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Multilingualism in EU Private International Law Regulations: the Chimera of Vertical and Horizontal Coherence?

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1. Introduction: Drafting 24 Language Versions of EU Regulations on Private International Law

This study shall focus primarily on the 24 language versions of the European Union (EU) Regulations on Private International Law (PIL). These Regulations are generally directly applied in all Member States. This means that national legal practitioners (judges, lawyers, notaries, registrars, judicial systems) use their language version directly when applying these Regulations and thus when applying it to private relations between citizens and companies. There are specific exceptions to direct application of these Regulations in the UK, Ireland and Denmark.[1] Furthermore, there are Regulations approved for enhanced cooperation that only apply to the participating Member States.[2] The legal basis of these Regulations are art. 3.2 TEU and art. 81 TFEU,[3] which seek to guarantee free movement of EU citizens and companies in the EU Legal Area. Namely, the EU's goal is to develop civil legal cooperation so as to allow people and businesses to access the courts and authorities of any Member State under the same conditions as in their Member State of origin in civil matters with cross-border implications.

In order to achieve a uniform application and interpretation of EU PIL Regulations, different language versions must communicate an identical message without any semantic, cultural or historical connotations that might interfere with the text to be applied. It is vital that they are written in an understandable and accurate manner, devoid of ambiguity, in other words, *"that different language versions of the same legal text be consistent with and equivalent to each other".*[4]

1 There are exceptions to direct applicability of European Regulations on "Area of freedom, security and justice" (Title V of the TFEU). On one hand, Denmark does not take part in Title V, chapter 3 of the TFEU (Judicial cooperation in civil matters), and as a result the laws deriving from this chapter are not applicable there (protocol 22 TFEU). On the other hand, the UK and Ireland, who initially were not subject to applying legislation derived from Title V, Chapter 3 of the TFEU, reserved the right to opt in to any law deriving therein (Protocol 21 TFEU).

2 The last EU Regulations drafted addressing Private International Law (Title V, chapter 3) were approved through enhanced cooperation (arts. 326-334 of the TFEUs); they only apply to the States that have expressly participated in this enhanced cooperation, or who later decide to join in. For example, Regulation 650/2012 on the matter of successions.

3 Competence to act legislation that is directly applicable in PIL was introduced through the Amsterdam Treaty (1997); previously, existing legislation was developed through international Conventions between Member States (e.g. 1968 Brussels Convention which preceded the Brussels I and I recast Regulatons). The new situation is now known and implied the Europeanisation of Private International Law. BORRÁS, 30 años de España en la UE, p.3; ÁLVAREZ RUBIO, El tratado de Lisboa, p.1.

4 (Own translation) PERALDI, Traduire le droit, p. 124.

1.1. Multilingualism: the EU Language Regime

One of the characteristics of the EU is that it is multilingualism.[5] Multilingualism is the fundamental principle of the language regime chosen by the European Union as set out in *Regulation 1/1958* determining the languages to be used by the European Economic Community which lays out the official and working languages of European Union Institutions.[6] Multilingualism guarantees the equality of every language and respect for linguistic and cultural diversity.[7] The number of official languages has increased steadily along with the number of Member States and, the number of alphabets have increased from one to three.[8] The original 4 official languages (1957) now stand at 24,[9] until Brexit comes into force (31/12/2020), after which English language will lose its official status, theoretically (*see section 5*).[10]

Multilingual legal regim implies that documents produced by the EU Institutions must have a version for each official language (equally authentic), each of which would also be considered working languages. This regime is based on the principle of respecting the official languages of all Member States (art. 3 TEU, art. 342 TFEU).[11] Furthermore, every citizen has the right to be able to read the documentation and legislation emanating from the EU Institutions that affects them, and Members of the European Parliament have the right to express themselves in whatever official language they chose within the European Parliament (art. 55 TEU, arts. 20.2 d) 24 TFEU, 41.4 EU Charter of Fundamental Rights and 158 Rules of Procedure of the European Parliament). This regime is not applicable to some EU bodies since they are not considered institutions, such as: the advisory bodies (*Economic and Social Committee*, *Committee of the Regions*), the *European Ombudsman* and the *European Central Bank*. It should also be

5 ATHANASSIOU, The appliacation of multilingualism, p. 5 *et seq*.

6 OJ 017, 06.10.1958, amended following successive enlargements of the number of Member States.

7 The *Civil Society Platform on Multiningualism* was launched by the European Comission on October 2009: www.ecspm.org, GEORGIEVA, Multilingualism as a significant, p. 203 *et seq*.

8 FERNÁNDEZ VÍTORES, El régimen lingüístico de la Unión Europea, p. 67 *et seq*.

9 Art. 1 Regulation 1/1958: "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".

10 Remember that Malta chose Maltese and Ireland chose Irish as their official EU languages.

11 Art. 3.3 *in fine* TEU, states that the Union shall respect its rich cultural and linguistic diversity and shall ensure that Europe's cultural heritage is safeguarded and enhanced. The Charter of Fundamental Rights of the European Union mentions the EU's linguistic diversity (art. 22) and prohibits discrimination on the basis of language (art. 21).

pointed out that even though it is an institution, the *European Court of Justice* (ECJ) has its own specific language regime.[12]

1.2. The Translation Process: Ensuring Respect for the Principle of Multilingualism and the Quality of Drafting

Before dealing with the goal of horizontal and vertical coherence across EU PIL Regulations language versions, we would be neglected if we did not recount, at least as observers, how different versions of those Regulations are drafted in the first place. Otherwise, it would be impossible to explain the difficult task facing EU translators.[13] As we previously mentioned, Regulations and other documents of general application shall be drafted in official languages according to art. 4 of *Regulation 1/1958*. In other words, all official languages are working languages. Despite this mandate, it is clear that only one language (English) is basically used as a working one both for drafting and communication between EU institutions, officials and bodies (*see section 5*). Let us recall that at the beginning of the European Communities, French and German were the dominant working languages. Although they continue to be used more than other languages in certain EU institutions (e.g. the case of French in the ECJ), they have been displaced by English.[14] The EU Commission working groups use this language for draft legislation despite it not being their native language. A 2009 report showed that 95% of drafters wrote in English despite only 13% being native speakers.[15] The results of this, as DG Translation admits, are linguistically-deficient drafts, hence their emphasis on their work as an advisory service. Legislative proposals, and all preparatory documents, are translated to each of the official languages before being sent on to the European Parliament. In other words, the English

[12] Art. 7 Regulation 1/1958. Language arrangements for proceedings before the Court of Justice of the European Union (art. 36 to 42 of the Rules of Procedure): https://curia.europa.eu/jcms/jcms/Jo2_10739/en/.

