

## Legal aspects of EU multilingualism

### SUMMARY

The multilingualism of the European Union – with 24 official languages since Croatia's accession – has no precedent, either among multilingual states or even at the level of international organisations. The principle of multilingualism is enshrined in the Charter of Fundamental Rights, which obliges the European Union to respect linguistic diversity, prohibits discrimination on account of language and provides for the citizen's right to communicate with the institutions in any official language of the EU.

In legal terms, EU multilingualism falls into three categories: the original (authentic) languages of the Treaties, the official languages of the EU and the working languages of the EU. Furthermore, each institution may create its own internal rules on working languages. The main legal act governing the official and working languages of the Union is Council Regulation No 1 of 1958, which has been amended numerous times. Currently it provides for 24 official and working languages of the EU. This includes Irish. However, a derogation for Irish remains in place until the end of 2021.

The rules of procedure of each EU institution lay down detailed rules on multilingualism. The Parliament has opted for 'resource efficient full multilingualism', which means that the resources to be devoted to multilingualism are managed on the basis of users' real needs, measures to make users more aware of their responsibilities and more effective planning of requests for language facilities.

The Council has opted for full multilingualism, while the Commission's rule is that any instrument of general application to be adopted by the college must be in all EU official languages. A different approach has been provided for in the rules of procedure of the Court of Justice, where the principle of the 'language of the case' applies for determining both the language of proceedings and the authentic version of the Court's judgment. However, judges and advocates-general may use the official EU language of their choice.



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## Introduction

Multilingual states and international organisations offer **no precedent** for the multilingualism of the European Union, which numbers 24 official languages since the accession of Croatia. For instance, the United Nations has [six](#) official languages, whilst the highest number of languages in a European state is four (in [Switzerland](#)). Outside Europe, the Republic of South Africa boasts [11 official languages](#). Furthermore, the EU is the only international organisation in which at least one official language of each Member State is an official language of the organisation.<sup>1</sup> As Jaap Baaij points out, EU multilingualism, including the principle of equality of official languages, is also an important element in building the Union's democratic legitimacy towards its citizens.<sup>2</sup> Indeed, it is not just a matter of transient political will but rests upon **solid legal foundations** found in the Charter of Fundamental Rights, the Treaties, and also secondary law.

### Europeans and their languages<sup>3</sup>

The most popular **mother tongue** among EU citizens is German (16 %), followed by followed by Italian (13 %) *ex aequo* with English (13 %), French (12 %), and Polish *ex aequo* with Spanish (8 %). As regards the knowledge of **foreign languages**, English clearly dominates the scene (38 % of Europeans know English as a second language), followed by French (12 %), German (11 %), Spanish (7 %) and Russian (5 %). However, less than one third of Europeans claim that they know *any* foreign language sufficiently well to follow the news or read newspapers (only 29 %) or communicate online (27 %). Less than one tenth of Europeans can follow the news or read the press in two foreign languages. Finally, for the vast majority of Europeans their first language is the official language of their Member State. Therefore, being able to access EU law and communicate with the EU institutions in the official language of their Member State remains an important aspect for EU citizens.

## Charter of Fundamental Rights

First and foremost, EU multilingualism is enshrined in the [Charter of Fundamental Rights](#). It obliges the EU to respect linguistic diversity (Article 22), and it explicitly mentions language as one of the grounds of prohibited discrimination (Article 21). Furthermore, the citizen's right to communicate with the institutions in any official language is treated as part of the right to [good administration](#) (Article 41(4)).

## Treaties

The Treaties do not list official or working EU languages, but rather indicate which language versions of the Treaties are considered original and authentic. More specifically, Article 55 TEU indicates the 24 languages in which the Treaty's text is considered original: Bulgarian, Spanish, Czech, Danish, German, Estonian, Greek, English, French, Croatian, Irish, Italian, Latvian, Lithuanian, Hungarian, Maltese, Dutch, Polish, Portuguese, Romanian, Slovak, Slovenian, Finnish and Swedish. The text of the Treaty is 'equally authentic' in each of these languages, i.e. from a legal standpoint they are all considered original versions. It is worth noting that the list included the Irish language from the day of Ireland's accession to the EU. However, Article 55(1) provides the list of Treaty languages, but not the full list of official languages of the EU or working languages of the institutions, which are determined by Regulation No 1 (see below).

By virtue of Article 358 TFEU, Article 55 TEU applies also to the Treaty on the Functioning of the EU. Furthermore, Articles 20 and 24 TFEU regulate the right of citizens to address the EU institutions and bodies in any of the authentic Treaty languages.

