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THE APPLICATION OF MULTILINGUALISM IN THE EUROPEAN UNION CONTEXT

by Phoebus Athanassiou



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Abstract

On 1 May 2004, 10 more countries acceded to the European Union (EU), bringing the total number of Member States to 25, increasing the EU's population to over 450 million and, last but not least, nearly doubling the number of the official languages of the EU. The recent enlargement, a cornerstone in the continuing process of European integration, poses unprecedented challenges, also because of its linguistic implications for the EU and for the language regime applicable to the Community Institutions. In the case of the ECB, this challenge is all the more evident due to the very short deadlines within which some of its operational decisions need to be taken and implemented and the practical implications that their adoption in all the official languages of the EU would entail. This paper is divided in two Parts. Part I provides an overview of the rationale and of the legal basis underlying the EU's current language policy, outlining the language regime applicable to the Community Institutions and bodies and discusses exceptions and limitations to multilingualism associated with the particular situation of Member States with more than one official language or stemming from some recent case-law on the Institutions' language regime. Part II examines the issue of the name of the single currency and some of the reasons underlying the ECB's stance on proposed national variations in its spelling.

Part I - The principle of multilingualism: rationale, legal basis, exceptions and limitations

1. Introduction: the rationale for multilingualism

One of the characteristics of the EU is that it is multilingual, albeit in a fundamentally different sense, both quantitatively and qualitatively, compared to any other major international or supranational organisation such as the United Nations, the Council of Europe or NATO¹. The connotation attaching, within the context of an ever expanding EU, to “multilingualism” clearly transcends that of the plain dictionary definition of the word: the concept of multilingualism stands out as one of the most prominent symbols of European historical, political and cultural diversity and has gradually assumed, in addition to its inherently symbolic dimension, the mandatory nature of a legal imperative and the significance of a political necessity².

It was not until the Treaties establishing the European Community and the European Atomic Energy Community were drawn up that the Community concept of multilingualism attained the status of the firmly entrenched Community policy that it nowadays commands³. Unlike the Treaty establishing the European Coal and Steel Community⁴, both Treaties expressly provided that they were drawn up in a single original in the Dutch, French, German and Italian languages and that each of the four texts was equally authentic⁵. The Accession Treaties have consistently affirmed the resulting principle of the legal equality between the official languages of the Member States, demonstrating that the legal and political considerations of the late 1950s remain relevant to this day⁶. In the wake of the most recent enlargement, the largest since 1957,

¹ The UN uses six official languages for its intergovernmental meetings and documents while the Council of Europe, with a current membership of 45, and NATO, with a membership of 26, only use English and French as their official languages.

² Cf. Wagner, Emma, Bech, Svend and Martínez M. Jesús, 2002, *Translating for the European Union Institutions*, St. Jerome Publishing, pp .1 to 7.

³ A recent indication of the importance of multilingualism for the EU is the European Commission Communication on Multilingualism of 22 November 2005, the first ever Commission Communication on this issue, entitled ‘A New Framework Strategy for Multilingualism’ (COM(2005)596, available at <http://europa.eu.int/languages/en/document/74>). The document reaffirms the Commission’s commitment to multilingualism, explores the various facets of its policies in this field and sets out a new framework strategy for multilingualism with proposals for specific actions.

⁴ The ECSC Treaty, establishing the first of the three ‘European Communities’, was drawn up in a single original, in the French language. The wording of Article 100 ECSC suggests that only the French text is authentic.

⁵ Article 314 TEC and Article 225 Euratom.

⁶ The value attaching to the protection of linguistic diversity as a cornerstone of the EU is also apparent in Article 22 of the Charter of Fundamental Rights of the European Union according to which: ‘The Union shall respect cultural, religious and linguistic diversity’. Article I-3 of the Treaty establishing a Constitution for Europe is similarly worded, providing that: ‘[The Union] shall respect its rich cultural and linguistic diversity, and shall ensure that Europe’s cultural heritage is safeguarded and enhanced’.

the number of ‘official and working’ languages has reached 20⁷. The planned accession to the EU of another two countries will bring this figure to 23⁸.

A key feature that differentiates the EU from an ordinary international organisation and justifies its consistent adherence to multilingualism is its distinct legal nature⁹ and, in particular, the direct effect of primary and secondary Community legislation¹⁰. This entails that not only Treaty provisions¹¹, regulations and decisions¹² but also directives¹³ can be invoked by EU nationals, in their own language, before their national courts. Absent a fully multilingual legal regime, neither the principle of direct effect nor the doctrine of the supremacy of Community law¹⁴ could effectively operate. It follows that multilingualism is a necessary corollary to the principle of direct effect and, ultimately, to the doctrine of supremacy¹⁵ and that, without it, Community law would only remotely resemble what it currently stands for.

The EU’s commitment to multilingualism is also legally significant as a guarantee of legal certainty¹⁶ and as a democratic accountability tool. The obligation to present Community law to the citizens of Europe in a language that they can comprehend is so fundamental that, without

7 From 1 January 2007 the number of official languages of the EU will be 21, as the Council has recently accorded to Irish the same status as that accorded to the official national languages of the other Member States.

8 The reference is to, Bulgaria and Romania which successfully concluded accession negotiations in December 2004.

9 ‘The Community constitutes a new legal order of international law for the benefit of which the States have limited their sovereign rights, albeit within limited fields’ (Case 26-62, *NV Algemene Transport - en Expeditie Onderneming van Gend & Loos v Netherlands Inland Revenue Administration* [1963] ECR 1, [1963] CMLR 105).

10 What this essentially means is that Community legislation is binding on the Member States and is a direct source of rights and obligations that EU citizens can enforce against Member States (vertically) or other individuals (horizontally).

11 Treaty provisions only have direct effect if the conditions stipulated by the European Court of Justice in *van Gend & Loos*, *ibid*, are satisfied i.e. that they are clear, precise and unconditional and no further action by Member States is necessary for their implementation.

12 Article 249 TEC provides that a Community regulation ‘shall have general application. It shall be binding in its entirety and directly applicable in all Member States’, while ‘A decision shall be binding in its entirety upon those to whom it is addressed’.

13 The European Court of Justice has ruled that directives are capable of having vertical direct effect, even where a Member State has failed to implement them or has done so improperly, provided that the right or obligation that they encompass is precise and unconditional (Case 41-74, *Yvonne van Duyn v Home Office* [1974] ECR 1337, [1975] 1 CMLR 1, Case 213/89, *The Queen v Secretary of State for Transport, ex parte Factortame Ltd and others* [1990] ECR I-2433 and Joined Cases C-6 and 9/90, *Andrea Francovich and Danila Bonifaci and others v Italian Republic* [1991] ECR I-5357, [1993] 2 CMLR 66).

14 In Case 6/64, *Flaminio Costa v E.N.E.L.* [1964] ECR 585, the European Court of Justice noted that signature of the Treaty operated a transfer of Member State powers to the Community that entailed a permanent limitation of their sovereign rights and signalled their commitment to observe Community law against which subsequent incompatible national laws could not prevail.

15 See Vedaschi, Arianna, 2001, *Istituzioni europee e tecnica legislativa*, Giuffrè Editore, S.p.A. Milano – 2001, p. 90.

16 This concept, which first made its appearance in Community law in Joined Cases 42 and 49/59, *S.N.U.P.A.T. v High Authority* [1961] ECR 53, takes a variety of forms, including the principle of non-retroactivity of laws, the principle of the protection of legitimate expectations and the requirement of clarity and transparency.

it, not only legal certainty but, ultimately, the rule of law itself would be at stake¹⁷. At the same time, the EU's commitment to multilingualism guarantees democratic accountability and public access to Community documents¹⁸: restrictions in the number of languages that Community Institutions use, either internally or for their external communication and law-making purposes, would adversely affect the public's ability to invoke Community law in their everyday dealings and to communicate with the Community Institutions in their mother tongue and should for that reason be avoided.

Another reason for the EU's commitment to multilingualism relates to its intrinsic value as a democratic representation safeguard: within the context of a united Europe of over 450 million inhabitants, the importance of multilingualism as a democratic representation tool is infinitely greater compared to the role that multilingualism can ever aspire to play within the confines of any individual Member State where more than one language is spoken¹⁹.

The EU's unique nature as a treaty-based organisation made up of sovereign States and equipped with an unprecedented legal and institutional framework the focus of which has moved, over the years, from steering and managing closer economic and political cooperation among Member States to becoming a 'European Union'²⁰ also helps explain its remarkable linguistic pluralism. As a supranational entity, for the sake of the achievement of the shared objectives of which Member States have relinquished part of their national sovereignty, the EU has consciously opted for the preservation of linguistic diversity, as a matter of political necessity, in the firm belief that European integration can only be achieved if this diversity is respected²¹. Thus, because language is a fundamental component of national identity, it is possible to also view the EU's respect for each Member State's language and the resulting principle of linguistic equality as aspects of its respect for national identity, as manifestations of its clear commitment to the general principle of (political) equality between the citizens of the

17 The rule of law is such a central element in the EU's *Weltanschauung* that it is also one of the key political criteria for accession to the EU. For an express reference to the rule of law as one of the universal values inherent in the cultural, religious and humanist inheritance of Europe see the first recital in the preamble to the Treaty establishing a Constitution for Europe.

18 Article 255 TEC provides that 'Any citizen of the Union ... shall have a right of access to European Parliament, Council and Commission documents', while Article 21 TEC provides that 'Every citizen of the Union may write to [any of the Community Institutions or bodies] in one of the [official languages] and have an answer in the same language. The wording of Article I-10(2)(d) of the Treaty establishing a Constitution for Europe is also similar.

