

Linguistic Diversity and European Democracy

Edited by
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ASHGATE

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Chapter 1

Linguistic Diversity and European Democracy: Introduction and Overview

Anne Lise Kjær and Silvia Adamo

Introduction

Theorists of political science and sociology do not often ask themselves how deliberative democracy should function in polities that are made up of many linguistic groups and seem to forget the impact that linguistic diversity may have on political communication and mutual understanding across languages. If language is considered at all in studies of democracy, it is treated as a companion to culture, as the essential core of national or minority group identity. Likewise, although lawyers spend a great deal of time carefully studying the language of statutes and court decisions, they do not seem to be sensitive to the issue of language when reflecting on norms of deliberative democracy,¹ or they tend to address the issue only from the point of view of human rights and constitutional guarantees of the right to speak one's own language. Similarly, lawyers interpreting European Union law think of "the language" of EU legislation and speak of "the wording of the text" without taking into account that language and wording within the framework of the EU always imply a multiplicity of 23 official languages. In other words, multilingualism and linguistic diversity are matters that are not commonly analysed or even thought of as matters of relevance in mainstream political, sociological and legal theories of EU law and democracy.

At the same time, much relevant knowledge about language, cognition and communication remains within the confines of the academic disciplines of linguistics and communication studies and is seldom utilized in the related disciplines of law, sociology and political science. What language is, how it functions in real-life interactions, how people understand languages, and how they communicate across linguistic barriers are underexplored questions that ought to attract more attention in legal, sociological and political studies of EU constitutionalism and European democracy.

The ambition of this book is to fill the gap that exists among the disciplines of linguistics, law, political and social science in the study of polity-building in Europe. The goal is to explore, from a cross-disciplinary perspective, the

1 Addis (2007: 101–2).

role that linguistic diversity plays in European democracy at both the European and national levels and to shed new light on the issue by employing legal and political theories of law and democracy along with linguistic theories of language use and cognition. Linguistic diversity can be examined from many different perspectives that are usually mutually exclusive or competing. As such, multilingualism can be considered as: a democratic value to be protected, a fundamental right of minority groups, an obstacle to deliberative democracy and a hindrance to legal certainty and the possibility of uniform law, a cultural asset of Europe to be promoted and protected, a competitive advantage of businesses on the market and a prerequisite for the free movement of EU citizens. The aim of this book is to combine these and other perspectives, thereby addressing what we see as the fundamental characteristic of European language laws and language policy, namely the inherent tensions and contradictions. In order to achieve our goal, we have invited researchers representing a variety of disciplines that do not usually collaborate to contribute to the book, viz. EU law and legal theory, political science, sociology, sociolinguistics and cognitive linguistics.

Democracy, Language and Deliberative Communication

The conference from which the chapters of this book are derived was held just before the 2009 elections to the European Parliament. The research themes of the book are particularly interesting when seen against the backdrop of this European event, as the elections clearly illustrated the inherent paradoxes of European language policy and the language regime of the EU institutions,² as also evidenced in the official EU motto “united in diversity”.³

At that time, 736 members of the European Parliament were to be elected by 375 million potential voters in the 27 Member States. There were no common campaigns across borders, no transnational political communication among citizens of different Member States and no common European parties addressing themselves to voters by means of common European media. When the Parliament facilitated Internet-based communication with and among the electorate, 10,000 voters responded to an online poll conducted at the end of May, and the majority view was that “politicians and media weren’t giving the June European elections the attention they deserve”. However, in spite of the common European democratic ambition thus pursued by the Parliament, the language paradox became apparent in statements like the following on the Parliament’s website:⁴

2 As regards other paradoxes of European law and language, see Kjær (2008).

3 Available at: http://europa.eu/abc/symbols/motto/index_en.htm.

4 Available at: <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+IM-PRESS+20090511STO55546+0+DOC+XML+V0//EN> [accessed: August 2010].

The Parliament is running an intense campaign on the web, talking about the elections and why it matters that people vote for the Europe they want. There is our special interactive website on the elections in 22 languages.

On the one hand, communication in 22 languages (the 23 official languages minus Irish) is respectful of Europe's linguistic diversity and the language rights of EU citizens. On the other hand, the statement illustrates the top-down communication of the Parliament with EU citizens, who for their part are divided by their different languages and therefore dependent on the Parliament, their national politicians and the press to inform them about the elections and to debate on their behalf.

But the language problem is also evidenced in a new democratic tool introduced by the Lisbon Treaty, namely the European Citizens' Initiative (ECI), which invites EU citizens to participate more directly in the democratic processes of the EU. If a minimum of one million citizens across at least one-third of the Member States (currently nine out of 27) support such an initiative, they have the right to bring forward legislative proposals that the European Commission has to examine within a time limit of four months. In the Commission's "Proposal for a regulation of the European Parliament and of the Council on the citizens' initiative",⁵ the objective and rationale of this democratic innovation is described as follows:

This new provision is a significant step forward in the democratic life of the Union. It provides a singular opportunity to bring the Union closer to the citizens and to foster greater cross-border debate about EU policy issues, by bringing citizens from a range of countries together in supporting one specific issue.