[13] See for instance, GUGGEIS, How and when lawyer-linguists of the EU, p. 215 *et seq.*; HERVÁS DEMPSTER, La traducción y la revisión jurídicas en la Unión, p. 197 *et seq.*

[14] In 1997, the volume of text written in French and English was still comparable. Today, most texts are drafted in English. In 1997, of the 1.1 million pages: 45% were in English, 40.5% in French, 5.5% in German, and 9% in other languages. In a breakdown by source language, we see a balance throughout since they must all be translated to every official language. That being said there is an especially noteworthy presence of English, French, and German because many texts are only translated to one (English) or two of these three languages for internal use in the Commission. DIRECTORATE-GENERAL FOR TRANSLATION (European Commission), *Translation and multilingualism,* Luxemburg 2014, p. 7 *et seq.*

[15] See http://ec.europa.eu/dsg/translation/publications/magazines/languagestranslation/documents/issue_01_en.pdf., p. 4.

version is the source text for translating into the rest of the versions.[16] The European Commission, in its *Communication on Translation as Part of the Commission's Decision Making Project* (2016)[17] highlights the importance of a high-quality translation service: "for the legal certainty of the Commission's regulatory activity, for its multilingual written communication and therefore for the legitimacy of its work". In this same Communication, eight measures are set out to increase and improve legislation which includes language quality and legal precision. The measures are centered around planning and reserving time for the translation process, and for the process to start at the initial decision-making texts but only once they have undergone the inter-service consultation or a legal review. In reality, among the biggest challenges faced by translators working for European Institutions during the legislative process are the tight deadlines for delivery; this lack of time hinders in-depth proofreading of the translated texts. The latter means that, in some cases, translators are unable to make enquiries or conduct research on terminology, which would be more appropriately carried out by lawyer-linguists or lawyer-proofreaders.[18]

While these general guidelines aim to improve the use of translation resources and thus ultimately legislation, there is also a need for strict translation criteria. Hence a number of existing resources (*see section 5*), including a major one, the *Joint practical guide of the European Parliament, the Council and the Commission for persons involved in the drafting of European Union legislation* (2015) (*Guide*). We highlight some guidelines that a person drafting an act must always be aware and that affects the work of the european translator:

> *"5.2. First, the original text must be particularly simple, clear and direct, since any over-complexity or ambiguity, however slight, could result in inaccuracies, approximations or complete mistranslations in one or more of the other Union languages."; "5.3. In addition, the use of expressions and phrases — in particular legal terms — that are too specific to a particular language or national legal system will increase the risk of translation problems"; "5.3.2. As regards legal terminology, terms which are too closely linked to a particular*

[16] Regarding Irish, official language under primary law since 1971, was not an official language to full effect in the EU. Despite this, translation of all documents to Irish will not be mandatory until December 2021. *Regulation 2015/2264 of the Council*, OJ L 332, 8.12.2015.

[17] European Commission Communication: *Translation as part of the commission's decision-making-process*, C (2016) 2000 final (22.4.2016).

[18] Another challenge posed by the legislative process is that many of the legislative texts which need to be translated are decontextualized fragments (isolated parts of amendments or modifications). Furthermore, the EU legislates on a vast array of matters. Another difficulty worth highlighting is the amount of metaphorical expressions introduced by the English language (e.g. *forum shopping*) which forces translators to carry out intense searches and research on terminology. HERVÁS DEMPSTER, La traducción y la revisión jurídicas en la Unión, p. 205 *et seq.*

national legal system should be avoided", and, "5.4. The aim is that, as far as possible, and taking account of the specific nature of Union law and of its terminology, acts should be perceived by those called on to apply or interpret them in each Member State (officials, judges, lawyers, etc.) not as translations in a negative sense but as texts which conform to a certain legislative style. Texts peppered with borrowed words, literal translations or jargon which is hard to understand are the source of much of the criticism of Union law, and result in it being regarded as alien."

This *Guide* states that Union Law and its terminology are specific and have their own style, and thus form a stand-alone corpus distinct from the national systems which must adapt it to their particularities. This is a fundamental insight, which confirms the errors in implementation that are sometimes detected in national courts and at the same time justifies an autonomous interpretation of concepts included in PIL Regulations as well as the ECJ's hermeneutics.[19]

1.3. The Chimera of Vertical and Horizontal Coherence of Different Language Versions of EU PIL Regulations

From a purely linguistic standpoint, for this supranational law applicable on the State level, legal practitioners must be able to understand and interpret it.[20] Therefore, they cannot read it like a translation. If the legal practitioners make their own, it is not enough for it to be in their language, but rather it must also read like the language they use (in the use of verbal tenses, for example).[21] Furthermore, it should not appear to be a foreign corpus only distantly-related to their national law. In other words, the European texts should not simply be "copied and pasted" into the national legal corpus, but rather streamlined with preexisting legislative texts. This should happen not just on a substantive level, but also on a terminological one. This does not necessarily mean modifying the national legal language, although at times this terminological adjustment has taken place.[22]

[19] The role of the ECJ is to interpret European Union Law and guarantee that it is upheld. The Luxembourg Court departs from the literal argumentation approach traditional in national courts whose legal terms have a history and connotations that cannot be extrapolated to EU Law. The ECJ uses a mixed systematic and teleological approach. REQUEJO ISIDRO, El DIPr y el Derecho procesal civil europeo, p. 55 *et seq.*

[20] About the difficulties that legal officers and practitioners have when use legal texts in other languages: PRETELLI, Language as a Bridge Between Legal Cultures, p. 607 *et seq.*

[21] The *Guide* specifies that verb tense and choice varies by language and type of act also vary depending on whether they are recitals or rather acting terms (Guideline 2.3.1 of the *Guide*).

[22] See for this question my study, awaiting publication: Font-Mas, Els conceptes jurídics de Dret internacional privat europeu.

These general prerogatives, among many specific ones, are meant to make texts easier to understand for the legal practitioner belonging to a legal system with its own style, who then has to apply European Law as part of that legal system as it was meant under Union Law. Our question is as follows: Whose job is it to ensure that a language version of an EU Regulation is not simply a translation from the English and is streamlined with the preexisting language in the target legal system while at the same time maintaining the autonomy of a supranational European Law whose language can be interpreted in a stand-alone fashion?

