

# MULTILINGUALISM OF THE EUROPEAN UNION – FACTS AND CONSEQUENCES FOR A NEW MEMBER STATE

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## **Abstrakt v rodném jazyce**

Příspěvek připomíná mnohojazyčnost Evropské unie a jejího práva. Tento jazykový režim následně srovnává se státy a mezinárodními organizacemi. Zvláštní pozornost se věnuje problematice přidání nových úředních jazyků, jmenovitě pak češtiny.

## **Klíčová slova v rodném jazyce**

Evropská unie; Úřední jazyk; Vstup nových členských států.

## **Abstract**

The contribution describes multilingualism of the European Union and of its law. This language regime is compared with language regimes of states and of international organizations. Special attention is paid to problems with new official languages, i.e. Czech.

## **Key words**

European Union; Official Language; Admission of new states.

The European Union and the European Communities (subsequently „the European Union“) have twenty three official languages since last enlargements. French, German, Italian and Dutch are original languages. English, Irish, Danish, Greek, Spanish, Portuguese, Finnish, Swedish, Estonian, Latvian, Lithuanian, Polish, Czech, Slovak, Hungarian, Slovenian, Maltese, Bulgarian and Romanian were added to the list due to accessions of new states.

All these languages are used to greater or smaller extent in operations of this supranational entity which joins now twenty seven member states. Most member states have brought to the European Communities and to the European Union their specific national language. This confirms fact that language-based nation-states are prevalent in Europe.

Apart from specific arrangements, law of the European Union is authentic in all official languages. All official languages are equal from both political and legal points of view.

Practicality requires use of one or of few languages for daily activities of institutions of the European Union and representatives of member states. The selection of working languages remains, however, spontaneous and unofficial. English, French and German are selected not only due to importance of member states using them, but mainly due to their role in international communication. These languages are taught at schools in European countries.

Above described language regime of the European Union is mentioned in final provisions of both the Treaty establishing the European Community and of the Treaty on the European Union.<sup>1</sup> It is also confirmed in historically the first regulation of the European (Economic)

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<sup>1</sup> See Article 314 ECT and article 53 EUT.

Community.<sup>2</sup> Both written expressions of language regime have been amended six times due to accession of new member states which have brought new languages.

There is wide respect in the European Union towards language requirements affecting economic freedoms. Many regulations and directives conciliate necessity to provide information in particular national language to both population and authorities of member states.<sup>3</sup>

Even the Court of Justice which pushes for integration with its overtly activist case-law has several times accepted language requirements related to imported goods or migrant workers.<sup>4</sup> Institutions of the European Union has many times confirmed respect to linguistic diversity.

Multilingualism can thus be perceived as specific principle of law of the European Union beside other general and specific principles of this supranational law.

It is interesting to compare such language regime with language regimes of countries and in international community. Most countries have only one language for their law and its enforcement. These national languages form usually language of vast majority of population. There are, however, several countries which have intentionally selected one language for unification of their linguistically and ethnically heterogeneous population.

There are several bilingual, trilingual or quadrilingual countries.<sup>5</sup> Politicians use more than one language. Their law is expressed in several languages. Their administration and judiciary enforces such law in one of these languages. All these countries have complicated rules and standards related to use of these languages. These rules are often result of lengthy negotiations among language groups and their representatives respectively. Plurilingualism is sensitive political issue in most these countries. It is easy to remember events which threatened political stability in these countries. Sometimes, language-related disputes endanger unity of these countries.

Political and legal multilingualism is even more challenging task. It is especially difficult to manage especially in democratic countries. There are only few examples of multilingual countries in contemporary world. The only important multilingual democratic country of the world is India.

All multilingual countries, however, select one or at most two or three languages which are used countrywide for general communication. Central government can thus limit use of other languages to practicable extent. Use of language(s) of countrywide importance is greater<sup>6</sup> than use of working languages in the European Union.

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2 Regulation no 1 determining the languages to be used by the European Economic Community.

3 For example article 63 of directive 2001/83/EC on the Community code relating to medicinal products for human use requires information in national languages.

4 Judgement C-379/87 Groener, which interprets broadly and boldly regulation no 1612/68 on freedom of movement of workers within the Community.

5 Belgium, Canada, Switzerland, Finland, or Singapore.

6 Hindi and English are used for various purposes in non-hindi states of India instead of particular other national languages in higher judiciary, in university education, in press, or in politics.

Selection of one language or several languages is solution also for international community. This solution is easier than in countries with several or handful languages, because diplomats and experts have knowledge of languages used for global or continental communication. Furthermore, most countries also curtail or exclude application of international law by their courts and administration.

For both reasons, it is possible to conclude plurilateral and multilateral international treaties in one or several languages. Language regime of these treaties usually follow language regime of an international organisation which has provided forum for their establishment and provides tools for their enforcement.