The ambition to foster a greater cross-border debate about EU policy lies at the very heart of the attempt to create a European participatory democracy. At the same time, however, it exhibits the weakness of a democracy consisting of different peoples that do not share a language. According to the latest statistical report on Europeans and their languages,⁶ only about half of Europeans are able to speak a language other than their own. This implies that in all probability the ECI will be utilized primarily by European elites who speak English and other widely used European languages with such fluency that they can engage in a cross-border debate with other citizens or by NGOs that have sufficient financial and human resources at their disposal to work across Member State borders.

However, the ECI also exposes the above mentioned inherent contradictions of the European democratic vision of creating unity in diversity: Linguistic diversity is supported and protected at the EU level, yet in real-life interactions

5 COM (2010) 119 final, published on 31 March 2010.

6 European Commission. 2006. "Europeans and their Languages", Special Eurobarometer 243, February.

among Europeans, linguistic diversity soon meets its limits.⁷ In this respect, it is interesting to note that Article 4(1) of the proposal for a regulation on the citizens' initiative stipulates that the organizer of an ECI must register the initiative with the Commission, providing information on the subject, objectives and background of the initiative "in one of the official languages of the Union".

In other words, the goal of "bringing Europeans from a range of countries together", as the Commission proposal has it, tends to put the citizens' right to speak their own language at risk. They have to agree on one common registration language, which will in all probability be English.

Linguistic Diversity as a Fundamental European Value

At the time of writing (August 2010), the EU has 27 Member States and 23 official and working languages. Moreover, depending on how languages are defined and what inclusion criteria are used, more than 100 regional and minority languages are spoken in Europe.⁸

So, the obvious questions are why the EU – in the interests of European democracy – does not agree on one common language⁹ and why it does not recommend and support foreign-language teaching that would prepare Europeans to be highly competent in that common language in addition to their mother tongues? Why not use a "mother tongue plus one common European language" strategy instead of the "mother tongue plus two foreign languages" that is currently stated to be the aim in Commission policy instruments?¹⁰

The answer to these questions is probably multifaceted. One simple reason is that the language spoken by approximately 38 per cent of EU citizens, besides their mother tongues, is so-called global English,¹¹ and speakers of the other European "majority" languages – especially French, German and Spanish – object to the anglicization of Europe.¹² Another reason is that the protection of linguistic diversity and the protection of language rights are regarded as

7 See, similarly, Kraus in this volume.

8 In 1992, the Commission initiated a study on minority language groups in the European Union. While the so-called *Euromosaic I* study listed 48 linguistic minority groups living in the 12 Member States at that time, a survey conducted after the 2004 enlargement counted approximately 90 minority groups in the new Member States, differentiated on the basis of language.

9 For a more in-depth discussion of this question, see Wright in this volume.

10 See Gravier and Lundquist in this volume.

11 European Commission. 2006. "Europeans and their Languages", February 2006.

12 Consider, e.g., "Die Mannheim-Florentiner Empfehlungen zur Förderung der europäischen Hochsprachen" (The Mannheim-Florence Recommendations for Promoting European Standard (or National) Languages) formulated by the language institutions of some EU Member States, notably Germany and Italy. See also Phillipson in this volume.

fundamental European values and are thus essential to the very concept of a European substantive democracy.¹³

The idea of linguistic diversity as a specific European value that distinguishes Europe from other parts of the world is evidenced in several talks given by the former European Commissioner for Multilingualism, Leonard Orban, who was commissioner from 1 January 2007, when Romania became a member of the Union, until the new Commission was set up after the entry into force of the Lisbon Treaty on 1 December 2009. At a conference on multilingualism in Romania on 15 May 2009, he rather grandiosely summed up the underlying principles of European language policy as follows:

Today we live in a globalized world and Europe is building an ever closer Union. While, on a global level, some “big” languages tend to dominate the scene, Europe is not a melting pot where differences are blotted out. Europe is a common home where diversity is celebrated, and where our many mother tongues are or should be a source of wealth and a bridge to greater solidarity and mutual understanding.¹⁴

The paradox of the commissioner’s speech is, of course, that the “many mother tongues” may be seen as a source of greater cultural wealth and a catalyst for greater solidarity, but at the same time they impede mutual understanding and almost invite being bridged – by a common language. On the one hand, linguistic diversity is a symbol of European democracy, but on the other hand, linguistic diversity complicates political dialogue and the exchange of ideas in “a community that cannot communicate”.¹⁵ Thus, linguistic diversity runs counter to the ideals of the “four freedoms” of the internal market, but it is a fundamental European value protected by the EU treaties and the Charter of Fundamental Rights of the European Union and promoted by several Community initiatives. In a market where goods, capital, services and persons are encouraged and expected to move freely, the diversity of languages is, in fact, a hindrance to such movement. However, it is politically and legally impossible to acknowledge this point. The pragmatic solution is to make linguistic diversity a commodity, a valuable cultural good and a political instrument in the hands of Europe’s minorities, by means of which they can circumvent the national level and strive for more European integration. This is the policy that is actually pursued by the Commission. In the latest policy initiatives in the field

¹³ Article 22 of the EU’s Charter of Fundamental Rights requires the EU to respect linguistic diversity and Article 21 prohibits discrimination based on language. Article 2 of the Treaty on European Union lists the common values of the EU Member States, including pluralism, non-discrimination and equality.