It seems that this trying task falls upon the EU translator. The translator is required not only to translate the text from the English to the target language and ensure coherence within the text, preamble and annexes, but also other related legal instruments (vertical coherence) and streamline it with the target country's national law (so that it will not read like a translation). Furthermore, it must be horizontally coherence with the other 23 language versions;[23] and even more difficultly in my view, both adapted to the target language of the Member State while also maintaining its EU singularity. And not just linguistically and in terms of drafting, but also substantially. The translators working for EU institutions, professional as they are, are not always legal experts and in any case translate legislative texts stretching across multiple legal areas. Furthermore, they rarely have the occasion to ask the original drafters about the meaning of the text they are translating.[24] Obviously, they are not specialists in the substantive target law, nor have they taken part in the negotiations of a EU Law. Therefore, they are unaware of the "genuine" aspects which make it an EU Law and how to adapt it linguistically while translating it for the target legal system. In my view, it is not appropriate to expect either one of these skills from the translator, who applies

[23] The legal-linguistic verification (condenses into a shorter period of time) is done jointly by de European Parliament and the Council. Each lawyer-linguist has to compare their own language version with the base text. All language versions are then sent to the experts of the working party and the team of lawyer-linguists of the other institution who carry out the same checks. The verification culminates in an expert meeting at the Council where the final base text is agreed. GUGGEIS, How and when lawyer-linguists of the EU, p. 222.

[24] "They have only limited access to the authors of the text, who in any case may no longer be altogether sure of the precise meaning of the text as a result of the input of others during the internal procedures. When translating a complex and lengthy legislative proposal the translators cannot always know when one of the choices made by them will alter some nuance in the text or undo a carefully crafted. (...) In a very few cases each year the Legal Revisers in the Legal Service will revise a legislative proposal just before its adoption by the Commission. At that late stage the proposal will have been translated into all the official languages and the revisers will be primarily concerned with checking that the various language versions all have the same legal meaning ("linguistic concordance") and that the legal terminology is correct in all the languages. There will be little scope for major improvement of the quality of drafting". ROBINSON, *Drafting European Union Legislation*, p. 9 *et seq*.

translation techniques and the EU translation tools at their disposal to achieve horizontal and vertical coherence. As such, we would say that when language versions are being developed, or in a post-editing, pre-publication stage, legal experts specialized in the specific area of each legal system who are aware of the EU Law to be approved should be involved.[25] At this juncture, we would also highlight the crucial importance of comparative law, especially within the EU. As B. Pasa states, "European Union Law is the culmination of an intense comparison process carried out with varying levels of accuracy and awareness. It has become a legal model in its own right grounded in general principles, standards and solutions emanating from case-law that are sometimes original, most often emerging from a compromise between multiple legal systems".[26]

2. Translation and Legislative Drafting Errors in EU PIL Regulations

As the ECJ has reiterated, all language versions of multilingual EU Law [Regulations] have equal value, and should not be interpreted in a stand-alone fashion but rather in light of other EU language versions in a combined manner,[27] so as to reach a uniform interpretation and application of the law while bearing in mind the goal of the legislator.[28] Other examples of translation errors, lack of

[25] Would this increase translation costs? I am not sure how viable it would be for Member State representatives who participated in the negotiations to draft a particular EU legislative texts, and thus are knowledgeable about EU Law and specialized in the target law (hence their belonging to the committees), along with their many other obligations to be tasked with reviewing the language version to be implemented in their State. This would certainly lengthen the legislative process, but we believe it would lead to higher legal-linguistic quality in legal texts.

[26] (Own translation) PASA, Diritto contrattuale europeo ed inconsistenza terminologica, p. 30; PERALDI, Traduire le droit, p. 126.

[27] "When a single decision is addressed to all the Member States the necessity for uniform application and accordingly for uniform interpretation makes impossible to consider one version of the text in isolation but requires that it be interpreted on the basis of both the real intention of its author and the aim he seeks to achieve, in the light in particular of the versions in all four languages": Judgement of 12 November 1969, *Stauder*, C-29/69, ECLI:EU:C:1969:57, paragraph 3. See also, Judgement of 17 July, *P. Ferriere Nord v Commission*, C-219/95, ECLI:EU:C:1997:375, paragraph 15.

[28] "According to settled case-law, one language version of a multilingual text of Community law cannot alone take precedence over all other versions, since the uniform application of Community rules requires that they be interpreted in accordance with the actual intention of the person who drafted them and the objective pursued by that person, in particular in the light of the versions drawn up in all languages": Judgement of 20 November 2001, *Jany & others*, C-268/99, ECLI:EU:C:2001:616, paragraph 47.

concordance or other ambiguities in other areas of EU Law could be consulted in case-law recollected in different European studies.[29]

2.1. Example of a Calquing Error: "to decline"

Let us compare wordings in English (the "original"),[30] French, Italian, and Spanish used in art. 31.1 of *Regulation 1215/2012* (Brussels Ibis)[31] on *lis pendens*:

(EN): "Where actions come within the exclusive jurisdiction of several courts, any court other than the court first seised shall *decline* jurisdiction in favour of that court".

(FR): "Lorsque les demandes relèvent de la compétence exclusive de plusieurs juridictions, le *dessaisissement* a lieu en faveur de la juridiction première saisie".

(IT): "Qualora la competenza esclusiva a conoscere delle domande spetti a più autorità giurisdizionali, quella successivamente adita *rimette* la causa all'autorità giurisdizionale adita in precedenza".

(ES): "Cuando en demandas sobre un mismo asunto los órganos jurisdiccionales de varios Estados miembros se declaren exclusivamente competentes, la *declinación* de competencia será en favor del órgano jurisdiccional ante el que se presentó la primera demanda".

In the Spanish version, we find the term "declinación", a calque which has no legal meaning. We can rule out the hypothesis that it meant "declinatoria" (declinatory plea), which would also be incorrect since there is no obligation on the party to enter a declinatory plea. The article orders the Court to refuse to hear a case and to recuse itself, even though it has exclusive jurisdiction. This is because the case is already being heard in courts of another Member State that also have exclusive jurisdiction and is where the lawsuit was first filed. The term could have been translated as "desistimiento" (abandonment/withdrawal) as foreseen in art. 29 Brussels I[32] and as the French and Italian versions maintain,[33] or perhaps "abstención" if we wanted to take from Spanish procedural law.[34]

[29] DG FOR TRANSLATION (European Commission), *Studies on translation and mulitlingualism*, Luxembourg 1/2012, p. 40; and, 1/2010, p. 88 *et seq.*

[30] Regarding this specific Regulation 1215/2012, we should bare in mind that it originated in the Brussels Convention of 1968, drafted in French.

[31] Regulation (EU) No 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters. OJ L 351, 20.12.2012.

[32] CALVO-CARAVACA & CARRASCOSA GONZÁLEZ, *Derecho internacional privado*, p. 750-751.

[33] In IATE, among the many areas where we see "decline", we used the legal meaning (Commission) which translates "decline jurisdiction" as: *inhibirse, declinar su competencia* (ES); *se dessaisir, décliner sa compétence* (FR); *dichiarare la propria*

2.2. Example of a Word Choice Error: "enforceable" Versus "impugnata/recours/recurrible"

A translation mistake that altered the legal effect, and has since been corrected after ten years in application can be found in Annex III and IV of *Regulation 2201/2003* (Brussels IIbis),[35] on the certificate referred to in art. 41 (1) concerning judgments on rights of access, and on the certificate referred to in art. 42 (2) concerning the return of the child. In both forms we find the following question:

(EN): "Is the judgment *enforceable* in the Member State of origin?"

