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Multilingualism as the Constitutional Principle of the Equality of Languages in European Union Law

Introduction

Multilingualism as a constitutional principle of European Union (EU) law is a relatively rare issue, in terms of considering its essence. Multilingualism can be defined as the coexistence of two or more languages reflecting multi-systems within the state or other international law entities. The coexistence of multilingualism and multi-systems can be seen in countries such as Canada, where there are two legal systems: the continental law system and the Anglo-Saxon law system, as well as two languages: French and English.¹ The introduction of such a solution constitutes a recognition of the equality of English-speaking and French-speaking citizens. In Canada the two languages are qualified as the official languages of the country in which the legislation is being made. As a rule, the European Union reproduces the model of a multilingual legal system, which includes harmonized EU legislation created in as many as 24 languages and implemented in 27 legal systems. The European Union holds that each language version is equally authentic and equal, although in practice the working languages are English, French and German.² In the context of multilingualism, the European Union is facing the challenge of high-

1 For the essentials, see <www.canada.ca/en/canadian-heritage/services/official-languages-bilingualism>.

2 S. Lopez, *État et enjeux du multilinguisme dans les institutions européennes*, in: *Langues et construction européenne*, eds D. Hanf, K. Malacek, E. Muir, Cahiers du Collège d'Europe, Bruxelles 2010, p. 12.

quality legislation. The dimension of multilingualism within the European Union and its institutions changes with many conditions. EU publications in this field began to increase with the subsequent accession of new Member States and thus with the increase in the number of official languages of the European Union and translation combinations.³ There are also other reasons for a multilingual European Union. Apart from the objective of the coherence and transparency of legal acts, an important point is the citizens' access to EU legislation, which is connected with the concept of multilingualism used by the institutions, understood as the equality of official languages, i.e. the national languages of the Member States. This concept is based on respect for equality between Member States and citizens. This principle, expressed in Regulation 1/58, is the foundation of the European Union's language regime and the concept of creating legislation in accordance with the principle of multilingualism. The key issue is the balance between creating legislation in 24 languages and introducing a single EU language, which would violate the EU's constitutional principle of the equality of languages. The principle of the recognition of all official languages as equal and authentic is closely linked to the principles of democratic legal order and transparency of legislation.

Multilingualism in European Union Law – General Remarks

The Union stands out among other subjects of international law by recognizing all the national languages of the Member States as official languages.⁴ The introduction of such a solution generates a budget cost and also implies the need to employ specialists – lawyer linguists, translators,

³ As a consequence of enlargement, the Union needs more and more specialists in lawmaking in various socio-economic fields who have high language and translation qualifications. In order to preserve the consistency and transparency of the acts that constitute the objectives of EU legislation, the European Union translation services have set certain editorial and translation standards.

⁴ The fact that several countries have recognized the same language as official, and therefore, although there are currently 27 Member States, there are 24 official languages in the Union.

conference translators and proofreaders, and also requires the technical side of the entire logistics and IT facilities, facilitating the work of specialists, i.e. conference booths or IT systems such as MT @ EC.⁵

Meanwhile, observing the situation in the European Union, especially after the enlargements in 2004, 2009 and 2013, it can be concluded that it has lost its balance in this respect.

The principle of equality of languages is seen more as a formality today because in reality English dominates with accretions typical of European Union legislation. In the literature, there are various terms corresponding to the specificity of this language – bruxellish, globish or frenglish – used to distinguish it from standard English.⁶ The concept of multilingualism adopted by the institutions and bodies of the European Union supports the recognition of the principle of language equality as formal.

The legislative institutions of the European Union have introduced a legislative structure that is based on two stages. The first stage consists of creating a legal act in one or two languages – mainly in English, while the second stage is translating it into other languages, of which all language versions are equally authentic, in accordance with art. 55 par. 1 of the Treaty on European Union (TEU). The specificity of such translation lies in the respect for specific normative style, which does not give the impression of being translated, but rather edited in this language.⁷ This means that people applying or interpreting an act in each of the Member States will perceive it not as a “translation” in a negative sense, but as a text prepared in accordance with the principles for the formulation of legal acts adopted in that state. This concept aimed at improving the quality of legislation is ensured by appropriate institutional

5 M. Buchowska, *Tłumacz w instytucjach Unii Europejskiej – wyzwania współczesnej wieży Babel*, “Rocznik Przekładoznawczy. Studia nad teorią, praktyką i dydaktyką przekładu” 2017, no. 12.

