

Elżbieta Kuźlewska

University of Białystok

UNITY IN DIVERSITY. THE LANGUAGE POLICY OF THE EUROPEAN UNION

Abstract. This paper explores the connections between the law and language in the European Union. The paper concerns the language policy of the European Union (EU) and English language priority. The EU faces challenges of finding a common ground for respecting the diversity of its members. So many different states are gathered in one organisation which establishes the law for diversified legal orders. The research question is – which language(s) is or should be used in the EU? Does English become *lingua franca* of the EU?

Keywords: the European Union, language policy, language use, multilingualism.

The aim of this paper is to explore the connections between the law and language in the European Union. The European Union (EU) consists of 28 various Member States. The EU faces challenges of finding a common ground for respecting the diversity of its members. So many different states are gathered in one organisation which passes the law binding in the same manner for those different states. The research question is: which language(s) is or should be used in the EU? Is English becoming *lingua franca* of the EU?

The paper is divided into 5 sections. Part one is devoted to the motto “unity in diversity” and the connections between multilingualism and multijuralism. Part two concerns the EU and its language policy. Part three explores linguistic rules of the EU institutions. Part four examines the EU working languages conflict as well as the position of English in the EU. English language priority in the EU is analysed in section five.

“Unity in diversity”

The theme “Unity in diversity” was adopted as the official motto of the EU in 2000, reflecting one of the main aims of this atypical organi-

sation: to preserve the cultural differences that exist between the Member States. The preservation of identities, cultural values and history of various countries underlines the important role of national languages. To stress the importance of national differences, it is worth mentioning that currently the EU has 24 official languages, but more than 60 indigenous regional or minority languages are spoken through the continent. The EU treaties are published in official and working languages and in 24 national ones for the benefit of the citizens. Since the EU is committed to the principle of multilingualism and to fundamental rights of non-discrimination and equality of its citizens, this implies equal rights of all citizens to legal documents in their national languages.

In addition to the enlargement process the laws concerning the four fundamental freedoms of the EU (the free movement of goods, persons, services and capital) have also contributed to the multicultural and multilingual character of the EU (Károly, 2008). In the XXI century immigration is a new phenomenon which contributes to the complexity of the European language mosaic. Several capitals of the Member States are examples of multicultural and multilingual European cities where many languages are spoken. According to the data presented by Ginsburgh and Weber, the six languages most spoken in Europe include: English, French, German, Italian, Spanish and Dutch (Ginsburgh & Weber, 2003).

The EU recognises close ties between culture, language, identity and ideology, which is why the EU supports developing language policy which respects the diversity of languages, promotes multilingualism and protect communities having an endangered language. Since language, culture, identity and ideology are strongly connected, the language policy of the EU has a crucial influence on both persons and nations.

The Commission recommended and the Council endorsed the 1+2 language policy meaning that the EU citizens should learn at least two languages in addition to their own (Branchadell, 2007).

Language policy in the EU

“Language policy” and “language planning” are often used interchangeably. Kaplan and Baldauf consider language planning the implementation of language policy. Van Els makes a distinction between “institutional” and “non-institutional” language policy in the EU. The first one refers to the language policy which determines the use of languages in and between the EU institutions, the use of language outside the EU, and the languages used

in the communication between the EU and its Member States. The second term refers to the languages used in individual Member States between the citizens (van Els, 2006). For the best solution to the EU Theo van Else suggests reducing institutional working languages for informal oral consultations to a single one – English (van Els, 2005). What is more, all internal and external communication in the European Central Bank in Frankfurt is conducted exclusively in English (Seidlhofer et al., 2006).