19 The importance of protecting multilingualism as an aspect of democratic representation was also intrinsic in the Treaty establishing a Constitution for Europe. See the preamble thereto, read in conjunction with Article I-10 (Citizenship of the Union).

20 This shift was already inherent in the highly symbolic replacement of the word 'Community' with 'Union' (Article 1 TEU) and in the extension of the EU's objectives (Article 2 TEU), to include the assertion of the EU's identity on the international scene and the strengthening of the protection of the rights and interests of Member State nationals through the introduction of EU citizenship.

21 Under Article 6 TEU, an overriding obligation of the EU is to 'respect the national identities of its Member States'.

EU and as unambiguous indications of its concern to avoid linguistic discrimination, capable of undermining the European integration project²².

These are only some of the reasons why linguistic equality is so crucial to the EU²³. Taken together, these reasons clearly establish that multilingualism is so intimately associated, whether historically, conceptually or legally, with the European integration project that, notwithstanding its inevitable complications²⁴ it would be difficult to imagine a genuinely united Europe without it.

22 In the words of Abraam de Swaan '[The EU's] multilingualism is a visible and audible manifestation of the Union's respect for the equality and autonomy of the member nations' (de Swaan, Abram, 2001, *Words of the World: The Global Language System*, Cambridge: Polity, p. 173).

23 Other reasons include, for instance, the fact that the protection of linguistic rights is essential to preserve the free movement of persons, a cornerstone of the European integration project and a pre-eminent aspect of EU citizenship. The European Court of Justice has considered that, in the context of a Community based on the principle of the free movement of persons, 'the protection of the linguistic rights and privileges of individuals is of particular importance' (Case 137/84, *Mutsch* [1985] ECR 2681, at paragraph 11 and Case C-274/96 *Bickel and Franz* [1998] ECR-I-7637, at paragraph 13).

24 A major criticism levelled against the EU relates to the time and resources necessary to make the language regime work in each of the Community Institutions. With 11 languages the number of cross-translations is 110, but with 20 languages this rises to 380, at an estimated annual cost of EUR 700 million. It is estimated that the introduction of Irish from 1 January 2007 will increase translating expenses by EUR 3.5 million a year. However, translation and interpretation account for no more than 2% of the total EU budget (cf. Truchot, Claude, 2003, 'Languages and Supranationality in Europe: The Linguistic Influence of the European Union' in Jacques Maurais and Michael A. Morris, eds., *Languages in a Globalising World*, Cambridge, University of Cambridge Press: pp. 99-110). Moreover, in view of its instrumentality for the achievement of European integration, the benefits of the EU's multilingual regime clearly outweigh the administrative inconvenience, delays and costs inherent in having to work in the official languages of all 25 Member States.

2. Legal basis for multilingualism and recent case-law on its interpretation

2.1. The legal basis for multilingualism

Articles 21, 314 and 290 of the Treaty and Regulation No 1/58²⁵, as amended by successive Acts of Accession (the Regulation)²⁶, set out the legal basis for multilingualism in the EU²⁷. A well-established manifestation of the crucial concept of ‘equal authenticity of texts’ enshrined in Article 314 of the Treaty is the rule of interpretation established by the European Court of Justice (ECJ) according to which Community law provisions must be interpreted and applied in the light of the versions established in the other Community languages²⁸.

Article 290 of the Treaty instructs the Council to unanimously take decisions on the rules governing the languages of the Community Institutions ‘without prejudice to the provisions contained in the Statute of the Court of Justice’. It was on the basis of this Article that the Council adopted the Regulation, the first ever to be adopted by the Council. Besides enumerating, in Article 1, the official and the working languages of the Institutions, the Regulation *inter alia* provides that:

- documents which a Member State or a person subject to the jurisdiction of a Member State sends to the Community Institutions may be drafted in any of the official languages selected by the sender, the reply being drafted in the same language, whereas documents which an institution sends to a Member State or to a person subject to its jurisdiction must be drafted in the language of that Member State (Articles 2 and 3);
- regulations and other documents of general application²⁹ must be drafted in the 20 official languages (Article 4);
- the Official Journal of the European Union (the ‘Official Journal’) must be published in the 20 official languages (Article 5);

²⁵ OJ B 17, 6.10.1958, p. 385.

²⁶ The Regulation was last amended to award to Irish and to three regional languages in Spain a reduced language status.

²⁷ Article 314 TEC provides that ‘This Treaty, drawn up in a single original in the Dutch, French, German, and Italian languages, all four texts being equally authentic, shall be deposited in the archives of the Government of the Italian Republic, which shall transmit a certified copy to each of the Governments of the other signatory States. Pursuant to the Accession Treaties, the Danish, English, Finnish, Greek, Irish, Portuguese, Spanish and Swedish versions of this Treaty shall also be authentic’. Similarly, Article 3 of the Treaty of Accession 2003 provides that ‘This Treaty, drawn up in a single original in the Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Irish, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Slovak, Slovenian, Spanish and Swedish languages, the texts in each of these languages being equally authentic, shall be deposited in the archives of the Government of the Italian Republic, which will remit a certified copy to each of the Governments of the other Signatory States’.

²⁸ See Case 19-67, *Van der Vecht* [1967] ECR 345, at p. 353, and Case C-219/95 P, *Ferriere Nord SpA v Commission of the European Communities* [1997] ECR I-4411, at paragraph 15.

²⁹ Such documents would include directives or decisions addressed to all Member States.

- the Institutions may stipulate in their Rules of Procedure (RoP) which of the languages are to be used in specific cases (Article 6);
- the languages used in the proceedings of ECJ must be laid down in its RoP (Article 7);
- if a Member State has more than one official language, the language to be used must, at that Member State's request, be governed by the general rules of its law (Article 8).

The Regulation acknowledges *national* official languages only, thereby excluding from its scope of application regional languages i.e. languages spoken in autonomous or national administrative regions³⁰. Moreover, although it refers to 'official' and 'working' languages, the Regulation does not clearly distinguish between the two³¹, most likely in order not to subvert language equality³². Finally, the Regulation only expressly regulates the use of *written* languages, offering no guidance concerning the languages to be used in the context of verbal communications.

The Regulation allows Community Institutions a fair degree of latitude in the selection of their particular language regime, provided that this is set out in their respective RoP³³. Because of this, but also because of the different needs and objectives of the different Community Institutions, the Regulation has been interpreted differently by each of its addressees, as will become apparent later in this paper. Further sources of limitations to the application of the principles of the Regulation, developed later in this paper, are first ECJ case-law on the Community Institutions' and bodies' language regime that explores the limits to the principle of language equality and second the choices of Member States with more than one official language.

30 This official version of multilingualism has inevitably invited some criticism: cf. Yves, Peter, 2004, 'Managing or Celebrating Linguistic Diversity in the EU', Note de recherche No 03/04, Institut d'études européennes, Université de Montréal, http://www.iee.umontreal.ca/publicationsfr_fichiers/COLLOQUE-2004/IvesIESfinal.pdf.

31 Experts tend to define Community official languages as those used in communications between the Institutions and the outside world and Community working languages as those used within or between Institutions (Labrie, Normand, 1993, '*La construction linguistique de la Communauté européenne*', Honoré Champion Éditeur, Paris, p. 82).

32 To expressly limit the number of working languages would also have an impact on their status, relegating excluded languages to a secondary position. Moreover, to make a distinction between official and working languages would probably also exclude some EU citizens and their representatives from effectively taking part in Community activities since language discrimination would inevitably pose insurmountable obstacles for them (cf. Mari Isidor e Strubell, Miguel, 2002, 'The linguistic regime of the European Union: Prospects in the face of enlargement', Workshop: Linguistic proposals for the future of Europe 'Europa Diversa'-Barcelona, 31 May – 1 June 2002).

33 It is important to note that the Institutions' freedom of choice (a) relates to their working language(s) only; and that (b) it is in all cases subject to the political constraints inherent in selecting one or more languages as their working languages. In the case of the ECB, for instance, its RoP do not expressly identify English as the ECB's working language, in view of the reaction that an explicit reference to that language might perhaps have generated.

2.2. The legal status of Council Regulation No 1/58 as a source of limitations to the principles of language equality and diversity

The Court of First Instance (CFI) has held in *Kik v OHIM*³⁴, and the ECJ has subsequently reaffirmed on appeal³⁵, that the language rules laid down by the Regulation do not amount to principles of Community law nor do they embody a specific Community law principle of equality between languages which cannot legitimately be derogated from. To hold otherwise would be to disregard the character of the Regulation as secondary law. This interpretation of the Regulation's legal status is consistent with the plain language of both Article 290 of the Treaty and Article 6 of the Regulation. The former enables the Council to amend the rules governing the languages of the Community Institutions and to establish different language rules as it sees fit, while the latter expressly recognises the Institutions' freedom to stipulate in their RoP which of the official languages of the EU enumerated in Article 1 are to be used in specific cases. Because Article 6 is an internal implementation rather than a substantive law provision, such determination must not conflict with any of the substantive law provisions of the Regulation (such as, for instance, with Article 5 on the publication of the Official Journal in all the Community official languages)³⁶.

Moreover, the ECJ held that Article 314 of the Treaty does not enshrine an absolute Community law principle of 'the equality of languages': 'Although equal account must be taken of all the authentic versions of a text when interpreting that text, that holds good only in so far as such versions exist' and 'even if an individual decision is published in the Official Journal and is therefore translated into all the languages for the information of citizens, only the language used in the relevant procedure will be authentic and will be used to interpret that decision'³⁷. It follows that, because no absolute value attaches to the provisions of Article 314, there will be circumstances where documents intended to produce legally binding effects can legitimately be drafted in some of the Community official languages only, which would then carry equal weight and authenticity as tools to interpret legislative intention.

