

**LANGUAGE POLICY AND LINGUISTIC DIVERSITY
IN THE EUROPEAN UNION**

- PhD Thesis -
Abstract

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I. Research agenda and identification of the area of research

Europe is linguistically the poorest continent, this notwithstanding linguistic diversity is a daily experience in the unifying Europe. The national languages of the Member States, the regional and minority languages as well as the vernaculars of immigrant groups all contribute to the linguistic diversity of the European Union. In my thesis I examine the prevalence and future prospects of linguistic diversity in the light of the language policy of the Union.

The „language problem” of the European Union is rooted in the past and has vast consequences for the future of European integration. For Europe the 19th century was the age of the construction of nation-states. Assimilationist language policy defined by the principle of *cuius regio, eius lingua* was a very important instrument in this process: promoting standardization, dissemination and exclusiveness of the „national language” language policy played an indispensable role in constructing the „nation” envisaged by the central authority. The consequences of these assimilationist language policies are clearly recognizable on the language map of Europe: in our continent state borders often coincide with language borders, thus state, citizenship and language have gradually become synonyms. At the same time, attempts at linguistic assimilation have given rise to serious tensions between minorities fighting for survival and dominant language groups. With the political emancipation of national, ethnic and linguistic minorities the 20th century saw the inclusion of the aspect of minority protection in national politics and documents of international law. This development notwithstanding the status and the recognition of language rights of minorities as well as the international law commitments to protect minorities undertaken by the different European states vary significantly.

European integration was conceived in such a linguistic context, against the backdrop of the firmly established nation states. Language issues were of prime importance in the integration founded for political reasons, however, development was initially restricted to the economic sphere. The Rome Treaties were drafted in the four official languages of the Member States and the very first piece of secondary legislation under the EEC related to institutional language use. In the process of European integration the linguistic diversity of the European Community was accommodated by an unprecedented generous language regime, although both states and international organizations normally employ a restricted language regime in order to secure efficient operation. This generous language regime notwithstanding, with the entering into force of the Lisbon Treaty we may witness an increase of the guarantees of

linguistic diversity. The extension of such guarantees may be interpreted as a reaction to the mistrust of the Member States and their citizens towards the Union, as well as an attempt to protect the languages of Europe against the European Union itself.

From the very beginning, European integration is locked in the unsurmountable contradiction of unity and diversity: while integration is aimed at realizing economic and political unity, the Union is forced to concede to the protection and promotion of cultural and linguistic diversity. As modern society is functionally dependent on efficient communication, it is easy to see that maintaining linguistic diversity and the lack of a European *lingua franca* constitute serious obstacles to the unfolding internal market as well as the construction of European identity in general. The language policy of the Union is under a twofold pressure: on the one hand it must strike a balance between contradictory language policy goals, on the other hand it must comply with the language policy implications of multi-level governance. The result is a multilevel Union language regime and language policy based on linguistic hierarchy, pursuing the aims of maintaining linguistic diversity and promoting multilingualism.

The aim of the present thesis is to examine the implementation of the principle of linguistic diversity in the language policy of the Union. To this end I attempt to find an answer to the following questions: What are the considerations upon which the protection of linguistic diversity is based? Does the European Union as a multilingual political community need its own language policy? How did the language policy of the European Community and the European Union evolve historically and which interests defined its development? What role did the Member States and the different institutions play in the formation of Community and Union language policy? What are the reasons and interests behind the extension of language guarantees through the Lisbon Treaty? Do these new language provisions contribute to the preservation of linguistic diversity? Is it necessary to transform the Union language regime and what are the prospects of such reforms?

II. Structure of the thesis and research methods employed

With due consideration to the main topic and goals of the present thesis I have treated the issue of linguistic diversity with an interdisciplinary approach, thus, research methods employed go beyond mere legal assessment. Apart from the relevant contributions from legal scholarship I have also built on the results of linguistics, political science, bioethics, sociology and economics for completing individual chapters. In my research I have worked with the

assumption that the findings related to linguistic diversity and the use of language policy instruments in states may yield insights into the language policy of the European Union and may contribute to arrive at conclusions about the Union.