6 S. Lopez, *État et enjeux du multilinguisme...*, p. 12.

7 A. Flückiger, *Le multilinguisme de l’Union Européenne: un défi pour la qualité de la législation*, in: *Jurilinguisme : entre langues et droits*, Bruxelles 2005, p. 11.

mechanisms that guarantee its effectiveness.⁸ There are various methods to ensure the effectiveness of this specificity. First, putting effort into the editorial quality of source texts in English, French or German, before translating. In order to ensure editorial quality, the institution of proofreading and the adaptation of source texts (editing service, under the Directorate-General for Translation) entered into force in 2002.⁹ Secondly, in bilingual and trilingual legal systems, the implementation of techniques of co-editing source texts ensures the editorial quality of various language versions. For example, in Switzerland, texts are first edited in German and French, and then translated into Italian. The benefit of the quality of the two basic source versions suggests that editing of this type in the main working languages of the European Union should not be excluded a priori from the process of drafting legal acts. The issue of co-editing is important from the point of view of multilingualism in the European Union. This method is partially used in the process of drafting legal acts. However, it is a precise and desirable method in the structures of the European Union. It consists in editing an act by editors, each in their own language, after prior discussion as to the outline and form. At the time of its creation, editors compare and review the text.¹⁰ This method is difficult to implement in 24 languages, but reducing it to editing in one or two languages basically causes many problems in the implementation and application of EU legal acts. The Commission itself, in accordance with the principle of economy¹¹, is limited in internal matters to English, French and German.¹² There is a growing tendency to create texts written in English. At the same time, texts in the target of-

8 Ibidem.

9 Ibidem.

10 Ibidem.

11 Translation and multilingualism, Publication Office of the European Union, Luxembourg, 2014, p. 2.

12 Over the past sixty years, the leading role of French has changed completely. In the 1990s, the use of French (40.5% of texts) and English (45% of texts) was similar. According to statistics published by the Commission in 2014 entitled Translation and multilingualism 81% of the documents are in English, 4.5% in French, 2% in German, and 12.5% in other languages.

official languages are created equally in 24 languages. The use of English, French and German is distinguished because it serves the internal needs of the European Commission.

The European Union has one of the largest translation services in the world, one of them is the Directorate-General for Translation, which provides translation services to institutions and promotes multilingualism within the European Union. The role of translation institutions is important in the context of the legislative procedure which is directly applicable in the Member States. As a result, the publication of acts, documents and information in all languages enables both citizens and national institutions to access them. It should be mentioned that the legislative process takes place at different levels – EU, national and local, which also enables citizens to participate in this process, so it is necessary to provide them with a choice of language from among the official ones to ensure compliance with the principles of equality.

The Equality of Official European Union Languages as a Constitutional Principle

Multilingualism in the European Union, as well as the concept of understanding all official languages as equal and equally authentic, are links related to international borders and restrictions subject to control. At the outset, the founders of the European Community had to confront the language contexts that are present in everyday work settings, in relations with state authorities, other authorities, private companies and mainly in communicating with citizens.¹³ It was recognized that the languages of the founding and then Member States would become official languages. World War II, on the one hand, and the combination of economic forces of formerly hostile countries, on the other, meant that it would be impossible for everyone to impose the

¹³ *Histoire de la traduction à la Commission européenne*, Office des publications de l'Union européenne, Luxembourg 2010, p. 9.