³⁴ Case T-120/99, *Kik v Office for Harmonization in the Internal Market (Trade Marks and Designs) (OHIM)* [2001] ECR II-2235, paragraphs 58-59.

³⁵ Case C-361/01 P, *Christina Kik v Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM)* [2003] ECR I-08283, paragraph 82.

³⁶ It is equally true that Article 6 of the Regulation cannot realistically be applied with equal effect across all the different Community legal acts. Especially as regards regulations where, because of their direct applicability, Article 254 TEC foresees their publication as a condition precedent to their validity, it would be impossible to argue that there is any room for the Council to adopt a more restrictive approach with regard to the application of the language rules in force.

³⁷ Case C-361/01 P, *Christina Kik v Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM)* [2003] ECR I-08283, paragraph 87.

Finally, it is implicit in the ECJ's ruling that, while Article 21 of the Treaty embodies a general principle of Community law, as a specific expression of the general principle of equality and non-discrimination on grounds of nationality under Article 12 of the Treaty, Article 314 of the Treaty, to which Article 21 expressly refers, is not a general principle of Community law to which no limitation can be conceived, since the focus of Article 21 is on the protection of the rights of individual citizens rather than on the duties of the Community Institutions in their external relations or internal operations, where linguistic diversity is the fundamental rule.

2.3 Conditions under which a Community Institution, agency or body could legitimately adopt a restrictive language regime

The ECJ has held in *Kik v OHIM*³⁸ that the language regime of a Community institution or body will often be the result of a difficult process which seeks to achieve the necessary balance between conflicting interests but also an appropriate linguistic solution to practical difficulties and that the Council's choice to treat some of the official languages of the EU differently from others which are more widely used can be appropriate and proportionate.

In a recent Opinion³⁹, Advocate General Maduro stated that, notwithstanding the fundamental importance of the concept of linguistic diversity and its status as an EU-wide institutional rule, it is not possible to infer the existence of an absolute principle of equality of EU languages and that there will be circumstances, which must nevertheless be 'justified on every occasion'⁴⁰ where this principle will not prevail: 'It is necessary to accept restrictions in practice, in order to reconcile observance of that principle [of linguistic diversity] with the imperatives of institutional and administrative life. But those restrictions must be limited and justified. In any event, they cannot undermine the substance of the principle whereby Institutions must respect and use all the official languages of the Union'⁴¹. The Opinion distinguishes between (i) communications between the Community Institutions or bodies and citizens of the EU, with regard to which the principle of linguistic diversity deserves the highest level of protection and may not be subject to 'technical difficulties which an efficient institution can and must surmount'⁴²; and (ii) the administrative procedures of Community Institutions or bodies, where 'certain restrictions based on administrative requirements' will be tolerated, as long as the

38 Ibid. paragraphs 92-94.

39 Opinion of Advocate General Maduro in Case C-160/03 (*Spain v Eurojust*) of 16.12.2004. This is one of the rare occasions where the issue of the languages used by Community Institutions and bodies has been dealt with by the ECJ to such length. Hence the invaluable nature of the Opinion, which reviews the relevant principles and case-law. In its judgment, delivered on 15 March 2005, the ECJ declared the application for annulment brought by Spain under Article 230 TEC inadmissible and did not, for that reason, examine the issue of the compatibility of the linguistic recruitment requirements of Eurojust with the Community language regime.

40 Ibid. at paragraph 38.

41 Ibid. at paragraph 40.

42 Ibid. at paragraph 43.

interested party has been put in a position where they can properly take note of the position of the institution concerned⁴³; and (iii) rules on the internal functioning of Community Institutions or bodies, where the choice of ‘the language to be used for internal communication purposes is the responsibility of those institutions’⁴⁴ as long as the basic reasons of administrative efficiency that militate in favour of choosing a limited number of working languages do not result in an internal language regime that is entirely dissociated from the rules governing the external communications of Community Institutions and bodies and does not undermine the essence of linguistic diversity.

It follows that the ECJ has recognised, and appears likely to do so again in the future, that there will be circumstances where restrictions on linguistic diversity will be justified, if based on objective and proportional considerations that (i) do not give rise to unjustified differences of treatment, (ii) reflect the changing needs of the Community institution or body in question and (iii) are not triggered by technical difficulties that can easily be overcome.

3. Exceptions and limitations to the application of the principle of multilingualism

3.1 Member States with more than one official language

It follows from our discussion, above, that, notwithstanding the paramount importance of protecting European linguistic diversity, the policy of the Community Institutions in this field is not one of ‘full multilingualism’ but is instead subject to several limitations, at least with regard to the choice of their working languages. In addition to the abovementioned limitations to the language regime applicable to the Community Institutions, this and the following sections of this paper will examine some more of the factual or legal limitations to the language regime of the Community Institutions.

As we saw earlier in this paper, the Regulation acknowledges only official national languages. Notwithstanding that the official (and, by implication, also the working)⁴⁵ languages of the Community Institutions generally coincide with the official languages of the Member States, there are some exceptions to this rule.

⁴³ Ibid. at paragraph 44.

⁴⁴ Ibid. at paragraph 46.

⁴⁵ As we have seen earlier in this paper, the Regulation does not establish any formal distinction between ‘official’ and ‘working’ languages. The necessary implication is that, save in exceptional circumstances, the official language (or languages) of a particular Member State become, on accession to the EU, an official and working Community language, within the meaning of the Regulation.

Under Maltese law, *Il-Malti* (Maltese) is the national language of Malta, alongside English; both Maltese and English may be used by the administration for official purposes⁴⁶. It is further provided that “(E)very law shall be enacted in both languages and, if there is any conflict between the Maltese and the English texts of any law, the Maltese shall prevail”⁴⁷. Following the accession of Malta to the EU, Maltese has been an official and a working language, within the meaning of the Regulation, as a result of which regulations and other documents of general application, as well as the Official Journal, are to be drawn up also in Maltese. However, as it was technically not possible to guarantee the drafting in Maltese of all acts adopted by the Institutions from 1 May 2004 onwards, the Community Institutions have since applied, at the request of the Maltese government, a derogation from the obligation to draft their acts in Maltese and to publish them in this language in the Official Journal⁴⁸. This derogation is however partial⁴⁹ and temporary⁵⁰.

Gaeilge (Irish) is the “first” national language of the Republic of Ireland, while English is its second. In the event of a conflict between the Irish and the English language texts of the Constitution, the Irish text prevails⁵¹. Irish, however, was until recently not recognised as an official Community language⁵², although the Treaties, as well as the Treaty establishing a Constitution for Europe (the ‘European Constitution’)⁵³, had already been drawn up or officially translated into Irish⁵⁴. The status of the Irish language had originally been determined by an agreement between Ireland and the European Council Presidency under which Irish would have the status of a ‘Treaty language’, meaning that the Treaties would be officially translated or drawn up in Irish, while Irish would be listed in the Treaties as an authentic language. In this regard, the status of Irish had been unique within the EU. However, further to Ireland’s request in November 2004, the Council unanimously adopted a Council regulation amending the

46 Article 5 of the Maltese Constitution.

47 Ibid. Article 74. This rule does not however apply to those acts which expressly provide otherwise, an example being the Companies Act (Article 2(7) thereof specifically provides that, in case of conflict, the English language text prevails over the Maltese text). Moreover, some secondary legislation is adopted in English only such as, for instance, Central Bank of Malta directives or directives of the Maltese Financial Services Authority. Other legislation in technical areas, such as the Banking Act, the Central Bank of Malta Act or the Companies Act, also drafted both in English and Maltese, contain no express provision on which version prevails in case of conflict. Although it is widely considered that the English language version would prevail in such a case, a court ruling has yet, to our knowledge, to confirm this.

48 Article 1, Council Regulation (EC) No 930/2004, OJ L 169, 1.5.2004, p. 1.

49 The derogation does not apply to regulations adopted jointly by the European Parliament and the Council – Article 1, *ibid*.

50 The derogation is for a three year period and can be extended for a further one year period – Articles 1 and 2, *ibid*.

51 Article 8 of the Irish Constitution.

52 Irish is not listed in Article 1 of the Regulation as one of the official and working languages of the Community Institutions. Irish is, however, an official and working language at the ECJ.

53 The European Constitution formalises the hitherto informal designation of Irish as a Treaty language and, in a sense, also changes the existing official and working language structure by introducing a third official designation, namely that of ‘Constitution’s languages’ (see Article I-10(2)(d)) which includes Irish, alongside the previous ‘official and working’ Community languages (Article IV-448).

54 The status of the Irish language as an authentic Treaty language results from Articles 53 TEU and 314 TEC.

Regulation and recognising Irish as the 21st official Community language⁵⁵ from 1 January 2007⁵⁶. The obligation for the Community Institutions to draft all acts in Irish and to publish them in that language in the Official Journal is nevertheless subject to a partial⁵⁷ and temporary derogation⁵⁸, similar in substance to the derogation currently applied to Maltese. It is expected that, in order to avoid adding to the Community's administrative costs, Ireland will only make limited use of the amendment to the Regulation and will not press for the use of Irish in the absence of compelling circumstances.

Lëtzebuergesch (Luxembourgish) is another example of a language which is not an official Community language although, under Luxembourg law, it is Luxembourg's national language⁵⁹. Moreover, unlike Irish, Luxembourgish has never been recognised as an authentic 'Treaty language'. Under Luxembourg law, legislation is drafted in French only⁶⁰, although Luxembourgish, alongside French and German, can be used for court proceedings and administrative purposes⁶¹.