The I. and II. chapter of the thesis are based on research conducted in the field of history, philosophy, integration history and linguistics. In order to define the concept of language I have built on the findings of the different branches of linguistics. The concept of language employed in the thesis is a broad one, encompassing spoken, written and sign languages. In the assessment of the origins of the concept of linguistic diversity I explored the arguments and concepts of the biodiversity discourse and the scientific debate related to the theories of liberalism and multiculturalism the findings of which may also be used for analyzing the issue of linguistic diversity. The subchapter on language policy as identity politics draws primarily on the findings of sociology and political sciences. It is worth noting that there are very few comprehensive volumes detailing the concept of language policy as well as the typology of language policies, further, finding individual examples of language policies presented in the thesis was a more difficult task. The subchapters related to the development of minority language rights were written based on contributions from legal scholarship as well as the legal assessment of the relevant instruments of international law. To illustrate the categories introduced in chapter II. concerning the fundamental concepts of linguistic diversity I have tried to collect examples of countries that are not members of the European Union in order to highlight the universal nature of the challenges faced by multilingual societies.

In chapters III. and IV. I embark upon the analysis of the European Union as a multilingual political community as well as the identification of the languages making up the linguistic diversity of the Union. For this I draw on the findings and concepts elaborated in chapter II. as well as the relevant communications of the European Commission and scientific contributions. The data related to the Union's languages as well as their relative proportions, further, the subchapter on the challenges of multilingual political communities serve as a solid foundation for understanding the context and analyzing the language policy of the Union in detail.

In chapter V. I investigate the language regime of the Union. To this end I examine Regulation No. 1/58/EEC on institutional language use in detail, based on the legal assessment of the relevant legislation as well as contributions from legal scholarship. The

assessment of the Regulation is of prime importance for the main topic of the thesis, in particular the findings related to the working languages of the Union are of relevance for the assessments produced in other chapters of the thesis.

The issues examined in chapters VI., VII. and VIII. are intrinsically related as these present an overview of the development of the Community and Union language policy in a chronological and thematical approach. Chapter VI. introduces the European language policy preceding the reforms of the Lisbon Treaty with a focus on the main areas of Community language policy. In this framework I analyzed the emergence and development of linguistic discrimination as a special case of discrimination based on citizenship in the jurisprudence of the European Court of Justice. The analysis of the development of the Community competences related to education and culture are based on relevant scientific literature as well as the examination of different Community programs. Finally, my investigations into the emerging minority policy of the Community were based on individual acts issued by the different European institutions. I attempt to clarify the reasons leading up to the Lisbon amendments in chapter VII. concentrating on the principal issues of anglicization and the linguistic consequences of free movement within the internal market. Here I draw on relevant contributions of legal scholarship as well as numerous cases before the European Court of Justice, the European Ombudsman, opinions of advocate generals and different sources of law. To illustrate the Member States' linguistic sensibilities towards the Union I examined the issue of the spelling of the euro in detail, however, there are only few scientific articles available on this matter, therefore I also had to rely on different articles published in the national media. Chapter VIII. gives an overview of the new linguistic guarantees introduced by the Lisbon Treaty in a detailed dogmatic approach.

An economic perspective on the Union language regime is provided in chapter IX. including possible models for the rationalization of the Union language regime and policy. The findings of this chapter are based primarily on the results of economic research, in particular the work of Fidrmuc, Ginsburgh and Weber.

In the X. and final chapter, using the categories of language policy presented in chapter II. I attempt to classify the language policy of the Union as well as to draw conclusions on the concrete and prospective consequences of Union language policy on the linguistic diversity

of Europe. In this chapter I rely heavily on the findings of the previous chapters and therefore I hardly introduce new sources.