The fundamental principle of the institutional language policy of the EU is multilingualism. As Elise Ahn says (Ahn, 2007), the legal basis for the EU language policy was initially established in the Treaty of Rome in Article 248 which stated: “The Treaty, drawn up in a single original in the Dutch, French, German and Italian languages, all four texts being equally authentic (...)” In 1958 the Council approved Regulation number 1 concerning the basic provisions for the language regime in the European institutions (OJ L17, 1958). According to this Regulation, each Member States has the right to request that any of its national official languages be given the status of official EU language. This status entails inter alia that all EU regulations and other documents of general application are translated into the language. Also any official EU language may be used in EU parliamentary debates and formal Council proceedings with interpretation provided in each case into all other official EU languages (Ammon, 2006). The engagement of the EU towards multilingualism was confirmed to date. The EU views multilingualism as a core concern of the EU and its Member States due to diverse linguistic skills provide them and their citizens to: 1) ensure that all members of the EU may communicate with the Union and have access to the EU legislation in their own language; 2) show acceptance of all Member States’ different culture and linguistic culture. Multilingualism seemed to be logical argument for a more open Union with greater public participation. In the Charter of Fundamental Rights of the European Union (OJ C 364/1) the EU declares that it respects linguistic diversity (art 22) and that no discrimination is allowed based on language (art 21). In addition, one of the fundamental rights included in the Charter is the right to good administration. One of the elements of this right is that “everyone may write to the institutions of the Union in one of the languages of the Treaties and must have an answer in the same language” (art 41).

In accordance with the Regulation 1/58 there is no difference between official and working languages. However, in the literature there is a slight distinction between them. Official languages of the EU are generally defined as those used in communication between institutions and the outside world. Working languages of the EU are defined as those used between in-

stitutions, within institutions and during internal meetings convened by the institutions (Gazzola, 2006). It is necessary to underline that in accordance with the Regulation 1/58 there is no rule stating specifically which languages have to be used as working ones. The choice of working languages is a matter of practice. English, French and German are not the official working languages of the Commission, but just the most commonly used for its internal activities.

From July 1, 2013 the official languages of the EU are: Bulgarian, Croatian, Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Irish, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovene, Spanish and Swedish. Although there are 28 Member States, the number of official languages is 24 as some languages are spoken in more than one Member State (e.g. Austria, Belgium, Luxembourg, Cyprus). In theory all official languages of the EU Member States have equal status and equal rights in EU institutions (Phillipson, 2003). *De facto* some languages are more equal than others (consider, for example, the role of Danish in the running of the European Union as opposed to English or French). As Nelde writes, in legal terms all three mentioned languages are on equal footing. However, English and French are far more important in the day to day affairs of the EU (Nelde, 1995).

One may pose the question: why it is necessary to have so many official languages instead of using only one or a few like most international organisations, such as the United Nations with 193 states has six Charter languages (Arabic, Chinese, English, French, Russian and Spanish), the North Atlantic Treaty Organisation with 28 states has two official languages (English and French), World Trade Organisation (English, French and Spanish), Organisation for Economic Cooperation and Development (English and French), and finally the Council of Europe (English and French). As direct communication between the international organisation and the citizens is expected, the citizen who does not understand one of the international organisation's official languages will have to rely on the services of the translator (Schilling, 2008).

One of the most important organisation affecting the European language policy is the Council of Europe. According to the Article 12 of the Council of Europe Statue, the official languages are English and French. Respect for other languages and cultures has been a desirable goal for this intergovernmental organisation for more than fifty years. In the European Cultural Convention (1954) the importance of learning and esteeming languages of other countries was stressed (Dombi, 2010). In 1998 European Charter for

Regional and Minority Languages (Language Charter) entered into force. The Charter was to be an instrument with norms of an objective character protecting cultural and linguistic diversity in Europe (Oeter, 2007). Although the Council of Europe strongly promotes plurilingualism and linguistic diversity, it uses only two official languages for practical reasons. It should be stressed here that the Council of Europe makes a distinction between plurilingualism as a speaker's competence (ability to use more than one language) and multilingualism as the presence of various languages in a given geographical area while the EU uses multilingualism for both (Extra & Yagmur, 2012).

The European Union distinguishes itself from mentioned organisations because of its supranational and intergovernmental system. What is more, there are different types of laws made at the European level; regulations, directives and decisions are binding in different way. The EU legislation must be translated into all the official languages. As Lönnroth mentioned, with 23 [nowadays 24] languages the number of possible language combinations to translate increased to 506. Some of these however, such as Maltese or Finnish are never used (Branchadell, 2007). Thus, translation is art, not science. Translation cannot be performed by a computer as the words do not correspond and often their meanings overlap. For instance, between English and French, there are a lot of "false friends" – words with the same appearance but divergent meaning (Fennelly, 1996). There are selected examples of "false friends": bras, cent, chair, chance, coin. The translation of law is a special type of culture transformation insofar as the legal contents of one legal order and cultural community are being transferred to other legal order (Künnecke, 2013).