The case of Cyprus merits special mention. This is the only Member State of those that acceded in 2004 that has not contributed a new language to the EU's linguistic constellation, although under its law, both Greek and Turkish enjoy official language status⁶². The requirement for Greek has been fulfilled since 1981, when Greece became a Member State. The question of Turkish and of its status nevertheless remains undecided pending a viable constitutional settlement to the Cyprus problem and the island's eventual reunification. Turkish would presumably have attained the status of an official and working Community language if the UN Secretary-General's Plan of 31 March 2004 for the settlement of the Cyprus Problem had not been rejected in a referendum held in April 2004⁶³.

55 Ireland had been campaigning for the recognition of Irish since early 2004, when it held the rotating EU presidency and new languages, including Maltese, were introduced, as the EU expanded from 15 to 25.

56 See press release for the 2667th session (13 June 2005) by the European Council, General Affairs and External Relations. Council Regulation (EC) No 920/2005, OJ L 156, 18.6.2005, p. 3.

57 The derogation does not apply to regulations adopted jointly by the European Parliament and the Council – Article 2 of Council Regulation (EC) No 920/2005 of 13 June 2005 (OJ L156, 18.6.2005, p.3).

58 The derogation is for a renewable five year period beginning on the day on which the amending Council Regulation applies – Article 2, *ibid*.

59 *Loi sur les régimes des langues*, (Languages Regulation Act) 1984, Article 1.

60 *Ibid*, Article 2. The same is true of parliamentary documents and court proceedings in French, although the synoptic accounts of parliamentary debates (themselves carried out either in French or in Luxembourgish) are printed in German (*Analytischer Kammerbericht*).

61 *Ibid*, Articles 3 and 4.

62 Article 3 of the Cypriot Constitution.

63 Different is the case of Austria whose main language, German, was already an official Community language prior to Austria's accession, although Slovene, Croatian and Hungarian also enjoy official status in parts of Austria. The analogy with the case of Cyprus is not perfect since Turkish is an official language throughout the Republic's territory.

It follows that the official languages spoken in the Member States do not fully coincide with the languages of the Community Institutions and that this is quite independent of the language policy rules stipulated by the Institutions in their RoP. This situation adds another layer of limitations to the principle of linguistic equality that further qualifies the claim that the EU's linguistic policy is (or can be) one of 'full multilingualism'. But, things may gradually be changing. The recognition of Maltese as an official Community language may have triggered developments which, starting with the recent recognition of Irish, may bring about further changes to the EU's linguistic map.

3.2 Regional languages

By acknowledging only official national languages, the Regulation excludes from its scope of application languages enjoying official status in part only of the territory of certain Member States or other 'minority' languages. It is noted that, apart from the 20 official languages of the EU, the number of regional languages spoken across the territory of the EU exceeds 60⁶⁴.

However, the Council has recently recognised the semi-official status of Catalan⁶⁵, Basque and Galician, in return for Spain assuming the resulting direct or indirect costs. The implications of the administrative arrangement evoked by the Council in a recent press release⁶⁶ depend on a prior agreement between the Member State concerned and the Council and are threefold:

(i) first, the Member State concerned will be able to provide to the European Parliament and Council certified translations of acts adopted in co-decision, which, although they will not have the status of law, will nevertheless be published by the Council on its website and provided in hard copy form on request;

(ii) second, the Member State concerned will need to request permission from the Council, and possibly other Institutions or bodies, to use certain languages that are not referred to in the Regulation in speeches at meetings; and

(iii) third, subject to the aforementioned agreement, any language that is either recognised by a Member State's Constitution or authorised by law in all or part of its territory will be able to be used to communicate with the Institutions, thanks to a centralised translation and forwarding service provided by the Member State concerned.

⁶⁴ See Euromosaic study (http://europa.eu.int/comm/education/policies/lang/languages/langmin/euromosaic/index_en.html).

⁶⁵ The particular situation of Catalan, which enjoys official status in Catalonia and the Balearic Islands and is spoken by more people than several official languages of the EU, had already prompted the adoption of the 'Resolution on languages in the Community and the situation of Catalan' (OJ C 19, 28.1.1991, p. 42).

⁶⁶ See p. 15 of the press release for the 2667th session (13 June 2005) of the European Council, General Affairs and External Relations, *supra*.

The Committee of the Regions has recently entered into an agreement with the Spanish Ambassador to the EU approving, for the first time, the use of Spanish regional languages in an EU institution⁶⁷. The example of this administrative arrangement could set a precedent which, if followed, could gradually pave the way for the future use by the Community Institutions of other regional languages⁶⁸.

It follows that, in the case of Member States where regional languages are spoken, linguistic diversity is subject to certain limitations. These limitations ultimately depend on the sovereign decision of each Member State so that, in theory, there would be nothing to preclude Member States from pressing for the addition of a new language to the official and working Community languages, provided that a prior arrangement between the Member State and the Council has been reached under the terms of which the Member State in question agrees to assume the resulting costs. Things may gradually be changing, with regard to regional languages, as the recent recognition of Catalan, Basque and Galician would seem to suggest.

4. Institutional limitations to the principle of multilingualism: outline of the current language regime of the Community Institutions, agencies and bodies.

4.1. Language regime of the European Parliament

Given its status within the EU as the showcase of European democracy, its legislative powers but also because the individual Members of the European Parliament cannot be expected to master other languages, the European Parliament adheres rigorously to the principle of multilingualism. The elected Parliament has reaffirmed its commitment to the pursuit of multilingualism as a *sine qua non* condition of democratic representation and as an integral ingredient of European culture worthy of protection⁶⁹.

⁶⁷ See Press Release of the Committee of the Regions, 16 November 2005, available at <http://europa.eu.int/languages/en/document/81>.

⁶⁸ The reference in p. 2 of the press release is to 'languages recognised by Member States other than the official working languages'.

⁶⁹ In its resolution in January 1995, the European Parliament considered that 'the right of an elected person to express himself and to work in his own language is an indissociable part of democratic rights and of his mandate' while, with the resolution of 13 December 2001, at the end of the European Year of Languages, the European Parliament affirmed that 'all the European languages are equal in value and dignity and are an integral part of European culture and civilisation' and that 'linguistic diversity must be preserved and multilingualism promoted in the Union, with equal respect for the languages of the Union' and recommended measures to promote linguistic diversity and language learning, calling on the Commission to submit proposals for actions aimed at promoting linguistic diversity and language learning.

The European Parliament's language regime is the subject matter of Rule 138 of its RoP⁷⁰, entitled 'Languages', which provides:

- ‘1. All documents of Parliament shall be drawn up in the official languages.
2. All Members shall have the right to speak in Parliament in the official language of their choice. Speeches delivered in one of the official languages shall be simultaneously interpreted into the other official languages and into any other language the Bureau may consider necessary.
3. Interpretation shall 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.
4. At committee and delegation meetings away from the usual places of work interpretation shall be provided from and into the languages of those members who have confirmed that they will attend the meeting. These arrangements may exceptionally be made more flexible where the members of the committee or delegation so agree. In the event of disagreement, the Bureau shall decide’.

Rule 138 reveals that, as a matter of law, there are not one but two distinct language regimes applicable to the European Parliament, broadly corresponding to the division of its work between public deliberations and committee work. Thus, while a fully multilingual regime applies to plenary sessions, multilingualism is somewhat less vigorously pursued in connection with committee and certain delegation meetings. Given that committee hearings is where most of the preparatory work leading to the adoption of Community legislation takes place, it is possible to treat the provisions of paragraph 4 of Rule 138 as an important qualification to the European Parliament's policy of multilingualism with regard to its working languages.

4.2. Language regime of the Council of the European Union

The language regime of the Council of the EU is *prima facie* characterised by the application of full multilingualism. The reasons for this are clear. On the one hand, the Council represents the interests of the governments of the different Member States, hence the predominance of the principle of linguistic equality as a corollary to Member State equality. On the other hand, because the main function of the Council is to adopt legislation⁷¹ it is essential for the different language versions of its 'decisions', within the meaning of the Treaty, to be equally authentic.

70 16th edition, July 2004, available at: <http://www2.europarl.eu.int/omk/sipade2?PROG=RULES-EP&L=EN&REF=TOC>.

71 Article 202 TEC.

The Council's language rules are enshrined in Article 14 of the Council's RoP⁷², entitled 'Deliberations and decisions on the basis of documents and drafts drawn up in the languages provided for by the language rules in force', which provides that:

- '1. Except as otherwise decided unanimously by the Council on grounds of urgency, the Council shall deliberate and take decisions only on the basis of documents and drafts drawn up in the languages specified in the rules in force governing languages.
2. Any member of the Council may oppose discussion if the texts of any proposed amendments are not drawn up in such of the languages referred to in paragraph 1 as he or she may specify'.

Reflecting Article 4 of the Regulation, Article 14 of the RoP of the Council reaffirms that regulations and other documents of general application cannot validly be adopted or enter into force unless they have been drafted in all the official languages of the EU⁷³. However, Article 14 does allow for the possibility of derogation from the language rules in force, provided that the Council unanimously decides to waive the requirement for strict adherence to the said rules 'on grounds of urgency'⁷⁴.

Further limitations applied at lower levels within the Council, already before the 2004 enlargement, including within the Committee of Permanent Representatives (COREPER), composed of the ambassadors of Member States to the Community and responsible for preparing the Council's agenda⁷⁵ as well as within a number of other Council preparatory bodies. Ahead of the 2004 enlargement, the European Council in Seville asked the Council to 'study the question of the use of languages in the context of an enlarged EU and practical means of improving the present situation without endangering basic principles'. Additional steps were accordingly taken to ensure that the Council would be able to cope with translation and interpretation demands after the 2004 enlargement, particularly in view of the various

⁷² OJ L 106, 15.4.2004, p. 22.