Article 33 of the [Vienna Convention on the Law of Treaties](#) – which applies to the EU Treaties as treaties concluded under public international law – provides that 'When a treaty has been authenticated in two or more languages, the text is equally authoritative in each language' (unless the parties agreed otherwise), and also that 'the terms of the treaty have the same meaning in each authentic text.' The convention also sets out a rule for removing divergences between various language versions, providing that those interpreting must choose 'the meaning which best reconciles the texts, having regard to the object and purpose of the treaty'.

Article 55(2) TEU states that the Treaty may be translated into other languages that are official in all or part of a Member State under its domestic constitutional order. The Member State concerned then submits a certified copy of the translation to the Council.

## Council Regulation No 1 of 1958

### Two regulations and their amendments

The Treaties provide in which languages their text is 'authentic' or, in other words, considered legally as original. Article 342 TFEU provides that the rules governing the languages of the institutions of the Union are laid down by the Council in regulations adopted unanimously. In fact, the very first two Council Regulations – issued separately for the then European Economic Community and Euratom in 1958<sup>4</sup> – still remain in force as the legal acts determining the list of 'official and working languages' of the EU. There is a practice of amending these two regulations every time a new Member State, wishing its language to be added to the list, joins the EU. The last amendment was made in 2013 when Croatia acceded to the EU ([Council Regulation \(EU\) No 517/2013](#)). The legal basis for this amending regulation was Article 3(4) of the Treaty of Accession of Croatia and Article 50 of the Act of Accession of Croatia. The amending regulation entered into force subject to and as from the date of the entry into force of that accession treaty (1.7.2013).

The procedure for adopting such a regulation does not involve Parliament. The proposal was put forward by the Commission, and the regulation was adopted by the Council.

[Procedure 2013/0030/NLE](#)

### Current list of official languages of the EU

Currently, since the 2013 amendment, Article 1 of both regulations provides for 24 'official and working' languages of the EU, i.e. the same as those listed in Article 55 TEU. From a legal standpoint, Regulation No 1 makes no distinction between 'official' and 'working' languages<sup>5</sup> – all 24 languages mentioned in the regulation are (theoretically) 'working languages' of the institutions. Nonetheless, Article 6 of the regulation allows each EU institution to stipulate in its **rules of procedure** which of the languages are to be used in specific cases. The regulation does not however indicate any criteria to be followed in the internal rules of individual institutions.<sup>6</sup>

EU law enshrines the **principle of equal authenticity** (principle of language equality) whereby all language versions of EU legislation are authentic and are presumed to have the same meaning.<sup>7</sup>

### The status of Irish under Regulation No 1

Although Ireland joined the EU back in 1973, it was another 30 years before Irish was granted the status of an official language of the EU, in 2005 ([Council Regulation \(EC\) No 920/2005](#)). The preamble to the regulation indicates that the addition of Irish was effected upon the request of the Irish government and stresses that Irish is an authentic language of the Treaties. It also draws attention to the fact that under the Irish constitution, the Irish language is actually the first official language of Ireland. Nevertheless, back in 2005, the Council decided 'for **practical reasons** and on a

transitional basis' to introduce a five-year derogation on the use of Irish in practice by the EU institutions. That derogation may be prolonged unanimously by the Council for additional five-year periods. The five-year period of derogation for Irish was later extended in 2010 ([Council Regulation 1257/2010](#)). This extension was justified by the fact there were difficulties in recruiting Irish translators, lawyer linguists and interpreters. A further extension was provided for in 2015 by [Council Regulation 2015/2264](#) for a period of five years from 1.1.2017 until 31.12.2021. The Council stressed that the EU institutions should continue their proactive approach to increasing the availability of information in Irish. Therefore, the Council indicated that the scope of the derogation should be gradually reduced and it would not be prolonged beyond 2021.

Some EU official languages are national official languages in more than one Member State (German, English, French, Dutch, Swedish). However, there is no rule to the effect that a Member State 'chooses' which of its official languages should be 'assigned' to it as its official language.

### Linguistic regime of intellectual property law

Article 118(2) TFEU states that the linguistic regime of European intellectual property rights is to be established by the Council under special legislative procedure, i.e. unanimously. Therefore, the linguistic regime of any European patent or trademark must meet with the support of all Member States. This has proved difficult, for instance, in 1973, when instead of a European patent regulation, a [European Patent Convention](#) (like an international treaty) was signed, providing for only three official languages (German, English and French). Member States may however require that to be effective in their territory, the European patent must be translated (*ex post*) into their official language.