(IT): "La decisione è *esecutiva* nello Stato membro di origine?"

(FR): "La décision est-elle susceptible de *recours* selon la loi de l'État membre d'origine?"

(ES): "¿Es *recurrible* la resolución conforme al Derecho del Estado miembro de origen?"

Clearly, it is not the same to say a legal judgment is enforceable (*ejecutivo, exécutoire, esecutiva*) and that it can be appealed (*recurrible, recours, impugnata*).[36]

incompetenza, declinazione della propria competenza (IT). And, under Law (Council): *inhibirse, acordar su inhibición, declararse incompetente* (ES); *se dessaisir* (FR); *declinare la propia competenza* (IT). In the French version we once again see "se dessaisir", in Italian a different term is used "rimettere", and in the Spanish explanations, reference is made to "inhibición" and "declinatoria"; and also "declinar su competencia" which is considered a calque from French. It is not easy for a translator with the multiple language versions and the IATE Dictionary in hand, since they must understand how attribution of exclusive jurisdiction to courts works and the *prior tempore, potior iure* rule.

34 Art. 38 LEC (Spanish Procedural Civil Code) says "Civil Courts will recuse themselves from hearing a case as soon as they are informed of a lack of jurisdiction or lack of international jurisdiction" (Own translation). Although this would imply in-depth knowledge of Spanish domestic law on the part of the translator, it would be proposed for them to either carry out their work alone, or with the assistance of a legal practitioner who is an expert in the target legal system and the relevant area of European law.

35 Council Regulation (EC) No 2201/2003 of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility, repealing Regulation (EC) No 1347/2000, OJ L 338, 23.12.2003.

36 In IATE we can see the proposed translation of "enforceable" is "ejecutiva", "exécutoire" and "esecutiva", so there is no question about which term should be used.

This wording stood for ten years until the Spanish, Danish, Greek, French, Maltese, Romanian and Finnish versions were amended in 2013.[37]

It should be pointed out that the Italian version of Annex III was correct in using "esecutiva". However, inexplicably in Annex IV on the certificate referred to in art. 47.1 on the return of the child, the question was: "La decisione può essere *impugnata* secondo la legislazione dello Stato membro di origine?", whereas it should have read "esecutiva". This mistake was corrected in 2006.[38] Until then, there was vertical incoherence throughout the Italian language version despite the fact it was meant to be internally consistent throughout the entire text, including the preamble, articles, and annexes in addition to being consistent across language versions.

2.3. Drafting Error: "after/dopo/après/después – from/a decorrere dal/a compter/a partir de"

The following example was not a translation mistake, but rather a drafting error that was detected after the law entered into force but before it became applicable. It was *Regulation 593/2008* (Rome I)[39] on the law applicable to contractual obligations. Art. 28 determines the time frame for the law's applicability:

(EN): "This Regulation shall apply to contracts concluded *after* 17 December 2009."

(IT): "Il presente regolamento si applica ai contratti conclusi *dopo* il 17 dicembre 2009."

(FR): "Le présent règlement s'applique aux contrats conclus *après* le 17 décembre 2009."

(ES): "El presente Reglamento se aplicará a los contratos celebrados *después* del 17 de diciembre de 2009."

This article was amended in all of the language versions, as we said, before it became applicable. "After/dopo/après/después" were changed to "as from/a decorrere dal/a compter/ a partir de".[40]

The meaning and applicability of the law can change depending on the drafting or word choice. The use of adverbs (*después, dopo, après, after*) or prepositional phrases (*a partir de, a decorrere dal, a compter, as from*) becomes relevant when

[37] OJ L 82, 22.3.2013.
[38] OJ L 174, 28.6.2006.
[39] Regulation (EC) No 593/2008 of the European Parliament and of the Council of 17 June 2008 on the law applicable to contractual obligations (Rome I), OJ L 177, 4.7.2008.
[40] OJ L 309, 24.11.2009.

determining the applicability of the Regulation. Despite the amendment which was aimed at determining which contracts were subject to the Regulation from a time standpoint, the issue was not without controversy. Proof of this is that the ECJ had to make a finding on that issue in the *Nikiforidis* case.[41] A more detailed analysis of the ruling was undertaken in a previous publication,[42] but in summary, we can say that (*después, dopo, après, after*) implied that the Regulation would be applied to all contracts concluded before the relevant date and it would take effect after the date. On the other hand, the new drafting (*a partir de, decorrere dal, a compter, as from*) shows that it applies exclusively to contracts concluded starting from the date the Regulation became applicable.[43]

2.4. Errors of Omission

In Art. 22 of the Regulation 650/2012 on succession,[44] the Spanish version omits a fragment corresponding to the circumstantial complement, which conveys the purpose of the sentence (and also of the Regulation).

(ES): "Cualquier persona podrá designar la ley *[…]* del Estado cuya nacionalidad posea en el momento de realizar la elección o en el momento del fallecimiento."

(EN): "A person may choose *as the law to govern his succession as a whole* the law of the State whose nationality he possesses at the time of making the choice or at the time of death."

(FR): "Une personne peut choisir *comme loi régissant l'ensemble de sa succession* la loi de l'État dont elle possède la nationalité au moment où elle fait ce choix ou au moment de son décès."

(IT): "Una persona può scegliere *come legge che regola la sua intera successione* la legge dello Stato di cui ha la cittadinanza al momento della scelta o al momento della morte."

Thus, in the Spanish version they forget to specify for what purpose the law chosen by the person shall be used, that is to say: "para que rija la totalidad de la sucesión" ("*as the law to govern his succession as a whole"*). This error is somewhat difficult to

41 Judgement of 18 October 2006, *Republik Griechenland v Grigorios Nikiforidis*, C-135/15, ECLI:EU:C:2016:774.

42 FONT-MAS, European Legal Language, p. 28 *et seq.*

43 The ECJ clarifies that the Regulation could be applied to contracts concluded before the implementation date that had been amended afterwards, thus meaning they could be considered new contracts concluded after the implementation date (argument 39).

44 Regulation (EU) No 650/2012 of the European Parliament and of the Council of 4 July 2012 on jurisdiction, applicable law, recognition and enforcement of decisions and acceptance and enforcement of authentic instruments in matters of succession and on the creation of a European Certificate of Succession, OJ L 201, 27.7.2012.

comprehend, as has been highlighted by J.M. Fontanellas Morell[45], given that in art. 17 of the Spanish version of the Draft Regulation[46], this was included, as it was in the other language versions. There is, therefore, no horizontal coherence.