¹⁴ Available at: http://ec.europa.eu/commission_barroso/orban/news/docs/speeches/090515_discurs_Cluj/Discurs_Cluj_EN.pdf [accessed: May 2010].

¹⁵ Terminology borrowed from Sue Wright (2000).

of language and multilingualism, the Commission stresses the importance of multilingualism and learning languages, not only for European culture, but also for European business and creativity.¹⁶

Linguistic Diversity and EU Law

The inherent paradox expressed in the motto “united in diversity” also affects the legal regime of the EU.¹⁷ EU legislation with general application throughout the Community must be published in all 23 official languages. On the face of it, this rule seems reasonable as the EU passes laws that are directly binding on individuals and companies in the Member States. But the publication in all 23 languages is not primarily for information purposes, enabling EU citizens and their legal advisors to read EU legislation in their own languages. It is first and foremost a matter of equal treatment of small and large Member States; consequently all 23 language versions have equal authenticity, even if this makes the interpretation of EU law extremely complicated.

As stated by Greece in the case *Kik v OHIM*:¹⁸ “Multilingualism is an indispensable component of the effective operation of the rule of law in the Community legal order, since many rules of primary and secondary law have direct application in the national legal systems of the Member States”. In a similar vein, in its judgment in the famous *CILFIT* case,¹⁹ the court held:

It must be borne in mind that Community legislation is drafted in several languages and that the different language versions are all equally authentic. An interpretation of a provision of Community law thus involves a comparison of the different language versions.²⁰

16 Leonard Orban, Commissioner responsible for multilingualism until December 2009, set up a Business Forum on Multilingualism in November 2007. The aim of the group was to identify ways to increase the multilingual capacities of companies to help them enter new markets, and to strengthen language skills of individuals so as to improve their employment prospects. The Business Forum presented its report, “Languages Mean Business”, to the Commission in July 2008. See also the ELAN report: “Effects on the European Union Economy of Shortages of Foreign Language Skills in Enterprise” of December 2006. Similarly, the Commission recently commissioned a study on multilingualism and creativity; the research group published their report, “Study on the Contribution of Multilingualism to Creativity”, in July 2009.

17 The legal consequences of multilingualism are subject to thorough discussions in the contributions of Bengoetxea, Bobek and Derlén in this volume.

18 Judgment of the Court in Case C-361/01 P, *Christina Kik v Office for Harmonisation in the Internal Market* [2003] ECR I-8283. The Hellenic Republic, intervened at first instance in support of the appellant.

19 Judgment of the Court in Case 283/81, *Srl CILFIT and Lanificio di Gavardo SpA v Ministry of Health* [1982] ECR 3415.

20 Paragraph 18 in the *CILFIT* case.

Paradoxically, it follows that the meaning of EU provisions cannot be derived from any one of the official languages. Thus, in legal terms, the equality of the languages goes so far as to make the language versions of Community laws interdependent.²¹ Hence, EU citizens cannot purely rely on their own languages when they want to know what EU law says on a particular issue. In principle, EU citizens must know the law in each and every official language because the meaning of the law is anchored not in one single language version, but in all the language versions taken together.

Despite the 23 official languages being of ostensibly equal standing, the wording of Community law will invariably differ from one language text to another as natural languages cannot by their nature be absolute copies of each other. Hence, European multilingualism can in some cases be a source of legal miscommunication, misinterpretation, incoherent and divergent texts and, ultimately, an obstacle to achieving what lies at the very core of the rule of law, namely legal certainty.

Moreover, as regards the inherent contradiction between the concepts of unity and diversity, the European Court of Justice long ago ruled that unity, that is, the uniform interpretation and application of EU law in the Member States, is so important that the diversity of interpretation that would arise if EU citizens were allowed to apply their own language versions should be avoided:

The different language versions of a Community text must be given a uniform interpretation and hence in the case of divergence between the versions, the provision in question must be interpreted with reference to the purpose and general scheme of the rules of which it forms a part.²²

Moreover, even if multilingualism is an “indispensable component of the effective operation of the rule of law in the Community legal order”, the European Court of Justice ruled in the *Kik* case that the references in the Treaty to the use of languages in the European Union:

cannot be regarded as evidencing a general principle of Community law that confers a right on every citizen to have a version of anything that might affect his interests drawn up in his language in all circumstances.²³

What is it about language that seems to make things so complicated?

Linguistic Diversity and Language Rights

To most researchers other than linguists, “language”, in the singular at least, is a trivial subject, which is not worth studying when one wants to discuss matters

21 Van Calster (1998).

22 Judgment of the Court in Case 30/77, *Régina v Pierre Bouchereau* [1977] ECR 1999.

23 Paragraph 82 in the *Kik* case.