As regards **European trademarks**, the linguistic regime laid down in the recently amended [Trade Mark Regulation](#) provides for the use of five languages (Spanish, German, English, French and Italian). Although an application for an EU trade mark can be filed in any of the official languages of the EU, a notice of opposition and an application for revocation or a declaration of invalidity of a trademark must be filed in one of the languages of the European Intellectual Property Office (EIPO). The same applies for any application or declaration relating to a registered EU trade mark. As a rule, in written proceedings before the Office any party may use any language of the Office. The limitation of the number of languages of the Office for Harmonisation in the Internal Market (OHIM, former name of EIPO) was confirmed by the Court of Justice of the European Union (CJEU) in the [Kik case](#) (C-361/01). The Court made it clear that there is no principle of EU law that 'confers a right on every citizen to have a version of anything that might affect his interests drawn up in his language in all circumstances', stressing the need to strike a balance between the interests of companies (to use their own language) and the public interest regarding the cost of translation.

The lack of consensus among Member States regarding the linguistic regime of the [Unitary Patent Regulation](#) led to it eventually being adopted in the form of enhanced cooperation (i.e. applying to all Member States except for Spain and Italy, which had opposed the limitation of the languages to German, English and French). The two non-participating Member States later challenged the regulation, unsuccessfully, before the CJEU arguing that it discriminated against those patent applicants who did not normally use one of the three languages privileged in the regulation. The Court in [Spain and Italy v Council](#) (Cases C-274/11 and C-295/11) dismissed the action. Spain brought a further case challenging the linguistic regime of the regulation, focusing in its arguments on the effect of the language regime on citizens and companies. In its judgment of 5 May 2015 (Case

C-147/13 [Spain v Council](#)), the Court dismissed the action arguing that the differentiation between languages pursued a legitimate objective and did not go beyond what is necessary. As R Somssich points out, the Unitary Patent Regulation was 'the first legislative act where linguistic sensitivity was able to hamper the adoption of a European instrument and here language ... appeared to be a legal risk for the [EU] legislature that could not be handled in the process of ordinary lawmaking anymore and therefore an exceptional regulatory frame had to be chosen'.<sup>8</sup>

### Council conclusions from 2005

In 2005, the Council issued [conclusions](#) on the official use of **additional languages** within the Council and possibly other institutions and bodies of the European Union (OJ 2005/C 148/01). Although not legally binding, they can provide guidelines for working out administrative arrangements. The conclusions relate to languages other than the languages referred to in Council Regulation No 1/1958, which, are nevertheless legally recognised (in the constitution or a law) for use in whole or part of a Member State.

The use of such languages must be based on an **administrative arrangement** concluded between the latter and the requesting Member State, and possibly by another EU institution or body on the basis of a similar administrative arrangement. The government of a Member State may send the Parliament and Council a **certified translation** of acts adopted in co-decision into one of the additional languages. Such a translation, however, is not an authentic version.

### Rules of procedure of individual institutions

#### European Parliament

The recently amended EP Rules of Procedure contain a number of provisions concerning languages. The most important among them is [Rule 158](#) which provides that:

- all EP **documents** must be drawn up in all EU official languages,
- all MEPs have the right to **speak** in the EP in the official language of their choice (not necessarily the language of their constituency),
- speeches delivered in one of the official languages must be **simultaneously interpreted** into all other official languages and into any **other language** the Bureau may consider necessary,
- interpretation must be provided in **committee** and **delegation** meetings from and into the official languages used and requested by the members and substitutes of that committee or delegation.

[Rule 159](#) provides for derogation from Rule 158 if, despite adequate precautions, interpreters or translators for an official language are not available in sufficient numbers.

#### *Code of conduct on multilingualism*

The Bureau also adopted a [Code of Conduct on Multilingualism](#) in 2014, introducing the notion of 'resource-efficient full multilingualism', i.e. resources devoted to multilingualism are to be controlled by managing users' real needs, making users aware of their responsibilities and planning requests for language facilities more effectively. The code contains implementing arrangements for the Rules of Procedure, in particular regarding the priorities to be observed in cases where language resources are not sufficient. As regards (oral) interpretation, the code establishes a priority list of users, with the plenary sitting at the top. As a matter of principle, interpretation is reserved for meetings of parliamentary bodies, whilst interpretation for administrative meetings is granted exceptionally. A priority list is also set out for (written) translations, with texts to be submitted to plenary at the top.