3. *Corrigendum:* e.g. Regulation 2016/679 on Data Protection

Any law can be amended due to translation, spelling, or typographical errors leading to the misapplication of a law.[47] Once detected, these errors can be remedied through a corrigendum. (*corrección de errores, rectificatif, rettifica*).[48]

In order to assess the difficulties, effectiveness and scope of these corrigenda, we should bare in mind several factors. One factor undermining amendments is the administrative procedure itself which takes time, since some amendment of a language version has to be approved by all States and then published in the Official Journal.[49] On the other hand, a factor that [seemingly] facilitates amendment is that any citizen (including legal experts and academics) can signal

[45] FONTANELLAS MORELL, Libertad de testar, p. 390.

[46] COM (2009) 154 final, p. 2.

[47] For example, the Italian version of Article 12.1 R. 2201/2003 referenced art. 5 in the same legal text, whereas it should have referred to art. 3. This mistake meant the law was incorrectly implemented, since art. 12 allows for jurisdiction to be extended (prorogation of jurisdiction) in a divorce case (art. 3) and the incorrect reference to art. 5 limited the extension to when a legal separation became a divorce. This mistake was remedied ten years after implementation of the Regulation begun, OJ L 88 de 1.4.2015.

[48] A corrigendum is not an error correction per se (*to correct, rectifier, corregir*), but rather the procedure through which errors detected in a text that has already been published in an Official Journals can be remedied or amended (*to amend, modifier, modificar*). English does not make any distinction between the two types of corrigenda (before or after adoption), while French uses the term *corrigenda* for the former and *réctificatif* for the latter.

[49] The procedure of corrigenda applied depends on whether the error is in the original text or it concerns only one or more language versions; depending on it is an 'obvious error' (spelling mistake, typing error, printing error, error in calculation); or it is 'substantive error', in such cases, a procedure similar to that followed for the purposes of the adoption of the text containing errors should be launched and a rectifying act is adopted. Corrigenda adopted by the institution(s) concerned are published accordingly in the Official Journal of the European Union in the same OJ series as that in which the initial document was previously published. They do not contain any provisions on the validity or entry into force, and their authority derives from the text they rectify. SOMSSICH & VÁRNAI & BÉRCZI, Lawmaking in the EU multilingual, p. 143 *et seq*.

any errors detected in legislation.[50] In terms of effectiveness, clearly, once corrigenda are published has a retroactive effect, which means that the corrected legal text is official from the date of the initial act.[51] However, the problem lies in the fact that amendments often arise very late, years after national legal practitioners have been misapplying a law unless they detect the error and apply any other correct language version.

This is not the case in the following example in which errors and non-errors (substantial amendments) were approved for each language version of the Regulation before it was applied. With this example, we can question the scope of the corrigenda. Let us refer to *Regulation 2016/679 on data protection,*[52] applied as from 25 May 2018, with a corrigendum published two days prior.[53] Although this Regulation is not PIL legislation, but we consider it noteworthy given its novelty and the surprising number of errors amended throughout all language versions.

Let us count the number of errors in each language version: English (15), French (21), Spanish (20), Italian (75), Danish (17), Portuguese (16), Lithuanian (15), Bulgarian (17), Czech (28), German (38), Estonian (24), Greek (15), Irish (18), Croatian (57), Latvian (17), Maltese (15), Dutch (58), Polish (37), Romanian (24), Slovak (14), Slovenian (68), Finnish (16), Swedish (62).

From a general analysis (we could perform an in-depth analysis of only four of the language versions), we can draw a few insights. Firstly, the "original" English version replaces terms such as "criteria" with "requirements", or "conditions" with "requirements" or "specify" with "approve" thus changing the meaning of the legislation. On one occasion a whole sentence is deleted and in others the wording is changed. These *corrigenda* are actually substantive amendments and not simply translation-related, and thus require all language versions to be similarly amended. All corrigenda throughout all language versions include the substantive amendments introduced in the English version. In other words, they replaced terms and wordings that were not incorrectly translated but rather to reflect the

[50] If a citizen or a legal person detects an error in a published piece of legislation, he or she can send a request to such an effect to the institutions concerned, or send an email to EUR-lex: EURLEX-HELPDESK@publications.europa.eu.

[51] *Ibid.*, p.148.

[52] Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC General Data Protection Regulation, OJ L 119, 4.5.2016.

[53] OJ L 127, 23.5.2018.

main corrigendum. Thus, all language versions have at least 14 amended articles and 1 recital provision (except for the Slovak version).[54]

Beyond the minimum of number of amendments (15), we see two groups. One group is made up of the language versions that simply incorporated the changes originating in the corrigendum of the "original" English version (Lithuanian, Greek, Maltese, Slovak). The other is made up of those which were subject to a full-scale revision and amended drafting issues or translation areas which changed the meaning of the law.[55] In this second group, the number of amendments varies widely, from 16 in the Portuguese version up to 75 in the Italian version. It is definitely surprising that once the 15 compulsory amendments are subtracted from the 75 amendments that 60 errors remain. We have found that many are spelling mistakes, such as, "il" instead of "del", "di" instead of "sull", "da" instead of "dal" or "saranno" instead of "siano". There are also terminological changes such as, "esprimere" in place of "prestare", "presupposto" instead of "fondamento", "legale" instead of "giuridico", "indugio" instead of "ritardo", "esprimere" por "prestare", "monitoraggio" instead of "controllo".

Such a large number of amendments to all of the language versions led us to wonder what could we attribute them to?[56], and the response was that since it was a legal text which so clearly had a major direct effect on citizens (no doubt about that, since all of us have received multiple notices informing about this Regulation), it was decided to collect and revise all of the changes so they could be included before the Regulation was applied.[57] This response is partially satisfactory. We understand the English version was revised from a legal-linguistic perspective, but the opportunity was taken to include substantive amendments which then led to substantive amendments in all of the language versions.

[54] This version includes 14 amendments: one less. Specifically, there is no amendment to art. 37.1. Since we do not know the language, we do not know if the original matched the new version or if it was simply an oversight.

[55] The Spanish version amends article. 3.2, on the territorial scope of the Regulation, whose initial version indicated it applied to subjects "residan en la UE" (who reside in the EU, own translation) whereas the English stated "subjects who are in the Union", the French stated "personnes concernées qui se trouvent sur le territoire de l'Union" and the Italian stated "di interessati che si trovano nell'Unione". The corrigendum includes the new wording "de interesados que se encuentren en la Unión" (subjects who are in the EU). As we can see, the drafting change modified the criteria of application, and now ensures agreement among the rest of the language versions (horizontal coherence).

[56] In the Forum "Eurolanguage in PIL. Legislating, translating and applying. International interdisciplinary conference", University Rovira i Virgili, Tarragona, 14th June 2018. Available at http://www.dret-privat.urv.cat/ca/jornades-congressos/eurolenguaje/.

[57] There was a first amendment of 4 language versions 6 months following publication JO L 314, 22.11.2016.

