism, national reports are planned, prepared, discussed, edited and published exclusively in English.

### **Conclusions with few regrets and apologies**

Multilingualism in debate of legal scholars gradually disappears in central Europe. This development is regretted by some as unfortunate degradation of international legal discourse.

Let to explain it from Czech perspective. Modern Czech law started to develop in Austrian-Hungarian monarchy in German language. Following its roots require thus its knowledge. Emulation of German and Austrian laws and reading of related legal literature would contribute to improvement of related Czech law, which was isolated after the Second World War and degraded in period of socialism. Similarly, Polish law is the best reflected post-socialist law thanks numerous law schools and authors and continuous legal discourse in socialist Poland if compared with other socialist countries. On the contrary, English and American laws are distant from laws in central Europe and can thus hardly provide feasible inspiration. Capacity to read and understand German and Polish text shall thus be fostered similarly as general knowledge of English.

Certainly, it could be rebutted that exclusive use of English is easier for most participants of debates than switching among several major languages expected from intellectuals in the past. From this point of view, dominance of English has democratized international communication including this one addressing laws.

Many formulations in this text do not comply with frequently hardly identifiable standards of English. They can reveal origin of author to readers familiar with numerous texts of non-English authors. Effort to avoid

*Czenglish* (Sparling, 1991) is only partially successful. While considering the topic, imperfection can, nevertheless, exemplify pitfalls of resort to English by a central European university teacher of law. On the other hand, the same resort to the first global *lingua franca* enables to communicate the topic to global readership.

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