*Discrepancies between different language versions*

Rule 158(5) – as amended in January 2017 – contains a provision specifically addressing the problem of discrepancies between different language versions, stating that 'After the result of a vote has been announced, the President shall rule on any requests concerning alleged discrepancies between the different language versions'. The previous version of the rule specifically provided that the original version cannot be taken as the official text as a general rule, since a situation may arise in which all the other languages (translations) differ from the original text.

**Council**

The [EU Council Rules of Procedure](#) specify in Article 14 that, as a matter of principle, the Council deliberates and takes decisions only on the basis of documents and drafts drawn up in the languages specified in the rules in force governing languages. However, in cases of urgency, the Council may decide unanimously to limit translations. Any member of the Council may oppose discussion if the texts of any proposed amendments are not drawn up in all official languages.

**European Commission**

The Commission's [Rules of Procedure](#) provide in Article 17 that any instruments adopted by the Commission in the course of a meeting must be in the authentic language or languages, i.e. in all official languages of the European Union (without prejudice to the derogation for Irish) in the case of instruments of general application, and the language or languages of those to whom they are addressed, in other cases. The [Code of Good Administrative Behaviour](#) for staff of the European Commission in their relations with the public, annexed to the Rules of Procedure, provides that the Commission must reply to letters from citizens in the language of the initial letter, provided that it was written in one of the EU's official languages.

**Court of Justice***Selecting the language of the case*

The CJEU [Rules of Procedure](#) devotes an entire chapter to rules on multilingualism. Article 36 specifies that any of the 24 official languages – i.e. Irish included – may be the language of a case before the CJEU. In **direct actions** (e.g. action for annulment, action for failure to act) the language of the case is chosen, in principle, by the applicant (Article 37). Nonetheless, there is an important exception to this rule: if a **Member State is defendant** (e.g. in an action for failure to fulfil obligations under EU law), that state's official language is automatically the language of the case. If a state has more than one official language, it is up to the applicant (e.g. the Commission) to choose one of them. If an appeal is brought to the CJEU against a decision of the General Court, the language of the case stays the same as in the first instance. In **preliminary ruling proceedings** (i.e. regarding legal questions on EU law submitted by a national court to the CJEU), the language of the case is the language of the referring court or tribunal.

*Use of the language of the case*

The language of the case is used in both the **written and oral pleadings** of the parties (including any documents submitted to the Court), as well as in the minutes and decisions of the Court (Article 38). Therefore, if a document is in a different language, the parties must provide a translation in the language of the case.

However, the CJEU President and Vice-President as well as Presidents of Chambers, whilst conducting oral proceedings, may use any official EU language. The same applies to Judges and Advocates General whenever they ask questions, as well as for Advocates General delivering their opinions. Translation into the language of the case must be provided. The **legally authentic text** of a judgment is that drawn up in the language of the case (Article 41).

### *The role of French*

Whilst the 'language of the case' principle determines the CJEU's dealings with the outside world, its internal working language is exclusively French.<sup>9</sup> It is in French that the report for the hearing is prepared by the judge rapporteur, and that all judgments are drafted, revised and finalised, before being translated into the language of the case (the legally authentic version) and all other official EU languages.

### *Multilingualism and the interpretation of EU law*

According to Theodor Schilling, 'no two texts in different languages will ever have exactly the same meaning', adding that 'even significant divergences between different language versions of a text cannot fully be avoided'.<sup>10</sup> Furthermore, scholars point out that differences in the meaning of legal texts drawn up in different languages may arise not only on account of purely lexical differences, but also owing to a broader context, encompassing national legal culture, the general culture of a given society, as well as the entire socio-economic context in which a given language is embedded.<sup>11</sup>

As all the linguistic versions of the Treaties, as well as of secondary legislation (directives, regulations) are equally authentic, the CJEU had to develop an approach to **tackling the possible differences** between various language versions of EU laws. Already in the 1969 case of [Stauder v Ulm](#) (Case 29/69), the CJEU pointed out that no single language version of an EU law may be considered in isolation from the other language versions. Instead, it must 'be interpreted on the basis of both the **real intention** of its author and the **aim** he seeks to achieve, in the light in particular of the versions in all' official EU languages. In the 1982 judgment in [CILFIT](#) (Case 283/81) the Court stressed that, due to the fact that all language versions of an EU law are equally authentic, the interpretation of a provision of EU legislation must involve a '**comparison of the different language versions**'. Nonetheless, the Court stressed that EU law uses 'terminology which is peculiar to it' and that EU 'legal concepts do not necessarily have the same meaning' as in national laws. Therefore, a correct interpretation of EU law requires it to be placed in **context**, in particular of other pieces of EU legislation, and with regard to the **objectives** of EU law.