Logically, introducing substantive changes meant the texts had to be fully revised, and thus mistakes were found or at least the drafting was improved. All of this happened before the law was applied. However, the 60 amendments in the Italian version, the 42 in the Croatian version, the 43 in the Dutch version, the 53 in the Slovenian version and the 47 in the Swedish version, in addition to the 15 compulsory changes due to the new English drafting, are cause of concern. It makes us wonder if given the plethora of EU Laws and Regulations approved, when there is no post-publication review as there was this in this case, can we assume that some language versions are badly-drafted and full of mistakes?

4. Concepts Specific to European Private International Law

PIL Regulations included definitions and articles that lay out the scope, which is essential to determine whether the Regulation at hand is applicable in a particular case, in the same way that the time or spacial framework is used to determine its applicability in a specific situation. The material arena entails defining a legal relationship, for example: "succession", "parental responsibility".[58] These are stand-alone concepts in EU Law which means they should be interpreted and applied uniformly and with their EU meaning.[59] At times there are no definitions, such as in the case of "contractual obligation" (in *Recast Brussels Regulation* and *Rome I*) hence the ECJ's stand-alone interpretation, on a case-by-case basis for each Regulation which does not necessarily apply to another.[60] Indeed, while there is linguistic coherence, there is not necessarily semantic or substantive harmony, for example: the notion of a "consumer contract" is different whether we apply the *Recast Brussels Regulation* (Article 17) or the *Rome I* (Article 6).[61]

[58] We could distinguish two types of definitions, material or substantive definitions which allow for the applicability of Regulations to be determined, and definitions of terms used to implement PIL laws, (e.g., resolution, participating Member State, habitual residence). There are other terms belonging to the Regulation which refer expressly to the Member State's law to know and apply its content (e.g. public policy/ordre public).

[59] "C'est là une conséquence de l'autonomie politique et juridique qui est conférée à l'Union européenne et aux textes de loi qu'elle produit, ces derniers se superposant souvent avec les lois nationales, ce qui résulte en une duplication du vocabularie (on parlera ici de traduction intralinguistique). (...) Certains termes européens souffrent d'un flou conceptuel et laissent trop de la place à l'interprétation pour le juges nationaux chargés d'appliquer la loi". PERALDI, Traduire le droit, p. 126.

[60] SÁNCHEZ LORENZO, El principio de coherencia en el derecho internacional privado europeo, p. 17 *et seq*.

[61] The notion of a consumer fits easily in different circumstances included in laws which limit their target scope, see FORNER DELAYGUA, El Reglament europeu, (awaiting publication).

Certainly, from a pragmatic standpoint it would be much easier if the definition was the same in both Regulations and agreed with EU Directives and even better if they agreed with the domestic laws of the 28 Member States,[62] but as S. Sánchez Lorenzo states: "There cannot be automatic parallels drawn between notions, concepts and solutions. (...). The principle of coherence cannot be understood in operative or practical terms; as a purely formal tool to smooth over interpretation of European International Private Law".[63]

The substantive definitions included in PIL Regulations are only aimed at determining their material scope. They are by no means intended to regulate a Private European Law, which in most subject matters does not exist. European PIL is still being formed and developed as a result of on-going legislation and interpretation by the ECJ. This stand-alone EU PIL system was born prematurely due to a lack of European Private Law and no common historical legal background. It attempts to bring together different legal traditions, of the member states legal systems, in fact, or even more if we include States with more than one system (e.g. Spain).[64]

Whatever the case may be, the concepts governed by PIL, particularly substantive and material ones lead to the desire to enshrine its uniform application throughout the EU area, hence the approval of EU Laws through directly-applied Regulations *(see section 1)*. Concepts specific to PIL, despite serving a specific purpose (determining the applicability of the Regulation) are sometimes incorrectly applied, or are overlooked by national legal practitioners. Practitioners use their own definitions on private legal relationships as regulated in their national legal systems to determine the applicability of EU PIL Regulations, and if their concepts do not match up they don't apply them.

One illustrative example can be found in maintenance obligations (*obligación de alimentos, obligations alimentaires, obbligazioni alimentari*) regulated in *Regulation 4/2009*[65] and the *Hague Protocol of 2007*[66] (applicable by virtue of the reference to it in *Regulation 4/2009*). These laws do not include a definition, but they do set out a material scope in art. 1 *Regulation 4/2009*: "This Regulation shall apply to maintenance obligations arising from a family relationship, parentage, marriage or affinity". The ECJ ruled on multiple occasions on the relationships leading to

[62] On the concept of "consumers" in EU Directives and their transposition to Spanish law, see FONT-MAS, Questioni terminologiche nella trasposizione, p. 33 *et seq*.

[63] (Own translation) SÁNCHEZ LORENZO, see n. 60.

[64] See n. 22.

[65] Regulation (EC) 4/2009 of 18 December 2008 on jurisdiction, applicable law, recognition and enforcement of decisions and cooperation in matters relating to maintenance obligations (OJ L 7, 10.1.2009).

[66] Protocol of 23 November 2007 on the Law Applicable to Maintenance Obligations. Concluded 23 November 2007.

maintenance obligations in the Regulation[67] including other types of payments regardless of their name: alimony, maintenance, duty to aid, costs of married life; including compensatory payments.[68] Indeed, the stand-alone concept of EU PIL of maintenance obligations includes "compensatory payments/provision of compensation" (*prestaciones compensatorias derivadas de una ruptura conyugal, prestazione compensative, prestations compensatoires*)[69] which in Spanish (and Catalan) Law is not considered part of maintenance obligations. These differing concepts imply that some Spanish national legal practitioners erroneously fail to apply the EU Regulation because they use their own domestic concept of "prestación compensatoria" ("compensatory payment") and not the EU concept of maintenance obligations. This erroneous practice continues despite ECJ judgments, and the Spanish Supreme Court's ruling[70] which makes abundantly clear that the "pensión compensatoria" is included in maintenance obligations when applying the EU legislation. To date it has fallen upon appellate judges to repair this error and rule that *Regulation 4/2009* (and the *Hague Protocol of 2007*) are in fact applicable to the "pensión compensatoria": "The concept of maintenance in International Law is broader than the concept of maintenance (*alimentos*) in our domestic Law to the extent that it encompasses all payments recognized under law between spouses and thus includes the "pensión compensatoria". We are thus faced with a stand-alone concept from PIL produced by the EU which encompasses all maintenance obligations derived from familial relations".[71]

[67] Prior to Regulation 4/2009, maintenance obligations were dealt with in R. 44/2001, and previously in the Brussels Convention of 1968.

[68] Judgement of 6 March 1980, *Cavel,* C-120/79, ECLI:EU:C:1980:70; Judgement of 27 February 1997, *Laumen*, C-220/95, ECLI:EU:C:1997:91.