⁷³ The same is also true of a Council common position adopted pursuant to Articles 251 and 252 TEC which cannot be communicated to the European Parliament unless it has been adopted in all official languages.

⁷⁴ The circumstances justifying derogations from the ordinary language rules should, in principle, be set out in a recital to the legal act adopted in derogation from these rules. Derogations have occasionally been used in the first few months following the accession of new Member States when revised translations in their official languages may be difficult to obtain within the specified period. It would appear that, whenever the Council has recourse to the waiver provided for in Article 14 of its RoP, the relevant Council decision should be recorded in the Council minutes and, where appropriate, the Council should make efforts to subsequently adopt the missing language versions.

⁷⁵ This operates on the basis of an informal, mostly trilingual language regime (English, French and German), although documents submitted to COREPER are occasionally also available in other official languages.

practical, logistic and financial constraints to the provision of full interpretation arrangements for all Council preparatory bodies⁷⁶.

4.3. Language regime of the European Commission

The RoP of the European Commission⁷⁷ are silent on the issue of its language regime, except for a few and relatively vague references to ‘official’, ‘working’ and ‘authentic’ languages⁷⁸. Notwithstanding the Commission’s commitment to the principle of multilingualism, as evidenced in its recently adopted Action Plan⁷⁹, the most supranational of the Institutions has, in view of its composition and operational requirements, opted for a somewhat more restrictive language regime. Thus, while full translation and interpretation are made available in formal occasions and public *fora*, the *de facto* working languages of the European Commission are limited to English, French and, to a lesser extent, German⁸⁰. This limited working language regime, dictated by the imperatives of speed and efficiency, is nevertheless without prejudice to the discharge by the Commission of its legislative initiative tasks in all the official languages of the EU or to the Commission’s commitment to practising full multilingualism in its external communications⁸¹.

⁷⁶ These have taken the form of ‘voluntary’ restrictions in the translation arrangements of the relevant Committees.

⁷⁷ OJ L 308, 8.12.2000, p. 26.

⁷⁸ Article 18 of the RoP of the Commission provides that: ‘For the purposes of these Rules, “authentic language or languages” means the official languages of the Communities in the case of instruments of general application and the language or languages of those to whom they are addressed in other cases’.

⁷⁹ COM(2003)0449 final. This was the Commission’s response to the European Parliament resolution of 13 December 2001 urging the Commission to submit proposals for the promotion of linguistic diversity and language learning in Europe. At the end of a lengthy public consultation procedure with the involvement of the other Community Institutions, national ministries, stakeholder organisations and the general public, on 27 July 2003 the Commission adopted its Action Plan 2004-2006 for the promotion of language learning and linguistic diversity. The Action Plan makes concrete proposals for 45 measures to be taken from 2004 to 2006 with the threefold objective of extending the benefits of language learning to all EU citizens as a lifelong activity, improving the quality of language teaching and building a language-friendly environment in Europe. The Action Plan also proposes a series of actions to be taken at European level with the aim of supporting actions taken by local, regional and national authorities.

⁸⁰ While the vast majority of internal deliberations take place in these languages, the choice of language within the Commission is often influenced by custom and the policy being dealt with. English, for instance, tends to dominate where technical or economic matters are being discussed, while French prevails in the areas of law or culture.

⁸¹ This commitment is already implicit in the Commission’s RoP. In addition, Principle No 4 of the Code of good administrative behaviour for staff of the European Commission in their relations with the public, entitled ‘Dealing with enquiries’, provides that: ‘In accordance with Article 21 of the Treaty establishing the European Community, members of the public who write to the Commission shall receive a reply to letters in the language of the initial letter, provided that it was written in one of the official languages of the Community’.

4.4. Language regime of the European Court of Justice

The ECJ is multinational and, inevitably, also multilingual⁸². One of the fundamental reasons for the ECJ's respect for the principle of linguistic equality is its overriding concern with providing access to justice as a key means of ensuring the effective protection of the rights that individuals derive under Community law. The preliminary reference procedure of Article 234 of the Treaty⁸³ is the most important means to achieve this. Given the constraints on direct access for individuals⁸⁴, indirect access through the preliminary reference procedure is often the only alternative. Preliminary references are all the more significant since much of the primary enforcement of Community law is in the hands of national administrations. Hence the importance of not discouraging, though the application of a restrictive language regime, national courts and tribunals from using their discretion⁸⁵ to request preliminary rulings. It is difficult to see how a national judge could in practice contribute to a procedure that would require a preliminary reference written in a language other than their own. Conversely, it is reasonable to assume that the uniform application of Community law would most certainly suffer a serious setback if fewer preliminary references were to be made as a result⁸⁶ of the application by the ECJ of a restrictive language regime. Moreover, because the preliminary reference is part and parcel of the original procedure, it is unlikely that a preliminary ruling delivered by the ECJ could seamlessly be incorporated therein unless both the referring court and the interested parties can understand it⁸⁷.

The language regime of the ECJ differs from that of the other Community Institutions⁸⁸. Article 29 of the RoP of the ECJ provides that the 'language of a case' is any of the official languages of the EU, including Irish, and that this will be decided by the applicant, subject to a limited

82 Cf. Lasok, D., 1994, *Law and Institutions of the European Union*, 6th ed. Butterworths, p. 95.

83 The ECJ has jurisdiction to give preliminary rulings, at the request of national courts, concerning both the interpretation of the Treaty (Article 234(a) TEC) and the validity and interpretation of acts of the Community Institutions and of the ECB (Article 234(b) TEC).

84 Pursuant to Article 230 TEC, to challenge a decision which, although in the form of a regulation or a decision, is addressed to another person, individuals and legal entities must show direct and individual concern. Due to the somewhat strict rules of *locus standi*, non-privileged applicants, such as natural or legal persons, enjoy less extensive rights to challenge acts through judicial review.

85 In accordance with the third paragraph of Article 234 TEC, there is no discretion if an issue of Community law is raised before a national court or tribunal against the decisions of which there is no judicial remedy under national law.

86 The importance of preliminary rulings as a powerful impetus for the development of the ECJ's case-law cannot be stressed enough. Some of the most fundamental doctrines of Community law, including the doctrines of supremacy, direct effect and implied powers or the principle of the protection of human rights, originated in preliminary rulings.

87 This is why the RoP of the ECJ (OJ L 176, 4.7.1991, p. 7) expressly provide in Article 29(2) that, in preliminary ruling proceedings, 'the language of the case shall be the language of the national court or tribunal which refers the matter to the Court'.

88 Articles 290 TEC and 7 of the Regulation acknowledge the *sui generis* nature of the ECJ's language regime.

number of exceptions⁸⁹. Moreover, in proceedings involving a preliminary ruling, the language of the case is the language of the national court or tribunal which has requested the preliminary ruling and is to be used in written and oral pleadings by the parties and in supporting documents. It follows from Article 31 of the RoP that documents drawn up in that language or in any other language authorised by the ECJ in accordance with Article 29 are regarded as authentic and cannot, for that reason, be challenged on language grounds.

Moreover, while the ECJ's judgments are 'issued in the languages referred to in Article 1 of Council Regulation No 1'⁹⁰, and although Judges and Advocates General in particular are entitled to use any language and to require translation of any document into the language of their choice (from those referred to in Article 29)⁹¹, internally the ECJ deliberates in French only, French also being the language of its internal administration. The use of a single working language was no doubt intended to avoid extensive cross-translation, while at the same time ensuring a consistent use of vocabulary which has overtime acquired its own Community law meaning, thereby also contributing to legal certainty.

4.5. Language regime of the Court of Auditors

The Court of Auditors' language rules are enshrined in Article 24 of its RoP⁹², entitled 'Languages and authentication'. This provides that:

- '1. The reports, opinions, observations, statements of assurance and other documents, if for publication, shall be drawn up in all the official languages.
2. The documents shall be authenticated by the apposition of the President's signature on all the language versions'.

It follows from Article 24 of its RoP that, when the audit reports (annual reports, special reports and specific annual reports) and opinions drawn up by the Court of Auditors are published in the Official Journal, these documents are made available in all the official languages of the EU. Moreover, letters from the President and other observations as well as documents forwarded officially to the Community Institutions and documents governed by the Staff Regulations (e.g. competition notices, vacancy notices, Court of Auditors' Decisions and certain staff notices) are

89 Exceptions apply (i) where the defendant is a Member State or a natural or legal person having the nationality of a Member State (the language of the case coincides with the official language of that State; where that State has more than one official language, the applicant may choose between them); and (ii) where the parties jointly request the use of another official Community language; and (iii) where a request by one of the parties for the use of another official Community language has exceptionally been granted by the ECJ (such a request may nevertheless not be submitted by a Community institution).

90 RoP of the ECJ, Article 30(2).

91 Ibid, Article 29(3).

92 OJ L 81, 20.1.2005, p. 3.

translated into the official languages of the EU. The same is true of documents intended for general circulation, such as Court of Auditors' brochures, documents providing information on the work of the Court of Auditors or documents for internal use and circulation to the national audit institutions, such as the Audit Manual. In common with the ECJ, the dominant working language of the Court of Auditors for internal purposes (Court and audit group meetings) is French, although the Court also uses English and, to a lesser extent, German⁹³.