language of one of the parties.¹⁴ As a consequence, the language situation of the Communities (first, in 1952, the European Coal and Steel Community, then in 1958 also the European Economic Community and European Atomic Energy Community, hereinafter referred to as Communities) was defined in a special way. In order to ensure the right of every citizen to understand the regulations and solutions adopted by the Community, as well as to respect their linguistic and cultural diversity, a solution was adopted in which French, German, Dutch and Italian became official languages of the Communities. This solution was partly due to the situation in Belgium, where the Dutch-speaking Community proclaimed equal rights with the French-speaking Community, and since Dutch was included in the official languages of the European Coal and Steel Community, Italian also had to be added, given that it accounted for three times more users.¹⁵

The Treaty of Paris establishing the European Coal and Steel Community (ECSC) was signed in 1951 by Germany, Belgium, France, Italy, Luxembourg and the Netherlands. This treaty was drafted in French and the French language version was the only authentic one. It entered into force in 1952 and for a period of 50 years. With the decision of all members of the Community, Luxembourg became the seat of the institution, with the exception of the Assembly, which met once in Luxembourg and once in Strasbourg. The Protocol annexed to the Paris Treaty prompted delegations to study in detail the issue of the headquarters as well as those relating to the Community language regime, and to submit concrete proposals to the governments of the Member States.

14 Ibidem.

15 Ibidem.

**Legal Bases for the Equality
of Official Languages – European Communities
Language Regime Protocol and Regulation 1/58**

The Protocol establishing the European Community of Coal and Steel (hereinafter ECSC) integrated language regime entered into force with the Treaty on July 24, 1952.¹⁶ It was a moment when European history took a supranational direction. In 1951, a commission of lawyers met to analyze the language systems of the various organizations that existed at the time. It was decided that new solutions appropriate to the specificity of the Community should be sought. The element determining the resulting concept was the desire to create a community as a home for their citizens, so that they would feel “at home.” It was therefore necessary to introduce the languages spoken in the Member States as widely as possible. In line with this idea, the protocol states that the official languages and procedural languages are: French, German, Italian and Dutch.¹⁷ At that time, the official and procedural languages were treated identically. It was a real recognition of *de iure* and *de facto* language equality and a manifestation of true linguistic balance. The protocol also laid down detailed rules concerning the Community language regime: decisions, recommendations and individual opinions, as well as correspondence addressed to enterprises were to be written in the language to which they relate. Correspondence addressed to the Community institutions was to be edited, in accordance with the will of the sender, in one of the official languages of the Community, and the response was to be written in the same language. The Assembly regulated practical matters regarding the use of languages, delegates were able to communicate in one of the four official languages, as they chose. Finally, the Official Journal of the Community had four editions, each edited in one of the four official languages.¹⁸ Analyzing the way the

16 The language protocol « protocole sur le régime linguistique de la CECA » from 24.07.1952.

17 *Histoire de la traduction...*

18 *Ibidem.*

Communities functioned in the early 1950s in terms of multilingualism, it can be stated that from the beginning the emphasis was on ensuring the good course and transparency of the institutions' work as well as on European citizens having access to their activities, thanks to which a truly democratic, even constitutional principle of citizens' access to legislation was implemented. Therefore, each Community institution was equipped with translation services in response to translation and interpretation needs. The language services of the High Authority were particularly important from the point of view of editing and translating legislative proposals, which were logically divided into the translation and interpreting departments. Their role was to assist other services in writing or orally while respecting the use of one of the official Community languages.¹⁹ In order to assess changes in the Community's language regime, account must be taken of the fact that the High Authority report of 1955 says that the number of pages translated increased significantly (in 1953 it was 38,855, and in 1955 the number of pages was 61,568).²⁰ The capacity of language services was measured by the number of pages translated per day or per hour. With the increase in documents and after several years of experience with such a language system, it was stated in the report that it was high time to introduce a more rational organization of translators' work.