III. Summary and possible utilization of research results

Theoretical underpinnings and basic concepts of linguistic diversity

1. European integration is based on forging political union between the Member States through economic means. While the integration program has been set on an ever closer economic and political union, culture and the issue of language was not drawn into the focus of Community activity.
2. However, in the course of integration it became ever so apparent that the process of European unification has a serious impact on culture and linguistic diversity. While Member States adamantly oppose any encroachment on their cultural and language policy competences and, from the very beginning created a language regime for the Community based on the principle of the equality of national languages, the individual Community/Union institutions have been trying to mold European language policy according to the current challenges of integration.
3. It is apparent from the definitions of language – the subject of language policy and at the same time the basic unit of linguistic diversity – that language is a compound phenomenon which is not merely an instrument for conveying information and influencing reality, but also an inalienable part of our personality, for language is a source of cognition as well as the basis and consequence of personal identity. The functional complexity of language also predicts the basic ethical concerns and challenges of language policy in general.
4. In the process of the construction of the „nation” modern nation-states have relied on the instruments of linguistic assimilation. Efforts at linguistic homogenization have given rise to ever greater tensions among the members of minorities affected in the very essence of their identity. The international law instruments of the XX. century pertaining to the first generation of minority rights enshrined the obligation of non-discrimination on behalf of the signatory states, whereas second generation rights emerging with the nineties compel states to take an active, supportive stance.
5. Linguistic diversity is deemed a value in both regional international law and legal sources of the Union. Scientific research related to the valuelike nature of linguistic diversity draw on arguments concerning the instrumental and inherent value of biodiversity. According to this line of thought linguistic diversity is worthy of protection due to its utility to mankind, and/or on its own right as a unique human achievement. The societal reasons and means of the protection of linguistic diversity are reflected upon by the theory of multiculturalism advocating veritable political,

economic and cultural equality and promoting the situation of linguistic minorities through special, even collective rights.

6. The goal of language policy is to influence language use and the perception of individual languages. For this reason language policy entails the determination, standardization and dissemination of the official language(s). Pluralist language policies appoint several official languages while assimilationist language policies strive for the exclusiveness of the national language. Vernacularization promotes local vernaculars, while internationalization endorses the use of a foreign world language.
7. Protection and promotion of linguistic diversity may be best achieved through a pluralist language policy based on vernacularization, enshrining the priority status of the official languages, guaranteeing speakers' linguistic rights and supporting language use.

Language policy of the Union

8. Multilingual political communities' language policies must deal with different, contradicting challenges. Efficient political communication, enhancing economic transactions and redistribution as well as the creation of a public sphere call for the rationalization of language use. The protection of cultural diversity, the intrinsic relationship between identity and language as well as the linguistic determination of the enforcement of rights renders linguistic diversity worthy of protection and promotion. The balance between these conflicting interests is struck by instruments of language policy.
9. The depth of integration, the nature of Union competences, the vertical and horizontal balance of European institutions and competences, the separation of powers as well as the guarantees against the abuse of power in European law all point to the conclusion that the European Union represents a constitutional order. The Union is more than a mere international organization: the Union is a multilingual political community that needs its own language policy.
10. According to the 2005 Framework Strategy of the Commission, Union language policy is defined by its two aims: to maintain linguistic diversity and to promote language learning. At the same time, the latter goal has received more attention in the implementation of European language policy. It must also be pointed out that plurilingualism leads to a decrease in linguistic diversity.

11. The linguistic diversity of the Union is comprised of the autochton languages, i.e. the national languages, the regional and minority languages as well as the immigrant languages present in the European Union. The number of speakers of the individual linguistic communities differ significantly, therefore the linguistic diversity of the Union is low as regards the criterion of linguistic evenness.
12. The language regime of the Union is based on Regulation 1/58/EEC which has been amended several times and which creates a multilevel language regime by allocating the use and promotion of the individual national languages and other languages to different spheres of life. Working languages are at the top of the language hierarchy of the Union, followed by the official languages determining the language use of the institutions, while the status of priority non-official languages constitute a transition between the categories of official and autochton non-official languages. Immigrant languages rarely come into the focus of European language intervention.
13. The evolution of the language policy of the Union may be divided into two phases: the developments preceeding the Lisbon Treaty and the period after the Lisbon amendments. Continuity between these two periods of Union language policy is secured by the virtually unchanged institutional language regime set forth in Regulation 1/58/EEC.
14. The period of Community language policy preceding the Lisbon amendments was marked by three main factors: the prohibition of discrimination based on citizenship, Community competence in the field of education and culture and its ambivalent minority policy.
15. In its jurisprudence the European Court of Justice deemed discrimination based on language a case of discrimination based on citizenship. In light of the assessment of the relevant jurisprudence of the Court/Tribunal we may conclude that both Member States and Union institutions have to conform to the same standards as regards the requirements of the prohibition of indirect discrimination based on citizenship taking the concrete form of linguistic requirements. At the same time, determining and employing working languages for internal communication does not amount to discrimination. In the latest series of language cases the advocate general, the claimants and interveners put forward pleas in law based on the human rights aspect of language use, however, the Court/Tribunal was silent on the relevance of human rights in this context.