4.6 Language regime of the Community agencies and bodies

As regards the language regime of the Community agencies, the situation is briefly as follows. While the Regulation establishing the Office for Harmonisation in the Internal Market (OHIM)⁹⁴ expressly provides in Article 115 for a specific, limited language regime applicable to the OHIM⁹⁵, the corresponding regulations in the case of other Community agencies, such as the Community Plant Variety Office⁹⁶, the European Agency for Safety and Health at Work⁹⁷, the European Centre for the Development of Vocational Training or the European Environment Agency and the European Environment Information and Observation Network⁹⁸, are either silent on the linguistic issue or expressly provide that the Community agencies to which they relate are subject to the language rules enshrined in the Regulation. Similar considerations apply to some of the more recent Community agencies such as the European Network and Information Society⁹⁹, the European Centre for Disease Prevention and Control¹⁰⁰ or the European Railway Agency¹⁰¹.

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- 93 Source: Official website of the Court of Auditors (http://www.eca.eu.int/services/job/job_multilingualism_en.htm).
- 94 Council Regulation (EC) No 40/94 of 20 December 1993 on the Community trade mark, OJ L 11, 14.1.1994, p. 1.
- 95 OHIM's languages are English, French, German, Italian and Spanish but a Community trade mark application and certain related proceedings may be in any official Community language.
- 96 Article 34 of Council Regulation (EC) No 2100/94 of 27 July 1994 on Community plant variety rights, OJ L 227, 1.9.1994 p. 1.
- 97 Council Regulation (EC) No 2062/94 of 18 July 1994 establishing a European Agency for Safety and Health at Work, Official Journal L 216, 20.8.1994, p. 1.
- 98 Council Regulation (EEC) No 1210/90 of 7 May 1990 on the establishment of the European Environment Agency and the European Environment Information and Observation Network, OJ L 120, 11.5.1990, p. 1.
- 99 Regulation (EC) No 460/2004 of the European Parliament and of the Council of 10 March 2004 establishing the European Network and Information Security Agency, (OJ L 077, 13/03/2004 p.1), of which Article 22 expressly provides that '[T]he provisions laid down in Regulation No 1 ...shall apply to the Agency. The Member States and the other bodies appointed by them may address the Agency and receive a reply in the Community language of their choice'.
- 100 Regulation (EC) No 851/2004 of the European Parliament and of the Council of 21 April 2004 establishing a European centre for disease prevention and control (OJ L 142, 30/04/2004, p.1).
- 101 Regulation (EC) No 881/2004 of the European Parliament and of the Council of 29 April 2004 establishing a European railway agency, (OJ L 220, 21.6.2004, p.3) of which Article 35 expressly provides that 'The Administrative Board shall decide on the linguistic arrangements for the Agency. At the request of a Member of the Administrative Board, this decision shall be taken by unanimity. The Member States may address the Agency in the Community language of their choice'.

4.7 Language regime of the European Central Bank

It should first of all be noted, as stated before, that the Regulation formally applies to the Community Institutions only. While the ECJ has relatively recently ruled that ‘the ECB, pursuant to the Treaty, falls squarely within the Community framework’¹⁰², an assessment that has since been ‘affirmed’ by Chapter II of Title IV of Part I of the European Constitution entitled ‘The other Union Institutions and advisory bodies’¹⁰³, it remains the case that the ECB is not, *stricto sensu*, a Community Institution.¹⁰⁴

A fundamental reason why the ECB’s emphasis on the application of the principles of the Regulation differs from that of the Community Institutions is because of the dichotomy of its structure as the ECB is, on the one hand, a specialized Community law organization and, on the other hand, the decision-making centre of the European System of Central Banks (‘ESCB’) and the ‘Eurosystem’¹⁰⁵. The existence of different types of ECB legislation, and the applicable language rules, reflect this situation. In fact, different language rules apply to the different kinds of ECB legislation, allowing for the use of one or more languages, depending on whether the addressees are the citizens of the EU or the more restricted group of experts of the ESCB. Reflecting this dichotomy, the RoP of the ECB¹⁰⁶ expressly provide for the application of the principles enshrined in the Regulation to ECB legal acts *only* (as opposed to also applying to ECB legal instruments¹⁰⁷).

102 Case C-11/00, *Commission of the European Communities v European Central Bank (ECB)* [2003] ECR I-07147, paragraph 92.

103 This provides in Article I-30 that ‘3. The European Central Bank is an institution. It shall have legal personality...It shall be independent in the exercise of its powers and in the management of its finances. Union Institutions, bodies, offices and agencies and the governments of the Member States shall respect that independence’.

104 The European Ombudsman has also treated the ECB as a ‘Community body’ which is subject to ‘the provisions of Community law on the use of languages’ (Decision of the European Ombudsman of 17 November 1999 on complaint 281/99/VK against the ECB).

105 This results from the co-existence of Member States that have transferred to the ECB their sovereign decision making powers with regard to the definition and implementation of their monetary policy side by side with so called ‘non-participating Member States’ that have yet to do so. The term “Eurosystem” is unofficial and has been coined by the Governing Council of the ECB to describe the composition in which the ESCB performs its basic tasks under the Treaty and the Statute. The Eurosystem comprises the ECB and the NCBs of the 12 Member States which have adopted the euro and transferred to the Eurosystem their sovereignty with regard to the definition and implementation of their monetary policy.

106 Article 17.8 of the RoP of the ECB, OJ L 80, 18.3.2004, p. 33.

107 There are two different types of ECB legislation. The first of these are ECB legal acts, also addressed to third parties outside the Eurosystem. These legal acts are ECB regulations, decisions, recommendations and opinions. Unlike ECB regulations and decisions, the latter two types of legal acts are non-binding. In addition, the ECB is empowered to adopt ECB legal instruments which are of internal relevance to the Eurosystem without affecting the position of third parties. These legal instruments are ECB guidelines, instructions and internal decisions (“internal legal instruments”). Taking into account the unique structure of the Eurosystem, internal legal instruments have been designed in a way such as to functionally subordinate NCBs to the ECB and to allow the Eurosystem to operate quickly and efficiently as a single entity with a view to achieving the objectives of the Treaty.

Although it is possible to argue that the Regulation as such may not *formally* apply to the ECB, the principles underlying the Community Institutions' language regime do apply to the ECB which, as an integral part of the Community framework, follows, *mutatis mutandis*, the principles enshrined in the Regulation, both in view of the purposes that these serve and in keeping with the perceived need for consistency with the language regime applicable to the Community Institutions. This is all the more true to the extent that the ECB has not, as we will shortly see, adopted an own comprehensive language regime and needs to *a fortiori* rely on the principles of the Regulation as an indispensable point of reference.

In accordance with the provisions of its RoP, it is possible to distinguish between four broad areas: the adoption and publication of ECB legal acts, the adoption of ECB legal instruments, the ECB's internal administration and its external communication.

- Adoption and publication of ECB legal acts: For the purposes of the adoption and publication of its legal acts, the ECB applies the principles of the Regulation. In this respect, Article 17.8 of its RoP provides that:

‘17.7. ... The Executive Board shall take steps to ensure the ... publication in all the official languages of the EU in the Official Journal in the case of ECB Regulations, ECB Opinions on draft Community legislation and those ECB legal instruments whose publication has been expressly decided.

17.8. The principles of Council Regulation (EC) No 1 determining the languages to be used by the European Economic Community of 15 April 1958 shall apply to the legal acts specified in Article 34 of the Statute.’

It follows that ECB regulations must, because of the generality of their application, be adopted and published in the Official Journal in all the official languages of the EU, as a condition precedent to their validity. ECB decisions and recommendations with specific addressees, and opinions on draft national legal acts need not be adopted in all official languages, unless they are to be published in the Official Journal. ECB opinions on national draft legislative provisions, delivered in accordance with Council Decision 98/415¹⁰⁸, are adopted both in the language of the national consulting authority and in English. ECB recommendations for Community legislation in the ECB's fields of competence as well as ECB opinions on draft Community legislation, under Article 105(4) of the Treaty, are adopted and published in the Official Journal in all the official languages of the EU.

¹⁰⁸ Council Decision 98/415/EC of June 29 1998 on the consultation of the European Central Bank by national authorities regarding draft legislative provisions (OJ L 189, 3.7.1998, p.42).

- *Adoption of ECB legal instruments:* The ECB's regulatory powers are not limited to the adoption of legal acts. The ECB may also adopt guidelines and instructions. These are legal instruments which are of internal relevance to the Eurosystem and have no direct legal effect upon third parties. The formal requirements for the adoption of ECB Guidelines and ECB Instructions are not specified in the Treaty or in the Statute, but are laid down in Articles 17.2 and 17.6, of the RoP the ECB¹⁰⁹.

It follows from their nature as legal instruments, the effects of which are internal to the Eurosystem, that there is, in principle, no obligation under Community law to publish ECB guidelines or instructions¹¹⁰. What is nevertheless clear from Article 17.2, read in conjunction with Article 17.6, is that those ECB guidelines and instructions that are to be published in the Official Journal also need to be, and are, translated into the other official languages of the EU.

- *External communication:* For the purposes of its external communication, the ECB operates a differentiated language regime, using some or all of the official languages of the EU, depending on the circumstances of each individual case. It is broadly possible to distinguish between (a) the ECB's communication (i) within the Eurosystem/ESCB (carried out in English, although interpretation facilities are provided when needed in committee and governors' meetings), (ii) with other national authorities and bodies (carried out in their respective languages) and (iii) with EU citizens (similarly carried out in their respective languages); (b) the operational interaction of the ECB with the global financial markets (e.g. for the management of its foreign reserve assets), which tends to be carried out in English, as this tends to be the language most common to international finance; (c) the ECB's website, which is predominantly English-based, but plurilingual in what concerns the documents drafted in several or all the other official languages of the EU; and (d) the ECB's official reporting (e.g. Annual Report, Convergence Report, Monthly Bulletin), which are published in the official languages of the Community. Full multilingualism is assured depending on the ECB's business and/or external communication needs, by way of linguistic resources covering all official languages.