Until 1957, the ECSC language regime was determined by protocols and reports. At the same time, the Founding States decided to push European integration further. In 1957, the Treaties of Rome, one establishing the European Economic Community and the other establishing the European Atomic Energy Community, were signed by the six founding

19 The division of language services in the 1950s was as follows: All translators, who according to archival documents of the High Authority numbered 35, were divided into language sections. One of the language sections was the English section, although the language was not official, it was the language most commonly used at the international level in the field of heavy industry, science and technology, and above all in the trade of coal and steel. The English section had only 2 people, while the most translators were German 12, French 10, Dutch 6 and Italian. For more detailed information, see *Histoire de la traduction...*

20 Ibidem.

countries of the ECSC. Following the entry into force of the Rome Treaties, the need to regulate the language regime applied by the Communities led to the drafting of a regulation establishing a language regime for the European Economic Community (EEC) and for the European Atomic Energy Community (EAEC), i.e. Regulation 1/58. The numbering itself indicates the priority of the regulation. The provisions contained in the regulation, like the 1952 Protocol, specify that the Council is the institution establishing the language regime of the institution, acting unanimously. On the one hand, political sensitivity, and on the other, the fact that any modification of the current language regime the unanimity of all Council members, and thus all Member States, gave Regulation 1/58 a procedural and constitutional dimension.²¹ The language regime introduced by this Regulation explains in part the particular nature of the European Union, which has certain federation features that affect the political system and the development of the organization. In this approach, recognition of the national languages of the Member States as official languages of the European Union was to some extent a response to political needs.²² Until the regulation was adopted as an act of secondary law, the language regime was determined only by means of reports and reports. This regulation, inspired by the Protocol establishing the ECSC language regime, introduced the same operating rules for the EEC and the EAEC. The first article lists the official languages of the Communities, of which there were four in 1958. It should be noted that this regulation is still in force, and is amended with each subsequent enlargement. Pursuant to the provisions of the regulation, all official languages often have to be used first of all for communication between the institutions of the Union and its citizens, and secondly between the institutions of the Union and its Member States. The originality of the Communities' functioning has made translation necessary

21 D. Hanf, É. Muir, *Droit de l'Union européenne et multilinguisme – Le cas de l'établissement du marché intérieur* in: *Langues et construction européenne*, eds E. Muir, D. Hanf, K. Malacek, Bruxelles 2010, p. 31.

22 *Ibidem*.

to respect the rights of European citizens. With the entry into force of the Treaties in 1958, a new headquarters of the EAEC and EEC committees was established in Brussels. The language services were again divided into four official language sections, each with 12 translators, and an English language section which, similarly to the ECSC, was for communication with the outside world. It should be noted that today the organization of language services, namely the Directorate General for Translation (DGT) is similar to that of the late 1950s. The current language division, in which DGT has its own separate department, remains in the DGT structure. However, the division does not stop there, because language departments are further divided into departments specializing in specific subjects. One department has about 20 translators.²³ This organizational structure perfectly reflects the functioning of the postulate of language equality in practice. Equality of languages is also related to the institutions of the European Union, referred to in art. 6 of the Regulation stipulating that all Institutions have the right to establish their language regime in internal regulations.

The Equality of Official Languages and Language Regimes and the Practice of the European Union Institutions

Each institution and body of the European Union has its own language regime, defined by internal regulations and practice, based on the principle of equality of official languages of the Union, which is based directly on the principle of authenticity. Article 55 of the consolidated version of the Treaty on European Union reads “This Treaty, drawn up in a single original in the Bulgarian, Croatian, Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Irish, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovenian, Spanish and Swedish languages, the texts in each of these languages being

²³ <www.ec.europa.eu/commission>.

equally authentic, shall be deposited in the archives of the Government of the Italian Republic, which will transmit a certified copy to each of the governments of the other signatory States.”²⁴ The principle of treating texts as authentic is contained in the Vienna Convention on the Law of Treaties of 1969, whose Article 33 contains provisions on the interpretation of authentic texts.²⁵ Article 33 paragraph 1 states that “when a treaty has been authenticated in two or more languages, the text is equally authoritative in each language, unless the treaty provides or the parties agree that, in case of divergence, a particular text shall prevail.” Considering the issue of the authenticity of the texts, we should remember to avoid the word “language version”, which suggests the superiority of one text over another, as discussed in art. 33 par. 2 – a version of the treaty in a language other than one in which the text was established as authentic shall be considered authentic only if the treaty so provides or the parties so agree. The Vienna Convention concerns the authenticity of the texts of the Treaties, but it should be noted that art. 55 of TEU makes the Treaties authentic and the texts of secondary law of the European Union. In connection with this perception of the issue of authenticity and art. 342 TFEU “the rules governing the languages of the institutions of the Union shall, without prejudice to the provisions contained in the Statute of the Court of Justice of the European Union, be determined by the Council, acting unanimously by means of regulations”.