16. In order to put a halt to the creeping expansion of Community competences and to delimit the education policy developed from the Community competence on vocational training based on the *Gravier* judgement, and finally, to benefit from the potential of European cultural cooperation the Maastricht Treaty conferred new competences on the Community in the field of cultural and education policy. In line with its language policy goals the Community adopted several programs on language learning within the framework of its new cultural and education competence. These programs however did little to further the goal of preserving the linguistic diversity of the Community, as they promote the learning of dominant European languages (i.e. working languages), as a consequence of which linguistic diversity is further reduced.
17. The emerging minority policy of the Community is defined primarily by the Association Agreements concluded by the Community as well as the Copenhagen Criteria prescribing the conditions of accession for candidate countries; at the same time it was only the European Parliament that attempted to develop a common community standard of minority protection by means of several non-binding resolutions. In conclusion, the Community applied a double-standard as regards the minority protection efforts of the Member States on the one hand and third states on the other.
18. The background for the amendments put forward by the Lisbon Treaty related to linguistic guarantees may be found in the discontentedness of the Member States and their citizens regarding the consequences of integration for linguistic diversity and the status of individual languages. In particular the spreading of the English language as well as the free movement of the factors of production within the internal market pose threats to linguistic diversity. The conflict of unity and diversity is best illustrated by the dispute related to the orthography of the common currency.
19. With the development of the language law of the Union by means of the Lisbon Treaty new legal bases obliging the Union to respect and promote linguistic diversity, the prohibition of discrimination based on language and rights of language use emerged in primary law. The normativity, personal scope as well as the languages encompassed by the individual provisions vary significantly.
20. In particular the new provisions under the Charter of Fundamental rights such as the prohibition of discrimination based on language (Article 21) and the potential minority protection clause (Article 22) constitute a novelty in the language law of the Union. Determining language as an aspect of discrimination allows this form of

discrimination to break away from the confines of discrimination based on citizenship leading to the expansion of the personal scope of this prohibition. The provision obliging the Union to respect linguistic (religious, cultural) diversity can be deemed a starting point for the development of minority protection jurisprudence, especially in the light of the *travaux préparatoires* of the Charter.

Future of European language policy and linguistic diversity

21. Numerous suggestions for a possible reform of the language regime and language policy of the Union have been put forward based on economic considerations. Apart from the direct costs of the translation and interpreting service of the Union these suggestions attempt to quantify losses due to fewer trade transactions in the linguistically diverse internal market, the costs of mistranslations and delays, expenses related to language learning accomodating a rationalized language regime as well as losses incurred due to „linguistic disenfranchisement“. Although the prevailing language regime of the Union hardly seems managable in the light of future enlargements, refoming the language regime only seems practicable on a medium term, primarily by means of motivating citizens to learn the most dominant European languages. However, this may lead to a loss of linguistic diversity.
22. European integration is defined by the conflict between unity and diversity: while the integration program of the Union is set to irreversible economic and political unification, due to the pressure coming from the Member States and their citizens the Union was forced to take a lead in preserving and promoting cultural and linguistic diversity.
23. The rules governing the internal market, the system of working languages and the language policy of the Union focusing on language learning are all factors leading to unity. The protection and promotion of diversity is underpinned by the principle of policy integration, the fundamental right related to the prohibition of discrimination based on language and the emerging rights of linguistic minorities.
24. Summarizing the language policy of the Union it may be concluded that it is an explicit, pluralist, endorsing type of language policy based on vernacularization. At the same time, around four dozen European languages fall short of recognition and neither the Union, nor the majority of the Member States have a particular interest in upgrading their status. The use of the dominant English language as a working

language exerts strong assimilationist effects, while the Union is only equipped with weak powers to support endangered languages in the framework of vernacularization.

25. While the developments in international law by the nineties have led to the promotion of positive commitments for supporting minority language use by signatory states, the Union seems to regard the approach of its Member States towards the languages spoken in their territories as an inviolable subject. Paradoxically the convergence of Member States commitments in this area may only be expected from the development of international law in the near future.
26. It is apparent that neither the Member States or their citizens, nor the Union is satisfied with European language policy. However, it seems that the 23 official languages as well as the rules on competences and linguistic guarantees enshrined in the founding treaties provide for a dynamic balance which constitute a long term compromise taking into consideration the interests of both the Member States and the Union. This system however, perpetuates the linguistic disenfranchisement of every seventh union citizen speaking a non-official language.