In the EU context, there is significant difference between multilingualism and multijuralism. By multijuralism Schilling understands

fact that within the EU each Member State has at least one legal system which is entirely its own and whose validity, as opposed to its history, is independent of all other Member States legal systems (Schilling, 2011).

Various forms of differentiation have characterised the European legal order since its beginning (Thym, 2005). From this fact there are many different legal backgrounds and EU legislators must legislate for widely different legal systems. It is a real challenge for producers of EU legal texts to have at their disposal a toolbox of more than 28 possible solutions for many situations. Since EU law is regarded as an independent supranational legal system with its own autonomous conceptual system, it may appear that legal translation in the EU involves only one legal system, thus implying

that a comparison of legal system is no longer necessary. This is not true. As Šarčević mentions, after more than fifty years EU law is still developing and continues to be dependent on the national law of the Member States and their conceptual systems (Šarčević, 2012).

What about the efficiency in communication in multilingual EU? Working in different languages slows down work, especially when written text needs to be translated. Limiting working languages can be justified by pragmatic and economic reasons. How to solve this issue? In the author's opinion there are some possible solutions: 1) monolingualism should be introduced; use of a single working language – English; or 2) reduced multilingualism; use of only three working languages. The idea of bridging languages in European Court of Justice in Luxembourg should be considered, too (van Bossuyt, 2007). Nevertheless, the idea of 24 official languages should stay without changes. There is the need for multilingualism of the European institutions to guarantee the legal security of the European citizens to whom the Community legislation is directly applicable (Mari & Strubell, 2002).

Linguistic rules of the EU institutions

The rules of procedure of European institutions vary with respect to linguistic issues. The Council Decision of June 5, 2000 adopting the Council's Rules of Procedure (2000/396/CE, ECSC, Euratom) in article 14 allows reducing the number of working languages. On the other hand, every EU citizen is to have the same opportunities of communication with the EU institutions, such as the European Parliament or the Court of Justice of the European Union (CJEU). In accordance with Articles 2 and 3 of the Council Decision, the citizen must be able to address the institution in their own official language and to receive the answer in the same language. It is not an easy undertaking. The EU still needs a practicable language regulations for communication with EU citizens on the ground of legal certainty (Luttermann, 2011).

The EU does not question the principle of equal treatment of all official and working languages. However, the linguistic unification tendencies regarding the working languages in the EU institutions were admitted by the former Romanian Commissioner for Multilingualism Leonard Orban (2007–2010). Although his main priority was to promote linguistic diversity (Extra & Gorter, 2008), he realised that linguistic diversity complicated political dialogue and the exchange of ideas in a community that

could not communicate (Kjaer & Adamo, 2011). Kraus seems to be more severe. In his opinion, diversity in the EU is used as a convenient token, exhibiting the EU's higher goals, its subordination to and identity politics controlled by intergovernmentalism makes it remarkably vague principle (Kraus, 2011).

The EU Commission has three working languages: English, French and German. For historical reasons, the states that have viewed themselves as "great powers" assume that their languages are more important than others. Inequality is confirmed by the status of English, French and German as procedural languages internally in the Commission, with a hierarchy among them (Ammon, 2009). The decreasing status of the French language in the Commission is the result of market forces and internal and external pressures independently of the language. The privileged status of English, especially within the Commission, has been reinforced by key decisions, such as e.g. determining that in all negotiations with applicant Member States, English was used exclusively (Phillipson, 2011).

In the European Parliament, representing the EU citizens, linguistic plurality is disregarded, particularly in preparatory work and informal meetings, and a reduced number of working languages is used, with English domination (Article 138 Rules of Procedure of European Parliament). The former French minister for European Affairs (1993–1995) Alain Lamassoure did not succeed in official reduction of the working languages in the EU to five (Luttermann, 2011).

In the Council of the EU the language situation is comparable to that in the Commission. The decisions are prepared by a committee consisting of the standing representatives of the EU Member States. This work is carried out exclusively in English, French and German.

In the Court of Justice of the European Union (CJEU) the language policy is different. The Court of Justice of the European Union was established to resolve ambiguities and divergences among the various languages of EU legislation and to lay down a uniform interpretation to be applied by the national courts of all Member States (Šarčević, 2012). Is the CJEU playing the crucial role in controlling multilingualism?