There is no country and no international organisation in contemporary world with language regime with more than five languages used in their politics and for creation and enforcement of their law. Thus, the European Union with its twenty three languages has language regime which is unique and extraordinary.

Every plurilingual and multilingual law is created because people addressed by it do not understand one language. Nevertheless, homogenous application of such law requires interpretation which takes into appropriate consideration its expression in other language versions.

The Court of Justice as the last interpreter of law of the European Union requires also taking into account the expression of European Union law in founding treaties, regulations, directives and other sources in different languages. Other language versions shall be taken into consideration by national authorities of member states.<sup>7</sup> It is necessary to underline here that these member states are required to apply law of the European Union directly and to exclude application of national law if it is not in compliance with it.

Such approach is also expected from institutions of the European Union. The most visible application based on consideration of law are judgements of the Court of Justice. There are numerous examples of comparison of different language versions in case-law of the Court of Justice. Vast majority of decisions does not reveal, however, consideration of differences among language versions.

Comparison of language versions is now simpler than it ever was. All language versions are available for free in Internet.<sup>8</sup> It is easy to create tables containing particular provisions in all language versions. In the past, government and academic institutions usually obtained national language version of European law only with prepaid prints of the Official Journal. It was difficult to learn about its other language versions.

In most situations, version of particular domestic language only continues to be considered. Capacity and will to take into consideration other language versions is little due to limited knowledge of foreign languages among judges and administrative officers in member states.

Comparison of national language version with two or three other languages is exceptional in reality. It can be thus evaluated as high-quality interpretation of European Union law.

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<sup>7</sup> For example, famous judgement 283/81 CILFIT, point 18.

<sup>8</sup> Since 2004, EUR-Lex is integrated database on European Union law (<http://eur-lex.europa.eu/en/index.htm>)

In the past, the Court of Justice occasionally compared all existing language versions. There is, however, no example of such all-catch approach since last accessions which brought numerous less known languages to European Union. The Court of Justice is the only judicial authority which has professionals from all member states which know together all languages of member states. No other institution or individual is, however, capable to compare all twenty three language versions without exorbitantly high effort and expenses.

Therefore it would be absurd to expect comparison of all language versions by other authorities which apply European Union law.

Even the Court of Justice ceased to express this requirement. Nevertheless, such idea cannot be easily abandoned due to mentioned equality of languages. The Court of Justice is barred to say that comparison with two or three languages, for example with above mentioned working languages, is sufficient. All above mentioned official languages are equally official and authentic.

The result of this situation is an enormous gap between ideal and reality.

Another unique feature of the European Union is gradually rising number of official languages. New languages are proclaimed official. New language does not stop with new version of founding treaties. Translation is necessary for all regulations, directives and other sources of secondary law. Treaties of accession expect their publication in special editions of the Official Journal.<sup>9</sup>

Candidate states which have acceded in years 2004 and 2007 together with institutions of the European Union have underestimated effort necessary for this task. Both have relied unduly on available unofficial and preparatory translations published in Internet.

Delay of prescribed publication of translations of European Union law into new languages cannot be without legal consequences. One year ago, the Court of Justice ruled in *Skoma-Lux*<sup>10</sup> that individuals can raise objections against application of unpublished legal texts.

The judgement left several related questions unresolved. Firstly, can member state also argue with lack of publication? Secondly, whether and how can such argumentation be used in disputes of individuals due to threat that other private persons would be deprived of rights and freedoms resulting from European Union law. Thirdly, recent case-law of the Court of Justice enables to think at liability of concerned member states or of the European Union.

It shall be underlined that failure to publish European Union law in new official languages was general for most new member states. The Czech Republic, where the case originated, was not the only country affected with such delay. Similar objections were raised before national courts also in Poland or in Estonia.

Troubles with adjustment of European Union multilingualism to requirements of last enlargements reveals considerable level of inefficacy of the European Union and its

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<sup>9</sup> See Article 58 ACT concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded.

<sup>10</sup> Judgement C-161/06.

institutions. The European Union learned little from the case. Bulgarian and Romanian versions were also delayed. The European Union was even incapable to recognize the most important pieces of its legislation which needed to be published as soon as possible.

In the Czech Republic, it is not rare to hear about poor quality of translations. Many experts speak about mistakes and errors in Czech version of the European Union law. Apart from obvious mistakes, settled terminology was often ignored. There is also lack of coherence in use of various words and phrases.

Most mistakes and errors can be resolved with confrontation with other language versions or with appropriate consideration of purpose of standard. Nevertheless, it often does not function in everyday application of European Union law by courts and administration agencies. Therefore, corrections of most blatant errors shall be seriously considered by the European Union.

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