Utilization of the research results

As no systematic scientific assessment of the different aspects of language policy and linguistic diversity of the Union has been published as of yet, including the detailed analysis of the amendments in the language law of the Union brought about by the Lisbon Treaty, the present thesis represents a novelty in both Hungarian and foreign legal scholarship.

IV. List of publications related to the area of research

1. Euro vagy euró? A nyelvi sokszínűség ütközése az egysége valutával, *De iures prudentia et iure publico* 2012, *forthcoming*.
2. A nyelvi sokszínűség jogi és gazdasági szempontjai az Európai Unióban – Tanulmány két részben – II., *Külgazdaság* 2012/1-2.
3. Szabó Marcel, Gyeney Laura, Láncoş Petra Lea (szerk.): Bevezetés az Európai Unió egyes politikáiba, Szent István Társulat, 2011.
 - a. Az Európai Unió nyelvpolitikája, 51-61.
4. A lisszaboni szerződésmódosítással bevezetett, elsődleges jogba foglalt nyelvi garanciák dogmatikai elemzése, *Liber amicorum Gál Gyula*, szerk: Szabó Marcel, 2011.
5. A nyelvi sokszínűség jogi és gazdasági szempontjai az Európai Unióban – Tanulmány két részben – I., *Külgazdaság* 2011/11-12., 159-176.
6. Gründe und Rechtfertigungen des Prinzips und der Garantien der sprachlichen Vielfalt in der Europäischen Union, *Pázmány Law Working Papers*, 2011/34.
7. Respecting Linguistic Diversity in the European Union (recenzió), *Zeitschrift für Ausländisches Öffentliches Recht und Völkerrecht*, 71(2011)1, 172-176.
8. Nyelvi jogok az Európai Unióban: a diszkrimináció tilalmának és a nyelvi egyenlőség elvének összefüggései, *Apáthy István emlékkönyv*, Európa Nostra kiadó (2010), 145-164.
9. „Részvételi jogok és a nyelvi sokszínűség elve az Európai Unióban”, *Miskolci Jogi Szemle*, 4(2009)2 (<http://www.mjsz.uni-miskolc.hu/tartalom.html>)

10. „Esélyek, ellentmondások és a kettős mérce: az Európai Közösség kulturális külpolitikája“, *Európai Jog*, 2007/5, 13-20.
11. „A kultúra fogalmának és védelmének alakulása az UNESCO és az Európai Közösség jogforrásainak fényében”, *Iustum, Aequum, Salutare*, 2007/4, 125-135.
12. „Theories: Identity Concepts and Polity Blueprints: The perspective of EU constitutionalization”, EU-CONSENT state of the art paper, (April 2007) on-line: http://www.eu-consent.net/library/deliverables/D15b_Team4.pdf
13. „The ideological foundations of Europe: united in diversity” – Publication following the conference titled: „*The ideological foundations of Europe: unity in diversity*”, Organised with the support of the European Parliament DG Information, under the patronage of the Representation of the European Commission in Hungary, on the 20th-21st April 2006, PPCU, (<http://www.ppke.hu/konfpubl.pdf>).
14. “Európa népe vagy népek Európája? Demos-vita az európai demokrácia tükrében” – *Iustum, Aequum, Salutare*, I. 2005/1., 174-181.

Lectures held abroad related to the area of research

20-23.06.2012. „*Language policy of the European Union – Cementing the minority language status?*”, Leeuwarden, Mercator European Research Centre on Multilingualism and Language Learning, ICLASP 13 Conference.

30.03.2012. „Democracy deficit in the European Union after Lisbon”, Strasbourg, Europai Parlament, Model European Union: Round table discussion on the democracy deficit.

05.09.2011. „Auxiliary language rights as enforceable language rights in the EU?”, Lublin, Conference: National, Ethnic and Language Minorities in the European Union (Session XVII.).

http://minority.org.pl/index.php?option=com_content&view=article&id=180&Itemid=55&lang=en

04.05.2011. „Gründe und Rechtfertigungen der Schutz der sprachlichen Vielfalt in der EU”, Heidelberg, Max Planck Institut für Ausländisches Öffentliches Recht und Völkerrecht, Max Planck Lecture Series.

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