The Equality of Official Languages in the Most Important Institutions of the European Union

All European Union institutions are confronted with the problem of multilingualism, but due to their nature they use slightly different solu-

²⁴ Treaty on the European Union (consolidated version) O.J. 326, 26.10.2012.

²⁵ The Vienna Convention on the Law of Treaties (VCLT) was adopted and opened to signature on 23 May 1969, and entered into force on 27 January 1980. It has been ratified by 116 states as of January 2018. See more on official website: www.treaties.un.org.

tions in this respect. The European Parliament is an institution which derives directly from the universal will of citizens. In accordance with the provisions of the Rules of Procedure, Parliament adopted that “all its documents shall be drawn up in the official languages.” It also follows from these Rules that all Members have the right to speak in the chosen official language during its meetings, which is a manifestation of the actual equality of languages in the European Union. Only in exceptional cases may the number of languages be limited. In addition, Parliament, as an institution which derives from the universal will of citizens, differs from other EU institutions in that it is obliged to ensure the highest possible level of multilingualism.²⁶ To this end, the principle of controlled and full multilingualism is applied with the participation of the European Parliament’s Directorate-General (DG) for Logistics and Conference Translation. This directorate has a wide range of translation tasks, because in addition to providing interpretation during the plenary sessions of the European Parliament, it carries out its task in many meetings relevant to citizens.²⁷ The European Commission, as the EU’s executive body, operates on the basis of an internal regulation. It does not provide for the concept of working languages, although, in principle, the Commission uses such working languages in its internal work. This is due to the role of the Commission as the Guardian of the Treaties, in which the formal equality of languages is maintained. In practice, the Commission uses English, French and German as procedural languages, but English is definitely dominant, but it creates and adopts decisions in these three languages and plays a leading role in the legislative pro-

26 <www.europarl.europa.eu/about-parliament/pl/organisation-and-rules/multilingualism>.

27 The Directorate-General for Translation operates at meetings of parliamentary committees, parliamentary delegations, joint parliamentary assemblies around the world, [...] meetings of the Committee of the Regions, meetings of the European Commission in Luxembourg, meetings of the Court of Auditors, meetings of the European Ombudsman Citizens’ Rights, meetings of the European Data Protection Supervisor, meetings of the Translation Center in Luxembourg. See for more on the official DGT website <www.ec.europa.eu/info/departments/translation>.

cedure. At the level of the language services, i.e. the DG's, there is no official instruction imposing the use of a specific language.

It should be emphasized that the superior use of English is the result of more practical solutions.²⁸ Preparation of a legislative draft is preceded by a discussion, therefore, even if the officer responsible for the draft is of a different nationality, e.g. Polish, he or she edits it before the draft in English or French, so that the text prepared in such a way can be the basis for subsequent debate within the Commission. This practice aims to guarantee the knowledge of English or French by European Commission officials. Consequently, there is no need to translate the project into other languages. Every few years, the Commission publishes multilingual brochures in which the growing role of English can be seen.²⁹ The effect of using English is the speed and ease of consultation of the communities concerned and enabling European society to actively participate in the preparation of the draft legislative text.³⁰

Faced with the rules and practices of other institutions, the Court of Justice regime and language practice are characterized by the golden mean between pragmatism and multilingualism. Publication of EU acts in all official languages would make little sense if the citizens of the Member States exercising EU rights could not assert them in the same languages before justice. On the other hand, the diversity of legal systems of the Member States of the European Union and the obligation to settle cases within a reasonable time, which are binding at all levels of legal nature, are factors that are hard to ignore in considering multilingualism and the use of languages in judicial matters. The procedural language of the Court of Justice for historical and organizational reasons is French. The rules of the Court's language system are set out

28 For more on this topic, see L. Krämer, *Le régime linguistique de la Commission européenne*, in: *Langues et construction...*, p. 101.