[69] The proposed translation was taken from Judgement of 6 March 1980, *Cavel,* C-120/79, ECLI:EU:C:1980:70, paragraph 5) (IT): "le "prestazioni compensative" contemplate dagli (...) sono connesse ad eventuali obbligazioni finanziarie fra ex-coniugi, dopo il divorzio, commisurate alle rispettive risorse e necessità, ed hanno anch'esse carattere alimentaire" (EN): "the "compensatory payments" provided (...) are concerned with any financial obligations between former spouses after divorce which are fixed on the basis of their respective needs and resources and are equally in the nature of maintenance". In IATE, the English term proposed was "provision of compensation".

[70] STS (Civil Chamber) 742/2000, de 21 de julio de 2000. (FJ3) (ECLI:ES:TS:2000:6152).

[71] Ruling Audiencia Provincial de Barcelona (Sec. 18) 618/2018, of 25 September, 2018 (ECLI:ES:APB:2018:8937) Ruling Audiencia Provincial de Barcelona (Sec. 18) 580/2018, of 12 September, 2018 (ECLI:ES:APB:2018:7603). See my research, note 22.

5. The Crisis of Institutional Multilingualism and the post-Brexit Language Situation

Notwithstanding the general multilingual framework (*see section 1.2*), there are clearly different policies applied depending on the body, institution or agency in question. Translation (and Interpreting) services are not unified across the EU even though they all use some of the same tools (e.g. IATE (InterActive Terminology for Europe), EU Vocabularies, MT@EC an automatic translation system). Part of both the translation and interpreting services are provided by external companies. The EU's translation services are grouped under the Interinstitutional Committee for Translation and Interpretation, which includes: The *European Commission*'s DG Translation which translates written[72] for the Commission from and into the EU's 24 official languages; the *European Parliament*'s Translation service, the Translation Service of the General Secretariat of the Council which translates working documents for the *European Council* and the *Council of the European Union*; DG Multilingualism which translates for the *European Court of Justice* (ECJ); the Directorate of Translation, Language Services, and Publication of the *European Court of Auditors*; The Translation Service of the *European Central Bank*; The Translation Centre for the *Bodies of the European Union*; The Translation Directorate of the *Committee of the* Regions and the *European Economic and Social Committee* and the language services of the *European Investment Bank*.

This plethora of institutions and bodies, apart from having their own translation services differ in their language policies and operation. Given this diversity, the *European Ombudsman* launched "*Public Consultation- The use of languages in the EU institutions, bodies, offices and agencies*" (July 2018).[73] The aim is to receive feedback regarding new policies or possible legislative proposals, "on how the EU institutions can best communicate with the public in an acceptable balance between the need to respect and support linguistic diversity, and administrative and budgetary constraints". The consultation is not just aimed at highlighting the different ways languages are used throughout institutions and the possible impact on citizens' access to information, but also how to reconcile language diversity, administrative efficiency and budgetary constraints.[74]

[72] Oral language interpretation falls under the auspices of the Commission's DG Interpretation, which supports the smooth functioning of multilingual meetings.

[73] See: https://www.ombudsman.europa.eu/es/correspondence/es/99005.

[74] The Consultation asks how and who (States or Institutions) should cover translation costs for the information and documents published; how to avoid exorbitant costs if information is translated upon requested; what should be the criteria to select working languages in institutions and offer material (according to population size that speaks a particular language?). It asks whether Regulation 1/1958 should be

From the result of the feedback which was sent to the consultation (February 2019)[75] and taking into account the aim of this study, it is worth highlighting that, in short, there is widespread support for multilingualism. Restricted multilingualism would be accepted so that information would always be available in at least 3 or 5 official and commonly-used languages (English, French, German and, if possible, Italian and Spanish).[76] However, this illustrates that certain information and documents should be translated into all official languages, such as those documents which have considerable financial repercussions for citizens and SMEs, or those which affect citizens' rights and those which create rights and obligations. Among the proposals aimed at reducing costs, there are three which stand out, and one which deals with the exclusive use of machine translation which we would reject [this method would have to be used to assist translators in their work]; although we agree that this is essential to improve the quality of texts; we do not agree with the proposal to circumvent the proofreading of documents which have already been translated (in this regard, a proposal is made in my concluding remarks).

An enormous amount of funds are no doubt necessary to guarantee fully multilingualism. This is an argument put forward to support changing the original multilingual regime, put an end to it, or limit the number of official languages. The EU Parliament allocates more than a third of its budget to translation and interpreting services; if we add up all the institutions the cost rises to one billion euros annually or around 2.3 EUR per citizen.[77] In addition to the costs argument, there are also the administrative and legislative difficulties that multilingualism entails for EU operation – a slower decision-making process – along with a failure to achieve vertical and horizontal coherence across documentation in multiple EU Institutions. All of these arguments feed into criticism directed at the EU's language regime. Comparisons are made with the language regimes of other supranational institutions such as the UN or the Council of Europe which use fewer official languages despite having more member states.[78] Similarly, this is the

amended, which in our understanding would effectively reduce the number of working languages and put and end to full-scale multilingualism.

75 286 responses were received in 19 official languages. See the report at "Multilingualism in the EU institutions-Report on public consultation": https://www.ombudsman.europa.eu/es/correspondence/en/110044 (SI/98/2018/TE; 15.02.2019).

76 In several paragraphs of the report, the inclusion of Italian and Spanish is reiterated. It is worth underlining that out of 286 responses, 32 were in Italian and 25 were in Spanish.

77 Video: "Multilingualism: in the fabric of Europe's identity": https://multimedia.europarl.europa.eu/en/multilingualism-in-the-fabric-of-europes-identity_V003-0072_ev.

78 The UN has 193 State Parties and 6 official languages; in the Council of Europe there are 43 State Parties and 2 official languages. See generally, L. PASQUALI, *Multilinguismo negli atti normativi internazionali.*

case in The Hague Conference on Private International Law, whereby only two of the languages used are official.[79]

The EU Institutions are no strangers to the problems entailed in full-scale multilingualism, and are very much aware of proposals to eliminate it. Declaring only two or three official languages would mean relinquishing the goal of full transparency vis-a-vis citizens and could lead to a political battle, since such a legislative change would have to be approved unanimously (art. 342 TFUE).

English is the de facto the working language in most EU Institutions, Bodies and Agencies. (*see sections 1.2 & 5*). These data spur further discussion on whether multilingualism as it stands is worthwhile, and in light of the economic and administrative arguments if it would make sense to put forth English as the only working language. We could agree to reduce the number of working languages to just a few as long as multilingualism was still guaranteed in the final legislative documents. However, we concur with P. Gréciano who rules out the possibility of English being declared the only working language since this would run contrary to EU principles, which are built upon the legitimacy of the languages, cultures and legal systems that make up the Union. We also believe that there is a specific EU legal language in which multilingualism adapts to multiple legal systems, and that this could not be encompassed through a single legal language which is none other than that of *common law*.[80] In addition to this potentially debatable argument, there is a greater issue, namely the consequences of Brexit.