It follows from the preceding discussion that the ECB has opted for a language regime that complies with the relevant Community law principles, while at the same time enabling it to pursue its tasks, whether these relate to the exercise of its regulatory powers, or to its

¹⁰⁹ Article 17.2 provides that 'ECB Guidelines shall be adopted by the Governing Council, and thereafter notified [i.e. to the NCBs], in one of the official languages of the European Communities... Any ECB Guideline that is to be officially published shall be translated into the official languages of the European Communities.' Article 17.6. provides that 'ECB Instructions shall be adopted by the Executive Board, and thereafter notified [i.e. to the NCBs], in one of the official languages of the European Communities... Any ECB Instruction that is to be officially published shall be translated into the official languages of the European Communities.'

¹¹⁰ However, in the interests of transparency, the ECB has published guidelines which are of interest to market operators and to the general public at large.

communication with the outside world or to the organization of its internal administration. The *sui generis* nature of some of its legal framework, the specificities of its audience and the need for the efficient and transparent management of the ECB's business have no doubt left their imprint on its language regime which is somewhat less static and more flexible than that of the Community Institutions.

Part II - The question of the spelling of the euro: the single currency's symbolism versus the EU's commitment to multilingualism

An issue of particular relevance to the ECB, which has perhaps unduly been construed as one of language, is the one relating to the name of the single currency and to the controversy surrounding its spelling in the official languages of the EU.

1. Background to the issue of the spelling of the name of the single currency

Although there is little to suggest that anything short of the identical spelling of the single currency's name was ever intended, at least in official, legal use, a number of linguistic concerns, initially with regard to the spelling of 'euro' on euro banknotes and coins, but also in connection with the grammar and formation of plurals of the name of the single currency as used in other official texts¹¹¹, have been voiced by Member State representations in EU *fora*¹¹² and expressly highlighted in an annex to the European Constitution¹¹³. The issue has recently

¹¹¹ Significant differences subsist with regard to the formation of the plural of the name of the single currency and of its denomination in the official languages of the EU. The use of the words 'euro' and 'cent' both as singular and plural is standard practice in the English language versions of Community legislation. Strong support for the argument that the invariable form of 'euro' and 'cent' was only intended to be used when drafting legal texts is drawn from the English Style Guide of the European Commission Translation Service which, in paragraph 20.7 *inter alia* states that "Guidelines on the use of the euro, issued via the Secretariat-General, state that the plurals of both 'euro' and 'cent' are to be written without 's' in English. Do this when amending or referring to legal texts that themselves observe this rule. However, in all other texts, especially documents intended for the general public, use the natural plurals 'euros' and 'cents'". This recommendation is not consistent with rule 7.3.1. of the Inter-institutional Style Guide, whereby 'In English, the terms euro and cent are invariable (no plural "s")', notwithstanding the acknowledgement in a footnote that 'The spelling without an "s" may be seen as departing from usual English practice for currencies'. Notwithstanding that in Italian, German and Greek the words 'euro' and 'cent' are also used in their plural-less form, in most other languages, including French and Spanish, the name of the single currency tends to vary in the plural, both in official and in everyday use.

¹¹² EU Finance Ministers, for instance, had to tackle the issue of the single currency's spelling in their meeting of 6 November 2004. These objections were partly premised on the national spelling of the name of the single currency in several official language texts of the two regulations establishing the framework for the euro and of the Constitution, some of which have since been corrected.

¹¹³ The reference is to a declaration by Latvia and Hungary on the spelling of the name of the single currency appended to the European Constitution: 'Without prejudice to the unified spelling of the single currency of the European Union referred to in the European Constitution, as displayed on the banknotes and on the coins, Latvia and Hungary declare that the spelling of the name of the single currency, including its derivatives as applied throughout the Latvian and Hungarian text of the European Constitution, has no effect on the existing rules of the Latvian and the Hungarian languages'.

been revived in a number of Member States where linguistic equality and non-discrimination arguments have *inter alia* been invoked to back the challenge to the identity of the spelling of the euro. In one Member State¹¹⁴ a legal act establishing a ‘national’ spelling of the name of the single currency has been adopted while, in another three Member States¹¹⁵, either a ‘national spelling’ *only* is being used in national legal texts or the ‘national’ and the official spelling are being used interchangeably.

It is noted that the Heads of State or Government decided on the name of the new European currency, the ‘euro’¹¹⁶, and of its decimal subdivision¹¹⁷ at the European Council meeting of 15 and 16 December 1995, in Madrid. The importance of choosing at the start of the third stage of Economic and Monetary Union (EMU) a name for the new currency that would be identical across Member States, simple and symbolic was acknowledged early on as an essential requirement for a smooth currency changeover and, ultimately, as a determinant of EMU’s public acceptability¹¹⁸. In its Conclusions, the 1995 Madrid European Council considered that:

‘the name of the single currency must be the same in all the official languages of the European Union, taking into account the existence of different alphabets;
[...] as of the start of Stage 3, the name given to the European currency shall be euro. This name is meant as a full name, not as a prefix to be attached to the national currency names’.

The significance of the single currency’s name is reaffirmed in recital 2 of the two regulations establishing the legal framework for the euro: Council Regulation (EC) No 1103/97 of 17 June 1997 on certain provisions relating to the introduction of the euro¹¹⁹ and Council Regulation (EC) No 974/98 of 3 May 1998 on the introduction of the euro¹²⁰. The consistent reference in

¹¹⁴ The reference is to Latvia.

¹¹⁵ The reference is to Hungary, Lithuania and Slovenia.

¹¹⁶ The currency’s name is not capitalised. Moreover, in some Community languages, currency names are invariable in the plural.

¹¹⁷ Although Council Regulation (EC) No 974/98 requires the same name of the subdivision of the euro to be used in all official languages, written or oral deviations from this rule persist in several Member States. Thus, coins read EURO CENT (one word above the other) with the exception of Greek small denomination coins which, instead, read *leptó* or, in the plural, *leptá* (the old 100th part of a drachma) on their national side. Oral deviations may be possible to explain by reference to recital 2 to Council Regulation (EC) No 974/98, *inter alia* stating that ‘the definition of the name “cent” does not prevent the use of variants of this term in common usage in the Member States’.

¹¹⁸ See, in this regard, the Conclusions of the Madrid European Council Meeting (I. Economic revitalization of Europe in a Socially Integrated Framework, A. Economic and Monetary Union, I. The scenario for the changeover to the single currency’, available at:

http://europa.eu.int/european_council/conclusions/index_en.htm). These considerations explain why the name of the previous basket currency, the ‘ecu’, was finally not retained.

¹¹⁹ OJ L 162, 19.6.1997, p. 1.

¹²⁰ OJ L 139, 11.5.1998, p. 1.

these texts to ‘differences in alphabet’ clearly suggests that the original intention was not merely to prevent Member States from unilaterally adopting divergent names for the single currency but also to oblige them to spell the name of the single currency in an identical way, subject nevertheless to the constraints inherent in the use of a different alphabet in one Member State¹²¹. Although it is plausible to assume that the legislator’s concern was first and foremost with references to the single currency’s name in legal texts, there is little to suggest that any formal spelling distinction was ever envisaged between legal texts, on the one hand, and documents intended for the general public, on the other¹²², also because such a distinction might have jeopardised legal certainty. On the other hand, issues relating to the pronunciation, in everyday language, of the words ‘euro’ and ‘cent’ were presumably not intended to be addressed, if only because to impose specific rules on the peoples of Europe in this regard would lie beyond the Institutions’ remit. The conclusion that the emphasis should be placed on spelling rather than on pronunciation is consistent with the Regulation which, it will be remembered, deals with the issue of the use of written languages only, offering no guidance for verbal communication. This conclusion is also supported by the opening statement in a guide published by the Commission which confirms that, although the new European single currency will have the same name in all Member States, this may nevertheless be pronounced differently¹²³.

¹²¹ The reference is to Greece where the single currency is spelt ‘ΕΥΡΩ’. The planned accession to the EU of Bulgaria will add to the constellation of EU Member States yet another country where a different alphabet is used (Cyrillic).

¹²² In a recent ECB Opinion on a Proposal for a Council Regulation amending Council Regulation (EC) No 974/98 on the introduction of the euro, the ECB proposed that the text of the proposed Article 2 should confirm that ‘the spelling of the name of the euro shall be identical in the nominative singular case in all the official languages of the European Union, taking into account the existence of different alphabets.’ (Paragraph 2.4.2. of Opinion CON/2005/51, available on the website of the ECB). The recent ECB Opinion confirms the conclusions reached in a previous opinion on a draft Lithuanian law on the adoption of the euro, where it was stated that the relevant provisions of Regulation (EC) No 974/98 ‘make it clear that the name of the single currency is the “euro” and that this name should be identical in legal acts published in all Community languages [...] The Community, as the exclusive holder of competence in monetary matters, determines alone the name of the single currency. As a single currency, the name of the euro needs to be identical in the nominative singular case in all Community languages to ensure that its singleness is apparent’ (paragraph 10 of Opinion CON/2005/21, available on the website of the ECB).

¹²³ Quest (Questions & answers on the euro and European Economic and Monetary Union), European Commission, Information Programme for the European Citizen, 28.8.2001, available at: <http://europa.eu.int/euro/quest/>.