29 For example, the Commission's Directorate-General for the Environment publishes on the website information on any research, reports in the field of the environment. Of 203 titles, 201 are in English, one in French and one available in 7 languages. *Ibidem*, p. 103.

30 *Ibidem*.

in Chapter 8 of the Rules of Procedure of the Court of Justice of 2012.³¹ The languages of the proceedings before the Court are listed in art. 36 of the Regulations in connection with art. 55 of TFEU. Determining the language of proceedings is based on several principles, which are listed in art. 37 of the Regulations³², which reflects the practical understanding of the principle of the equality of languages and thus of the Member States and even national minorities. The Court of Justice rules on cases brought before it, which can be typologically divided: 1) infringement proceedings, which are cases brought against EU governments for non-compliance with EU law, brought by the Commission or another Member State, 2) actions for annulment in the event of an EU legal act being found incompatible with EU treaties or fundamental rights, brought by EU governments, the EU Council, the European Commission or the European Parliament, 3) complaints about inaction brought against Parliament, the Council and the Commission, forming a legislative triangle, and finally 4) preliminary rulings, which are a manifestation of the application of the principle of uniform interpretation of law, which may cause problems in the conditions of multilingualism and multi-systems, this is a procedure in which a national court, having doubts as to the interpretation or validity of a given EU legal act, may ask for a preliminary ruling to the Court of Justice. This is a type of mechanism that is important when considering multilingualism because it can be used to determine whether national rules are compatible with

31 Rules of Procedure of the Court of Justice of 2012 <www.eur-lex.europa.eu>.

32 Article 37 of the Rules of Procedure of the Court of Justice of 2012 reads: “1. In direct actions, the language of a case shall be chosen by the applicant, except that: (a) where the defendant is a Member State, the language of the case shall be the official language of that State; where that State has more than one official language, the applicant may choose between them; (b) at the joint request of the parties, the use of another of the languages mentioned in Article 36 for all or part of the proceedings may be authorised; (c) at the request of one of the parties, and after the opposite party and the Advocate General have been heard, the use of another of the languages mentioned in Article 36 may be authorised as the language of the case for all or part of the proceedings by way of derogation from subparagraphs (a) and (b); such a request may not be submitted by one of the institutions of the European Union.”

EU law.³³ In accordance with paragraph 3 of art. 37, “In preliminary ruling proceedings, the language of the case shall be the language of the referring court or tribunal” by way of exception, another language may be used. The translation service, which consists of experts with relevant legal education and a thorough knowledge of several official languages of the European Union, is essential for the functioning of the Court. As in the case of the Commission, the Court uses the working language, which in its case is French. There are many factors behind this choice. The first is historic, because in 1952, when there were six Member States and 4 official languages and such a system also concerned inter-judicial communication, concepts specific to a given language or legal system could be difficult for another judge.³⁴

For these reasons, the first members of the Court were more likely to say in one language, French, was chosen for historical reasons. Another factor explaining the dominant use of French as a court language is the nature of the proceedings, which must be translated not only into the language of the proceedings, but also into the working language, which allows judges and advocates-general to deliberate at an earlier stage in the light of the edited or translated applications. In addition, competence with the French language is required from most of the institution’s staff, starting with the judges and their associates, because it is in French that meeting reports are written, as well as draft judgments – motive designs that serve as a basis for discussing the structure of the judgment. The judges are supported in this matter by French-speaking lawyers, whose role is to read all draft rulings and make suggestions as to the editorial order. The Court of Justice faces many problems, and multilingualism lies at their heart. Case law is published selectively, disregarding those judgments that constitute a specific source of law for the European Union. The proceedings are lengthy, which in the case of questions referred for a preliminary ruling significantly delays the judgment of the

33 <www.europa.eu/european-union/about-eu/institutions-bodies/court-justice_pl>.