English will foreseeably no longer be an EU official or working language, and *Regulation 1/1958* will have to be amended.[81] English will thus become a minority

[79] While the limited number of working languages does speed up the processing of Conventions, it does not eliminate translation problems between authentic versions (French and English) and between these and official texts in other languages which will be applicable by national authorities once the Convention has been received by the national legal system. As regards the Spanish version of The Hague conventions, there were as many variants as there were party States. Furthermore, the Spanish version was created by translating from the authentic French text, whereas the Latin American States used the English version as their source text. The same problem arises in relation to the German versions and those of the Nordic countries. A Spanish version of the conventions was agreed upon: BORRÁS & GONZÁLEZ CAMPOS, *Recopilación de convenios de la Conferencia de la Haya,* p. 24 *et seq*.

[80] GRÉCIANO, Droit de l'Union Européenne et Médiation Linguistique, p. 514.

[81] The response to this question of the Parliament "Can the Commission confirm that, once Brexit is completed, English will remain an official language of the European Union by virtue of its status as one of the two official languages of Ireland?" given by President JUNCKER (9.8.2017) was: "According to the Article 342 of the Treaty of the Functioning of the European Union, it is for the Council, acting unanimously, to determine the rules governing the languages of the institutions of the Union. Today, English is one of the 24 official and working languages of the European Union institutions. The Commission notes that, besides the United Kingdom, Ireland and

mother tongue within the EU (of Irish nationals and Britons living elsewhere in Europe).[82] This possibility has not gone unnoticed politically in the backdrop of Brexit.[83] In the academic world, there are two opposing trends. Some argue that this is the best time for English to become the only working language since it would place all citizens and national practitioners on equal footing regarding communication with EU Institutions. It would be a "Brussels English" or "Eurospeak" or "Euro-English",[84] – a neutral language of sorts. This argument is rejected on the grounds that a language cannot be divided into a "cultural use" and a "functional use".[85] On the other hand, there are those who believe that Brexit could raise the profile of multilingualism. Through parliamentary interventions made in the European Parliament and political statements, some EU States have addressed Brexit and the subsequent unofficial status of English as a chance to regain the hegemony of their respective languages, or as an opportunity to have their languages included as working languages, taking into account the numbers of citizens who use and have knowledge of these respective languages, as is the case with Italian and Spanish.

According to data on language knowledge among citizens post-Brexit, only 10% of EU citizens would have access to EU documents if they were only in English.[86] This option, as I. Pingel points out: "could have drastic exclusionary consequences, by harming the poorest and undermining social cohesion and contrary to common opinion, might damage the European project itself".[87] If documentation were available in English, French and German, the number of excluded citizens would go down to a third and half of citizens would have trouble accessing documentation.[88] Now, even though there are more native speakers of German

Malta have English as an official language". If the Commission amends Regulation 1/1958, unanimously at the Council, we understand that one of the Member States with English as a co-official language would have to modify their chosen EU official language thus leaving out Maltese or Irish.

82 GAZZOLA, European strategy for multilingualism, p. 35 *et seq*.

83 The words of JEAN-CLAUDE JUNCKER, president of the European Commission, who said: "I will speak in French because slowly but surely English is losing importance in Europe", Tallin Estonia, 29.9.2017. https://www.reuters.com. See Bundestag MOS want EU staff to use German more after Brexit (10.8.2017): https://www.euractiv.com/section/uk-europe/news/bundestag-mps-want-eu-staff-to-use-german-more-after-brexit.

84 MODIANO, English in a post-Brexit European Union, p. 321 *et seq*.

85 "il est, en d'autres termes, difficile de réduire le langage à un simple mode de communication en faisant fi de ses dimensions tant symboliques que substantielles". Another opposing argument is that the hegemony of English as an institutional lingua franca means hiring native English-speaking professionals (just as in the UN). PINGEL, Le Brexit et le régime linguistique, p. 660 *et seq*.

86 See n. 82.

87 (Own translation). See n. 85.

88 See n. 82.

and French, there are actually more speakers of English among EU citizens than of any other European language; This does have weight when assessing the value of a language.[89] This data shows that English will not disappear as a working language following Brexit while also stressing the importance of adopting a multilingual approach to the EU's external communication[90] and the need for the institutions to return political value to languages so as to preserve multilingualism.[91]

And so, while Brexit has indeed raised the issue of eliminating English as a working language at a European political level, what is true is that the 2021-27 Budget confirms that there is not intention to reduce the use of English in meetings and documentation.

6. Concluding Remarks

Multilingualism is the language regime chosen by European Institutions and we believe that it should remain as such. We advocate in favour of maintaining multilingualism and believe that it cannot be lessened when it comes to communicating with citizens or between Members of the European Parliament.

While there could be fewer working languages and languages for inter-institutional communication in order to speed up administrative processes and bring down costs, that is to say, a "restricted multilingualism" as illustrated in "Multilingualism in the EU Institutions-Report on public consultation". However, European Legislation (and the ECJ caselaw for its interpretation) must always be available in all official languages. This guarantees that it will be applied by national legal practitioners.

Despite the unification of European PIL legislation, uniform application is not guaranteed. In our view, this is due to a number of factors: inconsistencies and errors across the 24 language versions of the Regulations (errors, vertical and horizontal coherence, as well as uniformity cross all language versions) and the misapplication of European legislation by the practitioners.

Translation errors could be remedied by improving the usage of translation resources and ensuring that these professionals are supported by the legal experts that participated in the legislative process and who are well aware of the objective behind the European Law, and would also be familiar with national legal systems

[89] See n. 85, p. 662.

[90] See n. 82.

[91] There are certain measures that could be put in place: once again requiring knowledge of EU languages to work at the EU, to train officials in other languages, to enhance translators' capacities. See n. 85, p. 663.

(hence the importance of education in comparative law). Time for proofreading should be foreseen and reserved.

Furthermore, translation errors could be remedied if the texts were better drafted. In this regard, applying any of the theories which demand for "Better (and less) Regulation" would be welcome.

While EU Laws necessitate the technical limitation and reduction of the unity of concepts, this situation poses difficulties of application for the national legal practitioner since he/she is faced with definitions that differ according to the instrument, on top of their own domestic law. This can lead to a misapplication of laws.

PIL Regulations have introduced autonomous legal concepts which are often uncoordinated when reproduced in different European Regulations. This gives rise to problems of interpretation which the ECJ often resolves through "pseudo-legislation". The root cause of the problem is that, despite the EU having introduced its own legal language, there is no an European background of substantive law which supports European regulations and their interpretation.

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