2. Reasons militating against national variations in the name of the single currency

Without entering into a discussion on whether the issue of the spelling of the single currency is a language issue in the first place and on whether or not it is capable of raising the equal treatment concerns voiced in those of the Member States which oppose the uniform spelling of the single currency, claiming, effectively, a right to vary its name in accordance with their language rules and usage¹²⁴, it is submitted that several legal and practical considerations militate against the legitimacy of such variations:

- The definition of the name of the single currency was the outcome of a political agreement in a field of exclusive EU competence: The definition of the name of the single currency was the outcome of a political agreement in the field of the EMU, a field of exclusive Community competence under the Treaty: as the exclusive holder of competence in monetary matters, the Community determines alone the name of the single currency¹²⁵. Representing the fruit of a political compromise between Member States in a field outside the competence of individual Member States, it is difficult to see how the Council could have acted *ultra vires* and in breach of the principle of subsidiarity in decreeing, through its legal acts, the spelling in the languages of the Member States of the single currency, or how its uniform and constant use by the Member States could be challenged, *inter alia* on the basis of language related arguments. Besides, it is noted that new Member States are legally bound to comply with the political agreement on the single currency's name, in accordance with Article 5(3) of the Treaty of Accession 2003¹²⁶. Finally, it should be remembered that some of the older Member States

124 In our view, the answer is no. It should be remembered that the name of the single currency is an artificial name which is no closer to one or more Member State languages than it is to others and cannot, for that reason, 'discriminate' against the nationals of some Member States or put them at a disadvantage compared to the nationals of other Member States. The absence of this element of discrimination means that this is not a language issue in connection with which the Community language rules have any relevance and that linguistic equality arguments cannot be invoked in its context. It is a "brand name", decided by convention to identify a single chattel.

125 This is confirmed by Article 123(4) TEC, according to which the designation of the name of the single currency falls within the sole competence of the EU Council sitting in the composition of the euro area Member States.

126 This provides that: 'The new Member States are in the same situation as the present Member States in respect of declarations or resolutions of, or other positions taken up by, the European Council or the Council and in respect of those concerning the Community or the Union adopted by common agreement of the Member States; they will accordingly observe the principles and guidelines deriving from those declarations, resolutions or other positions and will take such measures as may be necessary to ensure their implementation'.

consented to the name chosen for the single currency at the Madrid European Council, notwithstanding that this was inconsistent with their language rules¹²⁷.

- The name of the single currency is an essential part of its definition: In a remarkably simple and straightforward manner, Article 2 of Regulation (EC) No 974/98, one of the key provisions in the legal framework for the euro, defines the single currency as follows:

‘As from 1 January 1999 the currency of the participating Member States shall be the euro. The currency unit shall be one euro. One euro shall be divided into one hundred cent’.

It follows that the single currency is defined solely by its name. The legal definition of the euro makes no reference to a benchmark against which to establish its exchange value: ‘the euro exists as a currency simply as a result of a sovereign declaration’¹²⁸. Thus, the name of the single currency is so indissoluble a part of its identity that it cannot be interfered with if the risk of a shift from its legal definition is to be avoided¹²⁹.

- A multiplicity of spellings in the name of the single currency would create confusion: A common name is conducive to legal certainty. A plurality of names for the single currency would clearly entail some risk of confusion in terms of its status as fully a fungible single legal tender across the EU’s territory and beyond¹³⁰, with unforeseen side effects (e.g. question the possibility of a set-off of reciprocally-owed sums of money each labelled under a different name; it may hamper standardisation measures in financial markets, as, for instance SWIFT messaging, or price formation and quoting in organised markets, etc.). In addition, it may create confusion in instruments where a sum of money is set and which may have cross-border use (i.e.

127 This was particularly true in the case of Greece, where the letter omega (‘ω’) rather than omicron (‘ο’) was used in the Greek language spelling of ‘euro’, to preserve the ‘euro’ root in the plural, notwithstanding that Greek language grammar provides no rules for the declension of nouns ending in ‘ω’, and of Ireland where Parliament rejected ‘eora’, a name corresponding to the first four letters for ‘Europe’ in *Gaeilge*, in favour of ‘euro’, a unique noun with no gender or declension. In the spirit of Europe these countries have adjusted to the spelling of euro, notwithstanding their language rules.

128 Cabotte, Jean-Christophe and Moulin, Anne-Marie, ‘The Legal Status of the Single Currency’, 107, *Banque de France Bulletin Digest* (2002), 100, available at: <http://www.banque-france.fr/gb/eurosys/telechar/docs/eurcash3.pdf>.

129 In a similar note, if the name of the single currency were to be subject to variations, why not also its symbol? Both the single currency’s name and its symbol serve as ‘trademarks’, serving to identify and distinguish it from other currencies. The copyright for the euro symbol belongs to the EU, represented for this purpose by the Commission. While the Commission does not object to the use of the euro symbol (indeed it encourages its use as a currency designator), it would no doubt object, and not unjustifiably so, at any attempt to bring about changes to the euro symbol. If no variations in the name of the euro symbol are conceivable the same must also be true of variations in its name.

130 It is reminded that Member States already issue coins bearing a national side: to add an additional layer of complication (i.e. different spellings) would hardly contribute to making the euro acceptable, particularly for cross-border operations.

bills of exchange, letters of credit, cheques, promissory notes, bonds and securities in general, certificates of deposit, etc.).

- Deviations in the single currency's name would subvert the principle of monetary nominalism:

This principle¹³¹, which is inherent both in Article 123 of the Treaty and in Article 2 of Regulation (EC) No 1103/97, is central to the trust in a currency, like the euro, without any intrinsic value (i.e. it does not have a reference to precious metals or to foreign currencies).¹³²

-The single currency is a symbol of the EU and its spelling should be identical across Member States:

Perhaps the most decisive justification for opposing such variations and for rebutting counter-arguments drawn from the EU's respect for linguistic diversity stems from the importance of the single currency as a symbol of the EU. Significantly, the European Constitution included the single currency *and its name* in its exhaustive enumeration of the 'The symbols of the Union'¹³³. Over and above its function as a means of payment, the euro undoubtedly also represents a tangible symbol of the common identity of the Member States and the visible embodiment of their shared commitment to further European integration. In common with other currencies, the euro is not only a commonly accepted medium of exchange and value but also a symbol of the political and economic communities from which it has sprang. If the euro is to be in a position to successfully fulfil its role as a palpable symbol of Europe's shared identity, no grammar-motivated variations in its name should be admissible, not least where legally binding texts are concerned. Thus, even if the issue of the spelling of the name of the single currency were to be treated as a language issue and even if it were possible to rely on arguments inspired from the EU's respect for linguistic diversity in order to justify variations in the spelling of the single currency's name, the instrumentality of the single currency's symbolism would in all likelihood weigh more heavily than the 'principle of linguistic equality', given the overriding nature of the public interest at stake and the paramount importance of the immutability of the single currency's name as a prerequisite to the achievement of the objectives underlying its adoption. As we have seen earlier in this paper, the ECJ has ruled that the relevant Treaty and Regulation provisions do not amount to principles of Community law to which no limitation is possible and that there will be circumstances where a Community Institution can legitimately adopt a restrictive language regime, provided that this is based on objective considerations. There is nothing to suggest that the public interest in protection of EMU would not qualify as an objective consideration of the highest order, justifying a limitation to linguistic diversity in the spelling of the name of the single currency.

¹³¹ This is the principle that the identity of a currency's name raises an irrefutable presumption of the identity of its value over time: a monetary debt in euro is to be redeemed by payment of the euro amounts owed, whatever the changes to the currency value in terms of purchase power. The identity of the currency name is the basis for the identity of owed amounts.

¹³² The argument is valid against calls for a differentiation in the spelling of the euro in banknotes and coins where the importance of preserving the highest degree of identity possible between individual examples of the single currency circulating within the territory of the EU (of which the name is a key aspect), would be a requirement to achieve fungibility.

¹³³ Article I-8 of the European Constitution.

Conclusion

The EU's remarkable linguistic pluralism and its respect linguistic diversity are intimately related to its unique nature as a *sui generis*, treaty-based organisation bringing together 25 European countries with distinct yet closely linked cultural and historical traditions. The EU's commitment to multilingualism and the resulting 'principle of linguistic equality' are its answer to the political, legal and historical imperatives that underpin its very existence. Notwithstanding the EU's active promotion of multilingualism, the EU-wide consensus on the cultural and political importance of linguistic diversity and the legal imperative of the equal authenticity of Community legal texts of general application, an examination of the language regime of the different Community Institutions reveals that multilingualism is not an absolute imperative but, rather, a value that may need to be balanced against other, equally important considerations. The official language regime enshrined in the Treaty and in the Regulation is in practice operated with different degrees of rigour by different Community Institutions, agencies and bodies, depending on their objectives and operational needs. The particularities of Member States with more than one official language and certain judicial pronouncements that interpret the language regime of the EU and explore the various limitations to the principle of linguistic diversity represent sources of factual or legal exceptions or restrictions to the application, within the EU, of the principle of linguistic equality. The EMU is an area where the Community's policy of respect for multilingualism, as an aspect of its overall concern with the respect of national culture, diversity and identity, needs to be balanced against the imperatives of EMU, operational efficiency and effectiveness. Last but not least, to treat the spelling of the single currency's name as a linguistic question is, in effect, to lose sight of the fact that, over and above its function as a means of payment, the single currency is an EU symbol whose name must be identical and unchanged across the official languages of the EU, not least where its use in legally binding texts is concerned, if it is to successfully fulfil its unifying role.

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