34 Ibidem.

national courts. The model of the language regime used by the Court, although it may not be perfect, tries to reconcile the requirements of good administration of justice and the principle of the equality of languages.³⁵

Multilingualism in the EU and Citizens

Ensuring access for European citizens to EU legislation is justified by art. 42 of the Charter of Fundamental Rights, which indicates that the right of every citizen of the European Union, but also of every natural or legal person residing or having its registered office in a Member State is access to European Parliament, Council and Commission documents. In 2005, together with the New Framework Strategy on Multilingualism, the Commission defined the main objectives of a multilingualism policy, one of which is to ensure citizens' access to legislation, procedures and information on the European Union in their native language.³⁶ European Union citizens have the right to address the institutions and receive a reply in each of these languages in accordance with Article 24 of TFEU. To give citizens access to information, all EU legislation is published in all 24 languages except Irish (only regulations that are issued jointly by the Council of the EU and the European Parliament are translated into Irish), while more detailed documents or information are published in the more common EU languages such as English, French, German and Spanish.³⁷ In accordance with art. 297 TFEU 'legislative acts are published in the Official Journal of the European Union', which is currently available electronically.

In addition to the official languages, around 40 million people in the European Union use over 60 regional and local languages, in-

35 M.A. Gaudissart, *Le régime et la pratique linguistiques de la Cour de justice des Communautés européennes* in: *Langues et construction...*, p. 157.

36 A New Framework Strategy for Multilingualism, Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions, Brussels, 22.11.2005 COM(2005) 596 final.

37 <www.europa.eu/european-union/about-eu/eu-languages_en>.

cluding Basque, Catalan, Frisian, Lapland, Welsh and Yiddish.³⁸ Only a language that is recognized in a given country by national legislation as the official language can become an official EU language. On the other hand, the official language in a given candidate country to the European Union does not become an official language of the European Union automatically, because the condition during accession negotiations is that the candidate country declares its willingness to grant such status and translates the *acquis communautaire* into its official language.

As a rule, if a candidate country to the European Union has one official language, granting the status of an official EU language should not be controversial, while the example of consideration in this topic was the adoption of the Croatian language as an EU language during the accession of Croatia in 2013. It was considered to define the language of the new Member State as Serbo-Croatian, because in the event of Serbia's accession to the European Union, it would not be necessary to translate the *acquis communautaire* because of the similarity of these two languages. However, the Croatian language is the official language and the same language was used by the Croatian side in the accession negotiations, which is why it was decided to adopt the Croatian language as an official language of the European Union.³⁹

Another case is when there is more than one official language in the candidate country, it is necessary to decide which languages, or all or some, will be given the status of the official language. Until the enlargement in 2004, it was generally recognized that if one of the languages of the candidate country was already an official language of the European Union, or if it received such status, then other languages of that country would not obtain such status. In 2004, when Malta joined the European Union, it submitted an application for the recognition of the Maltese

38 Ibidem.

39 A. Doczekalska, *Zjednoczona w różnorodności – wyzwanie dla europejskiej tożsamości prawnej na przykładzie różnorodności językowej*, "Filozofia Publiczna i Edukacja Demokratyczna" 2013, vol. II, no. 2.

language as an official language of the European Union, since Malta has two official languages, English and Maltese, with English already being the EU language. The example of Malta was followed by Ireland, which applied for recognition of the Irish language as an official EU language, since upon accession in 1973 with Great Britain, the status of the official language was granted to English, which according to art. 8 clause 1 of the Irish Constitution is the second language in Ireland. In connection with Ireland's application, together with Council Regulation No. 920/2005 of 13 June 2005, Irish became an official language of the European Union. A more historical example is Luxembourg, in which three official languages are in force: French, German and, since 1984, also the Luxembourgish language, but the country has not applied for recognition of the Luxembourgish language as an EU language. It is necessary to ask what the Member States are guided by when choosing the official language in the European Union. The factors are probably most often political, but it is the European Council that determines the language system of the institutions of the European Union and decides unanimously, by means of regulations, whether to grant such status, in accordance with art. 342 TFEU and art. 190 of the Treaty establishing the European Atomic Energy Community.