What is the method of interpretation of legal texts in the CJEU in Luxembourg where the common and civil law traditions meet (and the common law prevails in only two Member States: United Kingdom and Ireland)? (Fennelly, 1996). Article 342 TFEU and Article 7 of the Council Regulation No 1 state that language used at the CJEU is to be regulated separately in the Rules of Procedure of the CJEU. According to them (Articles 29–31), the language of a case is every official language and the ap-

plicant has the right to choose it. The decision drawn up in the language of the case is authentic. It has to be translated by the Court's own language service into all EU languages and to be published in the European Court reports.

As far as the language of internal Court's rules of procedure is concerned, French is dominant. However, the use of French has never been included into the Court's Rules of Procedure. The website of the Court explains as follows: "The Judges deliberate, without interpreters, in a common language which, traditionally, is French". The judges also write the court decisions in French. Why is the French language dominant in the Court? It is an outcome of French-law influence. Most of the legal procedures at the CJEU are forms of judicial review of administrative action. In the 1950s the procedures of French administrative law enjoyed a position of pre-eminence among the legal systems of most of the six founding Member States. For instance, the position of Advocate General at the Court was inspired by the role of the differently named *Commissaire du Gouvernement*, at the French Supreme Administrative Court or the Council of State. The early French Advocates General, for many years drawn only from the Council of State, exercised strong influence in extracting the legal principles and establishing the procedures which became the norms of the Court (Fennelly, 1996).

Table 1

Official and working languages in the EU

Institution or body	Official languages	Working languages
European Parliament	All 24 languages	All 24 languages
Council of the European Union	All 24 languages	All 24 languages
European Commission	All 24 languages	English, French, German
Court of Justice of the European Union (CJEU)	All 24 languages + Irish	French
Court of Editors	All 24 languages	English, French, German
Economic and Social Committee	All 24 languages	All 24 languages
Committee of the Regions	All 24 languages	All 24 languages
European Central Bank	All 24 languages	English
Office for Harmonization in the Internal Market (OHIM)	All 24 languages	English, French, German, Spanish, Italian

Source: self-made.

EU working languages conflicts

Conflicts about EU working languages can be dated to the founding period of the EU when France tried to establish French as the sole official and working language (Ammon, 2006). The only authentic version of the Treaty of Paris establishing European Coal and Steel Community (ECSC) in 1951 was in French, as that language was the mostly spoken by the Member States of the ECSC and reflected the intention to make French the official language of the Community (Łachacz & Mańko, 2013). However, the participating Member States by a separate protocol established the principle of equality of four languages: French, German, Italian and Dutch (Brown, 1981). In the 1970s France twice vetoed United Kingdom's membership, among other reasons, because of fear of competition for working language status. Before the French president Pompidou accepted British membership, he had extracted the promise from British Prime Minister Edward Heath (1970–1974) that British EU officials would always be fluent in French language. Nevertheless, English has become predominant language in the EU. Germany accepted the predominance of French, then French and English as the working languages for a long time. This changed in 1990 after German unification and after EU membership of Austria in 1995. Germany started to insist that German language community and the biggest German economy in the EU was superior in the EU. In addition, German was ahead of French as a foreign language in the EU (Ammon, 2006). In 1993 Berlin achieved some improvements in the status of German and it became an internal working language for the Commission. However, when Finland took over a Council's Presidency in 1997 it refused to make provisions for interpretations of German at the informal Council meetings. The subsequent Council Presidency (by Sweden) excluded German from being a working language at informal expert meetings. Germany and the majority of Member States accepted limited working language to a single one – English (against the French vote). At this moment Christiansen raises a question: what kind of the EU do we want? An English Union? As the EU is truly multilingual and democratic, some languages cannot be allowed to be more equal than others (Christiansen, 2006).

English language priority in the EU?

No doubt English is the most important language of wider communication in the world as the result of British colonial power in 19th cen-

tury and the first decade of the 20th. English is also the principal language of science and technology. English is the language of popular culture and globalization, too. As House notes rightfully, the concept of *lingua franca* in its original sense is different from the role which the English language plays today. In its original meaning *lingua franca* (the term comes from Arabic *lisan al farang*) was simply an intermediary or contact language used by speakers of Arabic with travelers from Western Europe (House, 2008).