According to settled CJEU case law, in the event of differences between the language versions of an EU act, the provision in question must be interpreted by reference to the **purpose and general scheme** of the rules of which it forms part.<sup>12</sup> In the recent case of [Confédération paysanne](#) (C-298/12) the Court repeated that 'the necessity for **uniform application** and ... **uniform interpretation** of an EU measure makes it impossible to consider one version of the text in isolation, but requires it to be interpreted on the basis of the **real intention** of its author and the **aim** pursued by the latter, in the light, in particular, of the versions in **all other official languages**'.

## Conclusion

For the EU, legally guaranteed multilingualism is not a matter of communication only, but also a question of democratic legitimacy towards citizens and respect for the cultural diversity of the Member States. It affects the way in which EU legislation is drafted and interpreted. Arguably, the preference given by the CJEU to teleological interpretation (based on the purposes of legislation) and systemic interpretation (based on the context

of a legal rule) over purely linguistic methods of interpretation<sup>13</sup> is – as former Advocate General Poiares Maduro pointed out – a consequence of the EU law's multilingualism.<sup>14</sup>

## Main references

Baaij, C.J., '[The EU Policy on Institutional Multilingualism: Between Principles and Practicality](#)', *International Journal of Language and Law* 1 (2012): 1-19.

Kuźelewska, E., '[Unity in Diversity: The Language Policy of the European Union](#)', *Studies in Logic, Grammar and Rhetoric*, 38 (2014): 151-165.

Schilling, T., '[Beyond Multilingualism: On Different Approaches to the Handling of Diverging Language Versions of a Community Law](#)', *European Law Journal* 16 (2010): 47-66.

## Endnotes

- <sup>1</sup> R. Somssich, 'Linguistic Equality and Language as a Legal Risk for Legislating in the European Union', in: E. Miščenić and A. Racciah (eds), *Legal Risks in EU Law* (Springer 2016), p. 64.
- <sup>2</sup> C.J.W. Baaij, 'The EU Policy on Institutional Multilingualism: Between Principles and Practicality', *International Journal of Language and Law* 1 (2012): 1-19, p. 3.
- <sup>3</sup> All data from [Special Eurobarometer 386](#) – Europeans and their Languages (2012).
- <sup>4</sup> [Council Regulation No 1](#) of 15.4.1958 determining the languages to be used by the European Economic Community; and Council Regulation No 1 of 15.4.1958 determining the languages to be used by the European Atomic Energy Community.
- <sup>5</sup> E. Kuźelewska, 'Unity in Diversity: The Language Policy of the European Union', *Studies in Logic, Grammar and Rhetoric*, 38 (2014): 151-165, p. 153.
- <sup>6</sup> R. Somssich, 'Linguistic Equality ...', p. 66.
- <sup>7</sup> E. Miščenić, 'Legal Translation vs. Legal Certainty in EU Law', *Legal Risks in EU Law* (Springer 2016), p. 90.
- <sup>8</sup> R. Somssich, 'Linguistic Equality ...', p. 71.
- <sup>9</sup> T. Schilling, '[Multilingualism and Multijuralism: Assets of EU Legislation and Adjudication?](#)', *German Law Journal* 12.7 (2010): 1460–1491, pp. 1474-1475.
- <sup>10</sup> T. Schilling, 'Beyond Multilingualism ...', p. 50. See also E. Miščenić, 'Legal Translation ...', p. 101.
- <sup>11</sup> H. Sierocka, '[Cultural Dimensions of Legal Discourse](#)', *Studies in Logic, Grammar and Rhetoric* 38 (2014): 189–196, p. 189–190.
- <sup>12</sup> E. Paunio and S. Lindroos-Hovinheimo, '[Taking Language Seriously: An Analysis of Linguistic Reasoning and Its Implications in EU law](#)', *European Law Journal* 16.4 (2010): 395-413, p. 413.
- <sup>13</sup> Case C-510/10 [DR and TV2 Denmark](#), para. 45; Case C-89/12 [Bark](#), para. 40; Case C-257/14 [Van der Lans](#), para. 25.
- <sup>14</sup> M. Poiares Maduro, '[Interpreting European Law: Judicial Adjudication in a Context of Constitutional Pluralism](#)', *European Journal of Legal Studies* 1.2 (2007): 1-21, p. 8.

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