It is important to be aware that in a democratic legal order such as the European Union, it is unimaginable to create norms whose citizens are destinations and users in a language other than their own. It is not a matter of political emphasis on the sovereignty of nation states, but rather the links between citizens and the European Union and the ability of this organization to communicate in the language of each of them.

Conclusion

Multilingualism in the European Union is a constitutional principle of the European democratic legal order. The introduction of the national languages of the Member States as official organizations is unprece-

dented and extremely important for the citizens of this quasi-federation. The European Union, or more precisely the European Communities, introduced the legal basis for multilingualism by creating models of language regimes for each institution. These models from the 1950s have survived in some institutions, for example at the Court of Justice, but in the European Commission a balanced language regime has been completely changed over the past few decades by the dominance of one language not adapted to the continental law system. In terms of citizens' rights, the European Union can boast of a real equality of the languages of its countries in the European Parliament, the institution closest to Europeans. The introduction of a solution that allows institutions to define their language regime in internal regulations gives the opportunity to adapt this regime to the functions they perform. The European Union promotes linguistic diversity and this policy direction facilitates communication between its institutions and citizens. One of the objectives of language policy is citizens' access to EU legislation, which is closely linked to the possibility of exercising their rights before the Court of Justice. The European Communities addresses the issue of multilingualism at the very beginning of its creation. They adopted an optimistic vision of Europe in which every Member State and language is equal. With subsequent accession, it has become more and more difficult to ensure the real equality of languages, but is it a good way to move towards a uniform Brussels language?

References

- Buchowska M., *Tłumacz w instytucjach Unii Europejskiej – wyzwania współczesnej wieży Babel*, "Rocznik Przekładoznawczy, Studia nad teorią, praktyką i dydaktyką przekładu" 2017, no. 12.
- Doczekalska A., *Zjednoczona w różnorodności – wyzwanie dla europejskiej tożsamości prawnej na przykładzie różnorodności językowej*, „Filozofia Publiczna i Edukacja Demokratyczna” 2013, vol. II, no. 2.

Flückiger A., *Le multilinguisme de l'Union Européenne: un défi pour la qualité de la législation*, in: *Jurilinguisme : entre langues et droits*, Montreal – Bruxelles 2005.

Langues et construction européenne, eds D. Hanf, K. Malacek, E. Muir, Bruxelles 2010.

A New Framework Strategy for Multilingualism, Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions, Brussels, 22.11.2005 COM(2005) 596 final.

Consolidated versions of the Treaty on European Union and the Treaty on the Functioning of the European Union O.J. C 326, 26.10.2012.

Protocole sur le régime linguistique de la CECA from 24.07.1952.

Rules of Procedure of the Court of Justice of 2012.

Rules of Procedure of the European Parliament of 9 th parliamentary term from 2020.

The Vienna Convention on the Law of Treaties (VCLT) signed and adopted on 23 May 1969.

Histoire de la traduction à la Commission européenne, Office des publications de l'Union européenne, Luxembourg 2010, <op.europa.eu>.

Translation and multilingualism, Publication Office of the European Union, Luxembourg, 2014, <op.europa.eu>.

SUMMARY

Multilingualism as the Constitutional Principle Of The Equality Of Languages In European Union Law

Multilingualism is a constitutional principle of European Union law. This principle is manifested in the recognition of the equality of all the official languages and Member States. At the beginning of the 1950s, the European Community addressed linguistic equality issues by providing multilingualism protocols and Regulation 1/58. Access for citi-

zens to legislation in every official language of the European Union is a phenomenon on an international scale. The institutions of the European Union establish their own language regimes and apply various practices adapted to the specifics of the functions they perform. The purpose of this article is to analyze and assess the impact of multilingualism as a constitutional principle of European Law.

Keywords: multilingualism, European Union, equality of languages, EU citizens, constitutional principle, language regime of EU institutions, language practice of EU institutions.

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