In accordance with the data presented by Ginsburgh and Weber, English is dominating. Even if globally English is the widest known language, the “disenfranchisement” population would be intolerably large in the four largest Member States, excluding the United Kingdom. Since the beginnings of the European Economic Community the three main languages (working languages): English, French and German were used for communication, while English was an unofficial *lingua franca* used by all in direct conversations (Quiles et al., 2007). According to Quiles et al., the only reason why English is spoken as the European Union *lingua franca* is the predominant position of the United States within the international community since the foundation of the ECSC until today (Quiles et al., 2007).

According to Lönnroth, there is no discrimination of French vis-à-vis English language in the Commission. However, in March 2006 the French delegation, headed by the president Jacques Chirac, left the room of the European Council in Brussels, when the president of the European employers, his countryman Ernest-Antoine Seillère, announced that he was going to deliver his speech in English, *la langue des affaires* (Branchadell 2007). As a result of power politics it seems that the status of French as *primus inter pares* in the EU has irretrievably passed.

The various spoken languages in the EU Member States continue to be the most visible and recognized mark of their diversity. Communication in the EU relies on interaction between people, and on written documents (Phillipson, 2003). The choice of English as the only official language for a future EU Federation is discarded. The powers such as France and Germany – and possibly Spain, Italy and Poland – would rather not accept it as it would mean to abandon legitimate linguistic rights in favour of other Member States, without a sufficient justification in terms of population, political or economic relevance. The existence of a European nation with 24 official languages where none is over the others, is a beautiful idea and also a wishful thinking. Using only English as an official and working language certainly would accelerate and improve the work within the EU. On the other hand, this solution would eliminate language diversity in the EU. We should re-

member that a mother tongue is often viewed as a core value of a specific culture and identity.

Is it possible to promote English in the EU? All EU Member States have themselves furthered the predominance of English fearing that the international standing of their own language may suffer. EU Member States with large languages, such as Germany, France, Italy and Spain, have this problem. At school, English has become a general subject. At the tertiary educational level International Study Programmes were introduced with English as medium of teaching or co-medium with national language. English is often the main language of scientific publications also in human and social sciences. Trend of “scientific internationalisation” is common. English became almost compulsory language in publishing papers by the scholars. For instance, in Poland and France there is a special commission evaluating the number of papers published in English. Books and articles are highly evaluated in comparison with those published in Polish even if they concern e.g. Polish agriculture law. Who in the world is truly interested in reading about Polish agriculture law in English? Probably few people, not more. In business English has become the official company language. As a result, there is no need to promote English in the EU Member States. It has already happened. Approximately 95% of legal texts adopted in co-decision procedures are drafted, scrutinised and revised in English (Łachacz & Mańko, 2013). But we should keep in mind that English used in the Community is different from that of common law. It is a new English in the sense that it has undergone an evolution. In other words, English has become a hybrid language, being no longer tied to technical concepts of English law. As rightly pointed out by Barbara Pozzo (Pozzo, 2012), even though English is the most common spoken language, it is at the same time the less suitable to translate civil law concepts. Pozzo speaks of the Continental English or the Bruxelles English, which in the future may make the translator’s work difficult (e.g. how to translate from EU-English into British English?).

Conclusions

What would be a fair compromise between diverges interests of the Member States and language communities and in the same time the smooth communicative functions of the EU? First of all, the EU accepts the individualist principle. Every national language has the status of the EU official language at the equal footing. It requires translating the documents and causes slow down work of European institutions. Besides, interpreting the

document arises the question of the quality of translation. It can happen that the national law simply copies the e.g. definitions from wrongly translated directives.

Secondly, translating written text in 24 official languages slows down the work. Limiting, especially working languages, to some language areas would improve the EU's efficiency. In the best interest of each Member State and language community whose language is excluded as a working language is having internal single working language and English is the only reasonable candidate. However, for the Member States from non-anglophone languages communities such solution could be not acceptable and would not correspond to the EU's official language policy on the preservation of language diversity. It does not change the fact that English is for the most part the working language in the highest order. In the long run English would change from the *lingua franca* (in the sense of a foreign language) to a native tongue of wider communication. It takes time. However, the heart of the problem is not only the number of working languages but the diversity of the national legal systems of the twenty eight Member States which EU legal instruments must be integrated into.

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